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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:
12 **CHAUNTAY L. TANGO**
7337 Ridge View Drive
13 Lancaster, CA 93536
14 Pharmacy Technician Registration
No. TCH 10213
15
16 Respondent.

Case No. 4607
A C C U S A T I O N

17 Complainant alleges:

18 **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 October 13, 1993, the Board of Pharmacy issued Pharmacy Technician
22 Registration No. TCH 10213 to Chauntay L. Tango (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 July 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 4. Section 4300.1 states:

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

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

14 **STATUTORY PROVISIONS**

15 6. Section 490 states, in pertinent part:

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

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

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

32 7. Section 4060 states, in pertinent part:

33 No person shall possess any controlled substance, except that furnished to
34 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
35 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
36 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
37 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
38 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
39 pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
40 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,

1 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic
2 doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in
3 stock in containers correctly labeled with the name and address of the supplier or
4 producer.

5 8. Section 4300 provides, in pertinent part, that every license issued by the Board is
6 subject to discipline, including suspension or revocation.

7 9. Section 4301 states, in pertinent part:

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

12 ...

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

18 ...

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

21 ...

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

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31 ///

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this chapter
3 or of the applicable federal and state laws and regulations governing pharmacy,
4 including regulations established by the board or by any other state or federal
5 regulatory agency.

6 **REGULATORY PROVISIONS**

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

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

15 **COST RECOVERY**

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

20 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

21 12. "Methamphetamine," is a Schedule II controlled substance as designated by Health
22 and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug
23 pursuant to section 4022.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Conviction of a Substantially Related Crime)**

26 13. 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
28 Respondent was convicted of a crime substantially related to the qualifications, functions, and
duties of a pharmacy technician, as follows:

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1 a. On or about October 29, 2012, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code Section 23152, subdivision (a)
3 [driving under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of*
4 *the State of California v. Chauntay Lee Tango* (Super. Ct. Los Angeles County, 2010, No.
5 2AV05698). The Court sentenced Respondent to serve 4 days in Los Angeles County Jail and
6 placed her on 36 months probation, with terms and conditions.

7 b. The circumstances surrounding the conviction are that on or about July 27, 2012,
8 Respondent was contacted by the Los Angeles County Sheriff's Department during a traffic stop.
9 When the officer approached the vehicle, he observed Respondent and the passenger reaching
10 under their seats. Respondent was then observed rapidly manipulating her keys while they were
11 in the ignition. Respondent also displayed symptoms of being under the influence of a controlled
12 substance. She was observed to be sweaty, fidgety, talked very fast, and repeated her words
13 several times. When asked when the last time she used narcotics was, she denied using any
14 drugs. Respondent was asked to provide a urine sample but she refused to do so. During a search
15 of the vehicle, the officer found two large plastic baggies containing crystalline substance
16 resembling Methamphetamine under the front passenger seat. Each bag was filled halfway with
17 several chunks. The officer also found a small plastic baggie containing a white crystalline
18 substance resembling Methamphetamine inside of a key chain connected to the driver's keys.
19 Respondent was subsequently arrested for violating Health and Safety Code section 11550,
20 subdivision (a) [possession of a controlled substance] and Vehicle Code Section 23152,
21 subdivision (a) [driving under the influence of alcohol or drugs].

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Illegal Possession of a Controlled Substance/Dangerous Drug)**

24 14. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
25 conjunction with section 4060, on the grounds of unprofessional conduct, in that on or about July
26 27, 2012, Respondent was in possession of Methamphetamine, a controlled substance/dangerous
27 drug. Complainant refers to, and by this reference incorporates, the allegations set forth above in
28 paragraph 12, subparagraphs (a) and (b), inclusive, as though set forth in fully.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use and/or Under the Influence of a Dangerous Drug or Alcoholic Beverages)**

3 15. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
4 the grounds of unprofessional conduct, in that or on about July 27, 2012, Respondent used and/or
5 was under the influence of a dangerous drug or of alcoholic beverages to an extent or in a manner
6 as to be dangerous or injurious to herself or others. Complainant refers to, and by this reference
7 incorporates, the allegations set forth above in paragraph 12, subparagraphs (a) and (b), inclusive,
8 as though set forth in fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

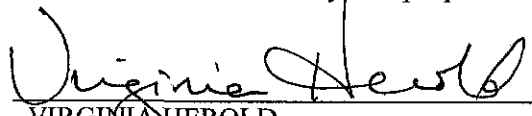
11 16. Respondent is subject to disciplinary action under section 4301, (o), in that
12 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing
13 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth
14 above in paragraphs 12-14, inclusive, as though set forth fully.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 10213, issued
19 to Chauntay L. Tango;
20 2. Ordering Chauntay L. Tango to pay the Board the reasonable costs of the
21 investigation and enforcement of this case, pursuant to section 125.3; and
22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 7/22/13

24 
25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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