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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. 3668

11 **JUAN JAVIER FLORES**
12 **aka JUAN JAVIER FLORES SOTO**
13 11812 Borden Avenue
Pacoima, CA 91331

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH 62816

15 Respondent.

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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 June 9, 2005, the Board issued Pharmacy Technician Registration No.
23 TCH 62816 to Juan Javier Flores aka Juan Javier FloresSoto (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on February 28, 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 480 states:

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

9 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
11 board is permitted to take following the establishment of a conviction may be taken when the
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
13 an order granting probation is made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
16 benefit himself or herself or another, or substantially injure another.

17 6. Section 490 provides that a board may suspend or revoke a license on the ground that
18 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
19 duties of the business or profession for which the license was issued.

20 7. Section 4300 states, subdivision (a), states that "[e]very license issued may be
21 suspended or revoked."

22 8. Section 4301 states, in pertinent part:

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

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27 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
28 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and

1 whether the act is a felony or misdemeanor or not.

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

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

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

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

15

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

17 **REGULATORY PROVISIONS**

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

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

25 **COST RECOVERY**

26 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
27 law judge to direct a licentiate found to have committed a violation or violations of the licensing

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1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Convictions of Substantially Related crimes)**

5 11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
6 (I), on the grounds of unprofessional conduct, in conjunction with California Code of
7 Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially
8 related to the qualifications, functions or duties of a licensee which to a substantial degree
9 evidence his present or potential unfitness to perform the functions authorized by his license in a
10 manner consistent with the public health, safety, or welfare, as follows:

11 a. On or about December 14, 2009, after pleading nolo contendere, Respondent was
12 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while
13 having a 0.08% or higher blood alcohol, to wit, 0.12%], in the criminal proceeding entitled *the*
14 *People of the State of California v. Juan Javier Flores* (Super. Ct. Los Angeles County, 2009, No.
15 9GF00776). The Court sentenced Respondent to 96 hours in jail, placed him on 60 months of
16 probation, ordered him in lieu of fines, to complete 13 days of Cal Trans duty, and ordered him to
17 complete an 18-month alcohol program. The circumstances underlying the conviction are that on
18 or about October 31, 2009, Respondent was driving under the influence of alcohol and had a test
19 blood alcohol of 0.15/0.18%.

20 b. On or about December 16, 2005, after pleading nolo contendere, Respondent was
21 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while
22 having a 0.08% or higher blood alcohol], with admissions to violating Vehicle Code section
23 23578 [driving with blood alcohol of .20 or more] and the special allegation of having a prior
24 violation to Vehicle Code section 23152¹, in the criminal proceeding entitled *The People of the*
25 *State of California v. Juan Javier Flores Soto* (Super. Ct. Ventura County, 2005,

26 ¹ On or about January 8, 1996, Respondent was convicted of one misdemeanor count of
27 violating Vehicle Code section 23152 [driving while under the influence, on or about Jan. 8,
28 1986] in the criminal proceeding entitled *The People of the State of Los Angeles v. Juan Javier*
Flores Soto (Super. Ct. Los Angeles County, 1986, No. 600231).

1 No. 2005028272). The Court sentenced Respondent to 35 days in jail, placed him on 60 months
2 of probation, and ordered him to complete a Drinking Driver Program (multiple convictions
3 program). The circumstances underlying the conviction are that on or about August 18, 2005,
4 Respondent was driving under the influence of alcohol and had a tested blood alcohol of
5 0.22/0.22%.

6 c. On or about April 8, 1993, after pleading nolo contendere, Respondent was convicted
7 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having a
8 0.08% or higher blood alcohol, to wit, 0.18%] in the criminal proceeding entitled *The People of*
9 *the State of California v. Javier Flores* (Super. Ct. Los Angeles County, 1993, No. 93F02099).
10 The Court sentenced Respondent to 13 days in jail, placed him on 36 months of probation,
11 ordered him to complete a three (3) month First Offender Alcohol Program, and ordered him to
12 complete community service in lieu of fine. The circumstances underlying the conviction are that
13 on or about March 17, 1993, Respondent was driving under the influence of alcohol.

14 d. On or about February 24, 1989, after pleading guilty, Respondent was convicted of
15 two (2) misdemeanor counts of violating Penal Code sections 484(a) [theft] and 487(c) [petty
16 theft – convert real property] in the criminal proceeding entitled *The People of the State of*
17 *California v. Javier Flores* (Super. Ct. Ventura County, 1988, No. VE55157). The Court
18 sentenced Respondent to 200 hours of direct work, placed him on three (3) years of probation,
19 and ordered him to pay restitution. On or about January 27, 1989, Respondent was arrested for
20 the acts relating to the two (2) convictions herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Alcohol Related Criminal Convictions)**

23 12. Respondent is subject to disciplinary action under section 4301, subdivision (k), on
24 the grounds of unprofessional conduct, in that Respondent sustained misdemeanor convictions
25 involving the use, consumption, or self-administration of alcoholic beverages. Complainant
26 refers to and by this reference incorporates the allegations set forth above in paragraph 11,
27 subdivisions a - c, inclusive, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
4 the grounds of unprofessional conduct, in that Respondent administered to himself and used
5 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to himself or
6 others and / or to the extent that the use impairs his ability to conduct with safety to the public the
7 practice authorized by his license. Complainant refers to and by this reference incorporates the
8 allegations set forth above in paragraphs 11 - 12, inclusive, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(False Statement on Application for Licensure)**

11 14. Respondent is subject to disciplinary action under section 4301, subdivision (g), on
12 the grounds of unprofessional conduct, in that Respondent knowingly made or signed his initial
13 application for licensure that falsely represented a state of facts by answering "No" to question
14 No. 6 in the application: "Have you ever been convicted of or pled no contest to a violation of
15 any law of a foreign country, the United States or any state laws or local ordinances? You must
16 include all misdemeanor and felony convictions, regardless of the age of the conviction, including
17 those which have been set aside under Penal Code section 1203.4. . . ." when, in fact, he had
18 sustained to (2) convictions on or about April 8, 1993, and on or about February 24, 1989.
19 Complainant refers to and by this reference incorporates the allegations set forth above in
20 paragraph 11, subparagraphs c and d, inclusive, as though set forth fully.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Acts Warranting Denial of Licensure)**

23 15. Respondent is subject to disciplinary action under section 4301, subdivision (p), for
24 violating section 480, subdivisions (a)(1) and / or (2), on the grounds of unprofessional conduct,
25 in that Respondent committed acts or conduct that would have warranted denial of licensure,
26 when he sustained criminal convictions, and / or when he committed acts involving dishonesty,
27 fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure

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1 another. Complainant refers to and by this reference incorporates the allegations set forth above
2 in paragraphs 11 – 14, inclusive, as though set forth fully.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

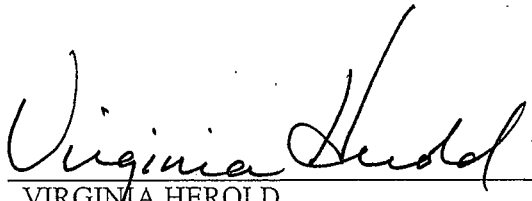
5 16. Respondent is subject to disciplinary action under sections 4301, subdivision (f), on
6 the grounds of unprofessional conduct, in that Respondent committed acts involving moral
7 turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference
8 incorporates the allegations set forth above in paragraphs 11 – 15, inclusive, as though set forth
9 fully.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration No. TCH 62816, issued
- 14 to Respondent;
- 15 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 16 enforcement of this case, pursuant to section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

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19
20 DATED: 12/17/10



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

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