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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **CHARLOTTE YUKO LEW**  
13 **a.k.a., CHARLOTTE YUKO OGAWA**  
14 **a.k.a., CHARLOTTE YUKO OGAWA**  
15 **a.k.a., CHARLOTTE LEW**  
16 **a.k.a., CHARLOTTE Y. LEW**  
17 **a.k.a., CHARLOTTE OGAWA**  
783 Leyland Drive  
Diamond Bar, CA 91765  
18 Pharmacy Technician License No. TCH 9655  
19 Respondent.

Case No. 3783  
**A C C U S A T I O N**

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about September 15, 1993, the Board of Pharmacy (Board) issued Pharmacy  
24 Technician License No. TCH 9655 to Charlotte Yuko Lew, also known as Chariottey Yuko  
25 Ogawa, Charlotte Yuko Ogawa, Charlotte Lew, Charlotte Y. Lew, and Charlotte Ogawa  
26 (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant  
27 to the charges brought herein and will expire on March 31, 2013, unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

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

8 5. Section 490 states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
12 or profession for which the license was issued."

13 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
14 discipline a licensee for conviction of a crime that is independent of the authority granted under  
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
16 of the business or profession for which the licensee's license was issued."

17 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
21 made suspending the imposition of sentence, irrespective of a subsequent order under the  
22 provisions of Section 1203.4 of the Penal Code."

23 6. Section 4060 of the Code provides in pertinent part, that no person shall possess any  
24 controlled substance, except that furnished to a person upon the prescription of a physician,  
25 dentist, podiatrist, optometrist, veterinarian, or other authorized prescriber.

26 7. Section 4300 provides in pertinent part, that every license issued by the Board is  
27 subject to discipline, including suspension or revocation.

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1           8.    Section 4301 states, in pertinent part:

2           "The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4 Unprofessional conduct shall include, but is not limited to, any of the following:

5           . . . .

6           "(h) The administering to oneself, of any controlled substance, or the use of any  
7 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
8 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
9 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
10 the public the practice authorized by the license.

11          . . . .

12          “(k) The conviction of more than one misdemeanor or any felony involving the use,  
13 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
14 combination of those substances.”

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

17          . . .

18          “(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order  
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment.

7 . . . .

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

#### 12 REGULATORY PROVISIONS

13 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

#### 20 COST RECOVERY

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

#### 25 CONTROLLED SUBSTANCES

26 11. "Alprazolam," is the generic name for Xanax, an anti-anxiety Benzodiazepine. It is a  
27 Schedule IV controlled substance as designated by Health and Safety Code section 11057,  
28 subdivision (d)(1) and is categorized as a dangerous drug pursuant to section 4022.



1           b. *Probation Violation* - On or about November 15, 2010, Respondent failed to appear  
2 at the Santa Clarita Court for proof of enrollment in a residential drug treatment program. The  
3 Court revoked Respondent's probation and ordered a "no bail" bench warrant issued. Pursuant to  
4 that warrant, on or about February 14, 2011, Respondent – who had been taken into custody on a  
5 different matter – was remanded to the Santa Clarita Court for further proceedings.

6           c. *Circumstances* - The circumstances surrounding the conviction are that on or about  
7 March 2, 2010, at about 4:30 a.m. California Highway Patrol officers stopped Respondent for  
8 speeding. A driver's license check revealed that her license had been suspended, and that she had  
9 two outstanding "no bail" warrants<sup>1</sup> for drug offenses. Respondent was then arrested. In search of  
10 her vehicle and person pursuant to the arrest, officers located five (5) and a half tablets of the drug  
11 "Soma," in Respondent's purse, and 2 small plastic baggies in her front pants pockets containing  
12 a white crystalline substance, later identified as Methamphetamine.

13           **POSSESSION FOR SALE OF CONTROLLED SUBSTANCE (HYDROCODONE)-2009**  
14           **POSSESSION FOR SALE OF CONTROLLED SUBSTANCE (DIAZEPAM)-2009**  
15           **POSSESSION OF FOR SALE CONTROLLED SUBSTANCE (ALPRAZOLAM) -2009**

16           d. On or about December 7, 2009, after pleading nolo contendere, Respondent was  
17 convicted of three **felony** counts of violating Health and Safety Code section 11378 [possession  
18 for sale of a controlled substance Hydrocodone]; Health and Safety Code section 11378  
19 [possession for sale of a controlled substance –Diazepam] and Health and Safety Code section  
20 11378 [possession for sale of a controlled substance - Alprazolam] in the criminal case entitled  
21 *The People of the State of California v. Charlotte Yuko Lew* (Super. Ct. Los Angeles County  
22 (East District) 2009, No. KA088373). The Court sentenced Respondent to serve a total of 6 years  
23 and 4 months in state prison; however execution of the sentence was suspended and Respondent  
24 was placed on 3 years formal probation, with terms and conditions, including 180 days in Los  
25 Angeles County Jail and payment of costs and fees.

26  
27           <sup>1</sup> Warrant No.: XEAKA0883730 and Warrant No.: XEAKA08814002  
28

1 e. *Probation violation*<sup>2</sup> - On or about February 11, 2010, Respondent failed to appear at  
2 the East district courthouse for a violation of probation hearing. The Court revoked Respondent's  
3 probation and ordered a "no bail" bench warrant issued. On or about April 13, 2010 Respondent  
4 personally appeared and admitted that she had violated the Court's probation order. On or about  
5 August 30, 2010, the Court reinstated Respondent's previous probation on the same terms and  
6 conditions, but, due to the probation violation, modified the previous order to add 374 days in Los  
7 Angeles County Jail (concurrent sentence for probation violation in case KA088140).

8 f. *Circumstances* - The circumstances surrounding the conviction are that on or about  
9 August 7, 2009, Respondent was detained after a Los Angeles County Sheriff's Department  
10 search - pursuant to warrant - of a house where she was then residing, turned up a large amounts  
11 of illegal drugs and evidence of narcotics trafficking. Respondent was found to be in possession  
12 of Hydrocodone, Diazepam, and Alprazolam, in addition to other drugs.

13 **POSSESSION OF CONTROLLED SUBSTANCE (METHAMPHETAMINE)-2009**

14 g. On or about December 7, 2009, after pleading nolo contendere, Respondent was  
15 convicted of one **felony** count of violating Health and Safety Code section 11377, subdivision (a)  
16 [possession of a controlled substance-methamphetamine] in the criminal case entitled *The People*  
17 *of the State of California v. Charlotte Yuko Lew* (Super. Ct. Los Angeles County (East District)  
18 2009, No. KA088140). The Court sentenced Respondent to serve 8 months in state prison;  
19 however execution of the sentence was suspended and Respondent was placed on 3 years formal  
20 probation, with terms and conditions, including 10 days in Los Angeles County Jail and payment  
21 of costs and fees.

22 h. *Probation Violation*<sup>3</sup> - On or about February 11, 2010, Respondent failed to appear at  
23 the East district courthouse for a violation of probation hearing. The Court revoked Respondent's

24 <sup>2</sup> At the time of the February 2010 probation violation hearing, which was requested by  
25 the County Probation Department, Respondent was on probation in *two* cases assigned to the East  
26 District of L.A. County Superior Court: Case No. KA088140 and Case No.KA088373. Court  
orders subsequent to that hearing reference both cases.

27 <sup>3</sup> At the time of the February 2010 probation violation hearing, which was requested by  
28 the County Probation Department, Respondent was on probation in *two* cases assigned to the East  
District of L.A. County Superior Court : Case No. KA088140 and Case No.KA088373. Court

(continued...)

1 probation and ordered a “no bail” bench warrant issued. On or about April 13, 2010 Respondent  
2 personally appeared and admitted that she had violated the Court’s probation order. On or about  
3 August 30, 2010, the Court reinstated Respondent’s previous probation on the same terms and  
4 conditions, but, due to the probation violation, modified the previous order to add 374 days in Los  
5 Angeles County Jail (concurrent sentence for probation violation in case No.KA088373).

6 i. *Circumstances* - The circumstances surrounding the conviction are that on or about  
7 July 18, 2009, Los Angeles County Sheriff’s Department officers made a routine traffic stop of  
8 Respondent’s vehicle. Officers noted a strong smell of marijuana. The driver of the vehicle  
9 (Respondent’s boyfriend) admitted that he had smoked marijuana, and that he did not have a valid  
10 license. Officers then searched the car and questioned Respondent – who was sitting in the front  
11 passenger seat and appeared very tired and disheveled. When asked if she had been “using *meth*,”  
12 Respondent replied: “Yeah, I smoked yesterday.” When asked if there were any narcotics or  
13 weapons in the vehicle, Respondent stated, “I have a little bit of drugs, but no guns or weapons,”  
14 and directed officers to look in her purse. Subsequent search revealed three ziplock baggies  
15 containing Methamphetamine, which Respondent admitted belonged to her. Respondent then  
16 stated that she had a drug problem.

17 **DRIVING UNDER THE INFLUENCE OF ALCOHOL -2005**

18 j. On or about April 1, 2005, after pleading nolo contendere, Respondent was convicted  
19 of one **misdemeanor** count of violating Vehicle Code section 23152, subdivision (b) [driving  
20 while having 0.08% and more, by weight, of alcohol in her blood] in the criminal case entitled  
21 *The People of the State of California v. Charlotte Yuko Lew* (Super. Ct. Los Angeles County,  
22 2005, No. 5PM02015). The Court placed Respondent on 3 years formal probation, with terms  
23 and conditions.

24 k. *Circumstances* - The circumstances surrounding the conviction are that on or about  
25 December 17, 2004, Respondent drove a vehicle while having 0.08% and more, by weight, of  
26 alcohol in her blood.

27 orders subsequent to that hearing reference both cases.  
28



**DRIVING WITH A SUSPENDED LICENSE – 1997  
SPEEDING - 1997**

1  
2           i.     On or about April 29, 1997, after pleading guilty, Respondent was convicted of  
3 **misdemeanor** counts of violating Vehicle Code section 14601.5, subdivision (b) [driving while  
4 privilege is suspended or revoked and with knowledge] and Vehicle Code section 22350  
5 [speeding] in the criminal case entitled *The People of the State of California v. Charlotte Yuko*  
6 *Lew* (Super. Ct. Los Angeles County, 1997, No. 7PM01543). The Court placed Respondent on 3  
7 years formal probation, with terms and conditions and ordered her to pay fines and fees.

8           m.     *Circumstances* - The circumstances surrounding the conviction are that on or about  
9 March 6, 1997, Respondent drove a vehicle while her driving privilege was suspended or revoked  
10 and with knowledge.

**DRIVING UNDER THE INFLUENCE OF ALCOHOL - 1997**

11  
12           n.     On or about March 7, 1997, after pleading guilty, Respondent was convicted of one  
13 **misdemeanor** count of violating Vehicle Code section 23152, subdivision (a) [driving under the  
14 influence of alcohol or drugs] and one misdemeanor count of Vehicle Code section 23152,  
15 subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in her blood] in the  
16 criminal case entitled *The People of the State of California v. Charlotte Yuko Lew* (Super. Ct. Los  
17 Angeles County, 2005, No. 7JM01809). The Court sentenced Respondent to two (2) days in jail  
18 and ordered her to serve 5 years formal probation, with terms and conditions.

19           o.     *Circumstances* - The circumstances surrounding the conviction are that on or about  
20 January 25, 1997, Respondent drove a vehicle while under the influence of alcohol or drugs and  
21 while having 0.08% and more, by weight, of alcohol in her blood.

**SECOND CAUSE FOR DISCIPLINE**

**(Illegal Possession of Controlled Substances)**

22  
23  
24           17.    Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
25 (o), for violating section 4060, in that Respondent was found on March 2, 2010, August 7, 2009  
26 and July 18, 2009 to be in illegal possession of controlled substances, resulting in her multiple  
27  
28

1 criminal convictions. Complainant refers to, and by this reference incorporates allegations of  
2 paragraph 16, subparagraphs (a) through (i) above as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Use/Under Influence of a Controlled Substance)**

5 18. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and  
6 (j), in that on or about July 18, 2009, Respondent used and/or was under the influence of a  
7 controlled substance. Complainant refers to, and by this reference incorporates allegations of  
8 paragraph 16, subparagraphs (g) through (i) above, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Dangerous Use of Alcohol)**

11 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
12 that on or about December 17, 2004 and January 25, 1997, Respondent used alcoholic beverages  
13 to an extent or in a manner dangerous or injurious to herself, another person, or the public, when  
14 she operated a vehicle while having 0.08% and more of alcohol in her blood. Complainant refers  
15 to, and by this reference incorporates allegations of paragraph 16, subparagraphs (j),(k),(n) and  
16 (o) above, as though set forth fully.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Convictions Involving the Consumption of Alcohol)**

19 20. Respondent is subject to disciplinary action under section 4301, subdivision (k), in  
20 that on or about April 1, 1995 and March 7, 1997, Respondent was convicted of crimes involving  
21 the consumption of alcohol. Complainant refers to, and by this reference incorporates allegations  
22 of paragraph 16, subparagraphs (j),(k),(n) and (o) above, as though set forth fully.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacy Technician License No. TCH 9655, issued to  
27 Respondent;

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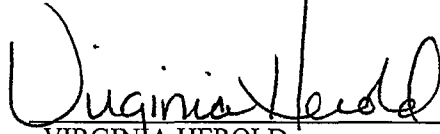
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2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: \_\_\_\_\_

9/23/11



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

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