

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

RUFINO TAN CO, M.D.)

File No. 09-2002-135986

Physician's and Surgeon's)
Certificate No. A 39750)

Respondent.)
_____)

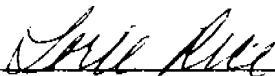
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on January 13, 2005.

IT IS SO ORDERED December 14, 2004.

MEDICAL BOARD OF CALIFORNIA

By: 
Lorie G. Rice, Chair
Panel A
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
3 California Department of Justice
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8 Attorneys for Complainant
9

10 **BEFORE THE**
11 **DIVISION OF MEDICAL QUALITY**
MEDICAL BOARD OF CALIFORNIA
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13
14 In the Matter of the Accusation Against:

Case No. 09-2002-135986

15 **RUFINO TAN CO, M.D.**
Kaiser Hospital
16 9310 Sierra Avenue
Fontana, CA 92335

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 Physician's and Surgeon's Certificate
18 No. 39750

19 Respondent.
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21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
22 above-entitled proceedings that the following matters are true:

23 PARTIES

24 1. Complainant David T. Thornton is the Executive Director of the Medical
25 Board of California who brought this action solely in his official capacity and is represented in
26 this matter by Bill Lockyer, Attorney General of the State of California, by Samuel K.
27 Hammond, Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in the Accusation,
3 if proven at a hearing, constitute cause for imposing discipline on his Physician's and Surgeon's
4 Certificate.

5 9. Respondent admits the allegations and charges in Accusation No. 09-
6 2003-135986 and further agrees he has subject his physician's and surgeon's license to
7 disciplinary action. Respondent agrees to be bound by the Division's Disciplinary Order as set
8 forth below.

9 10. The admissions made by respondent herein are for the purpose of this
10 proceeding and any other proceedings in which the Division or any other licensing agency, is
11 involved, and shall not be admissible in any criminal or civil proceeding.

12 CONTINGENCY

13 11. This Stipulation shall be subject to the approval of the Division.
14 Respondent understands and agrees that Medical Board of California's staff and counsel for
15 complainant may communicate directly with the Division regarding this Stipulation and
16 Settlement, without notice to or participation by respondent or his counsel. If the Division fails
17 to adopt this Stipulation as its Order, except for this paragraph the Stipulated Settlement and
18 Disciplinary Order shall be of no force or effect, it shall be inadmissible in any legal action
19 between the parties, and the Division shall not be disqualified from further action in this matter
20 by virtue of its consideration of this Stipulation.

21 12. The parties agree that facsimile copies of this Stipulated Settlement and
22 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as
23 original Stipulated Settlement and Disciplinary Order and signatures.

24 13. This Stipulated Settlement and Disciplinary Order is intended by the
25 parties herein to be an integrated writing representing the complete, final and exclusive
26 embodiment of the agreements of the parties.

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1 14. In consideration of the foregoing admissions and stipulations, the parties
2 agree that the Division shall, without further notice or formal proceeding, issue and enter the
3 following Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate
6 No. A 39750 issued to RUFINO TAN CO, M.D. is revoked. However, the revocation is stayed
7 and respondent is placed on probation for five (5) years on the following terms and conditions.
8 Within 15 days after the effective date of this decision the respondent shall provide the Division,
9 or its designee, proof of service that respondent has served a true copy of this decision on the
10 Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership
11 are extended to respondent or where respondent is employed to practice medicine including
12 locum tenens registries or other similar agencies, and to the Chief Executive Officer at every
13 insurance carrier where malpractice insurance coverage is extended to respondent.

14 1. **ACTUAL SUSPENSION:** As part of probation, respondent is suspended
15 from the practice of medicine for 30 days beginning the sixteenth (16th) day after the effective
16 date of this decision.

17 2. **PSYCHIATRIC EVALUATION:** Within 30 calendar days of the effective
18 date of the Decision, and on a whatever periodic basis thereafter as may be required by the
19 Division or its designee, respondent shall undergo and complete a psychiatric evaluation (and
20 psychological testing, if deemed necessary) by a Division-approved board-certified psychiatrist,
21 who shall consider any information provided by the Division, or its designee and any other
22 information the psychiatrist deems relevant, and shall furnish a written report to the Division or
23 its designee. Psychological evaluations conducted prior to the effective date of the Decision shall
24 not be accepted towards the fulfillment of this requirement. Respondent shall pay the costs of all
25 psychiatric evaluations and psychological testing.

26 Respondent shall comply with all restriction or conditions recommended by the
27 evaluation psychiatrist within 15 days after being notified by the Division or its designee. Failure

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1 to undergo and complete a psychiatric evaluation and psychological testing, or comply with the
2 required additional conditions or restrictions, is a violation of probation.

3 Respondent shall not engage in the practice of medicine until notified b the
4 Division or its designee that respondent is mentally fit to practice medicine with safely. The
5 period of time that respondent is not practicing medicine shall not be counted toward completion
6 toward completion of probation.

7 3. ETHICS COURSE: Within 60 days of the effective date of this decision,
8 respondent shall enroll in a course in Ethics, at respondent's expense, approved in advance by the
9 Division or its designee. Failure to successfully complete the course during the first year of
10 probation is a violation of probation.

11 4. PROFESSIONAL BOUNDARIES PROGRAM: Within 60 calender days
12 of the effective date of the Decision, respondent shall enroll in a professional boundaries
13 program, at respondent's expense, equivalent to the Professional Boundaries program, Physician
14 Assessment and Clinical Education Program at the University of San Diego School of Medicine
15 ("Program"). Respondent, at the Program's discretion shall undergo and complete the Program's
16 assessment of respondent's competency, mental health and/or neuropsychological performance,
17 and at minimum, a 24-hour program of interactive education and training in the area of
18 boundaries, which takes into account the data obtained from the assessment and from the
19 Decision, accusation and any other information that the Division or its designee deems important.
20 The Program shall evaluate respondent at the end of the training and the program shall provide
21 any data from the assessment and training as well as the results of evaluation to the Division or
22 its designee. Failure to complete the entire Program not later than six months after respondent's
23 initial enrollment shall constitute a violation of probation unless the Division or its designee
24 agrees in writing to a later time for the completion. Based on respondent's performance in and
25 evaluations from the assessment, education, and training, the Program shall advise the Division
26 or its designee of its recommendations for additional education, training, psychotherapy and
27 other measures necessary to ensure that respondent can practice medicine safely. Respondent
28 shall comply with Program recommendations. At the completion of the Program, respondent

1 shall submit to a final evaluation. The Program shall provide the results of the evaluation to the
2 Division or its designee.

3 5. COMMUNITY SERVICE Within 60 days of the effective date of this
4 Decision, respondent shall submit to the Division of its designee for prior approval a community
5 service plan in which respondent shall within the first two (2) years of probation, provide 100
6 hours of free non-medical services to a community or non-profit organization. Prior to engaging
7 in any community services respondent shall provide a true copy of the Decision to the chief of
8 staff, director, office manager, program manager, officer, or the chief executive officer at every
9 community or non-profit organization where respondent provides community service and shall
10 submit proof of compliance to the Division or its designee within 15 days. This condition shall
11 also apply to change(s) in community service. Community service performed prior to the
12 effective date of the Decision shall not be accepted in fulfillment of this condition.

13 6. COST RECOVERY The respondent is hereby ordered to reimburse the
14 Division the amount of \$4,000 for its investigative and prosecution costs. The \$4,000 may be
15 paid by installment provided the entire amount is paid within 18 months of the effective date of
16 the Decision. Failure to reimburse the Division's cost of investigation and prosecution shall
17 constitute a violation of the probation order. The filing of bankruptcy by the respondent shall not
18 relieve the respondent of his responsibility to reimburse the Division for its investigative and
19 prosecution costs.

20 7. PROBATION COSTS Respondent shall pay the costs associated with
21 probation monitoring each and every year of probation, which are currently set at \$2,304 but may
22 be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality
23 and delivered to the designated probation surveillance monitor at the beginning of each calendar
24 year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

25 8. OBEY ALL LAWS Respondent shall obey all federal, state and local
26 laws, all rules governing the practice of medicine in California, and remain in full compliance
27 with any court ordered criminal probation, payments and other orders.

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1 9. QUARTERLY REPORTS Respondent shall submit quarterly declarations
2 under penalty of perjury on forms provided by the Division, stating whether there has been
3 compliance with all the conditions of probation.

4 10 PROBATION SURVEILLANCE PROGRAM COMPLIANCE
5 Respondent shall comply with the Division's probation surveillance program. Respondent shall,
6 at all times, keep the Division informed of his business and residence addresses which shall both
7 serve as addresses of record. Changes of such addresses shall be immediately communicated in
8 writing to the Division. Under no circumstances shall a post office box serve as an address of
9 record.

10 Respondent shall also immediately inform the Division, in writing, of any travel
11 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
12 than 30 days.

13 11. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
14 DESIGNATED PHYSICIAN(S) Respondent shall appear in person for interviews with the
15 Division, its designee or its designated physician(s) upon request at various intervals and with
16 reasonable notice.

17 12. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
18 STATE NON-PRACTICE In the event respondent should leave California to reside or to
19 practice outside the State or for any reason should respondent stop practicing medicine in
20 California, respondent shall notify the Division or its designee in writing within ten (10) days of
21 the dates of departure and return or the dates of non-practice within California. Non-practice is
22 defined as any period of time exceeding 30 days in which respondent is not engaging in any
23 activities defined in Sections 2051 and 2052 of the Business and Professions Code. All time
24 spent in an intensive training program approved by the Division or its designee shall be
25 considered as time spent in the practice of medicine. Periods of temporary or permanent
26 residence or practice outside California or of non-practice within California, as defined in this
27 condition, will not apply to the reduction of the probationary period.

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I have read and fully discussed with respondent RUFINO TAN CO, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order and approve its form and content.

DATED: 11/30/04



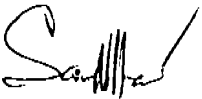
ROBERT H. GANS, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: 12/7/04

BILL LOCKYER, Attorney General
of the State of California



SAMUEL K. HAMMOND
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. 09-2002-135986

1 BILL LOCKYER, Attorney General
of the State of California
2 SAMUEL K. HAMMOND, State Bar No. 141135
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3 California Department of Justice
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7 Attorneys for Complainant
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9 **BEFORE THE**
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13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 09-2002-135986

15 RUFINO TAN CO, M.D.
Kaiser Hospital
16 9310 Sierra Avenue
Fontana, CA 92335

ACCUSATION

17 Physician and Surgeon's
Certificate No. A 39750

Respondent.

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19 Complainant alleges:

20 PARTIES

21 1. Ron Joseph (Complainant) brings this Accusation solely in his official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs.

24 2. On or about April 25, 1983, the Medical Board of California issued
25 Physician and Surgeon's Certificate No. A 39750 to RUFINO TAN CO, M.D. (Respondent).
26 The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on May 31, 2004, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Division of Medical Quality
3 (Division) for the Medical Board of California, Department of Consumer Affairs, under the
4 authority of the following laws. All section references are to the Business and Professions Code
5 unless otherwise indicated.

6 4. Section 2227 of the Code provides that a licensee who is found guilty
7 under the Medical Practice Act may have his or her license revoked, suspended for a period not
8 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
9 such other action taken in relation to discipline as the Division deems proper.

10 5. Section 2234 of the Code states:

11 "The Division of Medical Quality shall take action against any licensee who is
12 charged with unprofessional conduct. In addition to other provisions of this article,
13 unprofessional conduct includes, but is not limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
15 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
16 the Medical Practice Act].

17 "(b) Gross negligence.

18 "(c) Repeated negligent acts. To be repeated, there must be two or more
19 negligent acts or omissions. An initial negligent act or omission followed by a separate
20 and distinct departure from the applicable standard of care shall constitute repeated
21 negligent acts.

22 "(1) An initial negligent diagnosis followed by an act or omission medically
23 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
24 act.

25 "(2) When the standard of care requires a change in the diagnosis, act, or
26 omission that constitutes the negligent act described in paragraph (1), including, but not
27 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's

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1 conduct departs from the applicable standard of care, each departure constitutes a separate
2 and distinct breach of the standard of care.

3 "(d) Incompetence.

4 "(e) The commission of any act involving dishonesty or corruption which is
5 substantially related to the qualifications, functions, or duties of a physician and surgeon.

6 "(f) Any action or conduct which would have warranted the denial of a
7 certificate."

8 6. Section 125.3 of the Code provides, in pertinent part, that the Division
9 may request the administrative law judge to direct a licentiate found to have committed a
10 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
11 investigation and enforcement of the case.

12 7. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
13 part:

14 "(a) Upon receipt of written notice from the Medical Board of California, the
15 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
16 that a licensee's license has been placed on probation as a result of a disciplinary action,
17 the department may not reimburse any Medi-Cal claim for the type of surgical service or
18 invasive procedure that gave rise to the probation, including any dental surgery or
19 invasive procedure, that was performed by the licensee on or after the effective date of
20 probation and until the termination of all probationary terms and conditions or until the
21 probationary period has ended, whichever occurs first. This section shall apply except in
22 any case in which the relevant licensing board determines that compelling circumstances
23 warrant the continued reimbursement during the probationary period of any Medi-Cal
24 claim, including any claim for dental services, as so described. In such a case, the
25 department shall continue to reimburse the licensee for all procedures, except for those
26 invasive or surgical procedures for which the licensee was placed on probation."

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1 CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 8. Respondent is subject to disciplinary action under Code section 2234(c) in
4 that he was repeatedly negligent in his care, treatment and management of patients Kimberly R.,
5 Richard R. and Natalie J., in that:

6 Patient Kimberly R.

7 A. On or about October 10, 1995, patient Kimberly R. first presented
8 to respondent, a psychiatrist, for treatment of major depression. She presented with a
9 history of molestation. In 2001, while still under his care, Respondent solicited Kimberly
10 R. to enter into a business relationship with him. The relationship involved selling
11 products through a multilevel marketing scheme. Respondent would act as Kimberly R.'s
12 sponsor in the scheme and earn compensation based on Kimberly R.'s purchases. At
13 Respondent's behest, Kimberly R. entered into the business relationship, under
14 Respondent's sponsorship, and purchased \$1,000 worth of merchandise. Respondent
15 earned compensation based on Kimberly R.'s purchases. During their business
16 relationship, Respondent repeatedly contacted Kimberly R. at home by telephone and e-
17 mail in order to encourage her to purchase more product and sell it to her friends and
18 family. Respondent also discussed the business relationship during Kimberly R.'s
19 medical appointments. Later, when Kimberly R. told Respondent that she no longer
20 wanted to be involved in the business, Respondent told her that she should not quit. He
21 also told her that he would have to increase the frequency of her medical appointments
22 with him.

23 B. By entering into a business relationship with Kimberly R.,
24 Respondent created an inappropriate dual relationship which tended to blur the patient-
25 physician boundaries and sought to improperly derive income from a patient other than
26 through treatment.

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Patient Richard R.

C. On or about May 1, 2001, patient Richard R. first presented to respondent, a psychiatrist, for a medication refill. His presenting diagnosis was bipolar disorder. Respondent second and last visit with patient Richard R. took place on or about November 8, 2001. During that visit, Respondent solicited Richard R. to enter into a business relationship with him. The relationship involved selling products through a multilevel marketing scheme. Respondent would act as Richard R.'s sponsor in the scheme and earn compensation based on Richard R.'s purchases. At Respondent's behest, Richard R. became a member of the marketing scheme under Respondent's sponsorship. In connection with the business relationship, Respondent contacted Richard R. at home by telephone and e-mail.

D. By entering into a business relationship with Richard R., Respondent created an inappropriate dual relationship, potentially exacerbated the patient's condition by encouraging him to enter into risky business activities, and sought to improperly derive income from a patient other than through treatment.

Patient Natalie J.

E. On or about June 6, 2000, patient Natalie J., a teenager, first presented to respondent, a psychiatrist, for treatment of chronic lying. In about October 2001, while still under Respondent's care, Respondent introduced Natalie J. and her mother, Pamela, to Respondent's multilevel marketing business. Respondent solicited Pamela J. to enter into a business relationship with him. The relationship involved selling products through a multilevel marketing scheme. Respondent would act as Pamela J.'s sponsor in the scheme and earn compensation based on Pamela J.'s purchases. At Respondent's behest, Pamela J. became a member of the marketing scheme under Respondent's sponsorship. In connection with the business relationship, Respondent contacted Pamela J. at home by telephone and e-mail.

F. By entering into a business relationship with Pamela J., Respondent failed to maintain appropriate therapeutic boundaries with Natalie J., failed to

1 maintain an independent therapeutic relationship with Natalie J., failed to provide an
2 appropriate role model for an adolescent with honesty problems and sought to improperly
3 derive income from a patient other than through treatment.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Division of Medical Quality issue a decision:

- 7 1. Revoking or suspending Physician and Surgeon's Certificate No.
8 A 39750, issued to RUFINO TAN CO, M.D.;
- 9 2. Revoking, suspending or denying approval of RUFINO TAN CO, M.D.'s
10 authority to supervise physician assistants, pursuant to section 3527 of the Code;
- 11 3. Ordering RUFINO TAN CO, M.D. to pay the Division of Medical Quality
12 the reasonable costs of the investigation and enforcement of this case, and, if placed on
13 probation, the costs of probation monitoring;
- 14 4. Taking such other and further action as deemed necessary and proper.

15 DATED: December 31, 2003

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19 RON JOSEPH
20 Executive Director
21 Medical Board of California
22 Department of Consumer Affairs
23 State of California
24 Complainant

22 i:/all/hammond/co.accusation.12/4/03