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

12 In the Matter of the Accusation Against:

Case No. AC 3475

13 **LOAN T. HO**
14 **4575 Meredith Street**
15 **Riverside, CA 92505**

A C C U S A T I O N

16 **Pharmacy Technician**
Registration No. TCH 56090

17 Respondent.
18

19 Complainant alleges:
20

21 **PARTIES**

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

24 2. On or about April 20, 2004, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH-56090 to Loan T. Ho (Respondent). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on April 30, 2010, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated.

9 **STATUTORY PROVISIONS**

10 5. Section 4300 of the Code states:

11 (a) Every license issued may be suspended or revoked.

12 (b) The board shall discipline the holder of any license issued by the
13 board, whose default has been entered or whose case has been heard by the
14 board and found guilty, by any of the following methods:

15 (1) Suspending judgment.

16 (2) Placing him or her upon probation.

17 (3) Suspending his or her right to practice for a period not exceeding one
18 year.

19 (4) Revoking his or her license.

20 (5) Taking any other action in relation to disciplining him or her as the
21 board in its discretion may deem proper.

22
23 6. Section 4301 of the Code states:

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

28 (f) The commission of any act involving moral turpitude, dishonesty,
fraud, deceit, or corruption, whether the act is committed in the course of

1 relations as a licensee or otherwise, and whether the act is a felony or
2 misdemeanor or not.

3 (l) The conviction of a crime substantially related to the qualifications,
4 functions, and duties of a licensee under this chapter. . . . In all other cases, the
5 record of conviction shall be conclusive evidence only of the fact that the
6 conviction occurred. The board may inquire into the circumstances
7 surrounding the commission of the crime, in order to fix the degree of
8 discipline or, in the case of a conviction not involving controlled substances or
9 dangerous drugs, to determine if the conviction is of an offense substantially
10 related to the qualifications, functions, and duties of a licensee under this
11 chapter. . . .

12 (p) Actions or conduct that would have warranted denial of a license.
13

14 7. Section 475 of the Code states:

15 (a) Notwithstanding any other provisions of this code, the provisions of
16 this division shall govern the denial of licenses on the grounds of:

17 (2) Conviction of a crime.

18 (3) Commission of any act involving dishonesty, fraud or deceit with the
19 intent to substantially benefit himself or another, or substantially injure another.

20 (4) Commission of any act which, if done by a licentiate of the business
21 or profession in question, would be grounds for suspension or revocation of
22 license.

23 (b) Notwithstanding any other provisions of this code, the provisions of
24 this division shall govern the suspension and revocation of licenses on grounds
25 specified in paragraphs (1) and (2) of subdivision (a).

26 (c) A license shall not be denied, suspended, or revoked on the grounds
27 of a lack of good moral character or any similar ground relating to an
28 applicant's character, reputation, personality, or habits.

8. Section 490 of the Code states:

A board may suspend or revoke a license on the ground that the licensee
has been convicted of a crime, if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
license was issued. A conviction within the meaning of this section means a
plea or verdict of guilty or a conviction following a plea of nolo contendere.
Any action which a board is permitted to take following the establishment of a
conviction may be taken when the time for appeal has elapsed, or the judgment

1 of conviction has been affirmed on appeal, or when an order granting probation
2 is made suspending the imposition of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4 of the Penal Code.

3 9. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted
5 by a board within the department pursuant to law to deny an application for a
6 license or to suspend or revoke a license or otherwise take disciplinary action
7 against a person who holds a license, upon the ground that the applicant or the
8 licensee has been convicted of a crime substantially related to the qualifications,
9 functions, and duties of the licensee in question, the record of conviction of the
10 crime shall be conclusive evidence of the fact that the conviction occurred, but
only of that fact, and the board may inquire into the circumstances surrounding
the commission of the crime in order to fix the degree of discipline or to
determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

11 As used in this section, 'license' includes 'certificate,' 'permit,'
12 'authority,' and 'registration.'

13 10. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of
19 rehabilitation furnished by the applicant or licensee.

20 **REGULATIONS**

21 11. California Code of Regulations, title 16, section 1770, states:
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23 For the purpose of denial, suspension, or revocation of a personal or
24 facility license pursuant to Division 1.5 (commencing with Section 475) of the
25 Business and Professions Code, a crime or act shall be considered substantially
26 related to the qualifications, functions or duties of a licensee or registrant if to a
27 substantial degree it evidences present or potential unfitness of a licensee or
28 registrant to perform the functions authorized by his license or registration in a
manner consistent with the public health, safety, or welfare.

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1 12. California Code of Regulations, title 16, section 1769, subdivision b, states:

2 When considering the suspension or revocation of a facility or personal
3 license on the ground that the licensee or the registrant has been convicted of a
4 crime, the board in evaluating the rehabilitation of such person and her present
eligibility for a license will consider the following:

5 (1) The nature and severity of the act(s) or offense(s).

6 (2) Total criminal record.

7 (3) Time that has elapsed since the commission of the act(s) or
8 offense(s).

9 (4) Whether the licensee has complied with all terms of parole,
10 probation, restitution, or any other sanctions lawfully imposed against the
licensee.

11 (5) Evidence, if any, of rehabilitation submitted by the licensee.

12
13 **COST RECOVERY**

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

18 **FACTS**

19 14. On or about on or about July 12, 2009, in a criminal proceeding entitled *People v.*
20 *Loan Ho*, in California Superior Court, Orange County West Justice Center Division, Case
21 Number 08WF0569, Respondent was convicted by her plea of guilty to three separate felony
22 counts of violating of Penal Code section 115 (a) (record false and forged document).

23 a. Respondent was sentenced to three (3) years formal probation, ninety (90) days in
24 jail, and restitution. Respondent is scheduled to complete her formal probation on July 12, 2012.

25 b. The circumstances of the crime are that on or about October 15, 2007, while acting in
26 the capacity of a Notary Public, Respondent helped an acquaintance prepare three (3) false and
27 forged grant deeds, which respondent knew would be recorded under the laws of California, by
28 notarizing four (4) signatures on the grant deeds even though the documents were not signed

1 before her. The fraudulent grants deeds were subsequently recorded and the underlying real
2 property was immediately used as collateral for cash loans.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Dishonest Act)**

5 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
6 in that she committed acts involving moral turpitude, dishonesty, deceit, or corruption when she
7 notarized three false and forged grant deeds which Respondent knew would be recorded under the
8 laws of California, by notarizing four (4) signatures on the grant deeds even though the
9 documents were not signed before her, as described in paragraph 14 above, which is incorporated
10 herein by reference.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(July 12, 2009, Conviction of Substantially Related Crime of Recording a False and Forged**
13 **Document on October 15, 2007)**

14 16. Respondent is subject to disciplinary action under Code sections 490, and 4301,
15 subdivision (l), in that she was convicted of a crime substantially related to the duties, functions
16 and qualifications of a pharmacy technician, as described in paragraph 14 above, which is
17 incorporated herein by reference.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Conduct Warranting Denial of Licensure)**

20 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (p),
21 in that she committed acts which, if she had committed before she were issued her Pharmacy
22 Technician Registration, would have warranted the denial of her application for licensure in that
23 Respondent helped prepare three false and forged grant deeds, which Respondent knew would be
24 recorded under the laws of California, by notarizing four (4) signatures on the grant deeds even
25 though the documents were not signed before her. As described in paragraph 14 above, which is
26 incorporated herein by reference.

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PRAYER

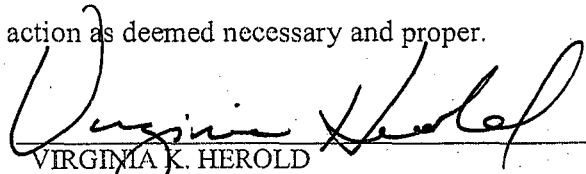
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 56090, issued to Loan T. Ho.

2. Ordering Loan T. Ho 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: 1/25/10


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

SD2009804766