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

12 In the Matter of the Accusation Against:

Case No. 3542

13 **DESIREE LORRAINE HIGGINS**

14 8305 Calleystone Way
Antelope, California 95841

ACCUSATION

15 Pharmacy Technician Registration No. TCH
83979

16 Respondent.
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18 Virginia K. Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about July 2, 2008, the Board of Pharmacy issued Pharmacy
23 Technician Registration Number TCH 83979 to Desiree Lorraine Higgins (Respondent). The
24 license will expire on June 30, 2010, unless renewed.

25 **JURISDICTION**

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

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4. Section 4300 of the Code states, in pertinent part:

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

“(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

“(3) Suspending his or her right to practice for a period not exceeding one year.

“(4) Revoking his or her license.

“(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

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

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

...

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, 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.

...

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

6. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon lawful prescription.

7. Section 111, subdivision (b) provides in pertinent part that “the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a

1 court of law, or its surrender without the written consent of the board, shall not, during any
2 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
3 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
4 provided by law or to enter an order suspending or revoking the license or otherwise taking
5 disciplinary action against the licensee on any such ground”.

6 8. Business & Professions Code section 492 states:

7 Notwithstanding any other provision of law, successful completion of any
8 diversion program under the Penal Code, or successful completion of an alcohol and drug
9 problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12
10 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
11 (commencing with section 500) of this Code, or any initiative act referred to in that division,
12 from taking disciplinary action against a licensee or from denying a license for professional
13 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
14 pertaining to an arrest.

15 This section shall not be construed to apply to any diversion program operated by
16 any agency established under Division 2 (commencing with Section 500) of this code, or any
17 initiative act referred to in that division.

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

22 10. Business & Professions Code section 4021 provides that “‘controlled
23 substance’ means any substance listed in Chapter 2 (commencing with Section 11053 of
24 Division 10 of the Health & Safety Code”.

25 11. Cocaine is a Schedule II controlled substance pursuant to Health and
26 Safety Code section 11055(b)(6).

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Acts of Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

3 12. Respondent is subject to disciplinary action under section 4301(f) in that
4 Respondent has committed acts involving moral turpitude, dishonesty fraud, deceit, or
5 corruption.

6 13. On or about March 13, 2009, Respondent was arrested at her residence for
7 then and there being in possession of cocaine and other controlled substances without a lawful
8 prescription therefor, maintaining a place for the sale or distribution of controlled substances,
9 and subjecting her minor child, with whom she co-habited, to abuse, neglect or endangerment by
10 permitting the person or health of her minor child to be in a situation where his or her person or
11 health was endangered.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Violation of Drug Laws)

14 14. Based upon the allegations of Paragraphs 12 and 13, Respondent is subject
15 to disciplinary action under section 4301(j) of the Code for her violation of section 4060 of the
16 Code and for her violation of California statutes regulating controlled substances.

17 **PRAYER**

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

20 A. Revoking or suspending Pharmacy License Number TCH 83979, issued to
21 Desiree Lorraine Higgins;

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B. Ordering Desiree Lorraine Higgins 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;

C. Taking such other and further action as deemed necessary and proper.

DATED: 2/3/10



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

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