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

10 In the Matter of the Accusation Against:

11 **HUNG BINH TRAN**
12 P. O. Box 9201
Redlands, CA 92375

13 Pharmacy Technician Registration
14 No. TCH 105489

Respondent.

Case No. 4325

A C C U S A T I O N

15 Complainant alleges:

16 **PARTIES**

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

19 2. On or about August 16, 2010, the Board of Pharmacy (Board) issued Pharmacy
20 Technician Registration No. TCH 105489 to Hung Binh Tran (Respondent). The Pharmacy
21 Technician Registration was in full force and effect at all times relevant to the charges brought
22 herein and will expire on February 28, 2014, unless renewed.

23 **JURISDICTION**

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

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1 qualifications, functions, and duties of the licensee in question. "As used in this section, 'license'
2 includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

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

5 8. Section 4300.1 states:

6 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
7 operation of law or by order or decision of the board or a court of law, the placement of a license
8 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
9 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
10 proceeding against, the licensee or to render a decision suspending or revoking the license."

11 9. Section 4301 states, in pertinent part:

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

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

19 "(g) Knowingly making or signing any certificate or other document that falsely
20 represents the existence or nonexistence of a state of facts.

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22 "(l) The conviction of a crime substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
28 The board may inquire into the circumstances surrounding the commission of the crime, in order

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.

11 REGULATORY PROVISIONS

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

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

19 COST RECOVERY

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

24 FIRST CAUSE FOR DISCIPLINE

25 (Convictions of Substantially Related Crimes)

26 12. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
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1 Respondent has been convicted of crimes substantially related to the qualifications, functions or
2 duties of a pharmacy technician.

3 a. On or about February 17, 2012, after pleading guilty, Respondent was convicted of
4 one misdemeanor count of violating Penal Code section 484e, subdivision (d) [grand theft of
5 access cards], one misdemeanor count of Penal Code section 484f, subdivision (a) [forging access
6 cards], one misdemeanor count of Penal Code section 502, subdivision (c)(1) [alter/etc. computer
7 system/etc.], one misdemeanor count of Penal Code section 530.5, subdivision (a) [using personal
8 identification of another to obtain credit] and one misdemeanor count of Penal Code section 459
9 [burglary] in the criminal case entitled *The People of the State of California v. Hung Binh Tran*
10 (Super. Ct. Riverside County, 2012, No. BAF10000651). The Court sentenced Respondent to
11 serve 180 days in Riverside County Jail and placed him on 36 months probation, with terms and
12 conditions.

13 b. The circumstances surrounding the conviction are that from about May 25, 2010 to
14 about July 14, 2010, Respondent fraudulently converted \$21,975.00 in Free Play Credits that was
15 stored on fraudulently obtained MCRS "Winners Club" cards for his own use to win a total of
16 \$21,684.00 in cash at various slot machines over an eighteen day period at Morongo Casino.
17 More specifically, Respondent fraudulently accessed Winner's Club accounts of guests at the
18 casino, made duplicate Winner's Club cards, and acquired passwords from guest accounts, so that
19 he could access and download the information at a later time.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Acts Involving Dishonesty, Fraud or Deceit)**

22 13. Respondent is subject to disciplinary action under sections 4301, subdivision (f) and
23 in that from about May 25, 2010 to about July 14, 2010, Respondent committed acts involving
24 dishonesty, fraud or deceit. Complainant refers to, and by this reference incorporates, the
25 allegations set forth above in paragraph 12, as though set forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Knowingly Made a False Statement of Fact)

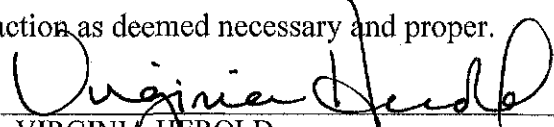
14. Respondent is subject to disciplinary action under sections 4301, subdivision (g), in that from about May 25, 2010 to about July 14, 2010, Respondent knowingly made a false statement of fact, by making or signing any certificate or other document that falsely represented the existence or nonexistence of a state of facts. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 105489, issued to Hung Binh Tran;
2. Ordering Hung Binh Tran 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: 6/14/14


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

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