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8		RE THE	
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10	STATE OF C	CALIFORNIA	
11	In the Matter of the Accusation Against:	Case Number 4649	
12	LISELI MULALA-SIMPSON	ACCUSATION	
13	a.k.a. Liseli Inonge Mulala-Simpson 1580 Valencia Street, #100 San Francisco, California 94110		
14	Pharmacist License Number RPH 54290		
15	Respondent		
16	,		
17			
18	Complainant Virginia Herold alleges:		
19	PARTIES		
20	Complainant brings this accusation s	olely in her official capacity as the Executive	
21	Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.		
22	2. On or about March 20, 2003, the Board issued Pharmacist License Number		
23	RPH 54290 to respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson. This		
24	pharmacist license was in full force and effect at all times relevant to the charges brought in this		
25	accusation and will expire on September 30, 2014, unless renewed.		
26	JURISD	<u>ICTION</u>	
27	3. This accusation is brought before the Board under the authority_of the following law		
28	All section references are to the Business and Professions Code unless otherwise indicated.		

- 4. Section 4300 states, in pertinent part:
- "(a) Every license issued may be suspended or revoked.
- "(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - "(1) Suspending judgment.
 - "(2) Placing him or her upon probation.
 - "(3) Suspending his or her right to practice for a period not exceeding one year.
 - "(4) Revoking his or her license.
- "(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper."
 - 5. Section 4300.1 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."

STATUTORY AND REGULATORY AUTHORITY

6. Section 490, subdivision (a), states:

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

7. Section 4301 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:

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

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"(I) 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."

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

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

9. Section 125.3, subdivision (a), states:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceedings, the administrative law judge may 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."

FACTUAL BACKGROUND

- On July 3, 2011, at about 8:19 p.m., California Highway Patrol officers responded to the scene of an accident at Highway 101 at Vermont Street in San Francisco, California. Respondent was in an ambulance and her car was facing the wrong way on the off ramp. The officer smelled the odor of an alcoholic beverage coming from respondent. She admitted that she drove the car and had had between six to eight drinks. She said she was not injured but did not remember hitting anything with her car. She said that she knew she should not have been driving. She said that her impairment was about 8 out of 10.
- She failed to properly perform a series of field sobriety tests. She took unsure steps, spoke with a heavily-slurred speech, had red, watery eyes, and was unsteady on her feet. Respondent's blood alcohol concentrations were measured at 0.237 at 9:58 p.m. and 0.232 at 9:59 p.m.
- On or about September 22, 2011, in People of the State of California v. Liseli Inonge Mulala-Simpson, Superior Court of California, County of San Francisco Case Number 2460977, respondent pled guilty to a misdemeanor violation of Vehicle Code section 23152, subdivision (b) (driving under the influence). Execution of sentence was suspended, and respondent was placed on three years' unsupervised probation. The terms and conditions of probation included 10 days' incarceration and completion of a driving under the influence program.

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- 13. On October 5, 2012, the Board received a letter from respondent which stated, in part: "Due to unfortunate circumstances in my life (I was going through a divorce) I had a severe lapse in judgement and drove under the influence. I was stopped and I was subsequently convicted on a misdemeanor DUI charge. . . . I have learned my lesson and this is not something that will happen again."
- 14. On November 16, 2012, the Board received another letter from respondent which stated, in part: "Last year in July I was in the process of seperating [sic] from my husband and on the night of July 3rd I made some regettable [sic] choices including driving under the influence. I was stopped by police and sentenced to 8 days of SWAP and 6 months in a DUI class. I have completed both programs and this will not happen again."

CAUSES FOR DISCIPLINE

FIRST CAUSE FOR DISCIPLINE Bus. & Prof. Code, § 490, subd. (a) Conviction

- 15. The allegations of paragraphs 10-14 are realleged and incorporated by reference as if fully set forth.
- 16. Respondent has subjected her pharmacist license to disciplinary action under section 490, subdivision (a), for being convicted of a crime substantially related to the qualifications, functions, or duties of a pharmacist. As set forth in paragraphs 10-14 above, on or about September 22, 2011, respondent pled guilty to a misdemeanor violation of Vehicle Code section 23152, subdivision (b).

SECOND CAUSE FOR DISCIPLINE Bus. & Prof. Code, § 4301, subd. (I) Unprofessional Conduct: Conviction

- 17. The allegations of paragraphs 10-14 are realleged and incorporated by reference as if fully set forth.
- 18. Respondent has subjected her pharmacist license to disciplinary action under section 4301, subdivision (l), for engaging in unprofessional conduct by being convicted of a crime substantially related to the qualifications, functions, or duties of a pharmacist. As set forth in ///

1	paragraphs 10-14 above, on or about September 22, 2011, respondent pled guilty to a	
2	misdemeanor violation of Vehicle Code section 23152, subdivision (b).	
3	THIRD CALCE EOD DYCCYDI INE	
4	THIRD CAUSE FOR DISCIPLINE Bus. & Prof. Code, § 4301, subd. (h)	
5	Unprofessional Conduct: Self-administration of Alcoholic Beverages Causing Danger, Injury, or Unsafe Practice	
6	19. The allegations of paragraphs 10-14 are realleged and incorporated by reference as if	
7	fully set forth.	
8	20. Respondent has subjected her pharmacist license to disciplinary action under section	
9	4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to the	
10	extent or in a manner as to be dangerous or injurious to herself, to any other person or to the	
11	public, or to the extent that the use impaired her ability to conduct with safety to the public the	
12	practice of pharmacy. As set forth in paragraphs 10-14 above, on July 3, 2011, respondent drove	
13	a car with a blood alcohol content of greater that 0.08 percent. On or about September 22, 2011,	
14	she pled guilty to a misdemeanor violation of Vehicle Code section 23152, subdivision (b).	
15	<u>PRAYER</u>	
16	WHEREFORE, complainant requests that a hearing be held on the matters alleged in this	
17	accusation, and that following the hearing, the Board of Pharmacy issue a decision:	
	1. Revoking or suspending Pharmacist License Number RPH 54290 issued to	
18	1. Revoking or suspending Pharmacist License Number RPH 54290 issued to	
18 19	1. Revoking or suspending Pharmacist License Number RPH 54290 issued to respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson;	
19	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson;	
19 20	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, to	
19 20 21	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case	
19 20 21 22	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, 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: 7/8/3	
19 20 21 22 23	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, 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: T/8//3	
19 20 21 22 23 24	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, 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: VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs	
19 20 21 22 23 24 25	respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson; 2. Ordering respondent Liseli Mulala-Simpson, a.k.a. Liseli Inonge Mulala-Simpson, 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: 7/8/3 VIRGINIA HEROLD Executive Officer Board of Pharmacy	