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

12 In the Matter of the Accusation Against:

Case No. 4337

13 **JESSER HERNANDEZ DELACRUZ**
14 **9168 Quail Cove Drive**
Elk Grove, CA 95624

A C C U S A T I O N

15 **Pharmacy Technician License No. TCH**
84851

16 Respondent.

17
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 January 28, 2009, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 84851 to Jesser Hernandez Delacruz (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and expired on July 31, 2014.

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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.

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

12 7. 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 **(Convictions)**

18 8. Respondent is subject to disciplinary action under section 490 and 4301,
19 subdivisions (k) and (l) in that he was convicted of a crimes substantially related to the practice of
20 a pharmacy technician. The circumstances are as follows:

21 9. On or about December 9, 2011, in *People v. Jesser Hernandez Delacruz*, Superior
22 Court of California, County of Sacramento; Case No. 11T04552, Respondent was convicted on
23 his plea of guilty to a violation of Vehicle Code section 23152(b) (driving while under the
24 influence of alcohol with a BAC of .18) and Vehicle Code section 20002 (a) (failure to stop at the
25 scene of an accident).

26 10. The circumstances were that on or about July 14, 2011, as a result of an
27 investigation by the California Highway Patrol, it was determined that respondent was in a
28 collision. California Highway Patrol found respondent at home under the influence of alcohol.

1 11. On or about October 7, 2009, in *People v. Jesser Hernandez Delacruz*, Superior
2 Court of California, County of Sacramento; Case No. 09T04292, Respondent was convicted on
3 his plea of no contest to a violation of Vehicle Code section 23152(b) (driving while under the
4 influence of alcohol). The circumstances were that Respondent was in a traffic collision.
5 Respondent had a BAC of .269% and reported that he had consumed 9 drinks.

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7 **SECOND CAUSE FOR DISCIPLINE**
8 **(Use in a Manner Dangerous to self or Others)**

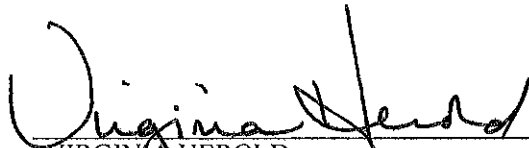
9 12. Respondent has subjected his license to discipline pursuant to Code section
10 4301 (h) in that Respondent used alcohol to an extent or in a manner dangerous or injurious to
11 himself or others, as more particularly set forth in paragraphs 8, 9, and 10, above.

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 Pharmacy Technician License Number TCH 84851, issued
16 to Jesser Hernandez Delacruz.;
- 17 2. Ordering Jesser Hernandez Delacruz to pay the Board of Pharmacy the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions
19 Code section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 6/27/13


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

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