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

11 In the Matter of the Accusation Against:

Case No. 4184

12 **NAZELLI HEROIAN**
1818 N. Kenneth Rd.
Burbank, CA 91504

ACCUSATION

13 Pharmacy Technician Registration No. TCH
14 68388

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about April 17, 2006, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 68388 to Nazelli Heroian (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2011, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Section 118, subdivision (b), of the Code provides that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued or reinstated.

9 5. Section 4059 of the Code states, in pertinent part:

10 "(a) A person may not furnish any dangerous drug, except upon the
11 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
12 pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon
13 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7.

15 6. Section 4300 of the Code provides, in pertinent part, that every license issued
16 by the Board is subject to discipline including suspension or revocation.

17 7. Section 4301 of the Code states, in pertinent part:

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

22

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

26

27 "(q) Engaging in any conduct that subverts or attempts to subvert an
28 investigation of the Board."

1 **DANGEROUS DRUGS**

2 8. Atripla is a brand name for Emtricitabine and is categorized as a dangerous
3 drug pursuant to Business and Professions Code section 4022. Atripla is used in the treatment for
4 persons with HIV.

5 9. Truvada is a trade name for Emtricitabine and is categorized as a dangerous
6 drug pursuant to Business and Professions Code section 4022. Truvada is used in the treatment
7 for persons with HIV.

8 10. Vireada is a trade name for Tenofovir and is categorized as a dangerous drug
9 pursuant to Business and Professions Code section 4022. Vireada is used in the treatment for
10 persons with HIV.

11 11. Sustiva is a trade name for Efavirenz and is categorized as a dangerous drug
12 pursuant to Business and Professions Code section 4022. Sustiva is used in the treatment for
13 persons with HIV.

14 **COST RECOVERY**

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

19 **BACKGROUND FACTS**

20 13. Respondent worked as a Staff Pharmacy Technician at USC Medical Plaza
21 Pharmacy located in Los Angeles, CA. On or about October 13, 2010, Respondent admitted that
22 she stole drugs from the pharmacy and sold them to a third party. The drugs include the
23 following;

- 24 a). Atripla (2 bottles) cost- \$2,956.68;
25 b). Truvada (2 bottles) cost-\$1,928.18;
26 c). Viread (2 bottles) cost-\$622.38;
27 d). Sustiva (2 bottles) cost-\$514.00; and
28 e). Total cost to the pharmacy-\$6,643.87.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Furnishing Drugs)**

3 14. Respondent is subject to disciplinary action under Code sections 4059, as a
4 result of Respondent furnishing drugs to a third party. Complainant refers to and incorporates all
5 the allegations in paragraph 13 as though set forth fully.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Dishonesty)**

8 15. Respondent is subject to disciplinary action under Code section 4301,
9 subdivision (f), as a result of Respondent's dishonesty. Complainant now refers to and
10 incorporates all the allegations in paragraph 13 as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Subverting an Investigation)**

13 16. Respondent is subject to disciplinary action under Code section 4301,
14 subdivision (q), as a result of Respondent failing to cooperate with the Board's investigation of
15 the instant allegations when she failed to respond to the Board's letter.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 68388
20 issued to Respondent;
21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation
22 and enforcement of this case, pursuant to Code section 125.3; and

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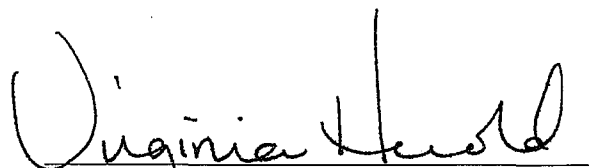
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3. Taking such other and further action as is deemed necessary and proper.

DATED: 11/9/11



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

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