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BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **RON DEREK ESCOTE BASTO** **5448 McKee Rd.,** **San Jose, CA 95127** **Technician Registration No. TCH 127862** Respondent.	Case No. 5839 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about November 8, 2012, the California State Board of Pharmacy, Department of Consumer Affairs issued Original Pharmacy Technician Registration Number TCH 127862 to Ron Derek Escote Basto (Respondent). The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in this Accusation and expired on March 31, 2016.

JURISDICTION

3. This Accusation is brought before the California 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 (Code) unless otherwise indicated.

4. Section 4300.1 of the Code 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."

5. Section 4301 of the Code states, in pertinent part:

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

STATUTORY PROVISIONS

6. Section 4301 of the Code states, in pertinent part:

"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.

. . .

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public . . . .

. . .

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

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision.

. . .

"(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board."

COST RECOVERY PROVISION

7. Section 125.3 of the Code states, in pertinent part, that a 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.

FACTUAL BACKGROUND

8. On or about November 13, 2015 in the Superior Court of California, County of Santa Clara, *The People of the State of California v. Ron Basto*, Case No. B1582321, Respondent entered a plea of nolo contendere and was convicted of possessing marijuana while driving, an infraction (Vehicle Code § 23222 (b)).

9. The circumstances of the crime are that on or about September 4, 2015, Sunnyvale Police Department Officers responded to the scene of an accident involving Respondent. Respondent admitted to consuming alcohol prior to driving and the officers smelled alcohol on

Respondent's person. After obtaining Respondent's consent to search his car, Officers discovered a glass jar containing marijuana.

10. On or about January 27, 2016 in the Superior Court of California, County of San Joaquin, *The People of the State of California v. Ron Derek Escote Basto*, Case No. CR-2016-499, Respondent entered a plea of nolo contendere and was convicted of obstructing or resisting a peace officer, a misdemeanor (Penal Code § 148 (a)(1).

11. The circumstances of the crime are that on or about December 23, 2015, University of the Pacific Officers stopped Respondent's car on suspicion that Respondent was driving under the influence of alcohol. California Highway Patrol officers arrived and began an investigation. Respondent admitted to consuming at least one drink and using marijuana some time prior to driving. The officers smelled alcohol and marijuana on Respondent's person. Respondent refused to answer the officers' questions, refused to leave his vehicle when directed, and acted combatively with the officers.

12. On or around March 1, 2016, the Board requested by certified mail that Respondent supply a valid medical marijuana recommendation and a written explanation of the arrests described in paragraphs 8 and 10, above. This request was made in the course of the Board's investigation into Respondent's conduct. On or around March 3, 2016, the United States Postal Service indicated that Respondent had received the request. On or around March 23, 2016, the Board investigator closed the investigation into Respondent. By that date, Respondent had not responded to the request for documentation.

FIRST CAUSE FOR DISCIPLINE

(Commission of Any Act Involving Moral Turpitude)
(Cal. Bus. & Prof. Code § 4301(f)).

13. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (f), in that he was convicted of a crime involving moral turpitude, dishonesty, and deceit, obstructing or resisting a peace officer. The circumstances of this conviction are set forth in paragraphs 9 and 10, above.

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SECOND CAUSE FOR DISCIPLINE
(Use of Alcohol and Drugs in a Dangerous Manner)
(Cal. Bus. & Prof. Code § 4301(h))

14. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (h), in that he used alcohol and drugs in a manner dangerous to himself and others. The circumstances of that act are set forth in paragraph 10, above.

THIRD CAUSE FOR DISCIPLINE
(Use of Alcohol and Drugs in a Dangerous Manner)
(Cal. Bus. & Prof. Code § 4301(h))

15. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (h), in that he used alcohol in a manner dangerous to himself and others. The circumstances of that act are set forth in paragraph 8, above

FOURTH CAUSE FOR DISCIPLINE
(Violation of a Statue Regulating Controlled Substances)
(Cal. Bus. & Prof. Code § 4301(j))

16. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (j), in that he was convicted of violating a statue regulating a controlled substance. The circumstances of this conviction are set forth in paragraphs 7 and 8, above.

FIFTH CAUSE FOR DISCIPLINE
(Substantially Related Conviction)
(Cal. Bus. & Prof. Code § 4301(l))

17. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (l), in that he was convicted of two crimes substantially related to the qualifications, functions, and duties of a licensee. The circumstances of these convictions are set forth in paragraphs 7 through 10, above.

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SIXTH CAUSE FOR DISCIPLINE

(Conduct that Subverts An Investigation of the Board)
(Cal. Bus. & Prof. Code § 4301(q))

18. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (q), in that his conduct subverted or attempted to subvert an investigation of the Board. The circumstances are set forth in paragraph 11, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters in this Accusation, and that following the hearing, the California State Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 127862, issued to Ron Derek Escote Basto;

2. Ordering Ron Derek Escote Basto to pay the California State 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: 8/10/16

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

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