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

11 In the Matter of the Accusation Against:
12
13 **AI QUOC TRAN**
17385 Santa Suzanne Street
14 Fountain Valley, CA 92708
15 **Pharmacy Technician Registration No. TCH**
76153
16 Respondent.

Case No. 3703

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18
19 **A C C U S A T I O N**

20 Complainant alleges:

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, State of
24 California.

25 2. On or about May 24, 2007, the Board of Pharmacy issued Pharmacy Technician
26 Registration Number TCH 76153 to Ai Quoc Tran (Respondent). The Pharmacy Technician
27 Registration was in full force and effect at all times relevant to the charges brought herein and
28 will expire on December 31, 2010, unless renewed.

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JURISDICTION

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

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

5. Code section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper. Section 4300(a) of the Code provides that every license may be suspended or revoked.

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STATUTORY PROVISIONS

6. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

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7. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2.

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8. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

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

...

9. Section 4313 of the Code states:

In determining whether to . . . discipline or reinstate a license, the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.

COST RECOVERY

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

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1 **CONTROLLED SUBSTANCES**

2 11. Methylenedioxymethamphetamine, also known by the name "Ecstasy" is a
3 hallucinogen with stimulant effects and a Schedule I controlled substance pursuant to Health and
4 Safety Code section 11054(d).

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Violation of Laws Regulating Controlled Substances)

7 12. Respondent is subject to disciplinary action under section 4301(j) in that he has
8 violated statutes of this state, or of the United States regulating controlled substances and
9 dangerous drugs. The circumstances are as follows:

10 13. On or about December 19, 2009, a Fountain Valley Police Officer observed
11 Respondent make a left turn from a residential street going northbound. Respondent failed to
12 yield to oncoming northbound traffic as he made the turn causing oncoming vehicles to change
13 lanes or slow down. The officer made a traffic stop of Respondent's vehicle.

14 14. When contacted by the Officer, Respondent spoke very quietly, failed to make eye
15 contact and kept his hand hovering over the pocket in the front of his sweatshirt. For safety
16 reasons, the officer asked Respondent to step out of the car. Respondent complied and also
17 agreed to a search of his person for weapons. During the search, the officer felt a bulge in the
18 front of Respondent's sweatshirt pocket. The officer asked Respondent what was in the front
19 pocket of his sweatshirt and Respondent said it was candy, "Skittles." Respondent consented to a
20 search of the pocket. The officer retrieved a zip-lock baggie of approximately 200 yellow pills.
21 The officer recognized the pills as "Ecstasy." Respondent told the officer the pills were
22 prescription medication. When the officer asked Respondent why they were in a zip lock baggy
23 and not a prescription medication bottle, he admitted to the officer that the pills were really
24 "Ecstasy."

25 15. At this point, a K-9 Officer arrived to assist the Officer. The Officer told Respondent
26 he was concerned that Respondent may have contraband at his residence. Respondent stated
27 there was nothing illegal at his home, but nevertheless, signed a Consent to Search form allowing
28 the officers to search his bedroom.

1 16. Respondent told the officers that a friend had dropped off the tablets in his sweatshirt
2 at his home earlier in the evening and told Respondent he would be paid \$100.00 to deliver the
3 tablets to someone in a white Toyota Camry in the Winchell's parking lot. Respondent said he
4 had done this for his friend three times. At this time, Respondent was placed under arrest for
5 violating Health and Safety Code sections 11378 and 11379, sales and transport of illegal
6 narcotics.

7 17. Respondent was placed in handcuffs in the patrol car and driven to his home where he
8 lived with his family. The Officers contacted the family who directed the officer to Respondent's
9 bedroom (Respondent had lied to the officers about which bedroom was his bedroom.)
10 Respondent stated there were drugs in a T-mobile box on the floor of his closet and that was the
11 extent of the drugs in his room. The Officers and a K-9 Service Dog (a trained narcotics-sniffing
12 dog) entered the home to search Respondent's bedroom. Inside of Respondent's room, the
13 officers located a piece of mail on a desk addressed to Respondent. The dog alerted and
14 scratched in three areas of the room where drugs were located. The officers checked the closet
15 floor and located the T-mobile box. Inside the box were two zip-lock baggies of blue tablets and
16 one smaller baggie of yellow tablets. In one baggie containing blue tablets, the tablets were
17 packaged inside of smaller baggies and the smaller baggies were all inside of the larger zip lock
18 baggie. The closet also contained a black hanging shoe organizer that contained three smaller
19 baggies with smaller amounts of tablets, one with blue, one with pink and one with blue and
20 yellow tablets. Under the bed was a clear plastic bindle of an unknown white powder substance.
21 A drawer in the bed frame contained two plastic bindles containing a white powder substance.
22 Also on the floor near the dresser was a digital scale, a small bag containing brown colored
23 plastic vials, a zip lock bag containing a plastic bowl, a plastic spoon with residue and two
24 prescription bottles containing unknown prescription medication. All the items and drugs were
25 collected and booked as evidence. A Detective from the Fountain Valley Police Department
26 conducted a preliminary examination of the tablets which tested positive for
27 Methylenedioxymethamphetamine, or MDMA, also known as "Ecstasy." The officers recovered
28 1,924.5 tablets of Ecstasy.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Violation of Laws Regulating Controlled Substances)

3 18. Respondent is subject to disciplinary action under section 4301(f) in that he has
4 committed acts involving moral turpitude, or corruption involving controlled substances and
5 dangerous drugs as set forth above in paragraphs 12 through 17.

6 **PRAYER**

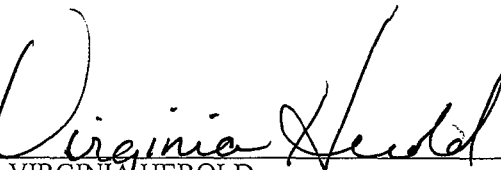
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
10 76153, issued to Ai Quoc Tran.

11 2. Ordering Ai Quoc Tran to pay the Board of Pharmacy the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

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17 DATED: 6/17/10



18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

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