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

10 In the Matter of the Accusation Against:

Case No. 3397

11 **NICHOLAS ANDREW PAPAGEORGE**
12 **1325 Dawn Road**
Nipomo, CA 93444
13 **Pharmacy Technician Registration**
No. TCH 48940

A C C U S A T I O N

14 Respondent.

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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 October 3, 2003, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 48940 to Nicholas Andrew Papageorge (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2010, 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 4301 of the Code states:

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

...

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

...

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

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

...

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

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a

1 disciplinary action during the period within which the license may be renewed, restored, reissued
2 or reinstated.

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Substantially Related Convictions)**

9 7. Respondent is subject to disciplinary action under section 4301, subdivision (1) of the
10 Code in that he was convicted of crimes substantially related to the functions, duties, and
11 qualifications of a licensee, as follows:

12 8. On or about September 6, 2007, in the Superior Court of California, County of
13 Santa Barbara, in the case entitled, *People of the State of California v. Nicholas Andrew*
14 *Papageorge* (Super. Ct. Santa Barbara County, 2007, No. P436238), Respondent was convicted
15 on his plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (driving
16 while under the influence of a drug with a Prior), a misdemeanor.

17 a. The circumstances of the crime are that on or about June 6, 2007, a California
18 Highway Patrol (CHP) officer was called to the scene of a single vehicle collision. While driving
19 his vehicle on a California freeway, Respondent veered left causing the left side of his vehicle to
20 collide with the guardrail. The CHP officer observed that Respondent exhibited the following
21 objective signs of intoxication: unsteady gait, slow speech, low volume speech and droopy
22 eyelids. In addition, the officer observed that he was fidgety, sluggish and agitated.

23 b. The officer attempted to administer several Field Sobriety Tests (F.S.T.s) to
24 Respondent, including, the Romberg test, the One Leg Stand, the Hand Pat, the Finger Count and
25 the Horizontal Gaze Nystagmus. Respondent did not properly complete any of the F.S.T.s.
26 Based upon the circumstances surrounding the collision, Respondent's objective signs of
27 intoxication and inability to perform the F.S.T.s, the officer formed the opinion that he was
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1 driving under the influence of drugs at the time of the collision. The officer placed Respondent
2 under arrest.

3 9. On or about April 25, 2007, in the Superior Court of California, County of San Luis
4 Obispo, in the case entitled, *People of the State of California v. Nicholas Andrew Papageorge*
5 (Super. Ct. San Luis Obispo County, 2007, No. M398649), Respondent was convicted on his plea
6 of nolo contendere of violating Penal Code section 664 as it relates to Vehicle Code section
7 23152, subdivision (b) (attempting to drive while under the influence of alcohol), a misdemeanor.

8 a. The circumstances of the crime are that on or about January 20, 2007, a California
9 Highway Patrol ("CHP") officer was called to the scene of a single vehicle collision. When the
10 officer arrived at the scene, he contacted Respondent. Respondent denied being the driver of the
11 vehicle. While talking with Respondent, the officer observed that Respondent exhibited the
12 following signs of intoxication: watery, glassy eyes, weaving while standing and an odor of an
13 alcoholic beverage emanating from his person. The officer was unable to administer any Field
14 Sobriety Tests (F.S.T.s) to Respondent because Respondent was unwilling to cooperate and
15 follow the directions. Based upon the officer's observations and statements he received from
16 witnesses, the officer arrested Respondent for violating Vehicle Code section 23152, subdivision
17 (a).

18 10. On or about August 7, 2006, in the Superior Court of California, County of San Luis
19 Obispo, in the case entitled, *People of the State of California v. Nicholas Andrew Papageorge*
20 (Super. Ct. San Luis Obispo County, 2006, No. M380693), Respondent was convicted on his plea
21 of nolo contendere of violating Penal Code section 594, subdivision (b), subsection (1)
22 (maliciously and unlawfully defacing, damaging, and destroying real and personal property which
23 belonged to another, in the amount of four hundred dollars (\$400.00) or more), a misdemeanor.

24 a. The circumstances of the crime are that on or about October 1, 2005, a City of Pismo
25 Beach Department Police Officer was dispatched to a restaurant for a report of a vehicle that had
26 been "keyed." During an interview at the Police Department on or about October 2, 2005,
27 Respondent admitted that he damaged the vehicle using his car keys.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Commission of Act Involving Moral Turpitude)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
4 Code in that he committed an act involving moral turpitude, dishonesty, fraud, deceit, or
5 corruption, as set forth in paragraphs 7 through 10. Complainant refers to, and by this reference
6 incorporates the allegations set forth above in paragraphs 7-10, inclusive, as though set forth
7 fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Self-Administration of Controlled Substance)**

10 12. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the
11 Code in that he administered to himself a controlled substance, as set forth in paragraphs 7
12 through 8 above. Complainant refers to, and by this reference incorporates the allegations set
13 forth above in paragraphs 7 through 8, inclusive, as though set forth fully.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Commission of More Than One Misdemeanor Involving the Use of Dangerous Drug and/or**
16 **Alcoholic Beverage)**

17 13. Respondent is subject to disciplinary action under section 4301, subdivision (k) of the
18 Code in that he was convicted of a misdemeanor involving the use of a dangerous drug and a
19 misdemeanor involving the consumption of an alcoholic beverage, as set forth in paragraphs 7
20 through 9 above. Complainant refers to, and by this reference incorporates the allegations set
21 forth above in paragraphs 7 through 9, inclusive, as though set forth fully.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Conduct Warranting License Denial)**

24 14. Respondent is subject to disciplinary action under section 4301, subdivision (p) of the
25 Code in that he engaged in conduct warranting denial of his license, as set forth in paragraphs 7
26 through 10 above. Complainant refers to, and by this reference incorporates the allegations set
27 forth above in paragraphs 7 through 10, inclusive, as though set forth fully.

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PRAYER

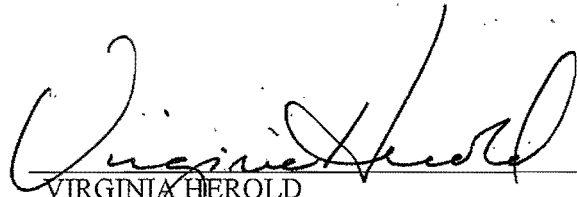
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 48940, issued to Nicholas Andrew Papageorge.

2. Ordering Nicholas Andrew Papageorge 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: 12/30/09



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

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