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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10	In the Matter of the Accusation Against:	Case No. 3218
11	ANGELICA TABARA	
12	aka ANGELICA SUYAT TABARA 416 88th Street, Apt. #7	ACCUSATION
13	Daly City, California 94015	
14	Pharmacy Technician Registration No. TCH 63715	
15		
16	Respondent.	
17.	Complainant alleges:	
18	PARTIES	
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official	
20	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
21	2. On or about June 30, 2005, the Board of Pharmacy issued Pharmacy	
22	Technician Registration Number TCH 63715 to Angelica Tabara (Respondent). The Pharmacy	
23	Technician Registration was in full force and effect at all times relevant to the charges brought	
24	herein. The Registration expired on February 28, 2009 and has not been renewed.	
25	JURISDICTION	
26	3. This Accusation is brought before the Board of Pharmacy (Board),	
27	Department of Consumer Affairs, under the authority of the following laws. All section	
28	references are to the Business and Professions Code (Code) unless otherwise indicated.	

- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.
- (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

- 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.
 - 9. California Code of Regulations, title 16, section 1770, states:

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

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

FACTUAL BACKGROUND

a pharmacy technician at a Walgreens Pharmacy (PHY 41538) in South San Francisco, CA. On or about that date, Respondent was detained by Walgreens Loss Prevention and subsequently by the South San Francisco Police for her actions over the preceding weeks in creating and cashing in/stealing fraudulent "refund" transactions using manager(s) identification number(s) obtained through Respondent's covert observation(s). The total amount of money fraudulently procured by Respondent is not known, but Respondent admitted to numerous fraudulent transactions over the prior "four weeks," with up to \$700 taken per transaction, and admitted to taking \$14,600.00.

FIRST CAUSE FOR DISCIPLINE

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

12. Respondent is subject to discipline under section 4301(f) of the Code in that Respondent, as described in paragraph 11 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SECOND CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

- 13. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of a substantially related crime, in that on or about March 27, 2008, in a criminal case titled *People v. Angelica Suyat Tabara*, Case No. SC065897 (and/or NF373896) in San Mateo County Superior Court, Respondent was convicted on her plea of *nolo contendere* of violating Penal Code sections 508 / 487(a) (Appropriation by Employee [Embezzlement] / Grand Theft of More than \$400), a felony. The conviction was entered in San Mateo County as follows:
- a. On or about February 28, 2008, based on the conduct described above in paragraph 11, Respondent was arrested by South San Francisco Police on suspicion of 21 counts of violating Penal Code section 508 (Embezzlement).
- b. On or about February 29, 2008, Respondent was charged in a criminal case titled *People v. Angelica Suyat Tabara*, Case No. SC065897 (and/or NF373896) in San Mateo County Superior Court with eleven (11) counts of violating Penal Code sections 508 / 487(a) (Appropriation by Employee [Embezzlement] / Grand Theft of More than \$400), all felonies.
- c. On or about March 27, 2008, pursuant to a plea agreement, Respondent pleaded *nolo contendere* to the first count of having violated Penal Code sections 508 / 487(a) (Appropriation by Employee [Embezzlement] / Grand Theft of More than \$400), a felony. The imposition of sentence was suspended in favor of an order of supervised probation for a period of three (3) years, on terms and conditions including 90 days in county jail (8 days CTS + 2 days of good time credit) with the Sheriff's work program recommended, search and seizure conditions, treatment or counseling as required by probation, fines, fees, and court restitution, and restitution to Walgreens (subsequently calculated) of \$23,086.61 plus additional amount(s) and fee(s).

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 11-13 above, engaged in unprofessional conduct.

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:

A. Revoking or suspending Pharmacy Technician Registration Number TCH 63715, issued to Angelica Tabara (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 4/10/09

VIRGINIA HÉROLD

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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