

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
4 State Bar No. 243744  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1192  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the First Amended Accusation  
11 Against:

Case No. 4855

12 **ERIC JOSEPH SPECK**  
13 **5402 Stonehurst Drive**  
**Martinez, CA 94553**

**FIRST AMENDED ACCUSATION**

14 **Pharmacist License No. RPH 67348**

15 Respondent.

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17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
22 Affairs.

23 2. On or about July 26, 2012, the Board of Pharmacy issued Pharmacist License Number  
24 RPH 67348 to Eric Joseph Speck (Respondent). The Pharmacist License was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless  
26 renewed.

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28 ///

1                                    **JURISDICTIONAL, STATUTORY & REGULATORY PROVISIONS**

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

5            4.     Section 4300 of the Code states:

6            "(a) Every license issued may be suspended or revoked.

7            "(b) The board shall discipline the holder of any license issued by the board, whose default  
8 has been entered or whose case has been heard by the board and found guilty, by any of the  
9 following methods:

10           "(1) Suspending judgment.

11           "(2) Placing him or her upon probation.

12           "(3) Suspending his or her right to practice for a period not exceeding one year.

13           "(4) Revoking his or her license.

14           "(5) Taking any other action in relation to disciplining him or her as the board in its  
15 discretion may deem proper.

16           ". . . .

17           "(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the  
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil  
21 Procedure."

22           5.     Section 4300.1 of the Code states:

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

28           ///

1       6.     Section 4301 of the Code states:

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:

5           ". . . .

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

11          ". . . .

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



1 **DRUGS**

2 11. **Toluene** is an intoxicating substance commonly used in products such as paint, glue,  
3 and paint thinner and a dangerous drug pursuant to section 4022 of the Code. Penal Code section  
4 381 makes being under the influence of toluene a misdemeanor.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Dangerous Use of Dangerous Drug)**

7 12. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
8 Respondent used a dangerous drug in a manner that was dangerous to himself, to others, or to the  
9 public. The circumstances are as follows:

10 13. On or about April 15, 2013, Respondent was arrested after driving his vehicle while  
11 intoxicated and failing a field sobriety test. When initially approached by police, Respondent  
12 stated he had a gun and started to reach for it before officers stopped him.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Criminal Conviction)**

15 14. Respondent is subject to disciplinary action under sections 490 and/or 4301(l) of the  
16 Code in that Respondent was convicted of a crime substantially related to the qualifications,  
17 functions, or duties of a pharmacist. The circumstances are as follows:

18 15. On or about June 18, 2013, in the Superior Court of California for the County of  
19 Shasta, in the case entitled *The People of the State of California v. Eric Joseph Speck*, Docket #  
20 MC RD CRF 130002562, Respondent pled no contest to and was found guilty of violating  
21 California Penal Code sections 246.3 (Discharge of Firearm with Gross Negligence), a  
22 misdemeanor, 594(b)(2)(A) (Vandalism Less Than \$400), a misdemeanor, and 647(f) (Public  
23 Intoxication), a misdemeanor. The circumstances were that on or about April 24, 2013, while  
24 heavily intoxicated on a combination of toluene and/or other drugs and/or alcohol, Respondent  
25 discharged a firearm in his home and subsequently kicked down the door to a neighbor's  
26 residence.

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**THIRD CAUSE FOR DISCIPLINE**

**(Dangerous Use of Alcohol or Dangerous Drug)**

16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent used a dangerous drug and/or alcohol to an extent or in a manner dangerous to himself, to others, or to the public. The circumstances are described above in the Second Cause for Discipline.

**FOURTH CAUSE FOR DISCIPLINE**

**(Dangerous Use of Alcohol)**

17. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent used alcohol to an extent or in a manner dangerous to himself, to others, or to the public. The circumstances were that on or around September 21, 2013, Respondent consumed alcohol at the Holiday Inn in Chico, California, while taking prescription medication not recommended to be mixed with alcohol. Asserting the hotel was on fire, Respondent engaged the fire line main, dumping large quantities of water onto the floor. Respondent then flipped over a large table, breaking the glass top, and began to try to break off one of the table legs. When hotel employees tried to stop Respondent, Respondent became violent, striking one of them. Respondent was subsequently restrained by hotel employees and arrested.

**FIFTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

18. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent engaged in unprofessional conduct. The circumstances are described above in the First, Second, and Fourth Causes for Discipline.

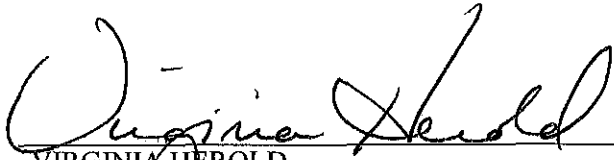
**PRAYER**

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 67348, issued to Eric Joseph Speck;

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- 2. Ordering Eric Joseph Speck 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: 6/13/14   
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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12 <b>5402 Stonehurst Drive</b>	
13 <b>Martinez, CA 94553</b>	<b>A C C U S A T I O N</b>
14 <b>Pharmacist License No. RPH 67348</b>	
15 Respondent.	

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17 Complainant alleges:

18 **PARTIES**

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20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about July 26, 2012, the Board of Pharmacy issued Pharmacist License Number  
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9           "(4) Revoking his or her license.

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18          5.    Section 4300.1 of the Code states:

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27 Unprofessional conduct shall include, but is not limited to, any of the following:

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21 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
22 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
23 indictment.

24           7. Section 4022 of the Code states:

25           "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
26 humans or animals, and includes the following:

27           "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
28 prescription," "Rx only," or words of similar import.



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Dangerous Drug)**

3 12. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
4 Respondent used a dangerous drug in a manner that was dangerous to himself, to others, or to the  
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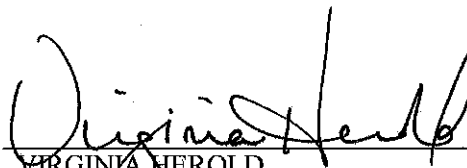
6 **PRAYER**

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10 Joseph Speck;
- 11 2. Ordering Eric Joseph Speck to pay the Board of Pharmacy the reasonable costs of the  
12 investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3;
- 14 3. Taking such other and further action as deemed necessary and proper.

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16  
17 DATED: \_\_\_\_\_

9/6/13



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

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