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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. 3765

12 **BRANDON TALBOT ALEXANDER**
13 445 Almond Drive, Apt. No. 12
14 Lodi, CA 95240

A C C U S A T I O N

15 Original Pharmacy Technician Registration
16 No. TCH 15045

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 February 6, 1995, the Board of Pharmacy issued Original Pharmacy
23 Technician Registration Number TCH 15045 to Brandon Talbot Alexander (Respondent). The
24 pharmacy technician registration was in full force and effect at all times relevant to the charges
25 brought herein and will expire on March 31, 2012, 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 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:

.....

"(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.

.....

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(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 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

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

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

16 FIRST CAUSE FOR DISCIPLINE

17 (Conviction of a Substantially Related Crime)

18 7. Respondent is subject to disciplinary action pursuant to Code section 4301,
19 subdivision (l), in that Respondent has been convicted of the following crimes that are
20 substantially related to the qualifications, functions, and duties of a pharmacy technician:

21 a. On or about April 30, 2008, in the Superior Court, County of San Joaquin, California,
22 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No. LM038972A,
23 Respondent was convicted by the court of a violation of Vehicle Code section 23152, subdivision
24 (b) (driving with a blood alcohol content of .08% or above), a misdemeanor. The circumstances
25 of the crime are that on or about February 11, 2008, Respondent was arrested by the Lodi Police
26 when an officer observed Respondent crash his car into a parked truck. Respondent agreed to a
27 breath test for alcohol and was found to have a blood alcohol content level of .22% and .23%.

28 b. On or about May 12, 2006, in the Superior Court, County of San Joaquin, California,

1 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No. LM034777A,
2 Respondent was convicted by the court of a violation of Vehicle Code section 23152, subdivision
3 (b) (driving with a blood alcohol content of .08% or above), a misdemeanor. The circumstances
4 of the crime are that on or about April 26, 2006, Respondent was arrested by the Lodi Police for
5 drunk driving. Respondent was found to have a blood alcohol content level of .17% and .16%.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct – Consuming Alcohol to a Dangerous Extent)

8 8. Respondent is subject to disciplinary action pursuant to Code section 4301,
9 subdivision (h), for unprofessional conduct in that he consumed alcohol to the extent or in a
10 manner as to be dangerous or injurious to himself and the public as described in Paragraph 7,
11 above.

12 THIRD CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct – Multiple Convictions Involving Alcohol)

14 9. Respondent is subject to disciplinary action pursuant to Code section 4301,
15 subdivision (k), for unprofessional conduct in that he was convicted of two misdemeanors
16 involving the use, consumption, or self administration of alcoholic beverages as described in
17 Paragraph 7, above.

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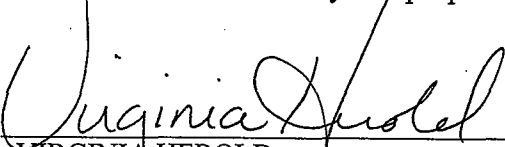
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PRAYER

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 Original Pharmacy Technician Registration Number TCH 15045, issued to Brandon Talbot Alexander
2. Ordering Brandon Talbot Alexander 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: 5/19/11



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

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