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

12 In the Matter of the Accusation Against:

Case No. 3613

13 **AJAYPAL SINGH**
14 **1649 W. Palais Road**
Anaheim, CA 92802

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 85115**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 7, 2008, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 85115 to Ajaypal Singh (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on November 30, 2011, unless renewed.

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JURISDICTION

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

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

5. Section 4300 of the Code states:

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

". . . ."

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

"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.

". . . ."

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.

11 "

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

13 7. Section 480 of the Code states:

14 "(a) A board may deny a license regulated by this code on the grounds that the applicant
15 has one of the following:

16 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
17 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
18 board is permitted to take following the establishment of a conviction may be taken when the
19 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
20 an order granting probation is made suspending the imposition of sentence, irrespective of a
21 subsequent order under the provisions of Section 1203.4 of the Penal Code.

22 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
23 benefit himself or herself or another, or substantially injure another.

24 "(3)(A) Done any act that if done by a licentiate of the business or profession in question,
25 would be grounds for suspension or revocation of license.

26 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
27 substantially related to the qualifications, functions, or duties of the business or profession for
28 which application is made.

1 “(b) Notwithstanding any other provision of this code, no person shall be denied a license
2 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
3 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
4 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
5 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
6 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
7 Section 482.

8 “(c) A board may deny a license regulated by this code on the ground that the applicant
9 knowingly made a false statement of fact required to be revealed in the application for the
10 license.”

11 8. Section 482 of the Code states:

12 "Each board under the provisions of this code shall develop criteria to evaluate the
13 rehabilitation of a person when:

14 "(a) Considering the denial of a license by the board under Section 480; or

15 "(b) Considering suspension or revocation of a license under Section 490.

16 "Each board shall take into account all competent evidence of rehabilitation furnished by
17 the applicant or licensee."

18 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
19 revoke a license on the ground that the licensee has been convicted of a crime substantially
20 related to the qualifications, functions, or duties of the business or profession for which the
21 license was issued.

22 10. Section 493 of the Code states:

23 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
24 the department pursuant to law to deny an application for a license or to suspend or revoke a
25 license or otherwise take disciplinary action against a person who holds a license, upon the
26 ground that the applicant or the licensee has been convicted of a crime substantially related to the
27 qualifications, functions, and duties of the licensee in question, the record of conviction of the
28 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of the crime in
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the
3 qualifications, functions, and duties of the licensee in question.

4 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
5 'registration.'"

6 REGULATORY PROVISIONS

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

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

14 12. California Code of Regulations, title 16, section 1769, states:

15 ". . . .

16 "(b) When considering the suspension or revocation of a facility or a personal license on the
17 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating
18 the rehabilitation of such person and his present eligibility for a license will consider the
19 following criteria:

20 "(1) Nature and severity of the act(s) or offense(s).

21 "(2) Total criminal record.

22 "(3) The time that has elapsed since commission of the act(s) or offense(s).

23 "(4) Whether the licensee has complied with all terms of parole, probation, restitution or
24 any other sanctions lawfully imposed against the licensee.

25 "(5) Evidence, if any, of rehabilitation submitted by the licensee."

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1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (October 8, 2009, Conviction for Robbery and Accessory on July 27, 2008)

8 14. Respondent is subject to disciplinary action under Code sections 490 and 4301,
9 subdivision (1) in that he was convicted of a crime that is substantially related to the
10 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

11 a. On or about December 18, 2008, in a criminal proceeding entitled *The People of the*
12 *State of California vs. Vincent Molia Brioso, et al.*, in Orange County Superior Court, North
13 Justice Center, case number 08NF3014, Respondent was charged in a five count felony complaint
14 for second degree robbery, attempted second degree robbery, receiving stolen property,
15 aggravated assault, and street terrorism. An enhancement was added under Penal Code
16 section 186.22, subdivision (b) for criminal street gang activity. A second enhancement was
17 added under Penal Code section 12022.7, subdivision (a) for great bodily injury. On October 8,
18 2009, the complaint was amended to add Count 6, a felony violation of Penal Code section 32,
19 accessory after the fact/knowledge of crime. On October 8, 2009, Respondent entered a plea of
20 guilty to Counts 1 and 6 for violations of Penal Code section 211, second degree robbery, and
21 Penal Code section 32, accessory after the fact/knowledge of crime. Counts 2, 3, 4, 5, and all
22 enhancements were dismissed. Upon successful completion of probation, Count 1 will be
23 dismissed.

24 b. As a result of the conviction, Respondent was sentenced to five years formal
25 probation, required to serve 180 days in the County Jail with a credit of 180 days for time served,
26 and ordered to pay a fine of \$200 plus restitution.

27 c. The facts that led to the conviction were that on or about July 27, 2008, an Anaheim
28 Police Department officer was dispatched to an armed robbery. The vehicle involved was

1 identified as a white Nissan Pathfinder. While enroute, the officer identified a vehicle matching
2 the description. After backup arrived, a high-risk traffic stop was completed. Nine suspects were
3 removed from the vehicle. Respondent was identified as the driver of the vehicle. The victim
4 stated that two passengers of a white Nissan Pathfinder had attempted to rob him and that they
5 had a weapon with them. Respondent was interviewed by an officer and was asked about the
6 robberies. At first Respondent denied any robberies but later he admitted that they needed money
7 and a couple of guys got out of his car, pushed a guy down, and took his money. Respondent
8 stated the guys returned to his vehicle with five dollars.

9 SECOND CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct – Moral Turpitude and Dishonesty)

11 15. Respondent is subject to disciplinary action for unprofessional conduct under Code
12 section 4301, subdivision (f) in that Respondent's second degree robbery and accessory after the
13 fact/knowledge of the crime convictions demonstrate moral turpitude and dishonesty, as is
14 detailed in paragraph 14, above, which is incorporated by reference.

15 THIRD CAUSE FOR DISCIPLINE

16 (Conduct That Would Have Warranted Denial of a License)

17 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (p)
18 in that on or about October 8, 2009, Respondent was convicted of violation of Penal Code
19 section 211, second degree robbery, and section 32, accessory after the fact/knowledge of crime.
20 Such egregious criminal conduct would have warranted the denial of a pharmacy technician
21 registration under Code section 480, subdivisions (a)(1) and (a)(2), as set forth in paragraph 14,
22 above, which is incorporated by reference.

23 PRAYER

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

26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 85115,
27 issued to Ajaypal Singh;

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2. Ordering Ajaypal Singh 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:

5/12/10



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

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