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

10 In the Matter of the Accusation Against:

Case No. 3389

11 **TETYANA V. KOMIRENKO**
12 **10249 # 2 Oasis Court**
13 **Cupertino, CA 95014**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 65494**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about November 4, 2005, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 65494 to Tetyana V. Komirenko (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on October 31, 2009, unless renewed.

24 JURISDICTION

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

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

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

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
8 disciplinary action during the period within which the license may be renewed, restored, reissued
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
10 renewed within three years following its expiration may not be renewed, restored, or reinstated
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
12 the Code provides that any other license issued by the Board may be canceled by the Board if not
13 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
14 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 take action
17 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
18 not be limited to, any of the following:

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

22 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
23 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
24 oneself [or to the public or to another person], or to the extent that the use impairs the ability of
25 the person to conduct with safety to the public the practice authorized by the license.

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

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

5 8. Section 4327 of the Code makes it unlawful, while on duty, to sell, dispense or
6 compound any drug while under the influence of a dangerous drug or alcoholic beverage.

7 COST RECOVERY

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

11 FACTUAL BACKGROUND

12 10. Between on or about April 12, 2006 and on or about August 6, 2008, Respondent was
13 employed as a pharmacy technician at a Save Mart / Lucky Pharmacy (# 723; PHY 48467) in Los
14 Altos, California. In that position, she had access to controlled substances and dangerous drugs.

15 11. On or about August 2, 2008, while on duty as a pharmacy technician at Save Mart,
16 Respondent took without paying/stole and consumed at least two (2), and as many as three (3),
17 25.4 ounce cans of Foster's beer. Contemporaneous with and/or following consumption of the
18 alcohol, Respondent continued working while exhibiting signs of intoxication/impairment.

19 FIRST CAUSE FOR DISCIPLINE

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

21 12. Respondent is subject to discipline under section 4301(f) of the Code in that she, as
22 described in paragraphs 10 and 11 above, committed one or more acts involving moral turpitude,
23 dishonesty, fraud, deceit, or corruption.

24 SECOND CAUSE FOR DISCIPLINE

25 (~~Dangerous or Impairing Use of Alcohol~~)

26 22. Respondent is subject to discipline under section 4301(h) of the Code, in that she, as
27 described in paragraphs 10 and 11 above, used alcohol to an extent or in a manner dangerous to
28 herself, the public, or another, and/or impairing her practice as a pharmacy technician.

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THIRD CAUSE FOR DISCIPLINE

(Selling, Dispensing, or Compounding While Under the Influence)

13. Respondent is subject to disciplinary action under section 4301(j) and/or (o) and section 4327 of the Code, in that as described in paragraphs 10 and 11 above, Respondent sold, dispensed or compounded one or more drugs while under the influence of an alcoholic beverage, and/or directly or indirectly attempted, conspired, and/or assisted in or abetted such conduct.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 10 to 13 above, engaged in unprofessional conduct.

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. Revoking or suspending Pharmacy Technician Registration Number TCH 65494, issued to Tetyana V. Komirenko (Respondent);
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Taking such other and further action as is deemed necessary and proper.

DATED: _____

10/27/09

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

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