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

12 In the Matter of the Accusation Against:
13 **TINA DENESE GEE**
14 **3854 Bluff St.**
Perris, CA 92571
15 **Pharmacy Technician Registration No. 89989**
16 Respondent.

Case No. 4386

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 13, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number 89989 to Tina Denese Gee (Respondent). The Pharmacy Technician
24 Registration expired on July 31, 2012, and has not been renewed.

25 **JURISDICTION**

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

1 9. Section 4301 of the Code states:

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

6

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

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

12

13 (l) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. The record of conviction of
15 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
16 United States Code regulating controlled substances or of a violation of the
17 statutes of this state regulating controlled substances or dangerous drugs shall be
18 conclusive evidence of unprofessional conduct. In all other cases, the record of
19 conviction shall be conclusive evidence only of the fact that the conviction
20 occurred. The board may inquire into the circumstances surrounding the
21 commission of the crime, in order to fix the degree of discipline or, in the case of
22 a conviction not involving controlled substances or dangerous drugs, to determine
23 if the conviction is of an offense substantially related to the qualifications,
24 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction
26 within the meaning of this provision. The board may take action when the time
27 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
28 or when an order granting probation is made suspending the imposition of
 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
 information, or indictment.

 (p) Actions or conduct that would have warranted denial of a license.

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

 (b) When considering the suspension or revocation of a facility or a
 personal license on the ground that the licensee or the registrant has been

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1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

3 (1) Nature and severity of the act(s) or offense(s).

4 (2) Total criminal record.

5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).

7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.

9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

10 11. California Code of Regulations, title 16, section 1770, states:

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

18 **COST RECOVERY**

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(October 18, 1989 Criminal Conviction for Theft On or About June 7, 1989)**

25 13. Respondent has subjected her license to discipline under Code sections 490 and
26 4301, subdivision (l) in that she was convicted of a crime that is substantially related to the
27 qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

28 a. On or about October 18, 1989, in a criminal proceeding entitled *The
People of the State of California v. Tina Denise Gee*, in Los Angeles County Municipal Court,
Inglewood Judicial District Courthouse, case number 89M04643, Respondent was convicted of
violating PC section 484, subdivision (a), theft, a misdemeanor.

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1 County Superior Court, Clara Shortridge Foltz Criminal Justice Center Courthouse, Case
2 Number A359713, Respondent was convicted on her plea of guilty to violating Penal Code (PC)
3 sections 487, subdivision (a), grand theft of personal property, deemed a misdemeanor pursuant
4 to PC section 17, subdivision (b). A charge for violation of PC section 118, subdivision (a),
5 perjury by declaration, was dismissed pursuant to a plea bargain.

6 b. As a result of the conviction, on or about January 12, 2011, Respondent
7 was sentenced to 24 months summary probation and ordered to perform 200 hours of community
8 service. Respondent was also ordered to make restitution of \$46,258.00 and pay fines and
9 assessments.

10 c. The facts that led to the conviction are that on or between December 1,
11 2000 and January 31, 2003, Respondent unlawfully took a total of \$46,258.00 in child care funds
12 belonging to the County of Los Angeles and Crystal Stairs, Inc. On or about October 2, 2002,
13 Respondent misrepresented herself as an employee of Coast Nursing Services in a declaration
14 she signed under penalty of perjury when she was not an employee. On or about January 3, 2008,
15 the Department of Public Social Services of the County of Los Angeles discovered Respondent's
16 misrepresentation and referred the matters for fraud investigation.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,
19 Fraud, Deceit, or Corruption)**

20 16. Respondent has subjected her license to discipline under Code section 4301,
21 subdivision (f), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit,
22 and corruption, and subdivision (g), in that she knowingly made and signed documents that
23 falsely represented the existence or nonexistence of a state of facts. The circumstances are as
24 follows:

25 a. On or about June 7, 1989, Respondent committed theft, as detailed in
26 paragraph 13, above.

27 b. On or about April 30, 1997, Respondent committed theft, as detailed in
28 paragraph 14, above.

1 c. On or between December 1, 2000 and January 31, 2003, Respondent
2 unlawfully took a total of \$46,258.00 in child care funds belonging to the County of Los Angeles
3 and Crystal Stairs, Inc., which involved acts that are dishonest, fraudulent, deceitful, and corrupt,
4 as detailed in paragraph 15, above.

5 d. On October 2, 2002, Respondent misrepresented herself in a declaration
6 signed under penalty of perjury, by knowingly signing the document that falsely represented that
7 she was an employee of Coast Nursing Service when she was not, as detailed in paragraph 15,
8 above.

9 e. On or about February 10, 2009, Respondent completed her original
10 Application for Pharmacy Technician Registration to become registered by the Board as a
11 pharmacy technician. As part of the application, she answered the required Declaration of
12 Conviction question and signed the corresponding affidavit under penalty of perjury, indicating
13 that all information provided was true and correct. The Declaration of Conviction asked, "Have
14 you ever been convicted of or pled no contest to a violation of any law of a foreign country, the
15 United States or any state laws or local ordinances? You must include all misdemeanors and
16 felony convictions, regardless of the age of the conviction, including those which have been set
17 aside under Penal Code section 1203.4." Respondent answered, "No." Question 6 continued, "If
18 'yes' attach an explanation including the type of violation, the date, circumstances, location and
19 the complete penalty received." Question 6 then requested that certified copies of all pertinent
20 documents or arrest reports relating to the convictions be provided. In answer to item 6,
21 Respondent checked the box "No." However, Respondent was convicted of violation of PC
22 section 484, subdivision (a) in 1989 and PC section 487, subdivision (a) in 1997, referenced in
23 paragraphs 13 and 14, above and provided no information about these convictions. Respondent
24 failed to disclose these convictions, leading the Board to believe that she did not have any
25 convictions prior to issuance of her original registration.

26 f. On or about June 9, 2010, Respondent completed her Application for
27 renewal of her Pharmacy Technician Registration. As part of the renewal application, she
28 answered the required Declaration of Conviction question and signed the corresponding affidavit

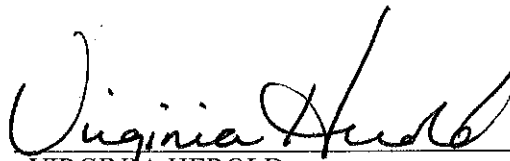
1 under penalty of perjury, indicating that all information provided was true and correct. The
2 Declaration of Conviction found in the Application asked, "Since you last renewed your license,
3 have you had any license disciplined by a government agency or other disciplinary body, or,
4 have you been convicted of any crime in any state, the USA and its territories, military court or a
5 foreign country? PLEASE READ INSTRUCTIONS BEFORE ANSWERING." Respondent
6 answered, "No." However, Respondent was convicted of violation of PC section 487,
7 subdivision (a), referenced in paragraph 15, above after she was licensed as a pharmacy
8 technician and did not disclose it, leading the Board to believe that she did not have any
9 convictions after issuance of her original registration causing the Board to renew her license.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration Number 89989,
14 issued to Tina Denese Gee;
 - 15 2. Ordering Tina Denese Gee to pay the Board of Pharmacy the reasonable costs of
16 the investigation and enforcement of this case, pursuant to Business and Professions Code
17 section 125.3;
 - 18 3. Taking such other and further action as deemed necessary and proper.
- 19
20

21
22 DATED: 11/19/12



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

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