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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke
Probation Against:

LOAN NGOC CHAU
38911 Bluegrass Court
Newark, California 94560

Pharmacy Technician Registration No. TCH
54960

Respondent.

Case No. 3574

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 22, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Petition to Revoke Probation No. 3574 against Loan Ngoc Chau (Respondent) before the Board of Pharmacy.
2. On or about August 5, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 54960 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and will expire on July 31, 2011, if not renewed.
3. On or about April 1, 2010, Fe M. Domingo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No. 3574 a Statement to Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to

1 Respondent's address of record with the Board: 38911 Bluegrass Court, Newark, California, CA
2 94560. Copies of the Petition to Revoke Probation are attached as exhibit A, and are incorporated
3 herein by reference.

4 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
5 provisions of Government Code section 11505, subdivision (c).

6 5. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
8 notice of defense, and the notice shall be deemed a specific denial of all parts of the Petition to
9 Revoke Probation not expressly admitted. Failure to file a notice of defense shall constitute a
10 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a
11 hearing.

12 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
13 the Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of
14 Petition to Revoke Probation No. 3574.

15 7. California Government Code section 11520 states, in pertinent part:

16 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
17 agency may take action based upon the respondent's express admissions or upon other evidence
18 and affidavits may be used as evidence without any notice to respondent.

19 8. Pursuant to its authority under Government Code section 11520, the Board finds
20 Respondent is in default. The Board will take action without further hearing and, based on the
21 evidence on file herein, finds that the allegations in Petition to Revoke Probation No. 3574 are
22 true.

23 9. The total costs for investigation and enforcement in connection with the Petition to
24 Revoke Probation are \$1,490.00 as of May 6, 2010.

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26 DETERMINATION OF ISSUES

27 1. Based on the foregoing findings of fact, Respondent Loan Ngoc Chau has subjected
28 her Pharmacy Technician License No. TCH 54960 to discipline.

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- 2. A copy of the Petition to Revoke Probation is attached.
- 3. The agency has jurisdiction to adjudicate this case by default.
- 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Petition to Revoke Probation:
 - a. Respondent failed to submit timely and compliant quarterly reports to the Board; Term and Condition 2 of Decision and Order 2826. Her last report of any kind was dated April 14, 2008.
 - b. Respondent failed to secure employment as Pharmacy Technician at any point following the effective date of August 5, 2005; Term and Condition 9 of Decision and Order 2826;
 - c. Respondent failed to attend at least one gambling recovery group per week, and/or failed to submit signed and dated proof of attendance; Term and Condition 13 of Decision and Order 2826.

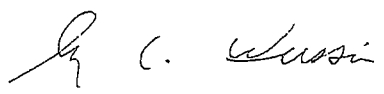
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 54960, heretofore issued to Respondent Loan Ngoc Chau, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 27, 2010.

It is so ORDERED September 27, 2010.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Petition to Revoke Probation No. 3574

Exhibit A
Petition to Revoke Probation No. 3574

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke Probation
11 Against:
12 **LOAN NGOC CHAU**
13 **38911 Bluegrass Court**
Newark, California 94560
14 **Pharmacy Technician License No. TCH 54960**
15 Respondent.

Case No. 3574

PETITION TO REVOKE PROBATION

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
20 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about August 5, 2005, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 54960 to Loan Ngoc Chau (Respondent). The License was in effect at all
23 times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.
- 24 3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against
25 Loan Ngoc Chau," Case No. 2826, the Board of Pharmacy issued a decision, effective August 5,
26 2005, issuing but immediately revoking Respondent's Pharmacy Technician License. Revocation
27 was stayed and Respondent was put on probation for a period of five (5) years with certain terms
28 and conditions. A copy of that decision is attached as exhibit A and is incorporated by reference.

JURISDICTION

1
2 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 5. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 6. Section 4300(a) of the Code provides that every license issued by the Board may be
9 suspended or revoked.

10 7. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
11 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
12 disciplinary action during the period within which the license may be renewed, restored, reissued
13 or reinstated. Section 4402(e) of the Code provides that any non-pharmacist license issued by the
14 Board may be canceled if not renewed within 60 days after expiration, and any license canceled
15 in this fashion may not be reissued but will instead require a new application to seek reissuance.

FACTUAL BACKGROUND

16
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18 8. Effective August 5, 2005, pursuant to a Proposed Decision and Order adopted by the
19 Board in prior Case No. 2826, Respondent's application for a Pharmacy Technician License was
20 granted, Respondent was issued Pharmacy Technician License No. TCH 54960, and the License
21 was immediately revoked. Revocation was stayed, and the License was placed on probation for a
22 period of five (5) years, subject to Terms and Conditions (T&Cs) numbering 1 to 14, including
23 the requirements that Respondent make quarterly reports to the Board (T&C 2), that Respondent
24 maintain a minimum number of hours per month of employment as a pharmacy technician (T&C
25 9), and that Respondent attend at least one gambling recovery group per week (T&C 13).

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1 FIRST CAUSE TO REVOKE PROBATION

2 (Failure to Timely Report to the Board)

3 9. At all times after the effective date (August 5, 2005) of the Decision and Order
4 imposing probation on Respondent's License, Term and Condition 2 of that Order required:

5 2. **Reporting to the Board.** Respondent shall report to the board quarterly. The report
6 shall be made either in person or in writing, as directed. Respondent shall stated under
7 penalty of perjury whether there has been compliance with all the terms and conditions of
8 probation. If the final probation report is not made as directed, probation shall be extended
9 automatically until such time as the final report is made and accepted by the board.

10 10. Respondent's probation is subject to revocation because she failed to comply with
11 Term and Condition 2 of that probation, listed above. Respondent failed to submit timely and
12 compliant quarterly reports to the Board; her last report of any kind was dated April 14, 2008.

13 SECOND CAUSE TO REVOKE PROBATION

14 (Failure to Secure Employment as Pharmacy Technician – Tolling of Probation)

15 11. At all times after the effective date (August 5, 2005) of the Decision and Order
16 imposing probation on Respondent's License, Term and Condition 9 of that Order required:

17 9. **Tolling of Probation.** It is a violation of probation for respondent to work less than a
18 specific number of hours to be determined by the Board or its designee per month as a
19 pharmacy technician. Should respondent, regardless of residency, for any reason cease
20 practicing as a pharmacy technician in California, respondent must notify the board in
21 writing within 10 days of cessation of practice or the resumption of the practice. Such
22 periods of time shall not apply to the reduction of the probation period. It is a violation of
23 probation for respondent's probation to remain tolled pursuant to the provisions of this
24 condition for a period exceeding three consecutive years.

25 "Cessation of practice" means any period of time exceeding 30 days in which
26 respondent is not engaged in the practice of a pharmacy technician as defined in the
27 Business and Professions Code.

28 12. Respondent's probation is subject to revocation because she failed to comply with
Term and Condition 9 of that probation, listed above. Respondent failed to secure employment as
a pharmacy technician at any point following the effective date of August 5, 2005.

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THIRD CAUSE TO REVOKE PROBATION

(Failure Attend Gambling Recovery Relapse Prevention and Support Groups)

13. At all times after the effective date (August 5, 2005) of the Decision and Order imposing probation on Respondent's License, Term and Condition 13 of that Order required:

9. **Attend Gambling Recovery . . . Support Groups.** Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established gambling abuse recovery support group in California (e.g., Gamblers Anonymous). Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation.

14. Respondent's probation is subject to revocation because she failed to comply with Term and Condition 13 of that probation, listed above. Respondent failed to attend at least one gambling recovery group per week, and/or failed to submit signed and dated proof of attendance.

OTHER MATTERS – EXTENSION OF PROBATION

15. At all times after the effective date (August 5, 2005) of the Decision and Order imposing probation on Respondent's License, Term and Condition 10 of that Order required:

10. **Violation of Probation.** If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order, which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

16. Pursuant to the operation of Term and Condition 10 of the probation order applicable to Respondent's License, probation is automatically extended by the filing hereof, and/or by Respondent's failure to comply with the terms and conditions of probation, until such time as this Petition to Revoke Probation is heard and decided, or until the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation.

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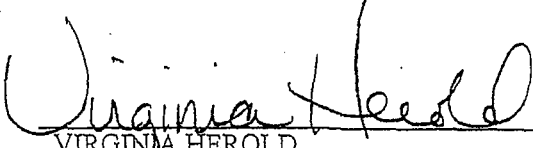
1 PRAYER

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 the probation that was granted by the Board of Pharmacy in Case No. 2826
5 and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician
6 License No. TCH 54960, issued to Loan Ngoc Chau (Respondent);

7 2. Taking such other and further action as is deemed necessary and proper.
8

9 DATED: 3/22/10


10 VIRGINIA HEROLD
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 Complainant

14 SF2010400445
15 40436909.doc

Exhibit A

Decision and Order

Board of Pharmacy Case No. 2826

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

LOAN NGOC CHAU,

Applicant for Pharmacy Technician
Registration,

Respondent.

Case No. 2826

OAH No. N 2005030323

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on March 30, 2005.

Joshua A. Room, Deputy Attorney General, represented complainant.

Respondent was present and represented herself.

Submission of the matter was deferred to April 13, 2005 for receipt of further evidence, which was received and considered. The matter was submitted on April 13, 2005.

FACTUAL FINDINGS

1. Patricia F. Harris (complainant) made this statement of issues in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), State of California and not otherwise.

2. On January 12, 2004, the Board received an application for registration as a Pharmacy Technician from Loan Ngoc Chau (respondent). On January 12, 2004, Loan Ngoc Chau certified under penalty of perjury to the truthfulness of all statements, answers and representations in the application. The Board denied the application on September 1, 2004.

3. On July 9, 2002, in a criminal proceeding entitled *People v. Loan N. Chau* in Alameda County Superior Court, Case Number H31793, respondent was convicted by plea of nolo contendere (no contest) of violating Penal Code sections 487, subdivision (a) and 503

(Grand theft of an amount in excess of \$400; Embezzlement), felonies and crimes involving moral turpitude that are substantially related to the duties, qualifications and functions of a licensee.

4. In August 2001, an embezzlement investigation conducted by respondent's employer, Marriott International, Inc., discovered that respondent had falsified employment documents so as to embezzle additional payroll funds for herself totaling almost \$38, 000. The matter was refereed to the Fremont Police Department for further investigation.

During the Marriott investigation, respondent admitted the theft in a written statement dated August 17, 2001. On September 4, 2001, during an interview with Fremont Police, respondent again admitted to her falsification of payroll records and her embezzlement of almost \$38,000 in overtime wages from her employer. On September 14, 2001, a felony complaint and arrest warrant for respondent was issued and respondent was charged with grand theft/embezzlement.

On July 9, 2002, respondent pleaded no contest to felony grand theft/embezzlement. She was sentenced to five (5) years probation, \$38,058.16 restitution to her employer, a \$200 fine and one day in jail with credit for time served. Respondent will be on probation until July 9, 2007, unless she receives an early termination.

5. Respondent's conviction involves acts of dishonesty with the intent to substantially benefit her. She knowingly made and signed employment documents that falsely represented the existence or non-existence of a state of facts.

6. Respondent is presently employed by Pulmonary Solutions as a medical biller. She is employed there full time and is in good standing.

7. Respondent has made full restitution to her former employer, Marriott International, Inc. She completed her obligation to them July 5, 2002 (prior to the conviction).

8. Respondent completed her certification as a Pharmacy Technician on March 31, 2004. She received honors from Silicon Valley College for a 4.0 grade point average. She has over \$18,000 owed in loans to pay for her education.

9. Respondent admits to having a gambling problem. She embezzled the money from her employer to pay gambling debts. She claims that she no longer gambles, but she has not attended any counseling for her gambling problem.

10. Respondent clearly knows that what she did was wrong. She wants to better herself. That is why she went to school to become a pharmacy technician. Respondent is married and has a five-year-old son. If she can come to terms with whatever was creating

her gambling problems through education and counseling, it would be in the public interest to grant respondent a probationary license.¹

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 3, 4, and 5, cause for denial exists pursuant to Business and Professions Code sections 480, subdivision (a)(1) and 4301, subdivision (l) (Conviction of Substantially Related Crime), 480, subdivision (a)(2) and 4301, subdivision (f) (Dishonesty) and 4301, subdivision (g) (Falsification of Documents).

2. The matters set forth in Findings 6, 7, 8, 9 and 10 have been considered in making the following order.

ORDER

The application of Loan N. Chau for a registration as a pharmacy technician is hereby granted, and immediately revoked. However, the revocation is stayed and the license is placed on probation for a period of five (5) years upon the following terms and conditions:

1. Obey All Laws
Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.
2. Reporting to the Board
Respondent shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.
3. Interview with the Board
Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board upon request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.
4. Cooperation with Board Staff
Respondent shall cooperate with the board's inspectional program and in the board's monitoring and investigation of respondent's compliance

¹ See Order 13 and 14 requiring respondent to attend gambling recovery relapse program and abstain from gambling.

with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

5. Notice to Employers

Respondent shall notify all present and prospective employers of the decision in case number N2005030323 and the terms, conditions and restrictions imposed on respondent by the decision.

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking new employment, respondent shall cause his or her employer to report to the board in writing acknowledging the employer has read the decision in case number N2005030323.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number N2005030323 in advance of the respondent commencing work at each pharmacy.

“Employment” within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician, whether the respondent is considered an employee or independent contractor.

6. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

7. Status of License

Respondent shall, at all times while on probation, maintain an active current technician registration/certification with the board, including any period during which suspension or probation is tolled.

If respondent's technician registration/certification expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. Notification of Employment/Mailing Address Change

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner

and work schedule, if known. Respondent shall notify the board in writing within 10 days of a change in name, mailing address or phone number.

9. Tolling of Probation

It is a violation of probation for respondent to work less than a specific number of hours to be determined by the Board or its designee per month as a pharmacy technician. Should respondent, regardless of residency, for any reason cease practicing as a pharmacy technician in California, respondent must notify the board in writing within 10 days of cessation of practice or the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of a pharmacy technician as defined in the Business and Professions Code.

10. Violation of Probation

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order, which was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

11. Completion of Probation

Upon successful completion of probation, respondent's technician registration will be fully restored.

12. License Surrender While on Probation/Suspension

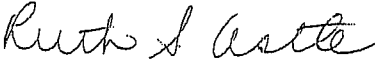
Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy

the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

13. Attend Gambling Recovery Relapse Prevention and Support Groups
Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established gambling abuse recovery support group in California, (e.g., Gamblers Anonymous). Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation.
14. Abstain From Gambling
Respondent shall abstain from gambling.

DATED: May 12, 2005



RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LOAN NGOC CHAU,

Applicant for Pharmacy Technician
Registration.

Respondent.

Case No. 2826

OAH No. N2005030323

DECISION

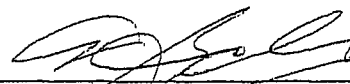
The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on August 5, 2005.

It is so ORDERED on July 6, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
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Telephone: (415) 703-1299
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6 Attorneys for Complainant

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

10 In the Matter of the Statement of Issues Against:

Case No. 2826

11 LOAN NGOC CHAU

OAH No.

12 Applicant for Pharmacy Technician Registration

STATEMENT OF ISSUES

13 Respondent.

14
15
16 Complainant alleges:

17 PARTIES

18 1. Patricia F. Harris (Complainant) brings this Statement of Issues solely in
19 her official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about January 13, 2004, the Board of Pharmacy, Department of
21 Consumer Affairs received an application for registration as a Pharmacy Technician from Loan
22 Ngoc Chau (Respondent). On or about January 12, 2004, Loan Ngoc Chau certified under
23 penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application. The Board denied the application on September 1, 2004.

25 JURISDICTION

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

STATUTORY PROVISIONS

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4. Section 4300, subdivision (c), of the Code provides in pertinent part that the Board may refuse a license to any applicant guilty of unprofessional conduct.

5. Section 4301 of the Code provides, in pertinent part, that "unprofessional conduct" is defined to include, but not be limited to, any of the following:

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

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

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

6. Section 475 of the Code states, in pertinent part:

“(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

- ...
“(2) Conviction of a crime.
“(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.”

7. Section 480 of the Code states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . .

1 “(2) Done any act involving dishonesty, fraud or deceit with the intent to
2 substantially benefit himself or another, or substantially injure another; or

3 “(3) Done any act which if done by a licentiate of the business or profession in
4 question, would be grounds for suspension or revocation of license.

5 “The board may deny a license pursuant to this subdivision only if the crime or act
6 is substantially related to the qualifications, functions or duties of the business or profession for
7 which application is made.”

8
9 8. California Code of Regulations, title 16, section 1770, states:

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

16
17 FIRST CAUSE FOR DENIAL OF APPLICATION

18 (Conviction of Substantially Related Crime)

19 9. Respondent's application is subject to denial per Code sections 480(a)(1)
20 and 4301(l), and California Code of Regulations, title 16, section 1770, in that on or about July 9,
21 2002, in a criminal proceeding entitled *People v. Loan N. Chau* in Alameda County Superior
22 Court, Case Number H31793, Respondent was convicted by plea of nolo contendere under Penal
23 Code sections 487(a) and 503 [Grand theft of an amount in excess of \$400; Embezzlement], a
24 felony and a crime substantially related to pharmacy practice. The circumstances are as follows:

25 a. In or about August 2001, an embezzlement investigation conducted
26 by Respondent's employer, Marriott International Inc., discovered that Respondent had falsified
27 employment documents so as to embezzle additional funds to herself totaling nearly \$38,000.00.
28 The matter was referred to the Fremont Police Department for investigation.

1 b. During the Marriott investigation, Respondent admitted the theft in
2 a written statement dated August 17, 2001. On or about September 4, 2001, during an interview
3 with Fremont Police, Respondent again admitted to her falsification of employment records and
4 her embezzlement of the nearly \$38,000.00 in extra payments from her employer. On or about
5 September 14, 2001, a felony complaint and warrant for Respondent's arrest pursuant to Penal
6 Code sections 487(a) and 503 was issued, and Respondent was charged under those statutes.

7 c. On or about July 9, 2002, in the matter of *People v. Loan N. Chau*,
8 Case No. H31793 in Alameda County Superior Court, Respondent pleaded no contest or nolo
9 contendere to felony grand theft/embezzlement under Penal Code sections 487(a) and 503.

10 d. On or about July 9, 2002, Respondent was sentenced as follows:
11 five (5) years formal probation, \$38,058.16 restitution to Marriott International Inc., a \$200.00
12 fine, and one day in county jail. Respondent is therefore on probation until at least July 9, 2007.

13
14 SECOND CAUSE FOR DENIAL OF APPLICATION

15 (Dishonesty, Fraud, or Corruption)

16 10. Respondent's application is subject to denial per Code sections 480(a)(2)
17 and 4301(f) in that, as described in paragraph 9, above, Respondent admitted to acts of theft and
18 embezzlement from her employer, acts involving dishonesty, fraud or deceit with the intent to
19 substantially benefit herself or another, or substantially injure another.

20
21 THIRD CAUSE FOR DENIAL OF APPLICATION

22 (Falsification of Documents)

23 11. Respondent's application is subject to denial per Code section 4301(g) in
24 that, as described in paragraph 9, above, Respondent admitted to knowingly making or signing
25 employment documents that falsely represented the existence or nonexistence of a state of facts.

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PRAYER

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

1. Denying the application of Loan Ngoc Chau for registration by the Board of Pharmacy as a Pharmacy Technician;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 1/31/05

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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