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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 Accusation Against:

Case No. 3434

12 **DIANNA MIKYUNG KIM**
13 **4680 San Fernando Rd.**
Glendale, CA 91204

A C C U S A T I O N

14 **And**

15 **17050 San Mateo St., Apt. #C**
Fountain Valley, Ca. 92788

16 **And**

17 **P. O. Box 10013**
18 **Glendale, Ca. 91209**

19 **And**

20 **31639 Bunkers Way**
21 **Temecula, Ca. 92591**

22 **Registered Pharmacist License No. RPH**
54036

23 Respondent.

24
25 Complainant alleges:

26 **PARTIES**

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

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10

11 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
13 applicable federal and state laws and regulations governing pharmacy, including regulations
14 established by the board.

15 “(p) Actions or conduct that would have warranted denial of a license.”

16 7. Section 118, subdivision (b) states:

17 “The suspension, expiration, or forfeiture by operation of law of a license
18 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
19 board or by order of a court of law, or its surrender without the written consent of the board, shall
20 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
21 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
22 any ground provided by law or to enter an order suspending or revoking the license or otherwise
23 taking disciplinary action against the licensee on any such ground.”

24 8. Section 490 states:

25 “A board may suspend or revoke a license on the ground that the licensee has
26 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
27 duties of the business or profession for which the license was issued. A conviction within the
28 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo

1 contendere. Any action which a board is permitted to take following the establishment of a
2 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
3 been affirmed on appeal, or when an order granting probation is made suspending the imposition
4 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal
5 Code."

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

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

13 10. Business and Professions Code section 125.3, subdivision (a), states, in pertinent part:

14 "Except as otherwise provided by law, in any order issued in resolution of a
15 disciplinary proceeding before any board within the department . . . the board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case."

19 **FIRST CAUSE FOR DISCIPLINE**

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

21 11. Respondent is subject to disciplinary action under Business and Professions Code
22 section 4300 and section 4301, subdivisions (f), (l), (o), and (p), in conjunction with Business and
23 Professions Code section 490, on the grounds of unprofessional conduct, as defined in California
24 Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes and/or
25 acts substantially related to the qualifications, functions or duties of a pharmacist. The
26 circumstances are as follows:

27 a. On or about November 3, 2004, Respondent was convicted on a plea of
28 guilty, to one count of violating section 602(o) of the Penal Code, a misdemeanor, (trespassing),

1 in the Superior Court of Orange County, West Justice Center, Case No. 04WM11036, entitled
2 *The People of the State of California v. Diana Mikyung Kim.*

3 b. The circumstances surrounding the conviction are that on or about October 4,
4 2004, Respondent was observed by Westminster police driving into the parking lot of a locked
5 down psychiatric hospital after being told multiple times that she was not welcome at the facility.
6 Respondent had previously been ordered off the property by Westminster police and advised of
7 the trespassing laws. Respondent acknowledged that she was not supposed to be present at the
8 location. She was subsequently arrested for trespassing.

9 c. On or about September 2, 2005, Respondent was convicted on a plea of
10 guilty, to one count of violating section 459 of the Penal Code, a misdemeanor, (burglary), in the
11 Superior Court of Orange County, North Justice Center, Case No. 05NM09244, entitled *The*
12 *People of the State of California v. Diana Mikyung Kim.*

13 d. The circumstances surrounding the conviction are that on or about August
14 21-23, 2005 Respondent wrote a check to the Radisson Hotel in Anaheim, Ca. and the Coast
15 Hotel in Anaheim, Ca. which did not have enough funds in the account to pay the room bill.
16 Anaheim police officers spoke to a representative from Washington Mutual Bank where
17 Respondent's checking account was held and learned that Respondent's account was overdrawn
18 by \$3000.00 and that the Bank was no longer accepting Respondent's personal checks.

19 e. On or about May 24, 2008, Respondent was arrested by the Glendale
20 (California) Police Department for violating Vehicle Code section 40508(a), a misdemeanor,
21 (Failure to Appear/Written Promise to Appear). The case is currently pending against
22 Respondent.

23 f. The circumstances surrounding the arrest are that on or about May 24,
24 2008, Respondent was found trespassing at the Walt Disney Corporation headquarters in
25 Glendale. Respondent was acting bizarrely and was admonished by Disney security personnel
26 that she is no longer welcome on Disney property. Officers discovered a warrant for her arrest out
27 of a case pending in Orange County and arrested Respondent for the outstanding warrant.

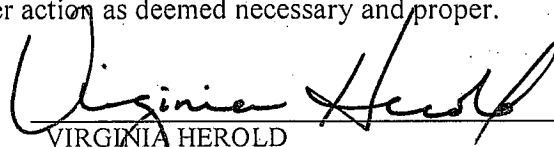
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PRAYER

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. Revoking or suspending Registered Pharmacist License Number RPH 54036, issued to Dianna Mikyung Kim;
2. Ordering Dianna Mikyung Kim 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/31/09



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

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