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8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 4435
12	MIKIAS W. WONJI
12	14568 Corvallis Street San Leandro, CA 94579A C C U S A T I O N
14	Pharmacy Technician License No. TCH 94133
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16	Respondent.
17	Complainant alleges:
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	PARTIES
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21	2. On or about June 25, 2010, the Board of Pharmacy issued Pharmacy Technician
22	Registration Number TCH 94133 to Mikias W. Wonji (Respondent). The Pharmacy Technician
23	Registration was in full force and effect at all times relevant to the charges brought herein and
24	will expire on December 31, 2013, unless 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 unless otherwise indicated.
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Accusation

4. Section 4300, subdivision (a) of the Code provides that every license issued by the Board may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides, in pertinent part, that the 3 suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of 4 jurisdiction to proceed with a disciplinary action during the period within which the license may 5 be renewed, restored, reissued or reinstated. Section 4402, subdivision (a) of the Code provides 6 that any pharmacist license that is not renewed or reinstated within three years following its 7 expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law 8 at the end of the three-year period. Section 4402, subdivision (e) of the Code provides that any 9 other license issued by the Board may be canceled by the Board if not renewed within 60 days 10 after its expiration, and any license canceled in this fashion may not be reissued but will instead 11 require a new application to seek reissuance. 12

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STATUTORY AND REGULATORY PROVISIONS

6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
against any holder of a license who is guilty of "unprofessional conduct" defined to include, but
not limited to, any of the following:

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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.

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"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
revoke a license on the ground that the licensee has been convicted of a crime substantially
related to the qualifications, functions, or duties of the business or profession for which the

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license was issued.

8. California Code of Regulations, title 16, section 1770, states:
 "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 of the Code provides, 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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FACTUAL BACKGROUND

10. On or about July 11, 2011, Respondent was pulled over for driving without his 15 16 vehicle's headlights on. Upon contact, the officer detected the odor of an alcoholic beverage coming from inside the vehicle. Respondent denied any alcohol consumption. The officer ran 17 18 Respondent's information and learned that Respondent was on probation for two prior DUI offenses. Respondent's probation terms stipulated that he could not have alcohol in his system 19 while driving and that he could only drive a vehicle during the course of employment. After 20subsequent questioning, Respondent stated he was on his way to a night club and admitted to 21 having had three beers. 22

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11. Respondent failed field sobriety testing and was transported to the county jail. At the jail, the officer attempted to administer an alcohol screening test as required by Respondent's DUI probation terms. Respondent failed to provide more than one breath sample. Instead of exhaling, Respondent inhaled, causing the officer to believe that Respondent was refusing to provide a breath sample so as to delay the testing process. Breath testing at the county jail provided his blood alcohol level to be .11%.

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Accusation

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

12. Respondent is subject to disciplinary action under section 4301, subdivision (1) and/or 3 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, 4 5 for the conviction of substantially related crime(s), in that on or about February 24, 2012, in the criminal case People v. Mikias Wubshet Wonji, Case No. 572496 in Alameda County Superior 6 Court, Respondent was convicted on the basis of the conduct described in paragraphs 10-11 of $\overline{7}$ violating Vehicle Code section 23152, subdivision (a) (Driving under the influence of alcohol or 8 drugs), a misdemeanor, with enhancements of refusal to submit to a chemical test and two prior 9 convictions, as follows: 10

On or about August 3, 2011, based on the conduct described in paragraphs 10-11 a. 11, respondent was charged by criminal complaint in Case No. 572496 with violating Vehicle 12 Code section 23152, subdivision (a) (Driving under the influence of alcohol or drugs), a 13 misdemeanor, with enhancements of refusal to submit to a chemical test and two prior 14 convictions. Respondent's first prior offense was alleged to have occurred on or about May 7, 15 2007. Respondent was convicted in Alameda County Superior Court of violating Vehicle Code 16 section 23152, subdivision (b) (Driving with a blood alcohol level of 0.08% or more), a 17 misdemeanor, and was placed on probation. Respondent's second prior offense was alleged to 18 19 have occurred on or about July 15, 2009. Respondent was convicted in Alameda County Superior Court of violating Vehicle Code section 23152, subdivision (b) (Driving with a blood alcohol 20 level of 0.08% or more), a misdemeanor, and was placed on probation. 21

b. On or about February 24, 2012 Respondent pleaded no contest, and admitted
the enhancement and prior convictions. The court ordered imposition of sentence suspended in
favor of a five year supervised probation period with terms and conditions including 150 days in
jail (1 day CTS), an 18 month DUI program, and fines and fees.

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1	SECOND CAUSE FOR DISCIPLINE
2	(Self-Administration of Alcohol)
3	13. Respondent is subject to disciplinary action under section 4301(h) of the Code, in that
4	Respondent, as described in paragraphs 10-11, used alcoholic beverages in a dangerous or
5	injurious manner.
6	THIRD CAUSE FOR DISCIPLINE
7	(Unprofessional Conduct)
8	14. Respondent is subject to disciplinary action under section 4301 of the Code in that, as
9	described in paragraphs 10-11, Respondent engaged in unprofessional conduct.
10	PRAYER
11	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12	and that following the hearing, the Board of Pharmacy issue a decision:
13	1. Revoking or suspending Pharmacy Technician Registration Number TCH 94133,
14	issued to Mikias W. Wonji
15	2. Ordering Mikias W. Wonji to pay the Board of Pharmacy the reasonable costs of the
16	investigation and enforcement of this case, pursuant to Business and Professions Code section
17	125.3;
18	3. Taking such other and further action as is deemed necessary and proper.
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22	DATED: 11/19/12 Jugina Herde
23	Executive Officer Board of Pharmacy
24	Department of Consumer Affairs State of California
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	Accusation