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

12 In the Matter of the Accusation Against:

Case No. 3811

13 **BRIAN CALVIN BINNIE**
16919 Shinedale Drive
Canyon Country, CA 91387

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH 43562

15 Respondent.
16

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 July 29, 2002, the Board issued Pharmacy Technician Registration No.
23 TCH 43562 to Brian Calvin Binnie (Respondent). The Pharmacy Technician Registration was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 December 31, 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.

1 **STATUTORY PROVISIONS**

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 4060 states that "[n]o person shall possess any controlled substance, except
7 that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
8 veterinarian, or naturopathic doctor"

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 "(j) The violation of any of the statutes of this state, or any other state, or of the United
17 States regulating controlled substances and dangerous drugs. . . ."

18 **REGULATORY PROVISIONS**

19 8. California Code of Regulations, title 16, section 1770, states:

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

26 **COST RECOVERY**

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

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

3 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

4 10. Vicodin is a trade name for the narcotic substance hydrocodone or dihydrocodeinone
5 with the non-narcotic substance acetaminophen (pain reliever and fever reducer). Vicodin is a
6 Schedule III controlled substance pursuant to Health and Safety Code section 11056(e), and is a
7 dangerous drug within the meaning of section 4022.

8 **CAUSE FOR DISCIPLINE**

9 **(Illegal Possession of Controlled Substance)**

10 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
11 subdivision (j), for violating section 4060, in that on or about January 9, 2007, Respondent
12 possessed 83 Vicodin tablets, a controlled substance and dangerous drug, without a valid
13 prescription.

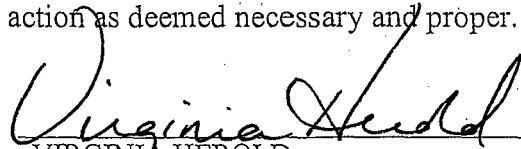
14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration No. TCH 43562, issued
18 to Respondent;
- 19 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
20 enforcement of this case, pursuant to section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: _____

23 1/27/11

24 

25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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