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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 3386

13 **THAO PHUONG LE-NGHIEM**
14 **aka THAO PHUONG LENGHIEM**
15 **aka KATHY LENGHIEM**
1221 Lyndon St., #12
South Pasadena, CA 91030

FIRST AMENDED ACCUSATION

16 Pharmacy Technician License No. TCH 70474

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about July 15, 2006, the Board issued Pharmacy Technician License No. TCH
25 70474 to Thao Phuong Le-Nghiem aka Thao Phuong Lenghiem aka Kathy Lenghiem
26 (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant
27 to the charges brought herein and will expire on November 30, 2011, unless renewed.

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1 **JURISDICTION**

2 3. This First Amended Accusation 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 118, subdivision (b), provides that the suspension, expiration, surrender or
7 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
8 action during the period within which the license may be renewed, restored, reissued or
9 reinstated.

10 5. Section 490 provides that a board may suspend or revoke a license on the ground that
11 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
12 duties of the business or profession for which the license was issued.

13 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
14 revoked."

15 7. Section 4301 states, in pertinent part:

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

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

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

26 **REGULATORY PROVISIONS**

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

28 "For the purpose of denial, suspension, or revocation of a personal or facility license

1 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
2 crime or act shall be considered substantially related to the qualifications, functions or duties of a
3 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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5 licensee or registrant to perform the functions authorized by his license or registration in a manner
6 consistent with the public health, safety, or welfare."

7 **COST RECOVERY**

8 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
9 law judge to direct a licentiate found to have committed a violation or violations of the licensing
10 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
11 case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of Substantially Related Crimes)**

14 10. Respondent is subject to disciplinary action under sections 490, 4300, subdivision (a),
15 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770,
16 in that Respondent was convicted of crimes substantially related to the qualifications, duties and
17 functions of a licensee which to a substantial degree evidence her present or potential unfitness to
18 perform the functions authorized by her license in a manner consistent with the public health,
19 safety, or welfare, as follows:

20 a. On or about October 22, 2010, after pleading nolo contendere, Respondent was
21 convicted of one misdemeanor count of violating Penal Code section 459 [petty theft] in the
22 criminal proceeding entitled *The People of the State of California v. Thao Lenghiem* (Super. Ct.
23 Los Angeles County, 2009, No. GA078526). The Court placed Respondent on three (3) years
24 probation and ordered her to stay away from Rite Aid, 914 Fair Oaks, South Pasadena, California.

25 b. The circumstances of the conviction are that on or about November 30, 2009,
26 Respondent entered Rite Aid, removed cosmetic items valued at \$18, and exited the store without
27 paying for the items.

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1 c. On or about October 5, 2009, Respondent was convicted by the jury of one felony
2 count of violating Penal Code section 32 [accessory after the fact] in the criminal proceeding *The*
3 *People of the State of California v. Thao Phuong Le Nghiem* (Super. Ct. Los Angeles County,
4 2009, No. GA070684). Respondent was ordered to serve 40 months in state prison, to register as
5 a street gang participant, among others. On or about November 13, 2009, Respondent was
6 released on parole with 1,218 days credit for time served. Respondent filed an appeal. On or
7 about March 18, 2011, the appellate court issued a decision affirming the judgment.

8 d. The circumstances surrounding the conviction are that in 2006, Respondent was a
9 member of the Asian street gang "Wah Ching". On or about December 1, 2006, Respondent was
10 in the car with D.D., a Wah Ching gang member who was out on probation, G.Q., Respondent's
11 boyfriend and a former Wah Ching gang member, and another male known as "Paul". The four
12 of them drove up to a popular café Lollicup in San Gabriel. As their car approached the crowd
13 outside the café, D.D. pulled out a gun and fired several rounds at a group of youngsters, injuring
14 one and fatally killing another. On December 5, 2006, while interviewed by the detectives,
15 Respondent denied she was at Lollicup with D.D., G.Q. or Paul the evening of the shooting. On
16 or about August 28, 2007, during a second interview by the detectives, Respondent recanted her
17 previous statements and admitted that she was with the other three on December 1, 2006 and
18 witnessed the shooting, but claimed she was threatened by D.D. thereafter.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

21 11. Respondent is subject to disciplinary action under sections 4300, subdivision (a), and
22 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or about December 1,
23 2006 and November 30, 2009, she committed acts involving moral turpitude, dishonesty, fraud,
24 deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set
25 forth above in paragraph 10 inclusive, as though set forth fully.

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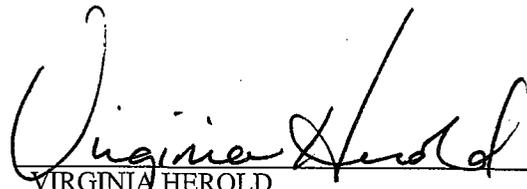
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PRAYER

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

1. Revoking or suspending Pharmacy Technician License No. TCH 70474, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/29/11



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

LA2009603811
12/15/2010dmm