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

11 In the Matter of the Accusation Against:

Case No. 4585

12 **JARED EVAN BROOKS**
13 **869 19th Street**
San Jose, CA 95112

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **97122**
Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California State Board of Pharmacy.

21 2. On or about January 21, 2010, the Board issued Pharmacy Technician Registration
22 Number TCH 97122 to Jared Evan Brooks (Respondent). The Pharmacy Technician Registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 January 31, 2016, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 4300(a) of the Code provides every license issued by the Board may be
5 suspended or revoked.

6 5. Section 4300.1 of the Code states:

7 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
8 operation of law or by order or decision of the board or a court of law, the placement of a license
9 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
10 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
11 proceeding against, the licensee or to render a decision suspending or revoking the license."

12 6. Section 4301 of the Code states:

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

16 . . .

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

22 . . .

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

25 . . .

26 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
27 of a licensee under this chapter.

28 . . .

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

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

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

12 8. Section 4060 of the Code provides in part:

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

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

27 9. Health and Safety Code section 11350 provides that every possesses any controlled
28 substance unless upon written prescription shall be punished by imprisonment.

1 10. Health and Safety Code section 11357(c) provides in part that every person who
2 possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished
3 by imprisonment in a county jail for a period of not more than six months or by a fine of not more
4 than five hundred dollars (\$500), or by both such fine and imprisonment.

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

9 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
14 included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Conviction of Substantially Related Crime)**

3 13. Respondent is subject to disciplinary action under section 4301(l) and section 490 of
4 the Code, by reference to California Code or Regulations, title 16, section 1770, for the
5 conviction of a substantially related crime, in that on or about July 26, 2012, in the Santa Clara
6 County Superior Court criminal case entitled *People v. Jared Brooks*, Case No. C1224720
7 Respondent was convicted by plea of nolo contendere of violating Health and Safety Code
8 section 11357(c) (Possession of over 1 oz. of Marijuana), a misdemeanor, with enhancement
9 pursuant to Penal Code section 12022(a)(1) (Armed with a firearm). The circumstances are as
10 follows:

11 a. On or about January 20, 2012, San Jose Police Officers entered Respondent's
12 residence which he shared with roommates. Once inside the Respondent's room, officers found
13 approximately 7 oz. of marijuana, marijuana "hash", a handgun and ammunition. Police officers
14 also found \$450 cash in Respondent's pockets. Officers concluded the evidence found
15 Respondent's room and on his person was consistent with an individual involved with the sale of
16 narcotics.

17 b. Officers interviewed Respondent after he was mirandized and he stated that he lived
18 in his bedroom, by himself, and estimated there to be about "two ounces" of marijuana in this
19 room. Respondent admitted to consuming 7 oz. of marijuana a month, and claimed that all the
20 marijuana that was found in his room was for personal use only. Respondent indicated the gun in
21 his possession was for home protection, and placed it down when he realized there were officers
22 on the premises. Respondent denied that he sold marijuana and said that he had a medicinal
23 marijuana card at one time, but it expired the previous year. Police officers confronted
24 Respondent about text messages found on Respondent's roommate's cell phone and indicated
25 Respondent was selling narcotics, to which Respondent said "I think I need a lawyer."

26 c. Respondent was sentenced as follows: Three (3) years probation, ordered to pay a
27 court fine, serve 180 days in county jail. Respondent was further ordered not to own or possess a
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1 weapon, to submit to drug/alcohol testing, educational and vocational training and submit to
2 counseling.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Possession of Controlled Substance)**

5 14. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
6 4060 of the Code, and/or Health and Safety Code section 11357(c), in that Respondent, as
7 described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted
8 possession of, a controlled substance, without a prescription.

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10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Self-Administration of Controlled Substance and/or Alcohol)**

12 15. Respondent is subject to discipline under section 4301(h) and/or 4301(j) of the Code,
13 and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 21
14 above, administered a controlled substance to himself.

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16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 16. Respondent is subject to discipline under section 4301 of the Code, in that
19 Respondent, as described in paragraph 21 above, engaged in unprofessional conduct.

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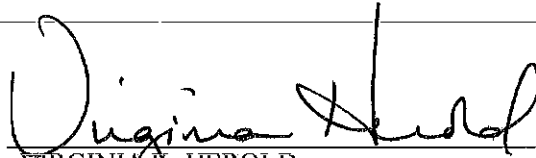
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 97122, issued to Jared Evan Brooks;
2. Ordering Jared Evan Brooks to pay the Board 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: _____

2/18/14



VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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