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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5620

11 **TAHMINA SAYED**
12 **3218 Courthouse Drive**
13 **Union City, CA 94587**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH 86113**

15 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 September 2, 2008, the Board of Pharmacy issued Pharmacy Technician
21 Registration Number TCH 86113 to Tahmina Sayed (Respondent). The Pharmacy Technician
22 Registration was in full force and effect at all times relevant to the charges brought herein and
23 will expire on September 30, 2016, 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.
28

1 4. Section 4300 of the Business and Professions Code, in pertinent part, states:

2 "(a) Every license issued may be suspended or revoked.

3 "(b) The board shall discipline the holder of any license issued by the board, whose default
4 has been entered or whose case has been heard by the board and found guilty, by any of the
5 following methods:

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

8 "(3) Suspending his or her right to practice for a period not exceeding one year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper.

12 . . .

13 5. Section 4301 of the Business and Professions Code, in pertinent part, states:

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

17 . . .

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

21 . . .

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

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
2 dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.

11 . . .

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

16 7. Section 493 of the Business and Professions Code states:

17 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
18 the department pursuant to law to deny an application for a license or to suspend or revoke a
19 license or otherwise take disciplinary action against a person who holds a license, upon the
20 ground that the applicant or the licensee has been convicted of a crime substantially related to the
21 qualifications, functions, and duties of the licensee in question, the record of conviction of the
22 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
23 and the board may inquire into the circumstances surrounding the commission of the crime in
24 order to fix the degree of discipline or to determine if the conviction is substantially related to the
25 qualifications, functions, and duties of the licensee in question.

26 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

27 8. Section 125.3 of the Business and Professions Code states, in pertinent part, that the
28 Board may request the administrative law judge to direct a licentiate found to have committed a

1 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case.

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

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

10 FIRST CAUSE FOR DISCIPLINE

11 (Conviction of a Crime)

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

15 11. On or about February 3, 2015 in a criminal proceeding entitled People of the State of
16 California v. Tahmina Sayed, Sacramento County Superior Court Case No. 14F05175,
17 Respondent was convicted by her plea of nolo contendere for violating Penal Code section 508
18 (embezzlement), a misdemeanor.

19 12. On or about July 24, 2014, Sacramento Police Department Officers were dispatched
20 to a Nordstrom retail store to conduct an employee theft investigation. A police officer made
21 contact with the Nordstrom store's investigator and Respondent. The Nordstrom investigator
22 provided the officer with copies of computer refund transactions made by Respondent as well as
23 video surveillance of Respondent working at the store. Respondent's employee number had been
24 flagged by Nordstrom's computer system for suspicious transactions that took place between June
25 15, 2014 and June 30, 2014 at another Nordstrom store and between July 9, 2014 and July 21,
26 2014 at the current Nordstrom store. Nordstrom discovered that Respondent allowed a friend to
27 use her employee discount. According to the Nordstrom investigator, store policy permits the
28 employee discount for the employee only. When the officers made contact with Respondent, she

1 was given her Miranda rights. Respondent said that she understood her rights and told the officer
2 that she had worked at Nordstrom since August of 2013 and she admitted to stealing \$5,000.00
3 from her employer. The total lost revenue from the stores and fraudulent employee discount was
4 approximately \$5,582.87. Respondent was arrested and booked at the county jail for violating
5 Penal Code section 503, (embezzlement).

6 13. On or about February 3, 2015, the court placed Respondent on probation for three
7 years under terms and conditions, which required her to complete 354 hours of community service
8 in the Sacramento County Sheriff's Department Work Release Program. Additionally, the court
9 found that the Respondent lacked the ability to pay a fine and waived the base fine and waived all
10 non-mandatory fees and fines.

11 SECOND CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct -- An Act Involving Moral Turpitude, Dishonesty, Fraud)

13 14. Respondent is subject to disciplinary action under Business and Professions Code
14 section 4301(f) for unprofessional conduct in that she committed an act involving moral turpitude,
15 dishonesty, fraud, deceit or corruption. The circumstances are as follows:

16 15. On or about July 24, 2014, Respondent admitted to stealing approximately \$5,000.00
17 from her employer. Respondent was arrested and charged with violating Penal Code section 503,
18 embezzlement.

19 PRAYER

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

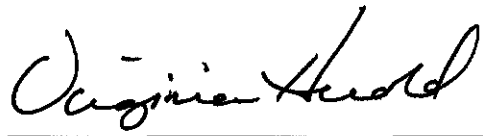
- 22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 86113,
23 issued to Tahmina Sayed
- 24 2. Ordering Tahmina Sayed to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

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

DATED: 3/21/16



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

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