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

12 In the Matter of the Accusation Against:

Case No. 4722

13 **KAREEN D. AQUINO,**  
14 **a.k.a. KAREN AQUINO DE AUSEN**  
15 14222 Filmore Street  
Arleta, CA 91331

**A C C U S A T I O N**

(Gov. Code, § 11503.)

16 **Pharmacy Technician Registration No. TCH**  
17 **58457**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California State Board of Pharmacy ("Board"), an agency  
22 within the Department of Consumer Affairs.

23 2. On September 10, 2004, the Board issued Pharmacy Technician Registration Number  
24 TCH 58457 to Kareen D. Aquino, also known as Karen Aquino De Ausen ("Respondent"). The  
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on January 31, 2014, unless it is renewed.

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## JURISDICTION

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

4. Section 4300 of the Code states, in relevant part, that every license may be suspended or revoked.

5. Section 4300.1 of the Code states:

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

## STATUTORY PROVISIONS

6. Section 490 of the Code states, in relevant part:

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

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

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code..."

1           7.     Section 493 of the Code states:

2           "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
3 the department pursuant to law to deny an application for a license or to suspend or revoke a  
4 license or otherwise take disciplinary action against a person who holds a license, upon the  
5 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
8 and the board may inquire into the circumstances surrounding the commission of the crime in  
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
10 qualifications, functions, and duties of the licensee in question.

11           "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
12 'registration.'"

13           8.     Section 4301 of the Code states, in relevant part:

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

17           ...

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

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

23           ...

24           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
27 substances or of a violation of the statutes of this state regulating controlled substances or  
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

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

13 . . .

14 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
16 federal and state laws and regulations governing pharmacy, including regulations established by  
17 the board or by any other state or federal regulatory agency.

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

### 19 REGULATORY PROVISIONS

20 9. California Code of Regulations, title 16, section 1770, states:

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

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1 **COST RECOVERY**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

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

8 11. Respondent is subject to disciplinary action under Code section 490 and section 4301,  
9 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1700, for  
10 unprofessional conduct in that Respondent was convicted of a crime that is substantially related to  
11 the qualifications, functions and duties of a pharmacy technician, as more particularly set forth  
12 below.

13 a. On January 4, 2013, Respondent pleaded no contest to and was convicted of one  
14 misdemeanor count of forgery (Pen. Code, § 470, subd. (d)) and one misdemeanor count of grand  
15 theft (Pen. Code, § 484g). The Court sentenced her to thirty days in jail. It placed her on  
16 summary probation for two years and ordered her to pay \$190 in fines and restitution and  
17 complete thirty days of community service. (*People v. Karen Aquino De Aussen* (Super. Ct. L.A.  
18 County, 2013, No. 2WA23576.) The circumstances of the conviction are set forth in  
19 subparagraph (b), *infra*.

20 b. On or about May 17, 2012, Respondent found a wallet in the lunch room of St. John's  
21 Hospital. The wallet contained a driver's license and several credit cards. Respondent knew the  
22 items belonged to her coworker, a pharmacist, but she made no attempt to return them. Instead,  
23 she used the cards to buy items for herself and others. On May 17, 2012, Respondent  
24 fraudulently charged \$1,804.44 for gasoline, two Apple iPads, a Nintendo game system and pet  
25 supplies. At a Target store in Northridge, Respondent purchased one of the iPads by forging her  
26 coworker's signature. Respondent admitted to police that she kept the wallet because she had no  
27 money and her bank account was overdrawn. She confessed to making the unauthorized  
28 purchases and explained, "[i]t was greediness and I wasn't thinking right."

1                                   **SECOND CAUSE FOR DISCIPLINE**

2                                   **(Commission of an Act of Deceit or Fraud)**

3           12.   Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
4 for unprofessional conduct in that Respondent committed an act involving dishonesty, fraud and  
5 deceit. Complainant realleges paragraph 11.

6                                   **THIRD CAUSE FOR DISCIPLINE**

7                                   **(Making False Representations)**

8           13.   Respondent is subject to disciplinary action under Code section 4301, subdivision (g),  
9 for knowingly making or signing a certificate or other document that falsely represents the  
10 existence or nonexistence of a state of facts. On or about May 17, 2012, Respondent forged the  
11 signature and name of her coworker on a credit card authorization slip. Complainant realleges  
12 paragraph 11.

13                                  **FOURTH CAUSE FOR DISCIPLINE**

14                                  **(Violation of Pharmacy Law)**

15           14.   Respondent is subject to disciplinary action under Code section 4301, subdivision (o),  
16 for violating provisions of the Pharmacy Law. Complainant realleges paragraphs 11 through 13.

17                                  **FIFTH CAUSE FOR DISCIPLINE**

18                                  **(Commission of Acts That Would Have Warranted Denial of Licensure)**

19           15.   Respondent is subject to disciplinary action under Code section 4301, subdivision (p),  
20 for committing acts that would warrant denial of licensure. Complainant realleges paragraphs 11  
21 through 14.

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1 PRAYER

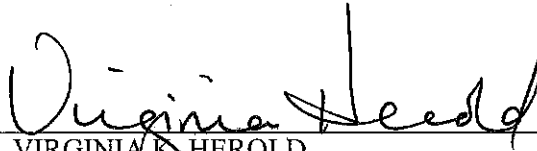
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 58457,  
5 issued to Kareen D. Aquino, also known as Karen Aquino De Ausen,;

6 2. Ordering Kareen D. Aquino, also known as Karen Aquino De Ausen, to pay the  
7 Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business  
8 and Professions Code section 125.3; and

9 3. Taking such other and further action as deemed necessary and proper.  
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11  
12 DATED: 9/19/13



13 VIRGINIA K. HEROLD  
14 Executive Officer  
15 California State Board of Pharmacy  
16 State of California  
17 Complainant  
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