

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY
Deputy Attorney General
4 State Bar No. 050882
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3674

13 **WILFREDO DEOLLAS**
5225 14th Avenue
14 Sacramento, Ca. 95820
Original Pharmacy Technician Registration
No. TCH 63786

A C C U S A T I O N

15 Respondent.

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 April 17, 2006, the Board of Pharmacy issued Original Pharmacy
22 Technician Registration Number TCH 63786 to Wilfredo Deollas (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 July 31, 2011, 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 unless otherwise indicated.

1 4. Section 4300 of the Code states:

2 "(a) Every license issued may be suspended or revoked.

3 ...

4 5. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

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

14 ...

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

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

1 of this provision. The board may take action when the time for appeal has elapsed, or the
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
6 indictment.

7 ...

8 6. Section 125.3 of the Code states, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 7. California Code of Regulations, title 16, section 1770, states:

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

19 8. Section 118, subdivision (b), of the Code provides that the
20 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
21 jurisdiction to proceed with a disciplinary action during the period within which the license may
22 be renewed, restored, reissued or reinstated.

23 FIRST CAUSE FOR DISCIPLINE

24 (CRIMINAL CONVICTION)

25 9. Respondent is subject to disciplinary action under section 4300(k) (l) in that on or
26 about October 23, 2008 in a criminal proceeding entitled People v. Wilfredo Edward Deollas,
27 Case No. 08F06965 in Sacramento County Superior Court respondent was convicted by a plea of
28 nolo contendere to a violation of Vehicle Code 23152(A) (Driving Under the Influence), a

1 felony, with three prior convictions for driving under the influence, which is substantially related
2 to the qualifications, functions, or duties as a pharmacy technician. The circumstances are as
3 follows; respondent on July 1, 2008 was driving a vehicle with a concentration of alcohol in his
4 blood of 0.15 percent or more by weight.

5 SECOND CAUSE FOR DISCIPLINE

6 (USE OF ALCOHOLIC BEVERAGE)

7 10. Respondent is subject to disciplinary action under section 4301(h) in that respondent
8 used an alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself,
9 to a person holding a license under this chapter, or to any other person or to the public, or to the
10 extent that the use impairs the ability of the person to conduct with safety to the public the
11 practice authorized by this license as described in paragraph 9 above.

12 PRAYER

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

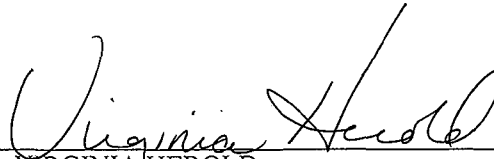
- 15 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
16 63786, issued to Wilfredo Deollas.
- 17 2. Ordering Wilfredo Deollas to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21 ///

22 ///

23 ///

24 DATED: 5/20/10



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

28 SA2010100794/10560700.doc