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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. 3820

12 **YAMINA GISSEL TERRAZAS**
13 **1771 Cresthaven Way**
14 **Pomona, CA 91766**

A C C U S A T I O N

15 **Pharmacy Technician No. TCH 83775**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about June 3, 2009, the Board of Pharmacy (Board) issued Pharmacy
23 Technician No. TCH 83775 to Yamina Gissel Terrazas (Respondent). The Pharmacy Technician
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 March 31, 2011, unless renewed.

26 **JURISDICTION**

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

1 STATUTORY PROVISIONS

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

5 5. Section 490 states:

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

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

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

20 6. Section 4300 states that “[e]very license issued may be suspended or revoked.”

21 7. Section 4301 states, in pertinent part:

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

25

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

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

....

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

“(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 of Title 21 of the United States Code regulating controlled substances or a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred.”

REGULATORY PROVISIONS

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

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

COST RECOVERY

9. Section 125.3 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

1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Convictions of Substantially-Related Crimes)**

5 10. Respondent is subject to disciplinary action under section 490, in conjunction with
6 California Code of Regulations, title 16, section 1770, and section 4301, subdivisions (k) and (l),
7 in that Respondent was convicted of crimes substantially related to the qualifications, functions or
8 duties of a pharmacy technician. Either one of the convictions is an independent reason for
9 disciplinary action.

10 a. On or about June 21, 2010, after pleading *nolo contendere*, Respondent was
11 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
12 [driving while having 0.08% and more, by weight, of alcohol in her blood]; one misdemeanor
13 count of violating Vehicle Code section 14601.2 [driving when privilege suspended or revoked
14 for driving under the influence of alcohol]; and one misdemeanor count of violating Vehicle Code
15 section 23578 [excessive blood alcohol or refusal to take chemical testing: enhanced penalties], in
16 the criminal proceeding *The People of the State of California v. Yamina Gissel Terrazas* (Super.
17 Ct. Los Angeles County, 2010, No. OPK02789). The circumstances surrounding the conviction
18 are that on or about April 22, 2010, a Pomona Police Officer was dispatched to investigate a non-
19 injury traffic collision. The officer arrived and noticed a female sitting in the vehicle that was
20 identified as the vehicle that had been in the traffic collision. The officer also noticed that the
21 vehicle had collision damage to the front of the vehicle. The female sitting in the driver's seat of
22 that vehicle was later identified as the Respondent. The officer immediately smelled a strong
23 odor of alcohol emitting from Respondent's breath when asked to step out of the vehicle.
24 Respondent admitted to drinking one beer prior to the collision. Respondent agreed to submit to a
25 series of Field Sobriety Tests and performed poorly. Respondent was subsequently given two
26 alcohol breath tests, with results of .19% BAC and .18% BAC. Respondent was convicted of
27 violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by
28 weight, of alcohol in her blood]; Vehicle Code section 14601.2 [driving when privilege

1 suspended or revoked for driving under the influence of alcohol]; and Vehicle Code section
2 23578 [excessive blood alcohol or refusal to take chemical testing: enhanced penalties.]

3 b. On or about March 10, 2010, after pleading *Guilty*, Respondent was convicted of one
4 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
5 having 0.08% and more, by weight, of alcohol in her blood], in the criminal proceeding *The*
6 *People of the State of California v. Yamina Gissel Terrazas* (Super. Ct. San Bernardino County,
7 2010, No. TCH1000039). The circumstances surrounding the conviction are that on or about
8 November 14, 2009, a Chino Police Officer was on patrol and during a routine traffic stop, pulled
9 Respondent over for quickly changing lanes without signaling. The officer also noticed that
10 Respondent's vehicle stopped at the next traffic light and remained stop at a green light for
11 approximately fifteen seconds. The officer immediately detected an odor of an alcoholic
12 beverage emitting from the interior of the vehicle. Respondent was observed to have watery eyes,
13 slurred speech, and a strong odor of an alcoholic beverage on her person. Respondent admitted to
14 drinking half of a bottle of wine. During a search, the officer recovered a plastic baggie in
15 Respondent's pants pocket containing the drug LSD. Respondent agreed to a series of
16 Standardized Field Sobriety Tests and performed poorly. Respondent was subsequently given
17 two alcohol breath tests, with results of .170% BAC and .174% BAC. Respondent was convicted
18 of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more,
19 by weight, of alcohol in her blood.]

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Dangerous Use of Alcohol)**

22 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
23 that Respondent used an alcoholic beverage in a dangerous manner while driving a vehicle and
24 being convicted of crimes. Complainant refers to, and by this reference incorporates, the
25 allegations set forth above in paragraph 10, subparagraphs (a) and (b), as though set forth fully.

26 **THIRD CAUSE FOR DISCIPLINE**

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

28 12. Respondent is subject to disciplinary action under section 4301, subdivision (k), in

1 that Respondent was convicted of crimes involving the consumption of alcohol. Complainant
2 refers to, and by this reference incorporates, the allegations set forth above in paragraph 10,
3 subparagraphs (a) and (b), as though set forth fully.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Dishonest Acts)**

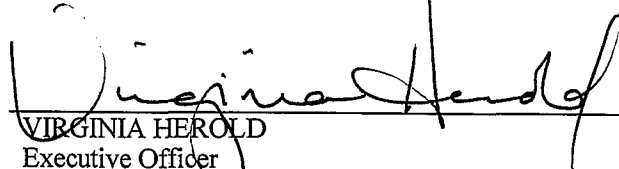
6 13. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
7 that Respondent committed dishonest acts by driving a vehicle while under the influence of an
8 alcoholic beverage. Complainant refers to, and by this reference incorporates, the allegations set
9 forth above in paragraph 10, subparagraphs (a) and (b), as though set forth fully.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician No. TCH 83775, issued to Yamina
14 Gissel Terrazas;
- 15 2. Ordering Yamina Gissel Terrazas to pay the Board the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 3/10/11


21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

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28 LA2010600641