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7

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

11 In the Matter of the Accusation Against:

Case No. 3509

12 **MARTIN OMAR PEREZ**
13 3228 Florinda St.
Pomona, CA 91767

ACCUSATION

14 Pharmacy Technician Registration No. TCH 50207
15 Respondent.

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17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
22 2. On or about September 17, 2003, the Board issued Pharmacy Technician Registration
23 No. TCH 50207 to Martin Omar Perez (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2011, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
4 action during the period within which the license may be renewed, restored, reissued or
5 reinstated.

6 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
7 on the ground that the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, or duties of the business or profession for which the license was issued.

9 6. Section 4300, subdivision (a), states that “[e]very license issued may be suspended or
10 revoked.”

11 7. Section 4301 states, in pertinent part:

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

15

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

19

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

25

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

1 a. On or about March 20, 2009, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving with a
3 greater than 0.08 blood alcohol, with admission of prior Veh. Code § 23152(a) conviction¹] in the
4 criminal proceeding entitled *The People of the State of California v. Martin Omar Perez* (Super.
5 Ct. Los Angeles County, 2009, No. 9PK01214). The Court sentenced Respondent to ten (10)
6 days in jail or tree farm service, placed him on three (3) years probation, ordered him to attend
7 an 18-month alcohol program, and ordered him to pay \$1706.00 or perform 80 hours of
8 community service. The circumstances underlying the conviction are that on or about February 3,
9 2009, Respondent was found to be driving a vehicle while having a tested 0.13/0.14% BAC.

10 b. On or about November 20, 2007, after pleading guilty, Respondent was convicted of
11 one misdemeanor count of violating Vehicle Code section 10851(a) [take vehicle without owner's
12 consent] in the criminal proceeding entitled *The People of the State of California v. Martin Omar*
13 *Perez* (Super. Ct. Los Angeles County, 2007, No. 7PK08394). The Court sentenced Respondent
14 to nine (9) days in jail, placed him on three (3) years probation, and ordered him to pay \$100 to
15 the victim restitution fund. On or about May 7, 2008, the Court sentenced Respondent to 30 days
16 of tree farm service. The circumstances underlying the conviction are that on or about November
17 15, 2007, Respondent took his mother's car without her permission, went out drinking, and
18 without having a place to sleep and not welcome at his sister's home, broke into his sister's
19 house, crawled through his nephew's bedroom window, and fell asleep on the floor, where on or
20 about November 16, 2007, he was found and arrested.

21 c. On or about December 11, 2006, after pleading guilty, Respondent was convicted of
22 one misdemeanor count of violating Penal Code section 647(f) [public intoxication] in the
23 criminal proceeding entitled *The People of the State of California v. Martin Omar Perez* (Super.
24 Ct. San Bernardino County, 2006, No. MWV108530). The Court ordered Respondent to pay a
25 \$100 fine. The circumstances underlying the conviction are that on or about October 7, 2006,

26 ¹ On or about July 15, 2001, Respondent was convicted of one misdemeanor count of
27 violating Vehicle Code section 23152(a) [driving while under the influence of alcohol] in the
28 criminal proceeding entitled *The People of the State of California v. Martin Omar Perez* (Super.
Ct. Los Angeles County, 2001, No. 1JM05349).

1 Montclair Police Department issued Citation, Notice and Promise to Appear, No. 173401 to
2 Respondent for public intoxication.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Convictions of Crimes Involving Alcohol)**

5 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (k), on the grounds of unprofessional conduct, in that Respondent sustained more
7 than one misdemeanor conviction involving the use, consumption, or self-administration of
8 alcoholic beverages. Complainant refers to and by this reference incorporates the allegations set
9 forth above in paragraph 10, subparagraphs a, b and c, as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcohol to the
14 extent or in a manner as to be dangerous or injurious to himself or others and / or to the extent
15 that his use impairs his ability to conduct with safety to the public the practice authorized by his
16 license. Complainant refers to and by this reference incorporates the allegations set forth above
17 in paragraphs 10 - 11, inclusive, as though set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

20 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
21 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
22 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by
23 this reference incorporates the allegations set forth above in paragraphs 10 - 12, inclusive, as
24 though set forth fully.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
28 subdivision (o), in that Respondent committed acts constituting unprofessional conduct.

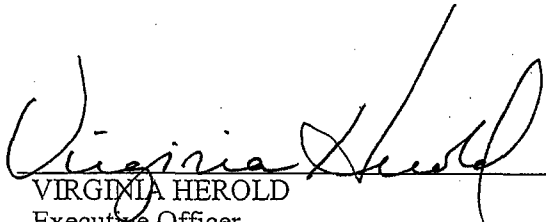
1 Complainant refers to and by this reference incorporates the allegations set forth above in
2 paragraphs 10 - 13, inclusive, as though set forth fully.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 50207, issued
7 to Respondent;
- 8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

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12
13 DATED: 5/6/10


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

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