

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

In the Matter of the Accusation Against:

Case No. 3951

**SILVIA SOO KIM**

332 Fallingstar  
Irvine, CA 92614

Pharmacy Technician Registration  
No. TCH 77294

Respondent.

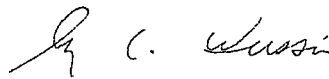
**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 19, 2011.

It is so ORDERED on September 19, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
4 Senior Legal Analyst  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3951

13 **SILVIA SOO KIM**  
14 **332 Fallingstar**  
**Irvine, CA 92614**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 **Pharmacy Technician Registration**  
16 **No. TCH 77294**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
23 She brought this action solely in her official capacity and is represented in this matter by Kamala  
24 D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal Analyst.
- 25 2. Respondent Silvia Soo Kim (Respondent) is representing herself in this proceeding  
26 and has chosen not to exercise her right to be represented by counsel.
- 27 3. On or about June 5, 2008, the Board of Pharmacy issued Pharmacy Technician  
28 Registration No. TCH 77294 to Respondent. The Pharmacy Technician Registration was in full

1 force and effect at all times relevant to the charges brought in Accusation No. 3951 and will  
2 expire on October 31, 2011, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3951 was filed before the Board of Pharmacy, Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on April 13, 2011.  
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 3951 is attached as Exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 3951. Respondent has also carefully read, and understands the effects of this  
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
17 compel the attendance of witnesses and the production of documents; the right to reconsideration  
18 and court review of an adverse decision; and all other rights accorded by the California  
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 3951.

25 9. Respondent agrees that her Pharmacy Technician Registration is subject to discipline  
26 and she agrees to be bound by the Board of Pharmacy (Board)'s probationary terms as set forth in  
27 the Disciplinary Order below.

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**CONTINGENCY**

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 77294 issued to Respondent Silvia Soo Kim is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

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1           **1.     Certification Prior to Resuming Work**

2           Respondent shall be automatically suspended from working as a pharmacy technician until  
3 he or she is certified as defined by Business and Professions Code section 4202(a)(4) and  
4 provides satisfactory proof of certification to the board. Respondent shall not resume working as a  
5 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
6 year shall be considered a violation of probation. Respondent shall not resume working as a  
7 pharmacy technician until notified by the board.

8           During suspension, respondent shall not enter any pharmacy area or any portion of any  
9 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
10 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
11 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
12 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
13 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
14 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
15 substances. Respondent shall not resume work until notified by the board.

16           Subject to the above restrictions, respondent may continue to own or hold an interest in any  
17 licensed premises by the board in which he or she holds an interest at the time this decision  
18 becomes effective unless otherwise specified in this order.

19           Failure to comply with this suspension shall be considered a violation of probation.

20           **2.     Obey All Laws**

21           Respondent shall obey all state and federal laws and regulations.

22           Respondent shall report any of the following occurrences to the Board, in writing, within  
23 seventy-two (72) hours of such occurrence:

- 24            an arrest or issuance of a criminal complaint for violation of any provision of the  
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
substances laws
- 26            a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
criminal complaint, information or indictment
- 27            a conviction of any crime
- 28            discipline, citation, or other administrative action filed by any state or federal agency  
which involves Respondent's pharmacy technician license or which is related to the

1 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,  
2 or charging for any drug, device or controlled substance.

3 Failure to timely report any such occurrence shall be considered a violation of probation.

4 **3. Report to the Board**

5 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its  
6 designee. The report shall be made either in person or in writing, as directed. Among other  
7 requirements, Respondent shall state in each report under penalty of perjury whether there has  
8 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
9 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
10 in submission of reports as directed may be added to the total period of probation. Moreover, if  
11 the final probation report is not made as directed, probation shall be automatically extended until  
12 such time as the final report is made and accepted by the Board.

13 **4. Interview with the Board**

14 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews  
15 with the Board or its designee, at such intervals and locations as are determined by the Board or  
16 its designee. Failure to appear for any scheduled interview without prior notification to Board  
17 staff, or failure to appear at two (2) or more scheduled interviews with the Board or its designee  
18 during the period of probation, shall be considered a violation of probation.

19 **5. Cooperate with Board Staff**

20 Respondent shall cooperate with the Board's inspection program and with the Board's  
21 monitoring and investigation of Respondent's compliance with the terms and conditions of her  
22 probation. Failure to cooperate shall be considered a violation of probation.

23 **6. Notice to Employers**

24 During the period of probation, Respondent shall notify all present and prospective  
25 employers of the decision in case number 3951 and the terms, conditions and restrictions imposed  
26 on Respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
28 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
2 tenure of employment) and owner to report to the Board in writing acknowledging that the listed  
3 individual(s) has/have read the decision in case number 3951 and the terms and conditions  
4 imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or  
5 supervisor(s) submit timely acknowledgement(s) to the Board.

6 If Respondent works for or is employed by or through a pharmacy employment service,  
7 Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy  
8 of the terms and conditions of the decision in case number 3951 in advance of the Respondent  
9 commencing work at each pharmacy. A record of this notification must be provided to the Board  
10 upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
12 (15) days of Respondent undertaking any new employment by or through a pharmacy  
13 employment service, Respondent shall cause her direct supervisor with the pharmacy  
14 employment service to report to the Board in writing acknowledging that she has read the  
15 decision in case number 3951 and the terms and conditions imposed thereby. It shall be  
16 Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely  
17 acknowledgment(s) to the Board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those  
19 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of  
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time, part-time,  
22 temporary or relief service or pharmacy management service as a pharmacy technician or in any  
23 position for which a pharmacy technician license is a requirement or criterion for employment,  
24 whether the Respondent is considered an employee, independent contractor or volunteer.

#### 25 **7. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, Respondent shall pay to the  
27 Board its costs of investigation and prosecution in the amount of \$882.50 in a payment plan  
28 approved by the Board. There shall be no deviation from the payment plan absent prior written

1 approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be  
2 considered a violation of probation.

3 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility  
4 to reimburse the Board its costs of investigation and prosecution.

5 **8. Probation Monitoring Costs**

6 Respondent shall pay any costs associated with probation monitoring as determined by the  
7 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
8 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
9 shall be considered a violation of probation.

10 **9. Status of License**

11 Respondent shall, at all times while on probation, maintain an active, current pharmacy  
12 technician license with the Board, including any period during which suspension or probation is  
13 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

14 If Respondent's pharmacy technician license expires or is cancelled by operation of law or  
15 otherwise at any time during the period of probation, including any extensions thereof due to  
16 tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all  
17 terms and conditions of this probation not previously satisfied.

18 **10. License Surrender While on Probation/Suspension**

19 Following the effective date of this decision, should Respondent cease work due to  
20 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
21 Respondent may tender her pharmacy technician license to the Board for surrender. The Board or  
22 its designee shall have the discretion whether to grant the request for surrender or take any other  
23 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
24 license, Respondent will no longer be subject to the terms and conditions of probation. This  
25 surrender constitutes a record of discipline and shall become a part of the Respondent's license  
26 history with the Board.

27 Upon acceptance of the surrender, Respondent shall relinquish her pharmacy technician  
28 license to the Board within ten (10) days of notification by the Board that the surrender is



1 accepted. Respondent may not reapply for any license, permit, or registration from the Board for  
2 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
3 applicable to the license sought as of the date the application for that license is submitted to the  
4 Board.

5 **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
6 **Employment**

7 Respondent shall notify the Board in writing within ten (10) days of any change of  
8 employment. Said notification shall include the reasons for leaving, the address of the new  
9 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
10 shall further notify the Board in writing within ten (10) days of a change in name, residence  
11 address and mailing address, or phone number.

12 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or  
13 phone number(s) shall be considered a violation of probation.

14 **12. Tolling of Probation**

15 Except during periods of suspension, Respondent shall, at all times while on probation, be  
16 employed as a pharmacy technician in California for a minimum of ten (10) hours per calendar  
17 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
18 the period of probation shall be extended by one month for each month during which this  
19 minimum is not met. During any such period of tolling of probation, Respondent must  
20 nonetheless comply with all terms and conditions of probation.

21 Should Respondent, regardless of residency, for any reason (including vacation) cease  
22 working as a pharmacy technician for a minimum of ten (10) hours per calendar month in  
23 California, Respondent must notify the Board in writing within ten (10) days of cessation of work  
24 and must further notify the Board in writing within ten (10) days of the resumption of the work.  
25 Any failure to provide such notification(s) shall be considered a violation of probation.

26 It is a violation of probation for Respondent's probation to remain tolled pursuant to the  
27 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
28 exceeding thirty-six (36) months.

1 "Cessation of work" means calendar month during which Respondent is not  
2 working for at least 10 hours as a pharmacy technician, as defined in Business and  
3 Professions Code section 4115. "Resumption of work" means any calendar month  
4 during which Respondent is working as a pharmacy technician for at least 10 hours as  
5 a pharmacy technician as defined by Business and Professions Code section 4115.

6 **13. No Ownership of Licensed Premises**

7 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
8 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
9 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell  
10 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)  
11 days following the effective date of this decision and shall immediately thereafter provide written  
12 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide  
13 documentation thereof shall be considered a violation of probation.

14 **14. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

15 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular  
16 attendance at a recognized and established substance abuse recovery support group in California,  
17 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board  
18 or its designee. Respondent must attend at least one group meeting per week unless otherwise  
19 directed by the Board or its designee. Respondent shall continue regular attendance and submit  
20 signed and dated documentation confirming attendance with each quarterly report for the duration  
21 of probation. Failure to attend or submit documentation thereof shall be considered a violation of  
22 probation.

23 **15. Random Drug Screening**

24 Respondent, at her own expense, shall participate in random testing, including but not  
25 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
26 screening program as directed by the Board or its designee. Respondent may be required to  
27 participate in testing for the entire probation period and the frequency of testing will be  
28 determined by the Board or its designee. At all times Respondent shall fully cooperate with the

1 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
2 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or  
3 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
4 violation of probation. Upon request of the Board or its designee, Respondent shall provide  
5 documentation from a licensed practitioner that the prescription for a detected drug was  
6 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely  
7 provide such documentation shall be considered a violation of probation. Any confirmed positive  
8 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
9 documented medical treatment shall be considered a violation of probation and shall result in the  
10 automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy  
11 technician until notified by the Board in writing.

12 **16. Work Site Monitor**

13 Within ten (10) days of the effective date of this decision, Respondent shall identify a work  
14 site monitor, for prior approval by the Board, who shall be responsible for supervising  
15 Respondent during working hours. Respondent shall be responsible for ensuring that the work  
16 site monitor reports in writing to the Board quarterly. Should the designated work site monitor  
17 determine at any time during the probationary period that Respondent has not maintained  
18 sobriety, she shall notify the Board immediately, either orally or in writing as directed. Should  
19 Respondent change employment, a new work site monitor must be designated, for prior approval  
20 by the Board, within ten (10) days of commencing new employment. Failure to identify an  
21 acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to  
22 the Board, shall be considered a violation of probation.

23 **17. Abstain from Drugs and Alcohol Use**

24 Respondent shall completely abstain from the possession or use of alcohol, controlled  
25 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
26 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
27 request of the Board or its designee, Respondent shall provide documentation from the licensed  
28 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the

1 treatment of the Respondent. Failure to timely provide such documentation shall be considered a  
2 violation of probation. Respondent shall ensure that she is not in the same physical location as  
3 individuals who are using illicit substances even if Respondent is not personally ingesting the  
4 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
5 not supported by the documentation timely provided, and/or any physical proximity to persons  
6 using illicit substances, shall be considered a violation of probation.

7 **18. Violation of Probation**

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

13 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
14 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
15 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
16 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
17 a petition to revoke probation or an accusation is filed against Respondent during probation, the  
18 Board shall have continuing jurisdiction, and the period of probation shall be automatically  
19 extended until the petition to revoke probation or accusation is heard and decided.

20 **19. Completion of Probation**

21 Upon written notice by the Board indicating successful completion of probation,  
22 Respondent's pharmacy technician license will be fully restored.

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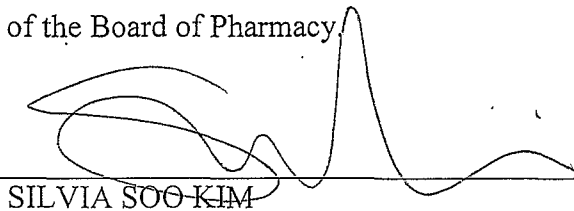
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy

DATED:

6/27/11



SILVIA SOO-KIM  
Respondent

ENDORSEMENT

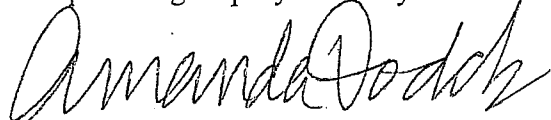
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

~~6/27/11~~ jad  
7/26/2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General



AMANDA DODDS  
Senior Legal Analyst  
*Attorneys for Complainant*

SD2011700019

**Exhibit A**

**Accusation No. 3951**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
4 Senior Legal Analyst  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*  
8

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Case No. 3951

14 **SILVIA SOO KIM**  
15 **332 Fallingstar**  
16 **Irvine, CA 92614**

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

17 **Pharmacy Technician Registration**  
18 **No. TCH 77294**

Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about June 5, 2008, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 77294 to Silvia Soo Kim (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on October 31, 2011, unless renewed.

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28 ///





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

6 . . . .

7 (l) The conviction of a crime substantially related to the qualifications,  
8 functions, and duties of a licensee under this chapter. The record of conviction of a  
9 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
10 States Code regulating controlled substances or of a violation of the statutes of this  
11 state regulating controlled substances or dangerous drugs shall be conclusive  
12 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
13 be conclusive evidence only of the fact that the conviction occurred. The board may  
14 inquire into the circumstances surrounding the commission of the crime, in order to  
15 fix the degree of discipline or, in the case of a conviction not involving controlled  
16 substances or dangerous drugs, to determine if the conviction is of an offense  
17 substantially related to the qualifications, functions, and duties of a licensee under this  
18 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
19 contendere is deemed to be a conviction within the meaning of this provision. The  
20 board may take action when the time for appeal has elapsed, or the judgment of  
21 conviction has been affirmed on appeal or when an order granting probation is made  
22 suspending the imposition of sentence, irrespective of a subsequent order under  
23 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
24 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
25 dismissing the accusation, information, or indictment.

### 26 REGULATORY PROVISIONS

27 9. California Code of Regulations, title 16, section 1669 states:

28 . . . .

(b) When considering the suspension or revocation of a facility or a personal  
license on the ground that the licensee or the registrant has been convicted of a crime,  
the board, in evaluating the rehabilitation of such person and his present eligibility for  
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation,  
restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

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1 10. California Code of Regulations, title 16, section 1770 states:

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

#### 6 **COST RECOVERY**

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

#### 11 **FIRST CAUSE FOR DISCIPLINE**

#### 12 **(July 16, 2010 Criminal Convictions for DUI on May 22, 2010)**

13 12. Respondent subjected her license to discipline under sections 490 and 4301,  
14 subdivision (I) of the Code in that she was convicted of crimes that are substantially related to the  
15 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

16 a. On or about July 16, 2010, in a criminal proceeding entitled *People of the*  
17 *State of California v. Silvia Soo Min Kim*, in Orange County Superior Court, case number  
18 10HM04750, Respondent was convicted on her plea of guilty for violating Vehicle Code section  
19 23152, subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152,  
20 subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more,  
21 misdemeanors.

22 b. As a result of the convictions, on or about July 16, 2010, Respondent was  
23 sentenced to three years informal probation, and ordered to serve 45 days in jail, with credit for  
24 two days. Respondent was further ordered to attend and complete an 18-month Multiple  
25 Offender Alcohol Program, attend a MADD victim impact panel, pay fines, fees, and restitution  
26 in the amount of \$1,790, and comply with the terms of DUI probation.

27 c. The circumstances that led to the conviction are that on or about the early  
28 morning of May 22, 2010, a patrol officer with the Irvine Police Department stopped Respondent

1 for a traffic violation. Upon contact with Respondent, he immediately smelled a strong odor of  
2 an alcoholic beverage coming from within her vehicle. Respondent first admitted that she had  
3 consumed "one shot" earlier in the afternoon, but upon further questioning she told the officer  
4 that she may have consumed more drinks. Respondent's eyes were bloodshot and watery, and her  
5 speech was slow. Respondent submitted to a series of field sobriety tests. The officer concluded  
6 that Respondent was too intoxicated to understand the instructions on how to complete the  
7 preliminary alcohol screen, so no breath samples were taken. Based on her objective symptoms  
8 of intoxication, her performance on the field sobriety tests, and her admission to consuming  
9 alcohol, Respondent was arrested for driving under the influence. At booking, Respondent  
10 provided a blood sample which was analyzed at .178 and .179 percent BAC.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct – Using Alcohol to a Dangerous Extent)**

13 13. Respondent is subject to disciplinary action under section 4301, subdivision (h) of  
14 the Code in that on or about May 22, 2010, as detailed in paragraph 12, above, Respondent used  
15 alcohol to an extent as to be dangerous or injurious to herself and the public, when she drove a  
16 vehicle while impaired by alcohol in an amount over twice the legal limit.

17 **DISCIPLINARY CONSIDERATIONS**

18 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
19 Complainant alleges the following:

20 a. On or about January 10, 2007, in a prior criminal proceeding entitled  
21 *People of the State of California v. Silvia Soo Min Kim*, in Orange County Superior Court, case  
22 number 06NM08676, Respondent was convicted on her plea of guilty for violating Vehicle Code  
23 section 23152, subdivision (b), driving with a BAC of .08 percent or more.

24 b. As a result of the conviction, Respondent was sentenced to three years  
25 informal probation, and ordered to complete a nine-month First Offender Alcohol Program, pay  
26 fees and fines in the amount of \$390, and comply with the terms of DUI probation. Respondent  
27 was further ordered to pay restitution to her victim as a result of the DUI/collision that occurred  
28 on May 14, 2006.

1 **PRAYER**

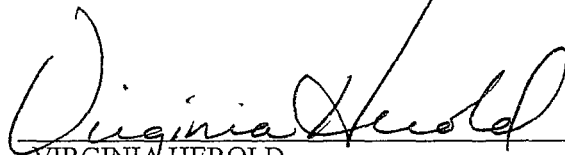
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 77294,  
5 issued to Silvia Soo Kim;

6 2. Ordering Silvia Soo Kim to pay the Board of Pharmacy the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: 4/5/11



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

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