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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 4678

13 **PHONEPASEUT TOMMY**
14 **LOUANGAMATH**

STATEMENT OF ISSUES

15 **Pharmacy Technician Registration**
16 **Applicant**

Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Virginia K. Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the California State Board of Pharmacy.

22 2. On or about August 20, 2012, the California State Board of Pharmacy received an
23 application for a Pharmacy Technician Registration from Phonepaseut Tommy Louangamath
24 (Respondent). On or about August 16, 2012, Louangamath certified under penalty of perjury to
25 the truthfulness of all statements, answers, and representations in the application. The Board of
26 Pharmacy denied the application on January 30, 2013.

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1 JURISDICTION

2 3. This Statement of Issues is brought before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 STATUTORY PROVISIONS

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant
8 has one of the following:

9 (1) Been convicted of a crime. A conviction within the meaning of this section means a
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
11 board is permitted to take following the establishment of a conviction may be taken when the
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
13 an order granting probation is made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 ...

16 (3)

17 (A) Done any act which if done by a licentiate of the business or profession in question
18 would be grounds for suspension or revocation of license.

19 (B) The board may deny a license pursuant to this subdivision only if the crime or act is
20 substantially related to the qualifications, functions, or duties of the business or profession for
21 which application is made.

22 5. Section 493 of the Code states:

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

1 and the board may inquire into the circumstances surrounding the commission of the crime in
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the
3 qualifications, functions, and duties of the licensee in question.”

4 REGULATORY PROVISIONS

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

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

12 CAUSE FOR DENIAL OF APPLICATION

13 (Conviction of a Crime)

14 Conviction No. 1

15 7. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
16 the Code, in conjunction with California Code of Regulations, title 16, section 1770, in that on or
17 about March 30, 2011, in a criminal proceeding entitled *People v. Phonepaseut Tommy*
18 *Louangamath*, in Sacramento County Superior Court, Case Number 10T05456, Respondent was
19 convicted by plea of nolo contendere of violating Vehicle Code section 23152(b), a misdemeanor.
20 The circumstances are as follows:

21 a. On or about July 11, 2010, a California Highway Patrol officer observed
22 Respondent and a female standing at the rear of a vehicle on the shoulder of State Route 99.
23 When the officer stopped and asked Respondent whether he was having any mechanical
24 difficulties with the car, Respondent's speech was slurred and he walked with an unsteady gait.
25 The officer observed that the keys to the vehicle were in the ignition and the engine was running.
26 Respondent and the female admitted that Respondent was driving when they pulled their vehicle
27 over. When Respondent provided the officer with his driver's license, Respondent admitted that
28 his driver's license was suspended. While the officer spoke with Respondent, the officer smelled

1 the odor of alcohol emitting from Respondent's breath and person, and the officer observed that
2 Respondent's eyes were red and watery and he was unsteady on his feet. Respondent's
3 Preliminary Alcohol Screening (PAS) was 0.152 percent and 0.162 percent two minutes later.
4 The officer arrested Respondent for driving under the influence and transported Respondent to the
5 Sacramento County Jail. Once at the jail, Respondent provided a blood test which revealed that
6 his Blood Alcohol Content (BAC) was 0.15 percent.

7 b. On or about March 30, 2011 Respondent was sentenced as follows: Three
8 years probation, two days of jail, a six-month High BAC First Offender Program, and a fine.

9 **Conviction No. 2**

10 8. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
11 the Code, in conjunction with the California Code of Regulations, title 16, section 1770, in that on
12 or about March 30, 2011, in a criminal proceeding entitled *People v. Phonpaseut Tommy*
13 *Louangamath*, in Sacramento County Superior Court, Case Number 11T01655, Respondent was
14 convicted by a plea of nolo contendere of violating Vehicle Code sections 23152(b) and
15 14601.2(a), a misdemeanor. The circumstances are as follows:

16 a. On or about February 20, 2011, a police officer observed Respondent driving a
17 vehicle with a non-functioning passenger-side rear parking light. When the officer conducted a
18 traffic stop of Respondent, Respondent's speech was slurred and the officer noticed the odor of an
19 alcoholic beverage. The officer conducted a PAS test which revealed that Respondent's BAC
20 was 0.135 percent. The officer arrested Respondent for driving under the influence.

21 b. On or about March 30, 2011, Respondent was sentenced as follows: Four years
22 probation, 30 days of jail, an 18-month Multiple Offender DUI Program, and a fine.

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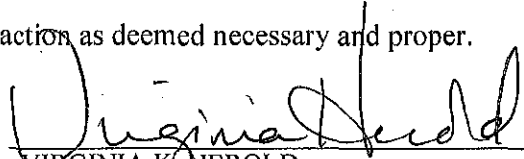
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PRAYER

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

1. Denying the application of Phonepaseut Tommy Louangamath for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/13



VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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