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8	Attorneys for Complainant	
9	BEFORE THE	
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
11	STATE OF CALIFORNIA	
12	In the Matter of the Accusation Against:	Case No. 4739
13	JONATHAN SALINAS-SANCHEZ,	ACCUSATION
14	1200 Athens Avenue Modesto, CA 95350	
15	Pharmacy Technician Registration Number	
16	TCH 116074	
17	Respondent.	
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19	Virginia Herold ("Complainant") alleges:	
20	<u>PARTIES</u>	
21	1. (Complainant) brings this Accusation solely in her official capacity as the Executive	
22	Officer of the Board of Pharmacy, Department of Consumer Affairs.	
23	2. On or about November 18, 2011, the Board of Pharmacy issued Pharmacy Technician	
24	Registration Number TCH 116074 to Jonathan Salinas-Sanchez ("Respondent"). The Pharmacy	
25	Technician Registration Number TCH 116074 was in full force and effect at all times relevant to	
26	the charges brought herein and will expire on September 30, 2013, unless renewed.	
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28	<i>III</i>	
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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. Code Section 4300 states, in pertinent part, that every license issued may be suspended or revoked.
- 5. Code Section 4300.1 states, in pertinent part, that the expiration of a board-issued license 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.

STATUTORY PROVISIONS

6. Code Section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct. 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."

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

- (1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.
- (o) Violating or attempting to violate, directly or indirectly, any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

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7. Code Section 4060 provides, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

- 8. Health and Safety Code Section 11350, subdivision (a) provides, in pertinent part, that except as otherwise provided in this division, every person who possesses any controlled substance specified in paragraph (1) of subdivision (f) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.
 - 9. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially 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."

COST RECOVERY

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

DRUGS

11. "Cocaine" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(6).

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes)

- 12. Respondent is subject to disciplinary action under Code section 4301 (*l*) in that he was convicted of the following crimes which are substantially related to the qualifications, functions, or duties of a licensed pharmacy technician: On or about January 7, 2011, in the case of *People v. Jonathan Sanchez Salinas* (Super. Ct. Stanislaus County, Case No. 1430751), Respondent was convicted on his plea of nolo contendere of violating Penal Code section 246.3, subdivision (a) (Willful Discharge of a Firearm with Gross Negligence), a felony, and Health and Safety Code section 11350, subdivision (a) (Possession of a Controlled Substance (Cocaine)), a felony. The circumstances of the crimes are as follows:
- a. On or about January 7, 2011, after being escorted out of the Tiki Bar by a bartender/bouncer for causing a disturbance, Respondent willfully and unlawfully assaulted two victims with a firearm and discharged a firearm in a grossly negligent manner, which could have resulted in death. During the commission of the assault, Respondent personally inflicted great bodily injury on victim G.D. After Respondent's arrest on or about January 7, 2011, a pat down was conducted at the jail and a bag containing cocaine was found concealed in Respondent's hat.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

13. Respondent is subject to disciplinary action under Code section 4060 in that Respondent had possession of a controlled substance (cocaine), without authorization or a valid prescription, as more fully set forth above in paragraph 12 and its subpart.

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THIRD CAUSE FOR DISCIPLINE (Acts involving Moral Turpitude)

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (f) in that Respondent committed acts involving moral turpitude when he willfully discharged a firearm with gross negligence, as more fully set forth above in paragraph 12 and its subpart.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Controlled Substances and Dangerous Drugs)

Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivision (j) in that Respondent violated statutes regulating controlled substances and dangerous drugs, including Code section 4060, and Health and Safety Code section 11530, as set forth more fully above in paragraphs 12 and 13, and their subparts.

FIFTH CAUSE FOR DISCIPLINE

(Violating laws and Regulations Governing Pharmacy)

Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subdivision (o) in that Respondent violated the laws governing pharmacy, as more fully set forth above in paragraphs 12 through 15, and their subparts.

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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 TCH 116074, issued to Jonathan Salinas-Sanchez;
- 2. Ordering Jonathan Salinas-Sanchez 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: 10/21/13 VIRGINIA HEROLD

Executive of fficer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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