

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1299
Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 ROMY RYAN RELINGO
12 266 Irvington Street
13 Daly City, CA 94014
14 Pharmacy Technician License No. TCH 46262
15 Respondent.

Case No. 3238

A C C U S A T I O N

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about June 30, 2003, the Board of Pharmacy issued Pharmacy
22 Technician Registration Number TCH 46262 to Romy Ryan Relingo (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on July 31, 2009, unless renewed.

25 JURISDICTION

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

1 4. Section 4011 of the Code provides that the Board shall administer and
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the
5 Board may be suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license
10 that is not renewed within three years following its expiration may not be renewed, restored, or
11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section
12 4402(e) of the Code provides that any other license issued by the Board may be canceled by the
13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion
14 may not be reissued but will instead require a new application to seek reissuance.

15 STATUTORY AND REGULATORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
17 take action against any holder of a license who is guilty of "unprofessional conduct," defined to
18 include, but not be limited to, any of the following:

19 (h) The administering to oneself, of any controlled substance, or the use of any
20 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
21 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
22 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
23 the public the practice authorized by the license.

24 (j) The violation of any of the statutes of this state, of any other state, or of the
25 United States regulating controlled substances and dangerous drugs.

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

28 ///

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
3 applicable federal and state laws and regulations governing pharmacy, including regulations
4 established by the board or by any other state or federal regulatory agency.

5 8. Section 490 of the Code provides, in pertinent part, that the Board may
6 suspend or revoke a license when it finds that the licensee has been convicted of a crime
7 substantially related to the qualifications, functions or duties of the license.

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

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

15 10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
16 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

17 11. Section 4060 of the Code provides, in pertinent part, that no person shall
18 possess any controlled substance, except that furnished upon a valid prescription/drug order.

19 12. Health and Safety Code section 11170 provides that no person shall
20 prescribe, administer, or furnish a controlled substance for himself or herself.

21 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful
22 to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055),
23 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

24 14. Health and Safety Code section 11357, in pertinent part, makes it unlawful
25 for any person to possess **marijuana** or concentrated cannabis.

26 15. Health and Safety Code section 11550, in pertinent part, makes it unlawful
27 for any person to use or be under the influence of any controlled substance listed in Schedule II,
28 subdivision (b) or (c), except when administered by or under direction of an authorized licensee.

1 16. Section 125.3 of the Code provides, in pertinent part, that the Board may
2 request the administrative law judge to direct a licentiate found to have committed a violation of
3 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

4 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

5 17. Section 4021 of the Code provides that a “controlled substance” is any
6 substance listed in Division 10, Chapter 2 (Section 11053 et seq.) of the Health and Safety Code.

7 18. Section 4022 of the Code states, in pertinent part:

8 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
9 self-use, except veterinary drugs that are labeled as such, and includes the following:

10 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
11 without prescription,’ ‘Rx only,’ or words of similar import.

12 ...
13 “(c) Any other drug or device that by federal or state law can be lawfully
14 dispensed only on prescription or furnished pursuant to Section 4006.”

15 19. **Marijuana** is a Schedule I controlled substance as designated by Health
16 and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and
17 Professions Code section 4022. It is a hallucinogenic drug.

18 20. **Cocaine** is a Schedule I (in base form) or Schedule II controlled substance
19 as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous
20 drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

21 FIRST CAUSE FOR DISCIPLINE

22 (Conviction of Substantially Related Crime)

23 21. Respondent is subject to discipline under section 4301(l) and/or section
24 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the
25 conviction of a substantially related crime, in that on or about December 1, 2006, in a criminal
26 case titled *People v. Romy Ryan Relingo*, Case No. NF361192 and/or SC063678 in San Mateo
27 County Superior Court, Respondent was convicted of violating Health and Safety Code section
28 11350, subdivision (a) (Possession of Controlled Substance - **cocaine**), a felony, as follows:

1 a. On or about September 1, 2006, Respondent was contacted by officers of
2 the South San Francisco Police Department because he had parked an automobile blocking the
3 sidewalk. As officers approached, Respondent attempted to discard some small items. In what
4 was discarded and what was subsequently discovered on his person, Respondent was found to be
5 in possession of three plastic baggies containing a substance later field tested as (base) **cocaine**
6 (gross weight approximately 1.3 grams), and two plastic baggies containing **marijuana** (gross
7 weight 1.7 grams). Respondent stated that the drugs belonged to him, that he had purchased the
8 **cocaine** and **marijuana** two days prior, that his practice was to "lace" **marijuana** cigarettes with
9 the **cocaine**, that he had last had a **cocaine**-laced **marijuana** cigarette earlier that day, and that he
10 had been using "rock" **cocaine** ("crack") for seven (7) years. Respondent was placed under arrest
11 on suspicion of violating (1) Health and Safety Code section 11350, subdivision (a) (Possession
12 of Controlled Substance - **cocaine**), a felony, and (2) Health and Safety Code section 11357,
13 subdivision (b) (Possession of **marijuana** < 28.5 grams), a misdemeanor.

14 b. On or about September 29, 2006, in *People v. Romy Ryan Relingo*, Case
15 No. NF361192 and/or SC063678 in San Mateo County Superior Court, Respondent was charged
16 with (1) violating Health and Safety Code section 11350, subdivision (a) (Possession of
17 Controlled Substance - **cocaine**), a felony; and (2) violating Health and Safety Code section
18 11357, subdivision (b) (Possession of **marijuana** < 28.5 grams), a misdemeanor.

19 c. On or about December 1, 2006, Respondent pleaded *nolo contendere* to
20 the first count of violating Health and Safety Code section 11350, subdivision (a) (Possession of
21 Controlled Substance - **cocaine**), a felony. On or about May 10, 2007, imposition of sentence
22 was suspended in favor of supervised probation for three (3) years, on terms and conditions that
23 include(d) search conditions, abstention, referral to treatment, and payment of fines and fees.

24 SECOND CAUSE FOR DISCIPLINE

25 (Self-Administration of Controlled Substance)

26 22. Respondent is subject to discipline under section 4301(h) of the Code, in
27 that Respondent, as described in paragraph 21, administered one or more controlled substances to
28 himself, including **cocaine** and/or **marijuana** products.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance)

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code in that Respondent, as described in paragraph 21 above, furnished to himself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

FOURTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of **cocaine**, a controlled substance, without a prescription.

FIFTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11357, in that Respondent, as described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of **marijuana** or concentrated cannabis, a controlled substance.

SIXTH CAUSE FOR DISCIPLINE

(Self-Administration/Use of Controlled Substance)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in paragraph 21 above, self-administered/used, conspired to self-administer/use, and/or assisted in/abetted self-administration/use, of a controlled substance, without prescription.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 21 to 25 above, engaged in unprofessional conduct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

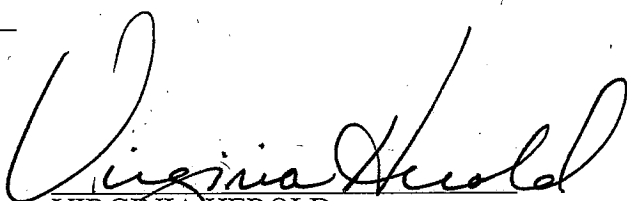
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacy Technician License No. TCH 46262, issued to Romy Ryan Relingo (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 5/14/09



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