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

In the Matter of the Accusation Against:  
**CHRISTOPHER JOHN SMITH**  
203 Via Fiesta  
Newbury Park, CA 91320  
**Pharmacist License No. RPH 44647**  
Respondent.

Case No. 3779

**ACCUSATION**

Complainant alleges:

**PARTIES**

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
2. On or about August 14, 1991, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 44647 to Christopher John Smith (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.

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1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
2 substances or of a violation of the statutes of this state regulating controlled substances or  
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
5 The board may inquire into the circumstances surrounding the commission of the crime, in order  
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
7 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
10 of this provision. The board may take action when the time for appeal has elapsed, or the  
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
15 indictment.

16 . . . .

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

### 21 REGULATORY PROVISIONS

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

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

1 COST RECOVERY

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

5 FIRST CAUSE FOR DISCIPLINE

6 (Criminal Convictions of Substantially Related Crimes)

7 9. Respondent is subject to disciplinary action under sections 4301, subdivision (l), as  
8 defined in California Code of Regulations, title 16, section 1770, in that Respondent was  
9 convicted of crimes, which are substantially related to the qualifications, functions, or duties of a  
10 licensed pharmacist, as follows:

11 a. On or about April 7, 2010, after pleading guilty, Respondent was convicted of three  
12 misdemeanor counts of violating Vehicle Code section 23152(b) [driving with a blood-alcohol  
13 content level greater than 0.8%], Vehicle Code section 23152 S/A [drunk driving-priors], and  
14 Vehicle Code section 23578 [excessive blood alcohol or refusal to take chemical testing], in the  
15 criminal proceeding entitled *People v. Christopher John Smith* (Super. Ct. Ventura County, 2010,  
16 No. 2009045240). Respondent was sentenced to sixty (60) months of probation, 180 days in  
17 county jail, one (1) year ignition interlock device, and fined. In addition, Respondent violated the  
18 terms and conditions of probation on prior case no. 2008047561.

19 b. The circumstances surrounding the convictions are that on or about December 11,  
20 2009, while under the influence of alcohol, Respondent drove at an unsafe speed and collided  
21 with the rear-end of a vehicle stopped at a red light, causing minor injuries to the driver. Officers  
22 of the California Highway Patrol arrested Respondent for driving a motor vehicle while under the  
23 influence of an alcoholic beverage or drugs causing injury and driving on a suspended driver's  
24 license with a prior DUI conviction. Approximately one hour after Respondent was arrested, his  
25 BAC was .353.

26 c. On or about January 23, 2009, after pleading guilty, Respondent was convicted of  
27 three misdemeanor counts of violating Vehicle Code section 23153(b) [driving with a blood-  
28 alcohol content level greater than 0.8%], Vehicle Code section 23152S/A [drunk driving-priors],

1 and Vehicle Code section 23578 [excessive blood alcohol or refusal to take chemical testing], in  
2 the criminal proceeding entitled *People v. Christopher John Smith* (Super. Ct. Ventura County,  
3 2009, No. 2008047561). Respondent was sentenced to 60 months of probation, 40 days of jail,  
4 and fined. The circumstances surrounding the convictions are that on or about November 13,  
5 2008, Respondent was observed driving erratically by California Highway Patrol officers.  
6 Respondent failed the field sobriety tests and was arrested for driving a motor vehicle while under  
7 the influence of an alcoholic beverage and or controlled substance.

8 d. On or about April 13, 2005, after pleading no contest, Respondent was convicted of  
9 one misdemeanor count of violating Vehicle Code section 23152(a) [driving under the influence  
10 of an alcoholic beverage or drug], in the criminal proceeding entitled *People v. Christopher John*  
11 *Smith* (Super. Ct. San Mateo County, 2005, No. SM338099A). Respondent was sentenced to 36  
12 months of probation, two days of jail, and fined. On or about February 20, 2005, Respondent was  
13 arrested for driving while under the influence of an alcoholic beverage or drug.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Multiple Alcohol Related Convictions)**

16 10. Respondent is subject to disciplinary action under section 4301, subdivision (k), on  
17 the grounds of unprofessional conduct, in that on or about April 7, 2010, January 23, 2009, and  
18 April 13, 2005, Respondent was convicted of misdemeanors involving the consumption of an  
19 alcoholic beverage. Complainant refers to, and by this reference incorporates, the allegations set  
20 forth in paragraph 9, as though set forth fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Alcohol Abuse)**

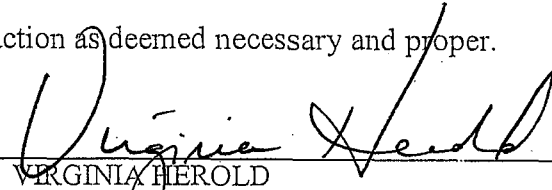
23 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), on  
24 the grounds of unprofessional conduct, in that on or about December 11, 2009, November 13,  
25 2008, and February 20, 2005, Respondent used and consumed alcoholic beverages to the extent or  
26 in a manner as to be dangerous or injurious to himself or to others. Complainant refers to, and by  
27 this reference incorporates, the allegations set forth in paragraph 9, subparagraphs (a), (b), and  
28 (c), inclusive, as though set forth fully.

PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 44647, issued to Christopher John Smith;
2. Ordering Christopher John Smith to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/27/11

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

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