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

11 In the Matter of the Accusation Against:	Case No. 6054
12 <b>PAUL PING-KUEN THAM</b>	
13 <b>1279 Simmons Lane</b>	
14 <b>Novato, CA 94947</b>	<b>A C C U S A T I O N</b>
15 <b>Pharmacist License No. RPH 32856</b>	
16 Respondent.	

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 August 7, 1979, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 32856 (License) to Paul Ping-Kuen Tham (Respondent). The License was in full  
23 force and effect at all times relevant to the charges brought in this Accusation and will expire on  
24 June 30, 2019, unless renewed.

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JURISDICTION

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

4. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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."

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1 STATUTORY PROVISIONS

2 6. Section 4301 of the Code states, in pertinent part:

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

6 . . .

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

10 . . .

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

13 . . .

14 7. Section 4059 of the Code states, in pertinent part:

15 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
16 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
17 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
18 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
19 3640.7.

20 . . .

21 COST RECOVERY

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

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1 DRUGS

2 9. Metoprolol is a dangerous drug pursuant to Business and Professions Code section  
3 4022 in that it is only available by prescription. It is also known by the brand name Lopressor  
4 and is used to treat hypertension.

5 10. Losartan is a dangerous drug pursuant to Business and Professions Code section 4022  
6 in that it is only available by prescription. It is also known by the brand name Cozaar and is used  
7 to treat hypertension.

8 FIRST CAUSE FOR DISCIPLINE

9 (Theft of Dangerous Drugs)

10 11. Respondent has subjected his license to discipline in that Respondent committed an  
11 act involving moral turpitude, dishonesty, fraud, deceit, or corruption. (Bus. & Prof. Code, §  
12 4301, subd. (f).) The circumstances are as follows:

13 12. On or about August 2, 2016, in the course of an investigation into drug shortages by  
14 CVS management, Respondent admitted to stealing for self-use 90 tablets of metoprolol 50 mg.  
15 while working as the pharmacist-in-charge at CVS/Pharmacy #9928 located in Rohnert Park, CA  
16 in 2015, and 30 tablets of losartan 50 mg. while working as a staff pharmacist at CVS/Pharmacy  
17 #9219 in Greenbrae, CA in April 2016. Respondent did not have a valid prescription for either  
18 metoprolol or losartan.

19 SECOND CAUSE FOR DISCIPLINE

20 (Unlawful Furnishing of Dangerous Drugs)

21 13. Respondent has subjected his license to discipline in that Respondent violated a  
22 statute of this state, of any other state, or of the United States regulating controlled substances and  
23 dangerous drugs when he furnished dangerous drugs to himself without a prescription of a  
24 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor. (Bus. & Prof.  
25 Code, §§ 4301, subd. (j), 4059, subd. (a).) The circumstances are detailed above in paragraph 12.

26 DISCIPLINE CONSIDERATIONS

27 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
28 Complainant alleges that on or about December 2, 2015, in a prior action, the Board of Pharmacy

1 issued Citation Number CI 2015 68105 and ordered Respondent to pay a fine of \$1,000.00. That  
2 Citation is now final and is incorporated by reference as if fully set forth.

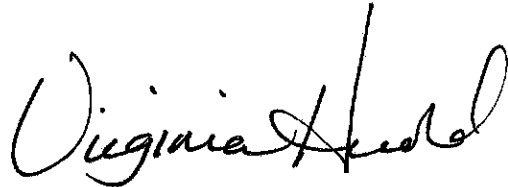
3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
5 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 6 1. Revoking or suspending Pharmacist License Number RPH 32856, issued to Paul  
7 Ping-Kuen Tham
- 8 2. Ordering Paul Ping-Kuen Tham to pay the Board of Pharmacy the reasonable costs of  
9 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3; and,
- 11 3. Taking such other and further action as deemed necessary and proper.

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14  
15 DATED: \_\_\_\_\_

7/17/17



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

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