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

10 In the Matter of the Accusation Against:

Case No. 4068

11 **EUGENIA MOND TOM**
12 3249 25th Street
San Francisco, CA 94110

A C C U S A T I O N

13 **Pharmacy Technician License No. TCH**
14 **18794**

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 March 29, 1996, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 18794 to Eugenia Mond Tom (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on September 30, 2011, unless renewed.

25 **JURISDICTION**

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

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4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

1 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
3 shall have all the powers granted therein. The action shall be final, except that the propriety of
4 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
5 Civil Procedure."

6 5. Section 4301 of the Code states:

7 "The board shall take action against any holder of a license who is guilty of unprofessional
8 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
9 Unprofessional conduct shall include, but is not limited to, any of the following:

10 ...

11 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
12 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
13 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
14 to the extent that the use impairs the ability of the person to conduct with safety to the public the
15 practice authorized by the license.

16 "(k) The conviction of more than one misdemeanor or any felony involving the use,
17 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
18 combination of those substances.

19 "(l) The conviction of a crime substantially related to the qualifications, functions, and
20 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
22 substances or of a violation of the statutes of this state regulating controlled substances or
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
24 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
25 The board may inquire into the circumstances surrounding the commission of the crime, in order
26 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
27 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

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

12 FIRST CAUSE FOR DISCIPLINE

13 (Alcohol Convictions)

14 7. Respondent is subject to disciplinary action under section 4301(k) of the code in that
15 Respondent was convicted of more than one misdemeanor involving the use, consumption, or
16 self-administration of alcoholic beverages. The circumstances are as follows:

17 a. On or about October 22, 2010 in San Francisco County Superior Court, Respondent
18 was convicted of violating Vehicle Code section 23152(b), driving with a blood alcohol content
19 of .08% or higher. The circumstances leading to Respondent's conviction are described in
20 paragraph 9, below.

21 b. On or about October 15, 2008, In San Francisco Superior Court Case No. 2357584,
22 Respondent was convicted of violating Vehicle Code section 23152(b), driving with a blood
23 alcohol level of .08% or higher.

24 c. On or about September 6, 2001, Respondent was convicted of violating Vehicle Code
25 section 23152(a), driving under the influence of alcohol.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Convictions)

3 8. Respondent is subject to disciplinary action under section 4301(l) of the code in that
4 Respondent was convicted of crimes that are substantially related to the duties, functions, and/or
5 qualifications of a pharmacy technician. The circumstances are described in paragraph 7, above.

6 THIRD CAUSE FOR DISCIPLINE

7 (Dangerous Use of Alcohol)

8 9. Respondent is subject to disciplinary action under section 4301(h) in that Respondent
9 used alcoholic beverages to an extent or in a manner as to be dangerous or injurious to herself and
10 the public, the circumstances are as follows:

11 10. On or about May 29, 2010, drove a vehicle after consuming alcohol to the point of
12 intoxication. Respondent drove 50 miles per hours in an area where the posted speed limit was
13 30 miles per hour. Respondent performed poorly on multiple field sobriety tests. Two
14 Preliminary Alcohol screenings showed Respondent had blood alcohol levels of .140% and
15 130%. A breathalyzer revealed Respondent had blood alcohol levels of .136% and .137%.
16 Respondent was convicted as described in paragraph 7(a).

17 DISCIPLINE CONSIDERATIONS

18 11. To determine the degree of discipline, if any, to be imposed on Respondent,
19 Complainant alleges that on or about February 23, 2010, in a prior action, the Board of Pharmacy
20 issued Citation Number CI 2008 38564 and ordered Respondent to pay a \$300 fine. Respondent
21 was cited for unprofessional conduct for sustaining two convictions for driving under the
22 influence of alcohol, among other crimes. That Citation is now final and is incorporated by
23 reference as if fully set forth.

24 PRAYER

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

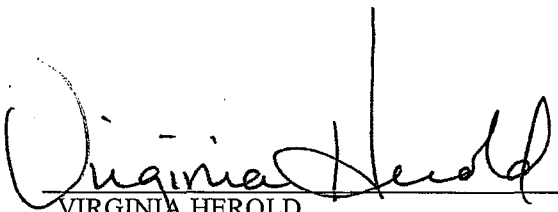
27 1. Revoking or suspending Pharmacy Technician License Number TCH 18794, issued
28 to Eugenia Mond Tom

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2. Ordering Eugenia Mond Tom to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/6/11



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

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