

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
4 State Bar No. 132645
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4766

13 **KEN EBRAHIM**
14 **322 Garrison Street #C53**
Oceanside, CA 92054

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 83513**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On June 2, 2008, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 83513 to Ken Ebrahim (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on March 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a), of the Code states that every license issued may be
6 suspended or revoked.

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Section 4301 of the Code states:

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

- 25
- 26 (j) The violation of any of the statutes of this state, or any other state, or of
27 the United States regulating controlled substances and dangerous drugs.
- 28

29 8. Health and Safety Code Section 11377 states:

- 30 (a) Except as authorized by law and as otherwise provided in subdivision
31 (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter
32 9 of Division 2 of the Business and Professions Code, every person who possesses

1 any controlled substance which is (1) classified in Schedule III, IV, or V, and
2 which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054,
3 except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in
4 paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
5 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e),
6 or (f) of Section 11055, unless upon the prescription of a physician, dentist,
7 podiatrist, or veterinarian, licensed to practice in this state, shall be punished by
8 imprisonment in a county jail for a period of not more than one year or pursuant
9 to subdivision (h) of Section 1170 of the Penal Code.

7 REGULATORY PROVISIONS

8 9. California Code of Regulations, title 16, section 1769, states:

9

10 (b) When considering the suspension or revocation of a facility or a
11 personal license on the ground that the licensee or the registrant has been
12 convicted of a crime, the board, in evaluating the rehabilitation of such person and
13 his present eligibility for a license will consider the following criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

14 (3) The time that has elapsed since commission of the act(s) or
15 offense(s).

16 (4) Whether the licensee has complied with all terms of parole,
17 probation, restitution or any other sanctions lawfully imposed against the licensee.

17 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

24 DRUG

25 11. Methamphetamine is a Schedule II controlled substance as designated by Health
26 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business
27 and Professions Code section 4022.

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1 **COST RECOVERY**

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
6 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
7 may be included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct – Violation of Drug Regulation Laws)**

10 13. Respondent subjected his pharmacy technician registration to discipline under
11 Code section 4301, subdivision (j) in that on April 12, 2013, he violated Health and Safety Code
12 section 11377, subdivision (a), unlawful possession of a controlled substance, a misdemeanor
13 pursuant to PC 17 subdivision (b)(4), a statute of the State of California regulating controlled
14 substances and dangerous drugs. The circumstances are as follows:

15 14. On April 12, 2013, while driving along College Boulevard in Oceanside,
16 California, Respondent straddled the number one and number two lanes. Officers from the
17 Oceanside Police Department driving their patrol vehicle directly behind Respondent’s car
18 initiated an enforcement stop. During the search of Respondent’s vehicle, the officers found a
19 small plastic bindle containing approximately .3 grams of a white crystalline substance, which
20 they suspected to be methamphetamine. Respondent spontaneously stated, “I didn’t know that
21 was in there, is it a felony?” On October 25, 2013, the San Diego County Sheriff’s Office
22 Regional Crime Laboratory Controlled Substances Analysis and Narcotics Unit analyzed the
23 white crystalline substance inside the zip lock bag found in Respondent’s vehicle, which was
24 found to be .29 grams of methamphetamine.

25 **PRAYER**

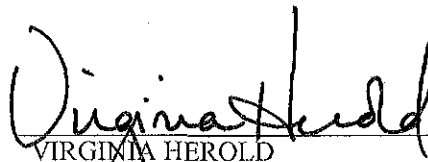
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

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- 1 1. Revoking or suspending Pharmacy Technician Registration Number TCH 83513,
2 issued to Ken Ebrahim;
- 3 2. Ordering Ken Ebrahim to pay the Board of Pharmacy the reasonable costs of the
4 investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.

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10 DATED: _____

2/19/14



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

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