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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. 3891

13 **TROY A. THOMAS**
14 **1908 G Street, #1**
Sacramento, CA 95814

ACCUSATION

15 **Designated Representative License Number**
16 **EXC 17778**

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 January 11, 2005, the Board of Pharmacy issued Designated
23 Representative License Number EXC 17778 to Troy A. Thomas (Respondent). The Designated
24 Representative License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 1, 2012, 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 118, subdivision (b), of the Code provides that the expiration of a license
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
7 within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 4300 of the Code states permits the board to suspend or revoke every license
9 that it issues, or to take any other appropriate disciplinary action as the board may deem proper in
10 its discretion.

11 6. Section 4053 of the Code states:

12 (a) Notwithstanding Section 4051, the board may issue a license as a designated
13 representative to provide sufficient and qualified supervision in a wholesaler or
14 veterinary food-animal drug retailer. The designated representative shall protect the
15 public health and safety in the handling, storage, and shipment of dangerous drugs
16 and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

15 STATUTORY PROVISIONS

16 7. Section 4301 of the Code states:

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

21 ...

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

27 ...

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

(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

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

16 ...

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

22 COST RECOVERY

23 8. Section 125.3 of the Code states, 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.

27 FIRST CAUSE FOR DISCIPLINE

28 (Criminal Conviction)

9 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
10 on or about July 21, 2010, in the criminal proceeding entitled *People v. Thomas, Troy A.*, in
11 Sacramento County Superior Court, Case Number 10T02693, Respondent was convicted on his
12 plea of no contest to violating Vehicle Code section 23152 (b) (driving with a blood alcohol level
13 above .08), a misdemeanor. Respondent's blood alcohol level was .32/.31. Respondent admitted
14 to a prior conviction of Vehicle Code violation 23152(b) (driving under the influence,
15 misdemeanor) on March 28, 2005, and to having a blood alcohol level in excess of .15, in
16 violation of Vehicle Code section 23578. The circumstances are that: on or about Friday
17 April 23, 2010, at 9:30 p.m., officers responded to a vehicle collision in Sacramento where one

1 driver was reportedly exhibiting several signs of intoxication. Upon arrival, Respondent was
2 asked to perform field sobriety tests, which he performed poorly. Respondent was arrested for
3 being under the influence of alcohol and operating a motor vehicle.

4 10. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
5 on or about March 28, 2005, in the criminal proceeding entitled *People v. Thomas, Troy A.*, in
6 Sacramento County Superior Court, Case Number 05T01364, Respondent was convicted on his
7 plea of guilty to violating Vehicle Code section 23152 (b) (driving with a blood alcohol level
8 above .08), a misdemeanor. Respondent also admitted to having a blood alcohol level in excess
9 of .20%, in violation of Vehicle Code section 23578. Respondent's blood alcohol level was .28.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Conviction of More Than One Alcohol-Related Misdemeanor)**

12 11. Respondent is subject to disciplinary action under section 4301 (k) in that Respondent
13 has been convicted of more than one misdemeanor involving an alcohol related offense, as more
14 fully set forth in paragraphs 9 and 10, above.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Use of Alcohol in Dangerous Manner)**

17 12. Respondent is subject to disciplinary action under section 4301 (h) in that on
18 April 23, 2010, Respondent used alcohol in a dangerous manner when he had a blood alcohol
19 level of .32/.31 and chose to drive a vehicle, as more fully set forth in paragraph 9, above.
20 Additionally, on March 6, 2005, Respondent used alcohol in a dangerous manner when he had a
21 blood alcohol level of .28 and chose to drive a vehicle, as more fully set forth in paragraph 10,
22 above.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Violation of Pharmacy Law)**

25 13. Respondent is subject to disciplinary action under section 4301 (o) for violation of
26 pharmacy law as more fully set forth in paragraphs 9 to 12, above.

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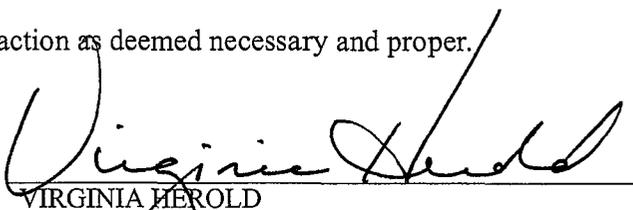
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PRAYER

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 Designated Representative License Number EXC 17778, issued to Troy A. Thomas;
2. Ordering to Troy A. Thomas 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/18/11



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

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