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

11 In the Matter of the Accusation Against:

Case No. 5791

12 **SCOTT MATTHEW GRIMES**
13 **5818 N. Sycamore Ave.**
Rialto, CA 92377

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **59572**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 17, 2004, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 59572 to Scott Matthew Grimes (Respondent). The
25 Pharmacy Technician Registration expired on August 31, 2016, and has not been 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 unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 490 of the Code states:

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

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

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

21 5. Section 493 of the Code states:

22 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
23 the department pursuant to law to deny an application for a license or to suspend or revoke a
24 license or otherwise take disciplinary action against a person who holds a license, upon the
25 ground that the applicant or the licensee has been convicted of a crime substantially related to the
26 qualifications, functions, and duties of the licensee in question, the record of conviction of the
27 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question. "As used in this section, 'license'
3 includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

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

6 7. Section 4300.1 states:

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

12 8. Section 4301 of the Code states in relevant part:

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

16 ***

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

20 REGULATORY PROVISION

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

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

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COST RECOVERY

10. Section 125.3 of the Code 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.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to discipline under Code sections 490, 493, 4301, subdivision (f) in conjunction with California Code of Regulations, title 16, section 1770, in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of an pharmacy technician. On or about September 1, 2016 in a criminal proceeding entitled *The People of the State of California v. Scott Matthew Grimes* (Super. Ct., San Bernardino County, 2016, No. 16CR-000601), Respondent was convicted of one felony count for violating Penal Code section 288A(B)(2) [oral copulation w/person under 16 years] and one felony count for violating Penal Code section 211 [robbery]. Respondent was ordered to serve a total of four (4) years in State prison, register under Penal Code 290 [sex offender registration act]; and submit to an HIV test. The circumstances underlying this conviction are that on or about August 1, 2015 through on or about February 19, 2016, Respondent, being approximately 37 years of age participated in acts of oral copulation with John Doe, a person approximately 15 years of age. In his interview with the Sheriff's Department, Respondent admitted to having a sexual relationship with John Doe, stealing John Doe's phone, and posting nude photographs of John Doe on the internet. Respondent also threatened to break John Doe's legs if he ended their relationship.

SECOND CAUSE FOR DISCIPLINE

(Act Involving Dishonesty, Fraud, or Deceit)

12. Respondent is subject to discipline under Code section 4301, subdivision (f) in that he committed an act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another. Complainant realleges paragraph 11 above.

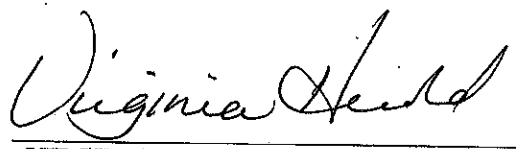
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PRAYER

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 Number TCH 59572, issued to Scott Matthew Grimes;
2. Ordering Scott Matthew Grimes 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/28/17



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

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