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

11 In the Matter of the Accusation Against:	Case No. 3914
12 CYNTHIA K. KOIKE	
13 PO Box 881343	
13 Los Angeles, CA 90009	A C C U S A T I O N
14 Pharmacist License No. RPH 33336	
15 Respondent.	

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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 (Board).
21 2. On or about August 28, 1979, the Board issued Pharmacist License No. RPH 33336
22 to Cynthia K. Koike (Respondent). The Pharmacist License was in full force and effect at all
23 times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 [Pharmacy Law, §§ 4000, et seq.] or of the applicable federal and state laws and regulations
2 governing pharmacy, including regulations established by the board or by any other state or
3 federal regulatory agency. . . ."

4 **REGULATORY PROVISION**

5 8. California Code of Regulations, title 16, section 1770, states:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by his license or registration in a manner
11 consistent with the public health, safety, or welfare."

12 **COST RECOVERY**

13 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
14 law judge to direct a licentiate found to have committed a violation or violations of the licensing
15 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
16 case.

17 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

18 10. Fioricet is a brand name for the combination of butalbital, acetaminophen and
19 caffeine and is designated a dangerous drug pursuant to section 4022.

20 11. Fiorinal is a brand name for the combination of butalbital, aspirin and caffeine. It is a
21 Schedule III controlled substance pursuant to Health and Safety Code section 11056, and is
22 designated a dangerous drug pursuant to section 4022.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unlawful Furnishing)**

25 12. Respondent is subject to disciplinary action under sections 4300, 4301,
26 subdivision (o), and section 4059, in that while employed as a pharmacist at Kaiser Permanente
27 Pharmacy, 25965 South Normandie, Harbor City, California (Kaiser Pharmacy), Respondent
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1 diverted controlled substances and dangerous drugs from pharmacy stores. The circumstances are
2 as follows:

3 a. In December 2009, the Internal Pharmacy Audit and Compliance Department of
4 Kaiser Pharmacy reviewed inventory regarding the possible loss or diversion of Fioricet.

5 b. On or about February 18, 2010, Kaiser Pharmacy filed a Report of Theft or Loss of
6 Controlled Substances, DEA Form 106, for 300 tablets of generic Fioricet missing from Kaiser
7 Pharmacy inventory as of January 15, 2010.

8 c. On or about January 13, 2010 through on or about March 12, 2010, Kaiser Pharmacy
9 documented 386 tablets of Fioricet missing from Kaiser Pharmacy inventory.

10 d. Video retrieved from the Kaiser Pharmacy on or between March 6 and 10, 2010,
11 recorded Respondent removing Fioricet and Fiorinal from Kaiser Pharmacy medication bins in a
12 drawer in the pharmacy as follows:

13

Date	Time	Drug	Tablets/Bottle
3/6/2010	5:40 PM	Fioricet	tablets in hand
3/6/2010	11:18 PM	Fioricet	bottle in sweater
3/9/2010	11:58 AM	Fiorinal	tablets in hand
3/9/2010	5:23 PM	Fiorinal	tablets in hand
3/10/2010	3:15 PM	Fiorinal	tablets in hand

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18 e. On or about March 25, 2010, Kaiser Pharmacy filed a Report of Theft or Loss of
19 Controlled Substances, DEA Form 106, for 217 Fioricet tablets and 40 Fiorinal tablets missing
20 from Kaiser Pharmacy inventory due to employee pilferage.

21 **SECOND CAUSE FOR DISCIPLINE**

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

23 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
24 subdivision (f), in that while employed as a pharmacist at Kaiser Pharmacy, Respondent
25 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when she
26 diverted drugs from pharmacy stores. Complainant refers to and by this reference incorporates
27 the allegations set forth above in paragraph 12, subparagraphs a – e, inclusive, as though set forth
28 fully.

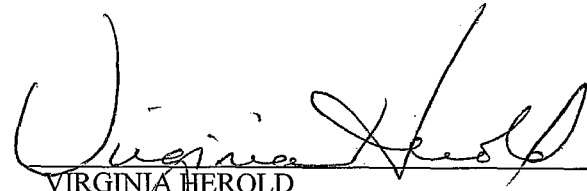
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PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 33336, issued to Cynthia K. Koike;
2. Ordering Cynthia K. Koike to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/7/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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