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

10 In the Matter of the Accusation Against:
11 **SERENA LUCILLE BARKER**
504 West 232nd Street
12 Carson, CA 90745
13 Pharmacy Technician Registration
No. TCH 100005
14
15 Respondent.

Case No. 6030

ACCUSATION

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about June 29, 2010, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 100005 to Serena Lucille Barker (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on August 31, 2017, unless renewed.

25 **JURISDICTION**

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

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.”

4 7. Section 4311 of the Code states:

5 “(a) Any license issued by the board, or the holder thereof, shall be suspended
6 automatically during any time that the person is incarcerated after conviction of a felony,
7 regardless of whether the conviction has been appealed. The board, immediately upon receipt of
8 a certified copy of a record of a criminal conviction, shall determine whether the person has been
9 automatically suspended by virtue of incarceration pursuant to a felony conviction and, if so, the
10 duration of that suspension. The board shall notify the person so suspended of the suspension
11 and that the person has a right to request a hearing, solely as to whether he or she is incarcerated
12 pursuant to a felony conviction, in writing at that person's address of record with the board and at
13 the facility in which the person is incarcerated.

14 **REGULATORY PROVISIONS**

15 8. California Code of Regulations, title 16, section 1770, states:

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

22 **COST RECOVERY**

23 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
28 included in a stipulated settlement.

1 CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially Related Crime)

3 10. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that Respondent was convicted of a substantially related
6 crime. The circumstances are as follows:

7 a. On or about October 21, 2016, Respondent was convicted of one felony count of
8 violating Penal Code section 245, subdivision (a)(1) [assault with a deadly weapon] enhanced per
9 Penal Code section 12022.7, subdivision (a), in the criminal proceeding entitled, *The People of*
10 *the State of California v. Serena Barker* (Super. Ct., L.A. County, 2016, No. NA104208). As part
11 of a negotiated plea, the court dismissed one felony count of violating Penal Code section 213,
12 subdivision (b) [attempted robbery] and one felony count of violating Penal Code section 245,
13 subdivision (a)(1) [assault with a deadly weapon]. The Court sentenced Respondent to one year in
14 county jail, and placed her on five years formal probation. The Court also ordered her to perform
15 60 days of CalTrans community labor, and complete an 8-week Anger Management Program.

16 b. The circumstances surrounding the conviction are that on or about May 16, 2016, the
17 Los Angeles Police Department responded to an assault with a deadly weapon call. An argument
18 between Respondent and victim, (Respondent's mother), resulted in a physical altercation during
19 which Respondent assaulted her mother with a handgun. Respondent admitted to officers that the
20 gun belonged to her and she possessed it at the time of the altercation for protection.

21 DISCIPLINARY CONSIDERATIONS

22 11. In order to determine the degree of discipline (if any) to be imposed on Respondent,
23 Complainant alleges that on or about March 29, 2010, Respondent was convicted of one
24 misdemeanor count of violating Vehicle Code section 23103 [wet reckless] in the criminal
25 proceeding entitled *The People of the State of California v. Serena Lucille Barker* (Super. Ct. Los
26 Angeles County, 2010, No. 0LTO3464). The Court sentenced Respondent to three years
27 probation, serve 8 days in jail, and pay fees and fines. The Court also ordered Respondent to
28 complete an alcohol and drug education program.

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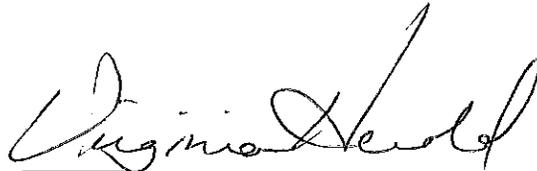
PRAYER

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 100005, issued to Serena Lucille Barker;
2. Ordering Serena Lucille Barker 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: _____

3/13/17



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

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