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

10 In the Matter of the Accusation Against:

Case No. 3400

11 **MIGUEL ANGEL BARRAGAN**
12 **1401 Millett Ave.**
South El Monte, CA 91733
13 **Pharmacy Technician Registration**
No. TCH 79627

ACCUSATION

14 Respondent.

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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 December 17, 2007, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 79627 to Miguel Angel Barragan (Respondent). The Pharmacy
23 Technician Registration will expire on July 31, 2011, unless renewed.

24 **JURISDICTION**

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

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

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

5 ...

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

8 ...

9 "(l) The conviction of a crime substantially related to the qualifications, functions, and
10 duties of a licensee under this chapter.

11 ...

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

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

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

21 6. Section 125.3 of the Code provides, 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 **CONTROLLED SUBSTANCES/ DANGEROUS DRUGS**

26 7. Methamphetamine is a Schedule II controlled substance as designated by Health and
27 Safety Code section 11055, subdivision (d), subsection (2) and is categorized as a dangerous drug
28 pursuant to Business and Professions Code section 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Violation of Law Regulating Controlled Substances and Dangerous Drugs)**

3 8. Respondent is subject to disciplinary action under section 4301, subdivision (j) in that
4 he violated the law regulating controlled substances and dangerous drugs as follows:

5 a. On or about August 14, 2008, in the Superior Court of California, County of
6 Los Angeles, in the case entitled, *People of the State of California v. Miguel Angel Barragan*
7 (Super. Ct. Los Angeles County, 2008, No. 8RI04657), Respondent was convicted on his plea of
8 guilty of violating Health & Safety Code section 11377, subdivision (a) (possession of a
9 controlled substance), a misdemeanor. Respondent was granted "deferred entry of judgment" for
10 18 months and ordered to cooperate with a probation officer in a plan for drug education
11 treatment and awareness program. Respondent repeatedly failed to appear at subsequent court
12 dates. On March 5, 2009, the Court received a "Notice of Termination" from Acacia
13 Counseling/Drug Diversion Program. On March 23, 2009, Respondent's deferred entry of
14 judgment was terminated for the final time. The criminal proceedings were reinstated and
15 Respondent was convicted of violating Health & Safety Code section 11377, subdivision (a).

16 b. The circumstances are that on or about August 12, 2008, a Los Angeles County
17 Sheriff's deputy observed Respondent driving in a car with tinted windows in violation of
18 Vehicle Code section 26708, subdivision (a), subsection (1). The deputy conducted a traffic stop.
19 Upon contacting Respondent, the deputy could immediately smell the odor of marijuana
20 emanating from his person. The deputy asked Respondent if there was anything illegal in the
21 vehicle. Respondent stated, "I have some drugs in my backpack." Respondent indicated that the
22 drugs were methamphetamine.

23 c. Upon searching the backpack, the deputy recovered a piece of a plastic bag
24 containing a white crystal like substance which Respondent later admitted was
25 methamphetamine. The deputy also recovered a glass narcotic pipe with a white residue.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Substantially Related Conviction)**

3 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
4 he was convicted of a crime substantially related to the qualifications, functions, and duties of a
5 licensee under this chapter, as set forth in paragraph 8, subsections (a) through (c) above.
6 Complainant refers to, and by this reference incorporates, the allegations set forth above in
7 paragraph 8, subsections (a) through (c), as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Violation of Laws and Regulations Governing Pharmacy)**

10 10. Respondent is subject to disciplinary action under section 4301, subdivision (o) in
11 that he violated laws and regulations governing pharmacy, as set forth in paragraph 8, subsections
12 (a) through (c) above. Complainant refers to, and by this reference incorporates, the allegations
13 set forth above in paragraph 8, subsections (a) through (c), as though set forth fully.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Engaging in Actions or Conduct Warranting License Denial)**

16 11. Respondent is subject to disciplinary action under section 4301, subdivision (p) in
17 that he engaged in conduct that warrants denial of his license, as set forth in paragraph 8,
18 subsections (a) through (c) above. Complainant refers to, and by this reference incorporates, the
19 allegations set forth above in paragraph 8, subsections (a) through (c), as though set forth fully.

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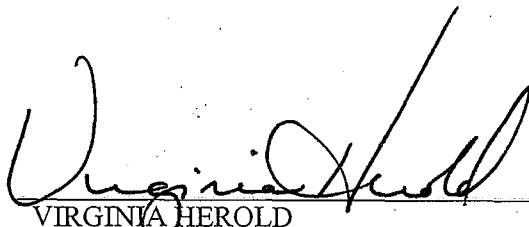
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 79627, issued to Miguel Angel Barragan.
2. Ordering Miguel Angel Barragan 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/3/10



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

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