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

11 In the Matter of the Accusation Against:

Case No. 5907

12 **VICTOR MANUEL ROMERO**
10228 Gerald Ave.
13 North Hills, CA 91343

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **TCH 116284**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 26, 2012, the Board of Pharmacy ("Board") issued Pharmacy
23 Technician Registration No. TCH 116284 to Victor Manuel Romero ("Respondent"). The
24 Pharmacy Technician Registration expired on September 23, 2012, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
28 indicated.

1 4. Section 4011 of the Code provides that “[t]he board shall administer and enforce this
2 chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform
3 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and
4 Safety Code).”

5 5. Section 4300, subdivision (a), of the Code states, in pertinent part, that “[e]very
6 license issued may be suspended or revoked.”

7 6. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license
9 by operation of law or by order or decision of the board or a court of law, the
10 placement of a license on a retired status, or the voluntary surrender of a license by a
11 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.

12 **STATUTORY AND REGULATORY PROVISIONS**

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

14 The board shall take action against any holder of a license who is guilty of
15 unprofessional conduct or whose license has been issued by mistake. 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,
18 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.

19

20 (h) The administering to oneself, of any controlled substance, or the use of
21 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
22 dangerous or injurious to oneself, to a person holding a license under this chapter, or
to any other person or to the public, or to the extent that the use impairs the ability of
the person to conduct with safety to the public the practice authorized by the license.

23

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

26 (k) The conviction of more than one misdemeanor or any felony involving the
27 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
or any combination of those substances.

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

20

21 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
22 abetting the violation of or conspiring to violate any provision or term of this chapter
23 or of the applicable federal and state laws and regulations governing pharmacy,
24 including regulations established by the board or by any other state or federal
25 regulatory agency.

26 (p) Actions or conduct that would have warranted denial of a license. . . .

27 8. California Code of Regulations, title 16, section 1770, states, in pertinent part:

28 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

9. 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, with failure of the licentiate to comply subjecting the license to not
being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
may be included in a stipulated settlement.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially Related Crime)

3 10. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
4 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
5 convicted of a crime substantially related to qualifications, functions, or duties of a registered
6 pharmacy technician which to a substantial degree evidence his present or potential unfitness to
7 perform the functions authorized by his registration in a manner consistent with the public health,
8 safety, or welfare, as follow:

9 a. On or about July 2, 2015, Respondent was convicted of one felony count of violating
10 Penal Code section 273.5, subdivision (a) [inflict corporal injury to spouse, cohabitant, or
11 girlfriend], with a further allegation of violating Penal Code section 12022.7, subdivision (e)
12 [inflict great bodily injury], in the criminal proceeding entitled *The People of the State of*
13 *California v. Victor Romero* (Super. Ct. LA County, 2015, No. YA092476). The court sentenced
14 Respondent to 180 days in jail, placed him on five years formal probation, ordered him to
15 participate in a program of education, treatment or rehabilitation aimed at drug abuse, and
16 ordered him not to annoy, harass, molest, intimidate, or have unwanted contact with a victim. On
17 or about May 10, 2016, Respondent's formal probation was revoked and reinstated due to another
18 conviction in the criminal proceeding entitled *The People of the State of California v. Victor*
19 *Manuel Romero* (Super. Ct. LA County, 2016, No. 6AR00366).

20 b. The circumstances surrounding the conviction are that on or about May 26, 2015,
21 Inglewood Police Department officers responded to a report of a stabbing. Upon arrival, a female
22 victim informed the officers that she and Respondent were dating for about nine months and had
23 gotten into an argument because she thought Respondent was using controlled substances. When
24 the victim confronted Respondent, he got upset, picked up the victim by the arms, and threw her
25 onto a couch. Subsequently, the victim fell to the floor and when she attempted to get up,
26 Respondent would grab and throw her against the floor multiple times. Respondent struck the
27 victim's left side of her head with his fist, put his hands around her neck attempting to choke her,
28 and bit her left bicep. At one point, the victim lost consciousness from Respondent throwing her

1 around in the living room. The victim, in self defense, stabbed Respondent's back with a knife
2 and jumped out through the window.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 11. Respondent is subject to disciplinary action under Code section 4301, subdivision (I),
6 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
7 ~~convicted of a crime substantially related to qualifications, functions, or duties of a registered~~
8 pharmacy technician which to a substantial degree evidence his present or potential unfitness to
9 perform the functions authorized by his registration in a manner consistent with the public health,
10 safety, or welfare, as follow:

11 a. On or about May 10, 2016, Respondent was convicted of one misdemeanor count of
12 violating Vehicle Code section 23152, subdivision (b) [drive while having 0.08 percent or more,
13 by weight, of blood alcohol content], with further allegations of a prior conviction and willfully
14 refusing to submit to a chemical test to determine the alcoholic content in the criminal proceeding
15 entitled *The People of the State of California v. Victor Manuel Romero* (Super. Ct. LA County,
16 2016, No. 6AR00366). The court sentenced Respondent to 10 days in jail, placed him on 60
17 months summary probation, ordered him to complete a 18-month licensed second-offender
18 alcohol and other drug education and counseling program, and pay fines.

19 b. The circumstances surrounding the conviction are that on or about February 13, 2016,
20 Los Angeles Police Department officers stopped a vehicle driven by Respondent for traffic
21 violations. Upon contact, an officer observed that Respondent had watery eyes, slurred speech,
22 and a strong odor of an alcoholic beverage emitting from his breath. Respondent was unable to
23 satisfactorily perform the Field Sobriety Tests as instructed. Respondent's Preliminary Alcohol
24 Screening revealed blood alcohol contents of 0.235% and 0.216%. Respondent willfully refused
25 to submit to a chemical test of his blood or breath to determine the alcohol content as required by
26 Vehicle Code section 23612.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (I),
4 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
5 convicted of a crime substantially related to qualifications, functions, or duties of a registered
6 pharmacy technician which to a substantial degree evidence his present or potential unfitness to
7 perform the functions authorized by his registration in a manner consistent with the public health,
8 safety, or welfare, as follow:

9 a. On or about June 30, 2015, Respondent was convicted of one misdemeanor count of
10 violating Vehicle Code section 14601.1, subdivision (a) [drive while license suspended], in the
11 criminal proceeding entitled *The People of the State of California v. Victor Manuel Romero*
12 (Super. Ct. LA County, 2015, No. 4MP07626). The court sentenced Respondent to 60 days in
13 jail and ordered him to pay fines.

14 b. The circumstances surrounding the conviction are that on or about April 23, 2014, a
15 California Highway Patrol officer stopped Respondent for a traffic violation. The traffic stop
16 investigation revealed Respondent was driving with a suspended driver's license.

17 **FOURTH CAUSE FOR DISCIPLINE**

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

19 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
20 on the grounds of unprofessional conduct, in that on or about May 26, 2015 and April 23, 2014,
21 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.
22 Complainant refers to and by this reference incorporates the allegations set forth above in
23 paragraph 10, as though set forth fully.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 14. Respondent is subject to disciplinary action under section Code section 4301,
4 subdivision h, on the grounds of unprofessional conduct, in that on or about February 13, 2016,
5 Respondent administered to oneself of alcoholic beverages to the extent or in a manner as to be
6 dangerous or injurious to oneself, or to others or to the public which driving under the influence
7 of alcohol. Complainant refers to and by this reference incorporates the allegations set forth
8 above in paragraph 11, subparagraph b, inclusive, as though set forth fully.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 **(Multiple Convictions Relating to Alcohol Use)**

11 15. Respondent is subject to disciplinary action under section Code section 4301,
12 subdivision k, on the grounds of unprofessional conduct, in that Respondent has convictions of
13 more than one misdemeanor involving the use, consumption, or self-administration of alcoholic
14 beverage, as follows:

15 a. On or about October 27, 2008, Respondent was convicted of one misdemeanor count
16 of violating Vehicle Code section 23152, subdivision (b) [drive while having 0.08 percent or
17 more, by weight, of blood alcohol content], in the criminal proceeding entitled *The People of the*
18 *State of California v. Victor Manuel Romero* (Super. Ct. LA County, 2008, No. 8MP13030). The
19 court placed Respondent on 36 months summary probation, ordered him to complete a 3-month
20 licensed first-offender alcohol and other drug education and counseling program, attend 10
21 alcoholics anonymous meetings, and pay fines.

22 b. On or about May 10, 2016, Respondent was convicted of one misdemeanor count of
23 violating Vehicle Code section 23152, subdivision (b) [drive while having 0.08 percent or more,
24 by weight, of blood alcohol content], in the criminal proceeding entitled *The People of the State*
25 *of California v. Victor Manuel Romero* (Super. Ct. LA County, 2016, No. 6AR00366).

26 Complainant refers to and by this reference incorporates the allegations set forth above in
27 paragraph 11, subparagraph a, inclusive, as though set forth fully.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Violating Pharmacy Law / Acts Warranting Denial of Licensure)**

3 16. Respondent is subject to disciplinary action under Code section 4301, subdivisions
4 (o) and (p), on the grounds of unprofessional conduct, in that Respondent committed acts
5 violating the Pharmacy Law and/or federal and state laws that would have warranted denial of a
6 license. Complainant refers to and by this reference incorporates the allegations set forth above
7 in paragraphs 10 through 15, inclusive, as though set forth fully.

8 **DISCIPLINE CONSIDERATIONS**

9 17. To determine the degree of discipline, Complainant further alleges:

10 a. On or about April 13, 2010, Respondent was convicted of one misdemeanor count of
11 violating Penal Code section 166, subdivision (a)(1) [contempt of court: disobey court order], in
12 the criminal proceeding entitled *The People of the State of California v. Victor Manuel Romero*
13 (Super. Ct. LA County, 2010, No. 0CW00041). The court placed Respondent on 36 months
14 summary probation, and ordered him to pay fines.

15 b. On or about October 27, 2008, Respondent was convicted of one misdemeanor count
16 of violating Vehicle Code section 23152, subdivision (b) [drive while having 0.08 percent or
17 more, by weight, of blood alcohol content], in the criminal proceeding entitled *The People of the*
18 *State of California v. Victor Manuel Romero* (Super. Ct. LA County, 2008, No. 8MP13030). The
19 court placed Respondent on 36 months summary probation, ordered him to complete a 3-month
20 licensed first-offender alcohol and other drug education and counseling program, attend 10
21 alcoholics anonymous meetings, and pay fines. Complainant refers to and by this reference
22 incorporates the allegations set forth above in paragraph 15, subparagraph a, inclusive, as though
23 set forth fully.

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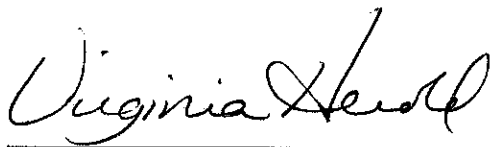
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 116284, issued to Victor Manuel Romero;
2. Ordering Victor Manuel Romero to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/3/17



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

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