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

11 In the Matter of the Accusation Against:

Case No. 5072

12 **SCOTT CHRISTOPHER WEST**
13 **12894 Woodlake Rd.**
14 **Grass Valley, CA 95949**

A C C U S A T I O N

15 **Pharmacist License No. RPH 49493**

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 August 18, 1997, the Board of Pharmacy issued Pharmacist License
23 Number RPH 49493 to Scott Christopher West (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on December
25 31, 2014, 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 unless otherwise indicated.

5 4. Section 4300 of the Code states, in pertinent part:

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

7 5. Section 4300.1 of the Code states:

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

13 **STATUTORY PROVISIONS**

14 6. Section 4301 of the Code states, in pertinent part:

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

18 "...

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

24 "...

25 "(i) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
5 dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment. . . .”

14 **REGULATION**

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

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

22 **COST RECOVERY**

23 8. 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.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of Crime)**

3 9. Respondent is subject to disciplinary action under section 4301(l) of the Code in that
4 Respondent has been convicted of a crime that is substantially related to his qualifications,
5 functions, and duties as a pharmacist. The circumstances are as follows:

6 10. On or about November 4, 2013, in *People v. Scott Christopher West*, Superior Court
7 of California, County of Nevada, case no. M13-001121, Respondent pled nolo contendere to a
8 misdemeanor charge of driving while having a 0.08% or higher blood alcohol (a violation of
9 Vehicle Code section 23152(b)). The court sentenced Respondent to three years of probation, ten
10 days in jail, and ordered Respondent to pay a fine, enroll in and complete a nine-month first
11 offender program, and submit to chemical testing of his blood/breath for the detection of alcohol
12 at the request of a peace/probation officer. The circumstances of this conviction are as follows:

13 a. On or about July 13, 2013, a California Highway Patrol (CHP) Officer received a
14 radio call for a suspected traffic collision. When the Officer responded to the scene of the
15 suspected collision, he was informed that the Nevada County Sheriff's Department had responded
16 to a residence, where the driver of the vehicle involved in the suspected collision (Respondent)
17 was reported to be. The CHP Officer went to the residence and contacted Respondent. The CHP
18 Officer immediately smelled the odor of alcohol emitting from Respondent. As Respondent stood
19 up and walked to the porch, he had an unsteady gait. Respondent admitted to drinking a pint of
20 Vodka while driving home from Auburn. The Officer observed that Respondent's eyes were red
21 and watery, and his speech was slurred. Respondent stated that he purchased the vodka in Auburn
22 and started drinking while driving home. Respondent stated that while driving home, he believed
23 he got stuck in a ditch in Lincoln. Respondent stated that he did not drink any alcohol once he
24 arrived home because he does not keep any alcohol in the house, and that he had not consumed
25 any alcohol after the ditch incident. The Officer administered several field sobriety tests, which
26 Respondent failed to complete. The Officer arrested Respondent and transported him to the Grass
27 Valley CHP Office where two vials of blood were taken from Respondent, which revealed

1 Respondent's blood alcohol content was 0.28%. Respondent was booked into the Nevada County
2 Jail for driving under the influence of alcohol.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Use of Alcoholic Beverages to the Extent or in a Manner as to be**
5 **Dangerous or Injurious to Oneself or Others)**

6 11. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
7 on July 13, 2013, Respondent used alcoholic beverages to the extent or in a manner as to be
8 dangerous or injuries to himself and the public, and to the extent that the use impaired
9 Respondent's ability to conduct with safety to the public the practice of a pharmacist, as set forth
10 in more particularity in paragraph 10(a).

11 **PRAYER**

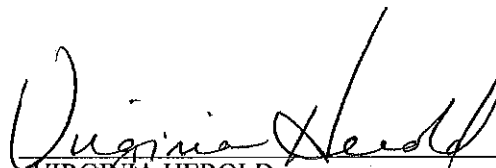
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacist License Number RPH 49493, issued to Scott
15 Christopher West;

16 2. Ordering Scott Christopher West to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3; and

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

20
21
22 DATED: 4/5/14



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

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