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

12 In the Matter of the Accusation Against:  
13 **TUTANKHA NYAJU ALLEN**  
4571 Orchid Dr.  
14 Los Angeles, CA 90043  
15 Pharmacy Technician Registration  
No. TCH 58569  
16  
17 Respondent.

Case No. 4869  
**ACCUSATION**

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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 24, 2005, the Board of Pharmacy (Board) issued Pharmacy  
24 Technician Registration No. TCH 58569 to Tutankha Nyaju Allen (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on August 31, 2014, 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 unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 490 states, in pertinent part:

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

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
11 discipline a licensee for conviction of a crime that is independent of the authority granted under  
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
13 of the business or profession for which the licensee's license was issued.

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

20 5. Section 4300 provides in pertinent part, that every license issued by the Boards is  
21 subject to discipline, including suspension or revocation.

22 6. Section 4300.1 states:

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

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1           7.    Section 4301 states, in pertinent part:

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

5           .....

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

9           .....

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

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**REGULATORY PROVISIONS**

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 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 provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

**FIRST CAUSE FOR DISCIPLINE**

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

10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician as follows:

a. On or about March 21, 2013, after pleading guilty, Respondent was convicted of one felony count of violating Penal Code section 530.5, subdivision (c)(3) [multiple identifying information theft] and one felony count of Penal Code section 502, subdivision (c) [fraudulent computer access] in the criminal proceeding entitled *The People of the State of California v. Tutanka Nyaju Allen* (Super. Ct. Los Angeles County, 2013, No. BA408786.) The Court

1 sentenced Respondent to serve 6 days in Los Angeles County Jail and placed him on 36 months  
2 formal probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or between August 6, 2012  
4 and October 27, 2012, Respondent used his mother's credit cards and bank card to make  
5 unauthorized transactions and withdrawals. Respondent admitted to his mother that he had used  
6 her credit cards and bank card. Respondent was subsequently arrested when she reported the  
7 unauthorized use to police.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Acts Involving Moral turpitude, Dishonesty, Fraud, Deceit, or Corruption**

10 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
11 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption  
12 with the intent to substantially benefit himself, or substantially injure another. Complainant refers  
13 to, and by reference incorporates, the allegations set forth above in paragraph 10, subparagraph  
14 (b), as though set forth fully.

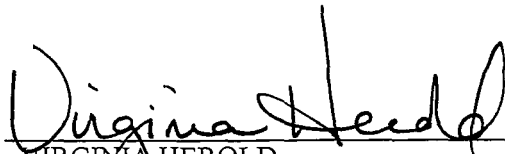
15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 58569, issued to  
19 Tutankha Nyaju Allen;
- 20 2. Ordering Tutankha Nyaju Allen to pay the Board the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

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25 DATED: \_\_\_\_\_

11/4/13



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

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