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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3757

11 **JIMMY CAM**
12 **919 Rutland Street**
13 **San Francisco, CA 94134 -**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 91722**

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about September 3, 2009, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 91722 to Jimmy Cam (Respondent). The License was in full force and
23 effect at all times relevant herein and will expire on October 31, 2012, unless renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code (Code) unless otherwise indicated.

28 ///

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.]. Section 4300(a) of the Code provides that every
4 license issued by the Board may be suspended or revoked.

5 5. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
9 renewed within three years following its expiration may not be renewed, restored, or reinstated
10 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
11 the Code provides that any other license issued by the Board may be canceled by the Board if not
12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
13 reissued but will instead require a new application to seek reissuance.

14 STATUTORY AND REGULATORY PROVISIONS

15 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
16 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
17 not be limited to, any of the following:

18 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
19 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
20 whether the act is a felony or misdemeanor or not.

21 (j) The violation of any of the statutes of this state, of any other state, or of the United
22 States regulating controlled substances and dangerous drugs.

23 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
24 of a licensee under this chapter.

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by
28 the board or by any other state or federal regulatory agency.

1 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

2 16. Section 4021 of the Code states:

3 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
4 11053) of Division 10 of the Health and Safety Code.”

5 17. Section 4022 of the Code states, in pertinent part:

6 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
7 except veterinary drugs that are labeled as such, and includes the following:

8 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
9 prescription,’ ‘Rx only,’ or words of similar import.

10 ...

11 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
12 prescription or furnished pursuant to Section 4006.”

13 18. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
14 Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions
15 Code section 4022. It is a hallucinogenic drug.

16
17 FIRST CAUSE FOR DISCIPLINE

18 (Conviction of Substantially Related Crime(s))

19 19. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
20 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
21 a substantially related crime, in that on or about November 29, 2011, in the criminal case *People*
22 *v. Jimmy Cam*, Case No. 2448434 in San Francisco County Superior Court, Respondent was
23 convicted of violating Penal Code section 32 (Accessory to a Felony), a felony. The conviction
24 was entered as follows:

25 a. On or about December 11, 2009, San Francisco Police officer(s) investigating a
26 **marijuana** grow operation served a search warrant at a residence in San Francisco. Police found
27 Respondent and another individual exiting a basement grow room. Respondent was wearing
28 protective coveralls. His companion admitted to participating in a **marijuana** grow operation.

1 b. Police found four separate **marijuana** grow rooms in the residence, a total of
2 165 **marijuana** plants, a brown bag with **marijuana** buds, **marijuana** packed in plastic bags, a
3 digital scale, electrical ballast, and high intensity light bulbs. An investigator for the electrical
4 utility company also determined that the meter had been bypassed, allowing theft of electricity.

5 c. On or about December 14, 2009, Respondent along with a co-defendant were
6 charged by Felony Complaint in Case No(s). 2448434/2448436 with violating (1) Health and
7 Safety Code section 11358 (Cultivation of **marijuana**), a felony, (2) Health and Safety Code
8 section 11359 (Possession for sale of **marijuana**), a felony, (3) Health and Safety Code section
9 11366 (Maintenance of a place for selling or using controlled substance – **marijuana**), a felony,
10 and (4) Penal Code section 498(b)(1) (Theft of utility services more than \$400), a felony.

11 d. On or about January 19, 2011, Respondent's criminal case (No. 2448434) was
12 consolidated by motion of the District Attorney with other companion cases.

13 e. On or about July 14, 2011, a Consolidated Felony Complaint was filed against
14 Respondent and four co-defendants, retaining Case No. 2448434 as to Respondent. The charges
15 against Respondent were for violating (1) Health and Safety Code section 11358 (Cultivation of
16 **marijuana**), a felony, (2) Health and Safety Code section 11359 (Possession of **marijuana** for
17 sale), a felony, (3) Penal Code section 498(b)(1) (Theft of utility services more than \$400), a
18 felony, and (4) Health and Safety Code section 11366 (Maintenance of a place for selling or using
19 controlled substance – **marijuana**), a felony. The Consolidated Felony Complaint also included
20 counts (5) through (8), which named only Respondent's co-defendant(s).

21 f. On or about November 29, 2011, the Complaint was amended by motion of the
22 District Attorney to add a count (9) for violation of Penal Code section 32 (Accessory), a felony.
23 Respondent entered a plea of guilty to count (9), and the Court accepted the guilty plea. The
24 remaining counts against Respondent were dismissed by motion of the District Attorney.

25 g. On or about January 12, 2012, imposition of sentence was suspended in favor
26 of a period of probation of three (3) years, on terms and conditions including three (3) days in
27 county jail (3 days CTS), search conditions, restitution, fines, and fees, and an order to stay away
28 from his co-defendants. After one year, Respondent may petition to reduce to a misdemeanor.

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

20. Respondent is subject to discipline under section 4301(f) of the Code in that Respondent, as described in paragraph 19 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

THIRD CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance)

21. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code, in that Respondent, as described in paragraph 19 above, furnished to himself or another without a valid prescription, and/or conspired to furnish/dispense, and/or assisted or abetted furnishing/dispensing of, a controlled substance.

FOURTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

22. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11357, in that Respondent, as described in paragraph 19 above, possessed, conspired to possess, assisted in or abetted possession of, a controlled substance, without prescription.

FIFTH CAUSE FOR DISCIPLINE

(Violation(s) of Controlled Substance/Pharmacy Law(s))

23. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section(s) 11357, 11358, 11359, and/or 11366, in that Respondent, as described in paragraph 19 above, violated, conspired to violate, and/or assisted in or abetted violation of the laws governing controlled substances, and/or the laws governing pharmacy.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 24. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 19 to 23 above, engaged in unprofessional conduct.

5
6 PRAYER

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Pharmacy issue a decision:

- 9 1. Revoking or suspending Pharmacy Technician License Number TCH 91722, issued
10 to Jimmy Cam (Respondent);
- 11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 13 3. Taking such other and further action as is deemed necessary and proper.

14 DATED: 11/19/12

15 
16 VIRGINIA HEROLD

17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant

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