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

11 In the Matter of the Accusation Against:	Case No. 4450
12 CHARLES BAN POON	A C C U S A T I O N
13 2485 Cumberland Road	
14 San Marino, CA 91108	
15 Pharmacy Technician License No. TCH 116278	
Respondent.	

16 Complainant alleges:

17 **PARTIES**

- 18 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 20 2. On or about October 31, 2011, the Board of Pharmacy ("Board") issued Pharmacy
21 Technician License No. TCH 116278 to Charles Ban Poon ("Respondent"). The Pharmacy
22 Technician License was in full force and effect at all times relevant to the charges brought herein
23 and will expire on August 31, 2015, unless renewed.

24 **JURISDICTION**

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

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1 4. Section 4011 of the Code provides:

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

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 6. Section 4300.1 provides:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 7. Section 4060 of the Code provides, in pertinent part:

15 "No person shall possess any controlled substance, except that furnished to a person upon
16 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
17 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
18 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
19 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
20 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052..."

22 8. Section 4301 of the Code provides, 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:

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

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

9. Health and Safety Code Section 11377, subdivision (a) states:

"(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code."

CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

10. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I) and is a dangerous drug pursuant to Code section 4022.

11. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to Code section 4022.

12. Methylenedioxyamphetamine ("MDMA") is the methylenedioxy derivative of methamphetamine and is commonly known by the street name Ecstasy. MDMA is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d) and is categorized as a dangerous drug pursuant to Code section 4022.

13. "Zofran," the brand name for ondansetron, is used in the prevention of nausea and vomiting associated with cancer chemotherapy, and is categorized as a dangerous drug pursuant to

1 Code section 4022.

2 14. "Zoloft," the brand name for sertraline, is used for treating depression, obsessive
3 compulsive disorder, panic disorder, and post-traumatic stress disorder, and is categorized as a
4 dangerous drug pursuant to Code section 4022.

5 **COST RECOVERY**

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

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Unlawful Possession of Controlled Substances and Dangerous Drugs)**

12 16. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
13 subdivision (o) on the grounds of unprofessional conduct in that Respondent unlawfully
14 possessed controlled substances and dangerous drugs. The facts and circumstances are as
15 follows:

16 17. On or about May 29, 2012, the Santa Barbara Regional Narcotics Enforcement Team
17 conducted a search at Respondent's residence in Goleta, CA. Law enforcement officers found
18 Respondent locked inside a bedroom with a another male. A search of the bedroom revealed a
19 total of 1,740 pills and \$6,250.00. Amongst the pills found was a baggy with 835 pills, including
20 729 MDMA pills, and a box with 9 separate baggies containing 896 pills. The pills were marked
21 with the letter "G," "Pickachu," and "Puma" logos. A miscellaneous number of other pills, drugs,
22 and drug paraphernalia were found in bedroom, including:

- 23 a. One light green pill with an "M/S2" imprint (Zoloft);
24 b. Six dark pills with no imprint;
25 c. A digital scale with Marijuana residue;
26 d. Three white "Onax" pills;
27 e. A baggie containing a white powder;
28 f. A plastic baggie with gelatin capsules (size 1 gelatin -- 1000 capsules);

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- g. One yellow pill with a "V36/01" imprint (hydrocodone);
- h. A glass vial with white powder residue;
- i. A bottle with fifteen white odansetron pills;
- j. A baggie with ten Zofran pills;
- k. 10 round white pills with "233" and "93" imprints in a clear baggie;
- l. Two electronic smoking devices;
- m. A zip lock baggie with smaller baggies containing multi-colored pills;
- n. Two blue pills;
- o. 280 grams of Marijuana; and
- p. 460 grams of Hashish.

18. Respondent admitted to law enforcement officers that he paid \$3.00 to \$4.00 for each pill of MDMA and sold them for about \$8.00 a pill. In addition, he acknowledged that he comingled his funds with another male to purchase the MDMA.

SECOND CAUSE FOR DISCIPLINE

(Violating Drug Statute Regulating Controlled Substances)

19. Respondent is subject to disciplinary action under Code section 4301, subdivision (j), in conjunction with Health and Safety Code section 11377, subdivision (a), on the grounds of unprofessional conduct in that Respondent violated rules and regulations governing controlled substances in that Respondent possessed controlled substances without a valid prescription. Complainant incorporates by reference Paragraph 17 as though fully set forth herein.

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PRAYER

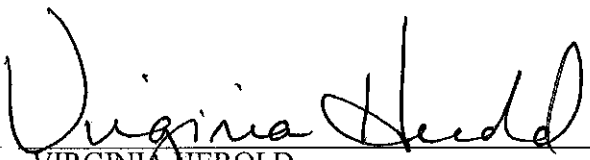
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 116278, issued to Charles Ban Poon;

2. Ordering Charles Ban Poon 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; and

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

DATED: 5/3/14



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

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