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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. 4565
12 SOUVANH THAO aka SOU VANH THAO	
13 6993 Mesa Grande	
14 Sacramento, CA 95828	ACCUSATION
15 Pharmacy Technician Registration No. TCH 46227	
16 Respondent.	

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 6, 2003, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 46227 to Souvanh Thao (Respondent). The Registration will expire
23 on April 30, 2014, unless renewed.

24 **JURISDICTION**

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

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

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

....

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

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to 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.

....

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

COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

7. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

8. On or about June 28, 2012, in a criminal proceeding entitled *People v. Sou Vanh Thao* in Sacramento County Superior Court, Case Number 11F01998, Respondent was convicted by a jury trial verdict of a felony violation of Penal Code section 245(a)(1) (assault with a deadly weapon) and a misdemeanor violation of Penal Code section 242 (simple battery). Respondent was sentenced to 210 days of county jail, followed by 5 years of formal probation. The circumstances are as follows:

9. On or about March 12, 2011, Elk Grove police officers were dispatched to a physical disturbance at Strikes Bowling Alley in Elk Grove. Upon arrival, officers saw multiple subjects fleeing from the interior of Strikes Bowling alley, and inside there were hundreds of subjects yelling, screaming and attempting to flee toward the exits. The officers located the victim, who appeared to be going in and out of consciousness. While he was being treated, the victim vomited twice and officers advised that they observed contusions on his head and that part of his ear was ripped off where he was wearing earrings. A witness approached the officers and stated that about 12 male subjects beat up the victim, and that the witness saw Respondent and one other male pick up two bowling balls each and throw them onto the victim's head while he was on the ground.

SECOND CAUSE FOR DISCIPLINE

(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

10. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that he committed an act of moral turpitude, dishonesty, fraud, deceit, or corruption as set forth in paragraphs 8 and 9, and herein incorporated by reference.

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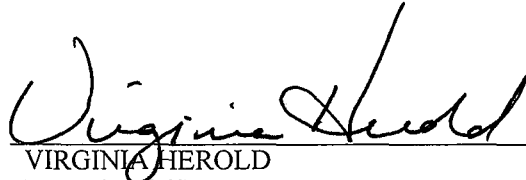
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PRAYER

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 Registration Number TCH 46227, issued to Souvanh Thao;
2. Ordering Souvanh Thao 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: 6/10/13



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