

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

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

12 In the Matter of the Accusation Against:

Case No. 3951

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

A C C U S A T I O N

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

17 Respondent.

18
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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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 (l) 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.

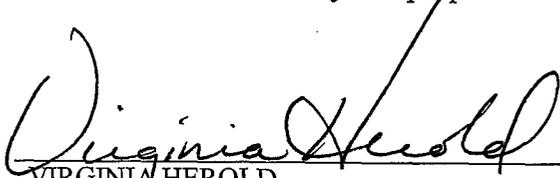
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PRAYER

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. Revoking or suspending Pharmacy Technician Registration Number TCH 77294, issued to Silvia Soo Kim;
2. Ordering Silvia Soo Kim to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/11



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

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