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

12 In the Matter of the Accusation Against:

Case No. 4554

13 **TINA LOUISE BUJAN**
1881 Morakai #18
14 Huntington Beach, CA 92646

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 12181**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about March 15, 1994, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 12181 to Tina Louise Bujan (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on January 31, 2014, unless renewed.

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JURISDICTION

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

4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

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

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STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 4301 of the Code states:

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

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

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

20 (l) The conviction of a crime substantially related to the qualifications,
21 functions, and duties of a licensee under this chapter. The record of conviction of a
22 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
23 States Code regulating controlled substances or of a violation of the statutes of this
24 state regulating controlled substances or dangerous drugs shall be conclusive
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall
26 be conclusive evidence only of the fact that the conviction occurred. The board may
27 inquire into the circumstances surrounding the commission of the crime, in order to
28 fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

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4 (b) When considering the suspension or revocation of a facility or a personal
5 license on the ground that the licensee or the registrant has been convicted of a crime,
6 the board, in evaluating the rehabilitation of such person and his present eligibility for
7 a license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or offense(s).

11 (4) Whether the licensee has complied with all terms of parole, probation,
12 restitution or any other sanctions lawfully imposed against the licensee.

13 (5) Evidence, if any, of rehabilitation submitted by the licensee.

14 11. California Code of Regulations, title 16, section 1770, states:

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

22 **COSTS**

23 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(October 25, 2012 Criminal Conviction for DUI on October 24, 2012)

13. Respondent has subjected her registration to discipline under sections 490 and 4301,
subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the
qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

1 a. On or about October 25, 2012, in a criminal proceeding entitled *People of the*
2 *State of California v. Tina Louise Bujan*, in Orange County Superior Court, case number
3 12WM10333, Respondent was convicted on her plea of guilty to violating Vehicle Code section
4 23152, subdivision (a), driving under the influence of alcohol/drugs, and Vehicle Code section
5 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more,
6 misdemeanors. The court found true the enhancements that Respondent's BAC was .20 percent
7 or more, pursuant to Vehicle Code section 23538, subdivision (b)(2), and that Respondent was
8 previously convicted of violating Vehicle Code section 23152, subdivisions (a)/(b) within 10
9 years, as described in paragraph 14, below. The court certified Respondent's BAC as .28 percent.

10 b. As a result of the convictions, on or about October 25, 2012, Respondent was
11 granted five years summary probation, and ordered to serve 90 days in jail, with credit for four
12 days. Respondent was further ordered to complete an 18-month Multiple Offender Alcohol
13 Program, and MADD Victim Impact Panel session, pay fines, fees, and restitution, and comply
14 with DUI probation terms. On or about March 7, 2013, Respondent's probation was revoked and
15 reinstated for failure to pay fines.

16 c. The facts that led to the conviction are that on or about October 24, 2012, at
17 midday, a patrol officer with the Huntington Beach Police Department responded to a report of a
18 possible assault with a deadly weapon (vehicle). Upon arrival at the scene, the officer contacted
19 Respondent who was sitting in her vehicle. Respondent did not know why she was being
20 contacted by the police; she stated that she was on her way home from a store and had not hit
21 anyone or been involved in any accidents. A second driver (Victim) reported to the officer that
22 she was stopped at a red light at an intersection when she was hit from behind by Respondent.
23 Another witness reported that he observed Respondent driving in the number 2 lane of travel
24 when she suddenly made a hard turn into the number 1 lane, and appeared to sideswipe a vehicle
25 in the process. The witness said it happened so fast that he thought it was intentional and called
26 the police. The witness continued driving until he came upon Respondent and the Victim, and
27 followed them as they drove into a parking lot. As the officer spoke to Respondent, he noted the
28 odor of an alcoholic beverage on her breath and she displayed the objective symptoms of

1 intoxication: bloodshot, watery eyes, slow, slurred speech, and slow, uncoordinated movements.
2 Respondent submitted to a series of field sobriety tests, but because she was unable to stand
3 without assistance, the tests were discontinued for Respondent's safety. Respondent provided
4 two breath samples which were analyzed by the preliminary alcohol screening device with a BAC
5 of .284 and .271, respectively. Respondent was arrested for driving under the influence. A blood
6 sample drawn during booking was analyzed with a BAC of .27 percent.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(June 11, 2003 Criminal Conviction for DUI on April 6, 2003)**

9 14. Respondent has subjected her registration to discipline under sections 490 and 4301,
10 subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the
11 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

12 a. On or about June 11, 2003, in a criminal proceeding entitled *People of the State*
13 *of California v. Tina Louise Bujan*, in Orange County Superior Court, case number 03WM04471,
14 Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152,
15 subdivision (a), driving under the influence of alcohol/drugs, and Vehicle Code section 23152,
16 subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more,
17 misdemeanors.

18 b. As a result of the convictions, on or about June 11, 2003, Respondent was
19 granted three years summary probation, and ordered to complete a nine-month Level II Alcohol
20 Program, pay fines, fees, and restitution, and comply with DUI probation terms.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol)**

23 15. Respondent has subjected her registration to disciplinary action under section 4301,
24 subdivision (h) of the Code for unprofessional conduct in that on or about April 6, 2003, and
25 October 24, 2012, Respondent operated a motor vehicle while impaired by alcoholic beverages,
26 as detailed in paragraphs 13 and 14, above.

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FOURTH CAUSE FOR DISCIPLINE

(Multiple Alcohol-Related Convictions)

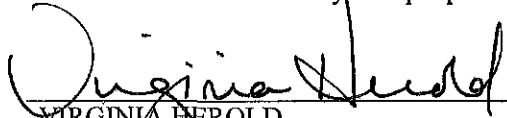
16. Respondent has subjected her registration to disciplinary action under sections 4301, subdivision (k) of the Code for unprofessional conduct in that on or about July 11, 2003, and October 25, 2012, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol), and Vehicle Code section 23152, subdivision (b), (driving with a BAC of .08 percent or more), as described in paragraphs 13 and 14, above.

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 Registration Number TCH 12181, issued to Tina Louise Bujan;
2. Ordering Tina Louise Bujan 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: 9/19/13



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

SD2013704876