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

12 In the Matter of the Accusation Against:

Case No. 3234

13 MICHELLE H. MAI
15837 E. Palomino Blvd.
14 Fountain hills, Arizona 95268

A C C U S A T I O N

15 Pharmacy License No. RPH 58012

16 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Virginia K. Herold (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about December 29, 2005, the Board of Pharmacy issued
24 Pharmacist License No. RPH 58012 to Michelle H. Mai (Respondent). The Pharmacist License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2009, unless renewed. Respondent also holds Pharmacist License No. 12319
27 issued by the Arizona State Board of Pharmacy, restricted as alleged herein.

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JURISDICTION

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

5 4. Section 4301 of the Code states:

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

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

14 ...

15 “(n) The revocation, suspension, or other discipline by another state of a license
16 to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by
17 this chapter.

18 5. Section 4301.5(a) of the Code states, in pertinent part:

19 “If a pharmacist possesses a license or is otherwise authorized to practice
20 pharmacy in any other state or by an agency of the federal government, and that license or
21 authority is suspended or revoked, the pharmacist’s license shall be suspended automatically for
22 the duration or revocation, unless terminated or rescinded as provided in subdivision (c).”

23 6 Section 125.3 of the Code states, in pertinent part, that the Board may
24 request the administrative law judge to direct a licentiate found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

3 7. Respondent is subject to disciplinary action for unprofessional conduct
4 under section 4301(f) of the Code in that Respondent committed acts of moral turpitude,
5 dishonesty, fraud, deceit and corruption during the course of her employment as a pharmacist at
6 Basha's Inc. Pharmacy #19, 3115 S. McClintock Road, Tempe, Arizona. The circumstances are
7 that between approximately September 10, 2004, and July 31, 2005, Respondent processed
8 fictitious prescription claims and prescription refills for controlled substances, including
9 Triazolam .25 mg tablets, Tussionex Suspension and Phentermine 15 mg capsules, in order to
10 submit rebate requests to several pharmaceutical manufacturers and increase the apparent
11 volume of the pharmacy business. Respondent also offered, delivered, received, or accepted
12 unearned consideration while engaged in such conduct, and failed to maintain prescription
13 records as required by law.

14 SECOND CAUSE FOR DISCIPLINE

15 (Out of State Discipline)

16 7. Respondent is subject to disciplinary action for unprofessional conduct
17 under section 4301(n) of the Code in that on or about January 25, 2006, the Arizona State Board
18 of Pharmacy entered its Order No. 05-33-PHR(B) subjecting Respondent's Pharmacist License
19 No. 12319 issued by the Arizona State Board of Pharmacy to discipline by suspending said
20 license for a minimum of one year and upon termination of her suspension, placing Respondent
21 on probation for a period of two years from the final date of suspension. On or about January 24,
22 2007, the Arizona State Board of Pharmacy terminated suspension of Respondent's Pharmacist
23 License No. 12319 and imposed two years probation thereafter against Respondent.

24 PRAYER

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

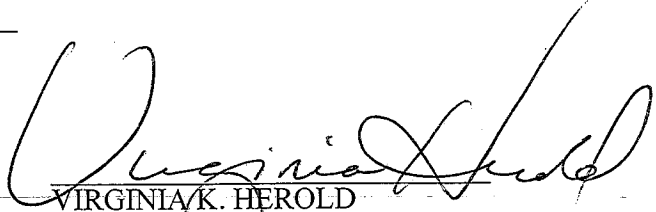
27 A. Revoking or suspending Pharmacist License No. RPH 58012 issued to
28 Michelle H. Mai;

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B. Ordering Michelle H. Mai 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

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

DATED: 12/10/08



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

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Accusation.wpd

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