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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. 3364

12 **CHRIS EUGENE PLATT**
13 1320 Maricopa Hwy.
Ojai, CA 93023

A C C U S A T I O N

14 Pharmacist License No. RPH 41579

15 Respondent.

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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 23, 1988, the Board of Pharmacy (Board) issued Pharmacist
23 License No. RPH 41579 to Chris Eugene Platt (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on November
25 30, 2009, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 STATUTORY PROVISIONS

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

9 5. Section 4059 states:

10 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
11 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to section
12 3640.7."

13 6. Section 4022 of the Code states:

14 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
15 humans or animals, and includes the following:

16 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
17 prescription," "Rx only," or words of similar import.

18 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
19 by or on the order of a _____," "Rx only," or words of similar import, the blank to be
20 filled in with the designation of the practitioner licensed to use or order use of the device.

21 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
22 prescription or furnished pursuant to Section 4006."

23 7. Section 4306.5 of the Code states:

24 Unprofessional conduct for a pharmacist may include any of the following:

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26 "(b) Acts or omissions that involve, in whole or in part, the failure to exercise or
27 implement his or her professional judgment or corresponding responsibility with regard to the
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1 dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with
2 regard to the provision of services.

3 8. Section 4104 of the Code states:

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5 "(c) Every pharmacy shall report to the board, within 30 days of the receipt or development
6 of the following information with regard to any licensed individual employed by or with the
7 pharmacy: (6) Any termination of a licensed individual based on theft, diversion, or self-use
8 of dangerous drugs.

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

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

16 10. Section 4300 provides, in pertinent part, that every license issued by the Board is
17 subject to discipline, including suspension or revocation.

18 11. Section 4301 states:

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

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

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27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

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

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8 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
9 violation of or conspiring to violate any provision or term of this chapter or of the applicable
10 federal and state laws and regulations governing pharmacy, including regulations established by
11 the board or by any other state or federal regulatory agency."

12 12. Health and Safety Code section 11170 states: "No person shall prescribe, administer,
13 or furnish a controlled substance for himself."

14 13. Health and Safety Code section 11171 states: "No person shall prescribe, administer,
15 or furnish a controlled substance except under the conditions and in the manner provided by this
16 division."

17 14. Health and Safety Code section 11173 states: "No person shall obtain or attempt to
18 obtain controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
19 concealment of a material fact."

20 **COST RECOVERY**

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

25 **DANGEROUS DRUGS**

26 16. The dangerous drugs stolen by Respondent are listed below:

27 a. "Tussionex Suspension," is a brand name for hydrocodone chlorpheniramin

28 10mg/5ml, is a Schedule III controlled substance as designated by Health and Safety

1 Code section 11056, subdivision (e)(4) and is categorized as a “dangerous drug,”
2 pursuant to Business and Professions Code section 4022.

3 b. “**Vicodin,**” is the brand name for a combination drug containing hydrocodone and
4 acetaminophen, is a schedule III controlled substance as defined in Health and Safety
5 Code section 11056(e)(4) and is categorized as a dangerous drug according to Business
6 and Professions Code section 4022.

7 c. “**Lortab,**” is a brand name for a combination drug containing hydrocodone and
8 acetaminophen 500mg/2.5ml, is a schedule III controlled substance as defined in Health
9 and Safety Code section 11056(e)(4) and is categorized as a dangerous drug according
10 to Business and Professions Code section 4022.

11 d. “**Vicoprofen,**” is a brand name for a fixed combination of hydrocodone and ibuprofen,
12 a schedule II controlled substance as defined in Health and Safety Code section
13 11056(e)(4) and is categorized as a dangerous drug according to Business and
14 Professions Code section 4022(c).

15 e. “**Norco,**” is a brand name for a combination drug containing hydrocodone and
16 acetaminophen, is a schedule II controlled substance as defined in Health and Safety
17 Code section 11056(3)(4) and is categorized as a dangerous drug according to Business
18 and Professions Code section 4022.

19 f. “**Lorcet,**” is a brand name for a combination drug containing hydrocodone and
20 acetaminophen is a schedule II controlled substance as defined in Health and Safety
21 Code section 4022 and is categorized as a dangerous drug according to Business and
22 Professions Code section 4022.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct – Stealing Controlled Substances)**

25 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) on the
26 grounds of unprofessional conduct in that he committed acts involving moral turpitude,
27 dishonesty, fraud, deceit or corruption. Specifically, between approximately April 18, 2006
28 through August 1, 2007, the exact dates unknown, Respondent stole approximately 4,573 tablets

1 containing hydrocodone and approximately 11,597 ml of Tussionex Suspension, both schedule III
2 controlled substances according to Health and Safety Code section 11056 while working at eight
3 (8) pharmacies owned by Ralphs Grocery Company including #720, in Rancho Palos Verdes,
4 California, #280, in Marina Del Rey, California, #51, #123 and 106, in San Diego, California,
5 #681, in Bermuda Dunes, California, #160, in Indio, California, and #309, in Pacoima, California

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct – Self Administration of a Controlled Substance)**

8 18. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
9 the grounds of unprofessional conduct for violating Health and Safety Code section 11070 in that
10 he administered to himself a controlled substance without a prescription. Specifically, between
11 approximately April 18, 2006 through August 1, 2007, the exact dates unknown, Respondent
12 administered to himself approximately 4,573 tablets containing Hydrocodone and approximately
13 11,597 ml of Tussionex suspension that he obtained from eight (8) pharmacies owned by Ralphs
14 Grocery Company where he worked as a pharmacist.

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16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Possession of a Controlled Substance)**

18 19. Respondent is subject to disciplinary action under section 4301, subdivision (j) on the
19 grounds of unprofessional conduct for violating section 4060. Specifically, between
20 approximately April 18, 2006 through August 1, 2007, the exact dates unknown, Respondent was
21 in the possession of approximately 4,573 tablets containing Hydrocodone and approximately
22 10,089 ml of Tussionex suspension. Particularly on July 30, 2007, during an investigation
23 interview at the Directors' Office at Ralphs #720 in Rancho Palos Verdes, California, Respondent
24 was in possession of 8 ½ Vicodin tablets and a small bottle of Tussionex Suspension taken from
25 the pharmacy without a prescription in violation of Business and Professions Code section 4060.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Dispensing While Under the Influence)**

3 20. Respondent is subject to disciplinary action under section 4301, subdivision (j) on the
4 grounds of unprofessional conduct, for violating section 4327 in that Respondent worked as a
5 pharmacist while under the influence of controlled substances. Specifically, between
6 approximately April 18, 2006 through August 1, 2007, the exact dates unknown, Respondent
7 admitted that he drank Tussionex Suspension working at eight (8) pharmacies as a floater. This is
8 a violation of pharmacy law and a misdemeanor according to Business and Professions Code
9 section 4327.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Unauthorized Disclosure of a Prescription)**

12 21. Respondent is subject to disciplinary action under section 4301, subdivision (f) on the
13 grounds of unprofessional conduct, for violating the California Code of Regulations 1764 in that
14 he committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption as it relates
15 to California Code of Regulations 1764 in that Respondent took patient records from the
16 pharmacy. Specifically, on July 30, 2007 during an investigation at Ralphs Store # 720 in Rancho
17 Palos Verdes, California, patient prescription information was found in Respondent's car. Taking
18 patient prescription information is a violation of Business and Professions Code section 4301,
19 subdivision (f) as it relates to California Code of Regulations 1764 and a HIPPA¹ violation.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct – Unauthorized Disclosure of Medical Information)**

22 22. Respondent is subject to disciplinary action under section 4301, subdivision (f) as it
23 relates to Civil Code section 56.10, subdivision (a). Specifically, on July 30, 2007, during an

24 ¹ The Health Insurance Portability and Accountability Act (HIPAA) was enacted by the U.S. Congress in 1996.
25 Title I of HIPAA protects health insurance coverage for workers and their families when they change or lose their
26 jobs. Title II of HIPAA, known as the Administrative Simplification (AS) provisions, requires the establishment of
27 national standards for electronic health care transactions and national identifiers for providers, health insurance plans,
28 and employers. This is intended to help people keep their information private, though in practice it is normal for
providers and health insurance plans to require the waiver of HIPAA rights as a condition of service.

1 investigation at Ralphs Store No. 720, in Rancho Palos Verdes, California, patient medical
2 information was found in Respondent's car. Taking patient medical information is a violation of
3 Business and Professions Code section 4301, subdivision (f) as it relates to Civil Code section
4 56.10, subdivision (a) and a HIPPA violation.

5 **SEVENTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct – Adulterating a Drug)**

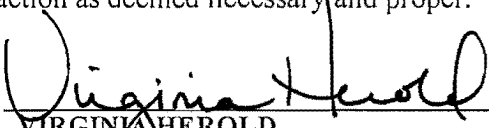
7 23. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
8 that he committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption when, by
9 his own admission, he adulterated pharmacy drug stock in violation of the Sherman Food, Drug
10 and Cosmetic Act defined by Health and Safety Code sections 111250, 111280, 11285, 111290,
11 and 111300 in that he adulterated stock bottles of Tussionex Suspension. Specifically, between
12 approximately May 1, 2006 and July 31, 2007, the exact dates unknown, Respondent took
13 varying amounts of Tussionex Suspension, a schedule III controlled substance from the stock
14 bottles at Ralphs Stores where he worked and replaced the contents with water. It is unlawful for
15 any person to adulterate any drug or device.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacist License No. RPH 41579, issued to Respondent
20 Chris Eugene Platt;
- 21 2. Ordering Chris Eugene Platt to pay the Board the reasonable costs of the investigation
22 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 12/8/09

25 
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant