

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

Case No. 3564

11 **XIU MING ZHU**  
12 **555 Eddy Street, # 4**  
13 **San Francisco, CA 94109**

**A C C U S A T I O N**

14 **Pharmacy Technician License No. TCH 82173**

15 Respondent.

16 Complainant alleges:

17  
18 PARTIES

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

21 2. On or about March 20, 2008, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 82173 to Xiu Ming Zhu (Respondent). The License was in full force and effect  
23 at all times relevant to the charges herein and will expire on February 29, 2012, 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.

28 ///



1 9. California Code of Regulations, title 16, section 1770, states:  
2 “For the purpose of denial, suspension, or revocation of a personal or facility license  
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
6 licensee or registrant to perform the functions authorized by her license or registration in a  
7 manner consistent with the public health, safety, or welfare.”

8 10. 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  
12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of Substantially Related Crime(s))

14 11. Respondent is subject to discipline under section 4301(1) and/or section 490 of the  
15 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
16 substantially related crime(s), in that on or about July 7, 2009, in the criminal case *People v.*  
17 *Michael Duong, Linh Thu Vuong, De Vuong, and Xiuming Zhu*, Case No. 415381D in Alameda  
18 County Superior Court, Respondent was convicted of one (1) count of violating Penal Code  
19 section 550(b)(2) (Insurance fraud), a felony, as follows:

20 a. On or about December 11, 2008, based on an alleged scheme by which the four  
21 of them conspired to defraud automobile insurance companies of funds by fraudulently inflicting  
22 damage on and/or making fraudulent claims for at least two automobiles, Respondent and his 3  
23 co-defendants were charged by criminal Complaint under the following criminal laws: (1) Penal  
24 Code section 550(a)(1) (Insurance fraud – aiding and abetting), a felony; (2) Penal Code section  
25 550(b)(2) (Insurance fraud – false written and/or oral statement or claim), a felony; (3) Penal  
26 Code section 487(a) (Grand theft of personal property – in excess of \$400.00), a felony; and (4)  
27 Penal Code section 182(a) (Conspiracy to commit a crime – insurance fraud), a felony.

28

1 b. On or about May 18, 2009 and/or July 7, 2009, Respondent pleaded nolo  
2 contendere to the second count in the Complaint, violation of Penal Code section 550(b)(2)  
3 (Insurance fraud – false written and/or oral statement or claim), a felony, and was sentenced to a  
4 term of probation of five (5) years, with terms and conditions including 2 days in County Jail (2  
5 days CTS), fines and fees, and payment of restitution of \$11,290.41.

6  
7 SECOND CAUSE FOR DISCIPLINE

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

9 12. Respondent is subject to discipline under section 4301(f) of the Code, in that, as  
10 described in paragraph 11 above, on one or more occasions Respondent committed acts involving  
11 moral turpitude, dishonesty, fraud, deceit, or corruption.

12  
13 THIRD CAUSE FOR DISCIPLINE

14 (False Certificate or Document)

15 13. Respondent is subject to discipline under section 4301(g) of the Code, in that, as  
16 described in paragraph 11 above, on one or more occasions Respondent knowingly made or  
17 signed a certificate or other document falsely representing the existence or nonexistence of facts.

18  
19 FOURTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 14. Respondent is subject to discipline under section 4301 of the Code in that, as  
22 described in paragraphs 11 through 13 above, Respondent engaged in unprofessional conduct.

23  
24 PRAYER

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

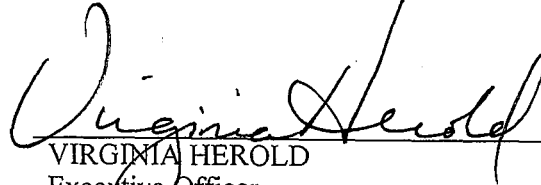
27 1. Revoking or suspending Pharmacy Technician License Number TCH 82173, issued  
28 to Xiu Ming Zhu (Respondent);

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

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:

8/23/10



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

SF2010200482  
20321473.doc