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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:

11 **JASON ALEXANDER DURDEN**
1829 W. 38th Street
12 Los Angeles, CA 90062

13 Pharmacy Technician Registration No. TCH
97362

14 Respondent.

Case No. 4321

A C C U S A T I O N

15 Complainant alleges:

16 **PARTIES**

17 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

19 2. On or about June 30, 2010, the Board of Pharmacy (Board) issued Pharmacy
20 Technician Registration No. TCH 97362 to Jason Alexander Durden (Respondent). The
21 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
22 brought herein and will expire on June 30, 2014, unless renewed.

23 **JURISDICTION**

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

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1 STATUTORY PROVISIONS

2 4. Section 490 states, in pertinent part:

3 (a) In addition to any other action that a board is permitted to take
4 against a licensee, a board may suspend or revoke a license on the ground that the
5 licensee has been convicted of a crime, if the crime is substantially related to the
6 qualifications, functions, or duties of the business or profession for which the license
7 was issued.”

8 (b) Notwithstanding any other provision of law, a board may exercise
9 any authority to discipline a licensee for conviction of a crime that is independent of
10 the authority granted under subdivision (a) only if the crime is substantially related to
11 the qualifications, functions, or duties of the business or profession for which the
12 licensee's license was issued.”

13 (c) A conviction within the meaning of this section means a plea or
14 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
15 a board is permitted to take following the establishment of a conviction may be taken
16 when the time for appeal has elapsed, or the judgment of conviction has been
17 affirmed on appeal, or when an order granting probation is made suspending the
18 imposition of sentence, irrespective of a subsequent order under the provisions of
19 Section 1203.4 of the Penal Code.”

20 5. Section 493 states:

21 Notwithstanding any other provision of law, in a proceeding conducted
22 by a board within the department pursuant to law to deny an application for a license
23 or to suspend or revoke a license or otherwise take disciplinary action against a
24 person who holds a license, upon the ground that the applicant or the licensee has
25 been convicted of a crime substantially related to the qualifications, functions, and
26 duties of the licensee in question, the record of conviction of the crime shall be
27 conclusive evidence of the fact that the conviction occurred, but only of that fact, and
28 the board may inquire into the circumstances surrounding the commission of the
crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question. "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
and 'registration.'

6. Section 4300 provides in pertinent part, that every license issued by the Board is
subject to discipline, including suspension or revocation.

7. Section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued
license by operation of law or by order or decision of the board or a court of law, the
placement of a license on a retired status, or the voluntary surrender of a license by a
licensee shall not deprive the board of jurisdiction to commence or proceed with any
investigation of, or action or disciplinary proceeding against, the licensee or to render
a decision suspending or revoking the license.

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1 8. Section 4301 states, in pertinent part:

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

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

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

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13 (l) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. The record of conviction of a
15 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
16 States Code regulating controlled substances or of a violation of the statutes of this
17 state regulating controlled substances or dangerous drugs shall be conclusive
18 evidence of unprofessional conduct. In all other cases, the record of conviction shall
19 be conclusive evidence only of the fact that the conviction occurred. The board may
20 inquire into the circumstances surrounding the commission of the crime, in order to
21 fix the degree of discipline or, in the case of a conviction not involving controlled
22 substances or dangerous drugs, to determine if the conviction is of an offense
23 substantially related to the qualifications, functions, and duties of a licensee under this
24 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
25 contendere is deemed to be a conviction within the meaning of this provision. The
26 board may take action when the time for appeal has elapsed, or the judgment of
27 conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

REGULATORY PROVISIONS

21 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

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1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Convictions of Substantially Related Crimes)**

8 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
9 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
10 Respondent has been convicted of crimes substantially related to the qualifications, functions or
11 duties of a pharmacy technician, as follows:

12 a. On or about January 13, 2012, after pleading guilty, Respondent was convicted of one
13 felony count of violating Penal Code section 25850, subdivision (a) [carrying a loaded firearm in
14 public] in the criminal case entitled *The People of the State of California v. Jason Durden* (Super.
15 Ct. Los Angeles County, 2012, No. BA392493). The circumstances surrounding the conviction
16 are that on or about January 4, 2012, Respondent was observed walking on a street near a recent
17 shooting with a quick pace and nervously looking left to right and backwards over his shoulder.
18 Respondent looked at the officer's approaching vehicle, stopped walking, and began walking
19 backwards, with a startled expression. Respondent immediately stated, "I didn't do anything.
20 Please I didn't do anything." Respondent immediately slipped out of a back-pack that he was
21 carrying and started running. Respondent was taken down by two police officers and taken into
22 custody. Respondent stated, "I'm sorry sir, that's not mine." During a search of Respondent's
23 back-pack, the officers located a blue steel semi-automatic pistol loaded with eight live 9mm
24 rounds inside the chamber. The firearm was not registered to Respondent and was reported stolen
25 on July 8, 2009.

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1 b. On or about December 11, 2009, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 602, subdivision (m)
3 [trespass: occupying property without consent], in the criminal case entitled *The People of the*
4 *State of California v. Jason Durden* (Super. Ct. Los Angeles County, 2009, No. 9CA26028). The
5 Court placed Respondent on 36 months probation and ordered him to pay fines and restitution.
6 The circumstances surrounding the conviction are that on or about April 15, 2009, Respondent
7 had an altercation with the victim, his girlfriend, who was 4 months pregnant with his child and
8 who had been dating Respondent for approximately 1 year. While sitting in Respondent's
9 vehicle, Respondent and the victim had a verbal argument that became physical. Respondent
10 became enraged and struck the victim several times with a closed fist on her body and face, until
11 the victim was able to get out of the vehicle. The victim was found by a family member while
12 walking down the street and the family member transported the victim to the police station to file
13 a complaint and report her injuries.

14 c. On or about June 4, 2009, after pleading nolo contendere, Respondent was convicted
15 of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving
16 without a valid driver's license] in the criminal case entitled *The People of the State of California*
17 *v. Jason Durden* (Super. Ct. Los Angeles County, 2009, No. 8CA09549). The Court sentenced
18 Respondent to serve 1 day in Los Angeles County Jail and placed him on 24 months probation,
19 with terms and conditions. The circumstances surrounding the conviction are that on or about
20 ~~June 7, 2008, during a traffic stop by the Los Angeles Police Department, Respondent was~~
21 contacted. When asked for his driver's license and insurance information, Respondent refused to
22 produce the requested information and stated, "I ain't giving you s...t," in violation of Vehicle
23 Code section 12951, subdivision (b) [refusal to present identification to officer]. When the
24 officers attempted to arrest Respondent, Respondent refused to cooperate with the officer's
25 commands, a struggle ensued, and Respondent had to be taken down by two police officers.
26 During the struggle with Respondent, one of the officer's had the top portion of his finger nail
27 from his little finger torn off. Respondent was subsequently arrested for violating Penal Code
28 section 69 [resisting arrest]. During a warrant check of Respondent's name, it was revealed that

1 Respondent had a \$1,000 warrant for his arrest and did not have a current driver's license, in
2 violation of Vehicle Code section 14601.2, subdivision (a) [driving while driving privilege is
3 suspended or revoked].

4 **SECOND CAUSE FOR DISCIPLINE**

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

6 12. Respondent is subject to disciplinary action under sections 4301, subdivision (f) and
7 in that Respondent committed acts involving moral turpitude, dishonesty, fraud or deceit.
8 Complainant refers to, and by this reference incorporates, the allegations set forth above in
9 paragraph 11, subparagraphs (a) through (c), inclusive, as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Knowingly Made a False Statement of Fact to Licensing Authority)**

12 13. Respondent is subject to disciplinary action under sections 4301, subdivision (g), in
13 that Respondent knowingly made a false statement of fact to the Board by failing to disclose
14 conviction cases against him on his renewal application for licensure. The circumstances are as
15 follows:

16 a. On June 28, 2012, in his Pharmacy Technician renewal application to the Board,
17 Respondent answered "no" to the following question: "Since you last renewed your license, have
18 you had any license disciplined by a governmental agency or other body, or, have you been
19 convicted of any crime in any state, the USA, military court or a foreign country?" However, on
20 or about January 13, 2012, after pleading guilty, Respondent was convicted of one felony count
21 of violating Penal Code section 25850, subdivision (a) [carrying a loaded firearm in public] in the
22 criminal case entitled *The People of the State of California v. Jason Durden* (Super. Ct. Los
23 Angeles County, 2012, No. BA392493). Also, on or about December 11, 2009, after pleading
24 nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code
25 section 602, subdivision (m) [trespass: occupying property without consent], in the criminal case
26 entitled *The People of the State of California v. Jason Durden* (Super. Ct. Los Angeles County,
27 2009, No. 9CA26028). In addition, on or about June 4, 2009, after pleading nolo contendere,
28 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 12500,

1 subdivision (a) [driving without a valid driver's license] in the criminal case entitled *The People*
2 *of the State of California v. Jason Durden* (Super. Ct. Los Angeles County, 2009, No.
3 8CA09549). Complainant refers to, and by this reference incorporates, the allegations set forth
4 above in paragraph 11, subparagraphs (a), (b) and (c), inclusive, as though set forth fully.

5 DISCIPLINARY CONSIDERATIONS

6 13. On or about October 1, 2003, Respondent was convicted of one misdemeanor count
7 of violating Penal Code section 487, subdivision (a) [grand theft: money/labor/property], in the
8 criminal case entitled *The People of the State of California v. Jason Durden* (Super. Ct. Los
9 Angeles County, 2003, No. 03HF1138). The Court placed Respondent on 3 years probation, with
10 terms and conditions. The circumstances surrounding the conviction are that on or about July 25,
11 2003, Respondent entered a Target with three other suspects and removed items from the Target
12 while security watched, including by cutting open packaged phones and placing the phones in a
13 diaper bag. Security called the police officers and Respondent and three other suspects were
14 stopped for questioning by the police officers when they exited the Target. When Respondent
15 was searched, he was found in possession of a diaper bag containing two cell phones and multiple
16 cell phone battery packs wrapped in a t-shirt, two cell phones and chargers hidden underneath
17 diaper wipes inside a Huggies diaper wipes box. The diaper bag in Respondent's possession also
18 contained air fresheners, a four pack of "D" batteries, and two compact discs. The items in
19 Respondent's possession had been taken from the Target. A black box cutter was also found in
20 Respondent's possession.

21 PRAYER

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

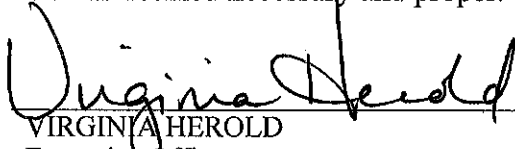
- 24 1. Revoking or suspending Pharmacy Technician Registration No. TCH 97362, issued
25 to Jason Alexander Durden;
- 26 2. Ordering Jason Alexander Durden to pay the Board the reasonable costs of the
27 investigation and enforcement of this case, pursuant to section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/21/13



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

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