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

12 **In the Matter of the Accusation Against:**

Case No. 4603

13 **RANDY RAY LOVEJOY**
14 **314 Bluebell Avenue**
Placential, CA 92870

A C C U S A T I O N

15 **Pharmacist License No. RPH 32175**

16 **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 August 7, 1978, the Board of Pharmacy issued Pharmacist License
23 No. RPH 32175 to Randy Ray Lovejoy (Respondent). The Pharmacist License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on March 31, 2014,
25 unless renewed.

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1 9. Section 4301 of the Code states:

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

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

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

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

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

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4 (b) When considering the suspension or revocation of a facility or a personal
5 license on the ground that the licensee or the registrant has been convicted of a crime,
6 the board, in evaluating the rehabilitation of such person and his present eligibility for
7 a license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or offense(s).

11 (4) Whether the licensee has complied with all terms of parole, probation,
12 restitution or any other sanctions lawfully imposed against the licensee.

13 (5) Evidence, if any, of rehabilitation submitted by the licensee.

14 11. California Code of Regulations, title 16, section 1770, states:

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

22 **COSTS**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(December 11, 2012 Criminal Conviction for DUI, Driving With Blood Alcohol of 0.08% or**
3 **More [0.35% BAC] on March 9, 2012)**

4 13. Respondent has subjected his license to discipline under sections 490 and 4301,
5 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
6 qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

7 14. On or about December 11, 2012, in a criminal proceeding entitled *People of the State*
8 *of California v. Randy Ray Lovejoy*, in the Superior Court of California, County of Orange, North
9 Justice Center, Case No. 12NM05742, Respondent was convicted on his plea of guilty of
10 violating Vehicle Code sections 23152(a) (DUI), 23152, subdivision (b) (driving with a blood
11 alcohol content of 0.08% or more [.35% BAC]), misdemeanors, with an enhancement allegation
12 pursuant to Vehicle Code section 23538(b)(2) (blood alcohol concentration of 0.20% or more by
13 weight).

14 15. As a result of the conviction Respondent was placed on three years informal
15 probation and ordered to violate no laws, obey all orders, rules and regulations and directives of
16 the Court, Jail, and Probation, submit person and property, including any residence, premises,
17 container or vehicle to search and seizure, consume no alcoholic beverages and not be present in
18 any establishment where the primary items for sale are alcoholic beverages, not drive a motor
19 vehicle with a measurable amount of alcohol in his blood and submit to chemical test of blood on
20 demand of any peace officer, use no unauthorized drugs, narcotics or controlled substances,
21 cooperate with probation officer in any plan for counseling and/or treatment, not drive without
22 a valid driver's license in his possession, not drive without proof of valid auto liability insurance,
23 use true name and date of birth at all times, disclose terms and conditions of probation when
24 asked by any law enforcement or probation officer, pay various fees and fines, attend and
25 complete an 18-month Multiple Offender Alcohol Program concurrent with Case
26 No. 12HM06506, attend and complete a MADD Impact Panel.

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1 16. The circumstances surrounding the conviction are that on or about March 9, 2012, at
2 approximately 3:00 p.m., Placentia Police Department Officers received a report of a possible
3 drunk driver at 314 Bluebell in Placentia, California. The reporting party (R.P.) advised that the
4 driver was now possibly asleep at the wheel. Upon arrival, officers observed Respondent exiting
5 the vehicle from the driver's door and could see keys in Respondent's right hand. Officers exited
6 their vehicle and had to immediately help Respondent maintain his balance as he was about to
7 fall. Officers smelled a very strong odor of an alcoholic beverage on his breath and person and
8 noticed his speech was very thick and difficult to understand. Officers also observed that
9 Respondent's eyes were red and watery. Officers asked Respondent if he had any medical
10 problems and if he had been drinking alcoholic beverages, and Respondent told officers that he
11 was taking medication for high blood pressure and had drank 3 Vodka drinks and 2 cans of beer
12 that day between 9:00 a.m. and 2:00 p.m.

13 17. Officers made contact with the RP, who told officers that she had observed
14 Respondent drive from McDonald's to their present location, and that Respondent was all over
15 the road and was driving like he was drunk. When officers asked Respondent if he thought he
16 would be able to perform field sobriety tests, Respondent responded, "No, I'm drunk." The R.P.
17 chose to place Respondent under citizen's arrest for driving under the influence of alcohol.
18 Officers placed handcuffs on Respondent and transported him to the county jail. Upon arrival at
19 the county jail, Respondent was so intoxicated that he could not get out of the patrol vehicle and
20 officers had to call paramedics to check on him. Respondent submitted to a blood test and told
21 officers that he drinks alcoholic beverages every day and estimated that he drove drunk about 50-
22 100 times a year. Respondent told officers that he had drank a fifth of Vodka that day. While
23 waiting for the blood technician, Respondent completed a PAS test and the results were 0.30%.
24 The blood test result returned a 0.35% BAC.

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1 SECOND CAUSE FOR DISCIPLINE

2 **(December 11, 2012 Criminal Conviction for DUI, Driving With Blood Alcohol of 0.08% or**
3 **More [0.30% BAC], and Driving on a Suspended License on April 19, 2012)**

4 18. Respondent has subjected his license to discipline under sections 490 and 4301,
5 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
6 qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

7 19. On or about December 11, 2012, in a criminal proceeding entitled *People of the State*
8 *of California v. Randy Ray Lovejoy*, in the Superior Court of California, County of Orange,
9 Harbor Justice Center, Newport Beach Facility, Case No. 12HM06506, Respondent was
10 convicted on his plea of guilty of violating Vehicle Code sections 23152(a) (DUI), 23152,
11 subdivision (b) (driving with a blood alcohol content of 0.08% or more [.30% BAC]), and
12 14601.5(a) (driving on a suspended license), misdemeanors, with an enhancement allegation
13 pursuant to Vehicle Code section 23538(b)(2) (blood alcohol concentration of 0.20% or more by
14 weight).

15 20. As a result of the conviction Respondent was placed on five years informal probation
16 and ordered to serve 75 days in the Orange County Jail. Respondent was also ordered to violate
17 no laws, obey all orders, rules and regulations and directives of the Court, Jail, and Probation,
18 submit person and property, including any residence, premises, container or vehicle to search and
19 seizure, consume no alcoholic beverages and not be present in any establishment where the
20 primary items for sale are alcoholic beverages, not drive a motor vehicle with a measurable
21 amount of alcohol in his blood and submit to chemical test of blood on demand of any peace
22 officer, use no unauthorized drugs, narcotics or controlled substances, cooperate with probation
23 officer in any plan for counseling and/or treatment, not drive without
24 a valid driver's license in his possession, not drive without proof of valid auto liability insurance,
25 use true name and date of birth at all times, disclose terms and conditions of probation when
26 asked by any law enforcement or probation officer, pay various fees and fines, attend and
27 complete an 18-month Multiple Offender Alcohol Program concurrent with Case
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1 No. 12NM05742, attend and complete a MADD Impact Panel concurrent with Case No.
2 12NM05742.

3 21. The circumstances surrounding the conviction are that on or about April 9, 2012, at
4 approximately 8:40 p.m., Orange County Sheriff's Office deputies made contact with Respondent
5 at John Wayne Airport. Respondent was sitting on a concrete bench in front of Terminal "A".
6 Deputies observed that Respondent had a bright red face and stated he was picking up his wife.
7 Deputies asked Respondent if he had been drinking and he replied that he had drank about four
8 beers. Deputies could smell the odor of an alcoholic beverage on his breath and could see that his
9 eyes and cheeks were red. Deputies asked Respondent if he had ever been arrested for driving
10 under the influence of alcohol and he replied, "yes, about a month ago." Respondent did not have
11 a driver's license in his possession. Respondent blew 0.286% and 0.298% BAC on the PAS.
12 Deputies placed Respondent under arrest for driving under the influence of alcohol and
13 transported him to the Orange County Jail where he was booked.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Use of Alcoholic Beverages in a Manner Dangerous & Injurious to Oneself & the Public)**

16 15. Respondent has subjected his license to disciplinary action under section 4301,
17 subdivision (h) of the Code in that on or about March 9, 2012 and April 19, 2012, Respondent
18 drove a vehicle while under the influence of alcoholic beverages, which posed a serious risk of
19 injury and/or death to himself and to the public, as detailed in paragraphs 13 through 21, above,
20 which are incorporated here by reference.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Multiple Convictions Involving the Use of Alcoholic Beverages)**

23 16. Respondent has subjected his license to disciplinary action under section 4301,
24 subdivision (k) of the Code in that on or about December 11, 2012, Respondent was convicted in
25 two separate cases on charges involving the consumption of alcoholic beverages, as detailed in
26 paragraphs 13 and 21, above, which are incorporated here by reference.

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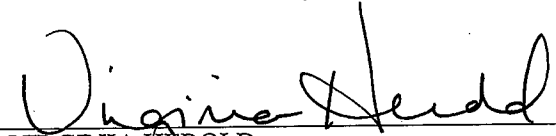
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PRAYER

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 Pharmacist License Number RPH 32175 issued to Randy Ray Lovejoy;
2. Ordering Randy Ray Lovejoy 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: 9/19/13



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

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