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4	Upputy Attorney General State Bar No. 154990 1300 I Street, Suite 125	
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7	Attorneys for Complainant	
8	BEFORE THE BOARD OF PHARMACY	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	I In the Matter of the Accusation Against: Case N	Jo. AC 3681
12	2 STUART BLAKE TOMLIN 3653 Mammoth Cave Circle	
13		USATION
14	4 Pharmacist License No. RPH 42645	
15	5 Respondent.	
16	5	
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 August 4, 1989, the Board of Pharmacy issued Pharmacist License	
22	Number RPH 42645 to Stuart Blake Tomlin (Respondent). The Pharmacist License was in full	
23	force and effect at all times relevant to the charges brought herein and will expire on November	
24	4 30, 2010, unless renewed.	
25	5 JURISDICTION	ν
26	5 3. This Accusation is brought before the Board	of Pharmacy (Board), Department of
27	7 Consumer Affairs, under the authority of the following la	aws. All section references are to the
28	Business and Professions Code unless otherwise indicate	ed.
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4. California Code of Regulations, title 16, section 1770, states:

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

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

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
11 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.

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

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

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

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1	6 Soction 1060 of the Code and Health and Seferry Code section 11250(a) state that it	
1	6. Section 4060 of the Code and Health and Safety Code section 11350(a) state that it	
2	is illegal for a person to possess any controlled substance without a valid prescription.	
3	7. Section 125.3 of the Code provides, in pertinent part, that the	
4	Board/Registrar/Director may request the administrative law judge to direct a licentiate found to	
5	have committed a violation or violations of the licensing act to pay a sum not to exceed the	
6	reasonable costs of the investigation and enforcement of the case.	
.7	8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/	
8	surrender/ cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction	
9	to proceed with a disciplinary action during the period within which the license may be renewed,	
10	restored, reissued or reinstated.	
11	9. "Hydrocodone" is a Schedule III controlled substance as designated by Health and	
12	Safety Code section 11056, subdivision (e)(4).	
13	STATEMENT OF FACTS	
14	10. Between approximately July 2008 and January 2009, Respondent diverted, obtained,	
15	possessed, and self-administered approximately 627 tablets of hydrocodone, from his employer,	
16	Evergreen Pharmaceutical of CA, doing business as Omnicare of Lodi, while on duty as a	
17	registered pharmacist, without a valid prescription by a doctor or other health care provider, in	
18	violation of law.	
19	FIRST CAUSE FOR DISCIPLINE (Corrupt Acts – Diversion of Controlled Substances)	
20	11. Respondent is subject to disciplinary action under section 4301(f) and Health and	
21	Safety Code section 11173(a) in that he obtain controlled substances by fraud, deceit, or	
22	subterfuge and engaged in acts involving moral turpitude, dishonesty, fraud, deceit, and/or	
23	corruption as alleged in paragraph nine (9).	
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25	SECOND CAUSE FOR DISCIPLINE (Unlawful Self-administration of a Controlled Substance)	
26	12. Respondent is subject to disciplinary action under section 4301(h) in that Respondent	
27	self-administered controlled substances to the extent or in a manner as to be dangerous or	
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1	injurious to himself, as alleged in paragraph nine (9).	
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3	THIRD CAUSE FOR DISCIPLINE (Unlawful Possession of a Controlled Substance)	
4	13. Respondent is subject to disciplinary action under sections 4301(j) and (o) in that	
5	Respondent violated the statutes of this state regulating controlled substances and dangerous	
6	drugs, as alleged in paragraph nine (9).	
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8	FOURTH CAUSE FOR DISCIPLINE (Possession of a Controlled Substance without a Prescription)	
9	14. Respondent is subject to disciplinary action under section 4060 and Health and Safety	
10	Code section 11350(a) in that Respondent was in possession of a narcotic controlled substance	
11	without a prescription, as alleged in paragraph nine (9).	
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 Pharmacist License Number RPH 42645, issued to Stuart	
16	Blake Tomlin	
17	2. Ordering Respondent 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	DATED: 8/4/10 Juginia Decolo	
23	VIRGINIA HEROLD	
24 25	Executive/Officer Board of Pharmacy Department of Consumer Affairs	
23 26	State of California Complainant	
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