

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ALVARO MEJIA
Deputy Attorney General
4 State Bar No. 216956
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0083
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4056

12 **CONRAD DE LA ROCA,**
13 **a.k.a., CONRAD LEONEL DE LA ROCA**
P.O. Box 1581
14 Glendora, CA 91740

ACCUSATION

15 Pharmacy Technician Registration No.
16 TCH 88433

17 Respondent.

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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 January 16, 2009, the Board issued Pharmacy Technician Registration
24 No, TCH 88433 to Conrad De La Roca, a.k.a., Conrad Leonel De La Roca, ("Respondent"). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on December 31, 2012, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

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

10 5. Code section 490 states:

11 "(a) In addition to any other action that a board is permitted to take against a licensee, a
12 board may suspend or revoke a license on the ground that the licensee has been convicted of a
13 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
14 or profession for which the license was issued.

15 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
16 discipline a licensee for conviction of a crime that is independent of the authority granted under
17 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
18 of the business or profession for which the licensee's license was issued.

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

25 6. Code section 492 states:

26 "Notwithstanding any other provision of law, successful completion of any diversion
27 program under the Penal Code, or successful completion of an alcohol and drug problem
28 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of

1 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
3 division, from taking disciplinary action against a licensee or from denying a license for
4 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
5 record pertaining to an arrest.

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

9 7. Code section 4060 states:

10 "No person shall possess any controlled substance, except that furnished to a person upon
11 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
12 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
13 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
14 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
15 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
16 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
17 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
18 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
19 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
20 labeled with the name and address of the supplier or producer.

21 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
22 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
23 devices."

24 8. Code section 4300, subdivision (a), states that "[e]very license issued may be
25 suspended or revoked."

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1 9. Cod section 4301 states, in pertinent part:

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

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6 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
7 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
8 whether the act is a felony or misdemeanor or not.

9 "(g) Knowingly making or signing any certificate or other document that falsely
10 represents the existence or nonexistence of a state of facts.

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

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

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

22 "(l) The conviction of a crime substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
28 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 REGULATORY PROVISIONS

12 10. California Code of Regulations, title 16, section 1770, states:

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

19 DRUG STATUTES

20 11. Health and Safety Code section 11170 states that "[n]o person shall prescribe,
21 administer, or furnish a controlled substance for himself."

22 12. Health and Safety Code section 11173, subdivision (a), states "[n]o person shall
23 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
24 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
25 or subterfuge; or (2) by the concealment of a material fact."

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1 13. Health and Safety Code section 11350, subdivision (a), states, in pertinent part:
2 "Except as otherwise provided in this division, every person who possess (1) any controlled
3 substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054,
4 specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
5 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2)
6 any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
7 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
8 this state, shall be punished by imprisonment in the state prison."

9 14. Health and Safety Code section 11377, subdivision (a), states, in pertinent part:
10 "Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in
11 Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and
12 Professions Code, every person who possesses any controlled substance which is (1) classified in
13 Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section
14 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
15 (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of
16 Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the
17 prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state,
18 shall be punished by imprisonment in a county jail for a period of not more than one year or in the
19 state prison."

20 COST RECOVERY

21 15. Code section 125.3 states, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 CONTROLLED SUBSTANCE / DANGEROUS DRUG

26 16. **Methamphetamine**, a central nervous system stimulant, is a Schedule II controlled
27 substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is
28 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Convictions of Substantially-Related Crimes)**

3 17. Respondent is subject to disciplinary action under Code sections 490, 4300 and 4301,
4 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions or duties of a registered pharmacy technician which to a
7 substantial degree evidence his present or potential unfitness to perform the functions authorized
8 by his registration in a manner consistent with the public health, safety, or welfare, as follows:

9 a. On or about September 17, 2010, after pleading *guilty*, Respondent was convicted of
10 one misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)
11 [possession of a controlled substance], in the criminal proceeding entitled *The People of the State*
12 *of California v. Conrad Leonel Delaroca* (Super. Ct. Los Angeles County, 2010, No. ORI03341).
13 The court placed Respondent on deferred entry of judgment for a period of 24 months. The
14 circumstances surrounding the conviction are that on or about July 09, 2010, a Los Angeles
15 Sheriff's Department Officer, while on duty, during a routine traffic stop, stopped Respondent,
16 after observing Respondent making a left turn without signaling in violation of Vehicle Code
17 section 22107. The officer contacted the Respondent, and noticed that Respondent appeared to
18 act nervous by making movements with both his hands as if he was attempting to hide an illegal
19 item. Respondent agreed to step out of the vehicle and gave the officer permission to search his
20 person. During the search, the officer recovered a glass pipe from Respondent's left shirt pocket.
21 The officer also recovered a plastic baggie containing methamphetamine and a folded \$10.00 bill
22 containing methamphetamine inside, attached to a money clip from Respondent's wallet.
23 Respondent was subsequently arrested for violating Health and Safety Code sections 11364,
24 subdivision (a) and section 11377, subdivision (a).

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1 b. On or about May 19, 1992, after pleading *guilty*, Respondent was convicted of one
2 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
3 privilege suspended], in the criminal proceeding entitled *The People of the State of California v.*
4 *Conrad Leonel Delaroca* (Super. Ct. Los Angeles County, 1992, No. SNI92M01991-01). The
5 court ordered Respondent to pay a fine. The circumstances surrounding the conviction are that on
6 or about April 27, 1992, Respondent unlawfully and knowingly drove a vehicle while having a
7 suspended license, in violation of Vehicle Code section 14601.1, subdivision (a).

8 c. On or about May 02, 1991, after pleading *guilty*, Respondent was convicted of one
9 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
10 privilege suspended], in the criminal proceeding entitled *The People of the State of California v.*
11 *Conrad Leonel Delaroca* (Super. Ct. Los Angeles County, 1991, No. SNI9M01711-01). The
12 court ordered Respondent to pay a fine. The circumstances surrounding the conviction are that on
13 or about April 08, 1991, Respondent unlawfully and knowingly drove a vehicle while having a
14 suspended license, in violation of Vehicle Code section 14061.1, subdivision (a).

15 d. On or about November 02, 1989, after pleading *guilty*, Respondent was convicted of
16 one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving a
17 vehicle while having 0.08% and more, by weight, of alcohol in the blood.]; and one misdemeanor
18 count of violating Vehicle Code section 12500, subdivision (a) [unlawful to drive unless
19 licensed], in the criminal proceeding entitled *The People of the State of California v. Conrad*
20 *Leonel Delaroca* (Super. Ct. Los Angeles County, 1989, No. CIT89M10349-01). The court
21 sentenced Respondent to jail, placed him on probation, and fined him. The circumstances
22 surrounding the conviction are that on or about July 25, 1989, Respondent drove a vehicle, while
23 being unlicensed to drive a vehicle, and having 0.08% and more, by weight, of alcohol in his
24 blood. Respondent was subsequently convicted of violating Vehicle Code sections 23152,
25 subdivision (b) and Vehicle Code section 12500, subdivision (a).

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1 e. On or about June 28, 1988, after pleading *guilty*, Respondent was convicted of one
2 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving a vehicle
3 while having 0.08% and more, by weight, of alcohol in the blood], in the criminal proceeding
4 entitled *The People of the State of California v. Conrad Leonel Delaroca* (Super. Ct. Los Angeles
5 County, 1988, No. ELA88M06196-01). The court placed Respondent on probation, and fined
6 him. The circumstances surrounding the conviction are that on or about June 06, 1988,
7 Respondent drove a vehicle, while having 0.08% and more, by weight, of alcohol in his blood.
8 Respondent was subsequently convicted of violating Vehicle Code section 23152, subdivision
9 (b).

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Convictions Involving Alcohol and / or Drugs)**

12 18. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
13 subdivision (k), in that on or about September 17, 2010, November 2, 1989, and June 28, 1988,
14 Respondent sustained misdemeanor convictions involving the use, consumption, or self-
15 administration of alcohol and / or dangerous drugs. Complainant refers to and by this reference
16 incorporates, the allegations set forth above in paragraph 17, subparagraphs (a), (d), and (e),
17 inclusive, as though set forth fully.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Illegal Possession of Controlled Substances)**

20 19. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
21 subdivision (j), in conjunction with Code section 4060, on the grounds of unprofessional conduct,
22 in that on or about July 09, 2010, Respondent was in possession of a controlled substance,
23 without a valid prescription. Complainant refers to and by this reference incorporates, the
24 allegations set forth above in paragraph 17, subparagraph (a), as though set forth fully.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol and / or Drugs)**

3 20. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to
5 himself alcohol and / or used a dangerous drugs to the extent or in a manner as to be dangerous or
6 injurious to himself or others. Complainant refers to and by this reference incorporates, the
7 allegations set forth above in paragraphs 17 through 19, inclusive, as though set forth fully.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Violating Drug Statutes)**

10 21. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
11 subdivision (j), on the grounds of unprofessional conduct, for violating provisions of the Health
12 and Safety Code as follows:

13 a. Section 11170 for prescribing, administering and / or furnishing a controlled
14 substance for himself.

15 b. Section 11377, subdivision (a), by possessing Methamphetamine, a controlled
16 substance.

17 Complainant refers to and by this reference incorporates, the allegations set forth above in
18 paragraph 17, subparagraph (a), as though set forth fully.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(False Statement on Application for Licensure)**

21 22. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
22 subdivision (g), on the grounds of unprofessional conduct, in that Respondent knowingly made or
23 signed his November 24, 2008, "Application for Registration as a Pharmacy Technician" for
24 licensure by falsely representing a state of facts when he answered "No" to the question: "Have
25 you ever been convicted of or pled no contest to a violation of any law of a foreign country, the
26 United States or any state law or local ordinance? You must include all misdemeanor and felony
27 convictions, regardless of the age of the conviction, including those which have been set aside
28 under Penal Code section 1203.4." Respondent failed to disclose four (4) criminal convictions

1 sustained prior to his license application, to wit, conviction which occurred on or about May 19,
2 1992, May 2, 1991, November 2, 1989, and June 29, 1988. Complainant refers to and by this
3 reference incorporates, the allegations set forth above in paragraph 17, subparagraphs (b) through
4 (e), inclusive, as though set forth fully.

5 **SEVENTH CAUSE FOR DISCIPLINE**

6 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

7 23. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
8 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
9 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to
10 and by this reference incorporates, the allegations set forth above in paragraph 22, as though set
11 forth fully.

12 **PRAYER**

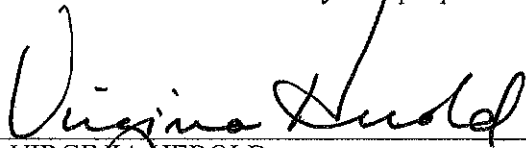
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board issue a decision:

15 1. Revoking or suspending Pharmacy Technician License No. TCH 88433, issued to
16 Conrad De La Roca, a.k.a., Conrad Leonel De La Roca;

17 2. Ordering Conrad De La Roca, a.k.a., Conrad Leonel De La Roca, to pay the Board
18 the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;
19 and

20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 10/9/12


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

DOJ Matter ID: LA2011600865
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