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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4324

13 **HOAIBAO NGUYEN NGUYEN**  
**a.k.a., HOAI NAM NGUYEN**  
14 **a.k.a., TINA NGUYEN**  
6753 Meriwether Ct.  
Rancho Cucamonga, CA 91701

**A C C U S A T I O N**

15 Pharmacy Technician Registration  
16 No. TCH 105756

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 4, 2010, the Board of Pharmacy ("Board") issued Pharmacy  
23 Technician Registration No. TCH 105756 to Hoaibao Nguyen Nguyen, also known as Hoai Nam  
24 Nguyen, and Tina Nguyen ("Respondent"). The Pharmacy Technician Registration was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on December  
26 31, 2013, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4011 of the Code provides:

6 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and  
7 Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10  
8 commencing with Section 11000) of the Health and Safety Code.)"

9 5. Section 4300 of the Code states, in pertinent part, that every license issued by the  
10 Board is subject to discipline, including suspension or revocation.

11 6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or  
12 suspension of a board-issued license by operation of law or by order or decision of the board or a  
13 court of law, the placement of a license on a retired status, or the voluntary surrender of a license  
14 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any  
15 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision  
16 suspending or revoking the license."

17 **STATUTORY PROVISIONS**

18 7. Section 118, subdivision (b) of the Code provides, in pertinent part, that the  
19 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary  
20 action during the period within which the license may be renewed, restored, reissued or  
21 reinstated.

22 8. Section 490 of the Code states, in pertinent part:

23 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
24 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
25 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
26 or profession for which the license was issued.

27 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
2 of the business or profession for which the licensee's license was issued.

3 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
4 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
5 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
6 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
7 made suspending the imposition of sentence, irrespective of a subsequent order under the  
8 provisions of Section 1203.4 of the Penal Code.”

9 9. Section 493 of the Code states:

10 “Notwithstanding any other provision of law, in a proceeding conducted by a  
11 board within the department pursuant to law to deny an application for a license or to  
12 suspend or revoke a license or otherwise take disciplinary action against a person who  
13 holds a license, upon the ground that the applicant or the licensee has been convicted  
14 of a crime substantially related to the qualifications, functions, and duties of the  
15 licensee in question, the record of conviction of the crime shall be conclusive  
16 evidence of the fact that the conviction occurred, but only of that fact, and the board  
17 may inquire into the circumstances surrounding the commission of the crime in order  
18 to fix the degree of discipline or to determine if the conviction is substantially related  
19 to the qualifications, functions, and duties of the licensee in question.”

20 As used in this section, “license” includes “certificate,” “permit,” “authority,” and  
21 “registration.”

22 10. Section 4301 of the Code states, in pertinent part:

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

26 “(a) Gross immorality.”

27 . . . .



1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
6 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in  
7 that, Respondent was convicted of crimes substantially related to the qualifications, functions or  
8 duties of a pharmacy technician.

9 a. On or about December 21, 2011, after pleading guilty, Respondent was convicted of  
10 one felony count of violating Penal Code section 484e, subdivision (d) [theft of access cards;  
11 acquiring or retaining possession of access account information with respect to an access card  
12 validly issued to another person, with the cardholder's or issuer's consent, with the intent to use it  
13 fraudulently]; one felony count of Penal Code section 484f, subdivision (a) [forgery of access  
14 cards]; one felony count of Penal Code section 502(c)(1) [unauthorized access to computers,  
15 computer systems, data; knowingly access and without permission alters, damages, deletes,  
16 destroys, or otherwise uses any data, computer, computer system or computer network to either  
17 devise or execute any scheme of artifice to defraud, deceive or extort or wrongfully control obtain  
18 money, property or data]; one felony count of Penal Code section 530.5, subdivision (a)  
19 [unauthorized use of personal identifying information of another person and use that information  
20 for an unlawful purpose without the consent of that person]; and one felony count of Penal Code  
21 section 459 [burglary] in the criminal proceeding entitled *The People of the State of California v.*  
22 *Hoai Boanguyen Nguyen* (Super. Ct. Riverside County, 2011, No. BAF10000651). The Court  
23 placed Respondent on 36 months probation and ordered her to pay \$10,842.19 in restitution.

24 b. The circumstances surrounding the conviction are that on or about May 25, 2010  
25 through on or about July 14, 2010, Respondent willfully and unlawfully acquired and retained  
26 access card account information issued to another person, without the cardholder's and issuer's  
27 consent, with intent to use it fraudulently. In addition, Respondent, designed, made, altered and  
28 embossed a counterfeit access card, and attempted to use a counterfeit access card, with the intent

1 to defraud Jane and John Does, Casino Morongo. Respondent used such counterfeit access cards  
2 to win a total of \$21,684 in cash at slot machines at Casino Morongo. Additionally, Respondent,  
3 knowingly accessed and without permission altered, damaged, deleted, destroyed, or used data,  
4 computer, computer system or computer network in order to devise or execute a scheme to  
5 defraud, deceive, or extort, or wrongfully control or obtain money, property or data.

6 Furthermore, Respondent obtained personal credit, goods, services, and medical information in  
7 the name of another person without consent. Respondent willfully and unlawfully entered a  
8 building located at 49500 Seminole Dr., Cabazon, with the intent to commit a theft and felony.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Acts Involving Dishonesty, Fraud or Deceit)**

11 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
12 that Respondent committed acts involving dishonesty, fraud or deceit. Complainant refers to, and  
13 by this reference incorporates, the allegations set forth above in paragraph 13, as though set forth  
14 fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Pharmacy Act)**

17 15. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
18 Code, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes  
19 substantially related to the qualifications, functions or duties of a pharmacy technician and  
20 committed acts in violation of the Pharmacy Act. Complainant refers to, and by this reference  
21 incorporates, the allegations set forth above in paragraphs 13 through 14, inclusive, as though set  
22 forth fully.

23 **PRAYER**

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

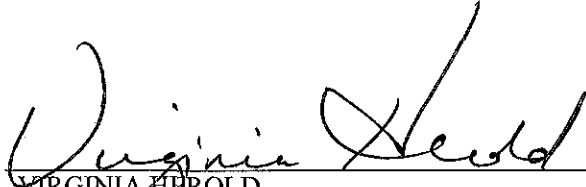
26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 105756, issued  
27 to Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina Nguyen;  
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1           2.    Ordering Hoaibao Nguyen Nguyen, also known as Hoai Nam Nguyen, and Tina  
2 Nguyen to pay the Board the reasonable costs of the investigation and enforcement of this case,  
3 pursuant to section 125.3 of the Code; and

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

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6  
7 DATED: \_\_\_\_\_

9/6/13



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

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