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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. 5759

13 **RICHARD LEROY CHURCH**

14 **6703 22nd Street**
Rio Linda, CA 95673

ACCUSATION

15 **Pharmacy Technician License No. TCH**
26632

16 Respondent.

17
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about August 3, 1998, the Board issued Pharmacy Technician License Number
23 TCH 26632 to Richard Leroy Church ("Respondent"). The license was in full force and effect at
24 all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that
27 every license issued by the Board is subject to discipline, including suspension or revocation.

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1 4. Code section 4301.1 states:

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

8 **STATUTORY PROVISIONS**

9 5. Code section 4301 states, in pertinent part:

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

14 ...

15 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
16 deceit, or corruption, whether the act is committed in the course of relations as a
17 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

18 ...

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

24 ...

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

28 (l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may
inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment. . . .

3 **COST RECOVERY**

4 6. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Crime)**

10 7. Respondent is subject to discipline pursuant to Code section 4301(l), on the
11 grounds of unprofessional conduct, in that on or about November 30, 2015, in the case of *People*
12 *v. Richard Leroy Church*, (Super. Ct. Sacramento County, Case No. 15M13662), Respondent was
13 convicted by the Court on his plea of nolo contendere of violating Vehicle Code section 23152(b)
14 (driving a vehicle while having a blood alcohol level of .08% or higher), a misdemeanor, and
15 Vehicle Code section 20002(a) (hit and run), a misdemeanor, with a prior conviction of Vehicle
16 Code section 23152(b) on October 17, 2012, as more particularly set forth below in paragraph 11.
17 The circumstances of the crime were that on or about September 12, 2015, Respondent drove a
18 vehicle with a blood alcohol level of .11%, collided with another vehicle, and then fled the scene.
19 The crime is substantially related to the qualifications, functions, or duties of a pharmacy
20 technician.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol)**

23 8. Respondent is subject to discipline pursuant to Code section 4301(h), on the
24 grounds of unprofessional conduct, in that Respondent consumed alcohol on or about
25 September 12, 2015, to the extent or in a manner as to be dangerous or injurious to oneself and to
26 the public, as more particularly set forth above in paragraph 7.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Convictions Involving the Use of Alcohol)**

3 9. Respondent is subject to discipline pursuant to Code section 4301(k), on the
4 grounds of unprofessional conduct, in that Respondent was convicted of more than one
5 misdemeanor involving the use, consumption, and self administration of alcohol, as more
6 particularly set forth in paragraph 7.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

9 10. Respondent is subject to discipline pursuant to Code section 4301(f), on the
10 grounds of unprofessional conduct, in that he committed acts involving dishonesty, fraud, deceit,
11 or corruption, when on or about September 12, 2015, Respondent fled the scene of an accident, as
12 more particularly set forth above in paragraph 7.

13 **FACTORS IN AGGRAVATION**

14 11. On or about November 29, 2012, the Board issued Citation No. CI 2012 53155 to
15 Respondent for violating Code sections 4301(f) (acts of moral turpitude, dishonesty, fraud, deceit,
16 or corruption); 4301(h) (administering to oneself, any controlled substance, or the use of any
17 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
18 injurious to oneself); 4301(k) (conviction of more than one misdemeanor or any felony involving
19 the use, consumption, or self-administration of any dangerous drug or alcoholic beverage); and
20 4301(l) (conviction of a crime substantially related to the practice of pharmacy), in that on or
21 about October 17, 2012, in the case of *People v. Richard Leroy Church*, (Super. Ct. Colusa
22 County, Case No. CR54292), Respondent was convicted by the Court on his plea of nolo
23 contendere of violating Penal Code section 273a(a) (child endangerment), a misdemeanor, and
24 Vehicle Code section 23152(b) (driving with a blood alcohol level of .08% or higher), a
25 misdemeanor, with a prior conviction of Vehicle Code section 23152(a) (driving a vehicle while
26 under the influence of alcohol) on July 23, 2003¹. The circumstances of the crime were that on

27 ¹ On or about July 23, 2003, in the case of *People v. Richard Leroy Church*, (Super. Ct.
28 Sacramento County, Case No. 03T00219), Respondent was convicted by the Court on his plea of
(continued...)

1 or about July 7, 2012, Respondent drove a vehicle while having a blood alcohol level of .15% and
2 was swerving in traffic, going over ninety miles per hour, and failing to yield to police officers,
3 all while having a minor child in the vehicle. The Board assessed a fine in the amount of \$600.
4 Respondent paid the fine in full on March 14, 2014.

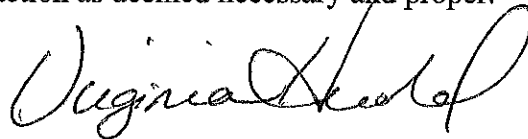
5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26632,
9 issued to Richard Leroy Church;
- 10 2. Ordering Richard Leroy Church to pay the Board of Pharmacy the reasonable costs of
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.

14
15 DATED: _____

8/15/16



16 VIRGINIA HEROLD
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 *Complainant*

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23
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28 _____
(...continued)

no contest of violating Vehicle Code section 23152(a) (driving a vehicle while under the
influence of alcohol), a misdemeanor. The circumstances of the crime were that Respondent
drove a vehicle with a blood alcohol level of .13%.