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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: **KAM CHU TAM** **Applicant for Intern Pharmacist License** Respondent.	Case No. 5756 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 18, 2015, the Board of Pharmacy, Department of Consumer Affairs received an application for an Application for Registration as an Intern Pharmacist from Kam Chu Tam (Respondent). On or about August 3, 2015, Kam Chu Tam certified under penalty of perjury the truthfulness of all statements, answers, and representations in the Application. The Board denied the Application on or about January 8, 2016.

JURISDICTION

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

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STATUTORY AND REGULATORY PROVISIONS

4. Section 4300, subdivision (c), of the Code states in pertinent part:

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy . . . ."

5. Section 4301 of the Code provides, in pertinent part, that "unprofessional conduct" is defined to include, but not be limited to, any of the following:

(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.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

6. Section 480 of the Code states, in pertinent part:

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

"(1) Been convicted of a crime. . . . Any action which a board is permitted to take following the establishment of a conviction may be taken . . . irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

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

"The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the . . . [license]."

7. 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."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of Substantially Related Crime(s))

8. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and California Code of Regulations, title 16, section 1770, for conviction of a substantially related crime, in that on or about June 15, 2011, in the criminal case *People v. Kam Chu Tam*, Case No. CRM11-1299 in Yolo County Superior Court, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), a misdemeanor. The conviction was entered as follows:

a. On or about January 22, 2011, a car driven by Respondent was observed driving onto the sidewalk in Davis, California. Responding officer(s) from the Davis Police Department observed that Respondent displayed symptoms consistent with alcohol intoxication, and she admitted to consuming alcohol. A Preliminary Alcohol Screening (PAS) test measured blood alcohol concentrations of 0.19% and 0.18%. Respondent was placed under arrest, booked, and released with an Agreement to Appeal on charges pursuant to Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of Alcohol) and section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), both misdemeanors.

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b. On or about June 15, 2011, in *People v. Kam Chu Tam*, Case No. CRM11-1299 in Yolo County Superior Court, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol Level of 0.08% or Higher), a misdemeanor. Imposition of sentence was suspended and Respondent was placed on summary probation for thirty-six (36) months, on terms and conditions including 6 days in jail, a 3-month DUI Program, a 12-month driver's license suspension, and payment of fines and fees.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Conviction of Substantially Related Crime(s))

9. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and California Code of Regulations, title 16, section 1770, for conviction of a substantially related crime, in that on or about November 23, 2011, in the criminal case *People v. Kam Chu Tam*, Case No. CRM11-4132 in Yolo County Superior Court, Respondent was convicted of violating (1) Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), a misdemeanor, with a prior DUI conviction, and (2) Vehicle Code section 14601.2 (Driving with a Suspended License). The conviction was entered as follows:

a. On or about July 29, 2011, a car driven by Respondent was observed swerving between lanes in Davis, California. Responding officer(s) from the Davis Police Department observed that Respondent displayed symptoms consistent with alcohol intoxication, and she admitted to consuming alcohol. Respondent initially told the officer(s) that she had left her driver's license at home and identified herself by the name "Emily." After failing Field Sobriety Tests (FSTs), Respondent was uncooperative and refused to perform a Preliminary Alcohol Screening (PAS) test. When it was discovered that Respondent had a suspended driver's license from her prior DUI offense, she was arrested on suspicion of DUI and driving with a suspended license. A blood test measured her blood alcohol concentration at 0.19%. Following booking, she was released with an Agreement to Appeal on charges pursuant to Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of Alcohol) and section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), both misdemeanors.

b. On or about November 23, 2011, in *People v. Kam Chu Tam*, Case No. CRM11-4132 in Yolo County Superior Court, Respondent was convicted of violating (1) Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), a misdemeanor, with a prior DUI conviction, and (2) Vehicle Code section 14601.2 (Driving with a Suspended License), both misdemeanors. Imposition of sentence was suspended and Respondent was placed on summary probation for forty-eight (48) months, on terms and conditions including 20 days in jail, to run consecutive to the time ordered in Case No. CRM11-1299, an 18-month DUI Program, a 12-month driver's license suspension, installation of an Ignition Interlock Device (IID) on any vehicle she owned or operated for three (3) years, and payment of fines and fees.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Convictions Involving Alcohol)

10. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301(k); and/or 4300(c) by reference to 4301(k), in that, as described in paragraphs 8 and 9 above, Respondent was convicted of more than one misdemeanor involving the use, consumption, or self-administration of an alcoholic beverage.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Dangerous or Injurious Use of Alcohol/Drug)

11. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as described in paragraphs 8 and 9 above, Respondent made dangerous or injurious use of alcohol.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

12. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8, 9, 10, and/or 11 above, Respondent engaged in unprofessional conduct.

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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. Denying the application of Kam Chu Tam for an Intern Pharmacist License;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 5/3/16

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

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