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

11
12 In the Matter of the Accusation Against:

Case No. 3278

13 **JOSE ALBERTO VILLASENOR**

A C C U S A T I O N

14 691 Bucknell Avenue
Claremont, CA 91711

15 Pharmacy Technician Registration Number
16 TCH 47115

17 Respondent.

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 25, 2003, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration Number TCH 47115 to Jose Alberto Villasenor (Respondent). The
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
25 brought herein and will expire on January 31, 2011, unless renewed.

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

11 **REGULATORY PROVISIONS**

12 8. California Code of Regulations, title 16, section 1770, states:

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

19 **COST RECOVERY**

20 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **CONTROLLED SUBSTANCE**

25 10. Methamphetamine is a Schedule II controlled substance as designated by Health and
26 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
27 Business and Professions Code section 4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
4 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has
5 been convicted of a crime substantially related to the qualifications, functions or duties of a
6 licensed pharmacy technician, as follows:

7 **POSSESSION METHAMPHETAMINE - 2007**

8 a. On or about October 18, 2007, Respondent entered his plea of guilty to one
9 misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)
10 (possession of a controlled substance – methamphetamine) in the criminal proceeding entitled
11 *People of The State of California v. Jose Alberto Villasenor* (Super. Ct. Los Angeles County,
12 2007, No. 7PK06730). Respondent was sentenced to 2 years of probation.

13 b. Circumstances of the conviction are on or about August 24, 2007, after
14 conducting a pat-down search of Respondent following a routine traffic stop in an area known for
15 a high level of drug trafficking, City of Pomona police officers found a baggie containing white
16 crystal-like substance in the left front pocket of Respondent's shirt. Asked what the substance
17 was, Respondent stated "they're drugs, sir." Respondent subsequently admitted the substance was
18 methamphetamine, which he had purchased for \$20.00 from a friend that evening after getting off
19 work. Respondent further admitted he had "a problem with" methamphetamine, and that he had
20 been using the drug for approximately two years.

21 c. Respondent participated in an 18 month court ordered Deferred Entry of
22 Judgment Program and successfully completed the program on April 16, 2009.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unlawful Possession of a Controlled Substance)**

25 12. Respondent is subject to disciplinary action under section 4060, section 4300, and
26 section 4301, subdivision (l), on the grounds of unprofessional conduct for violating Health and
27 Safety Code section 11377, subdivision (a), in that on or about August 24, 2007, Respondent was
28 found to be in possession of methamphetamine by City of Pomona police officers, for which

1 Respondent was criminally prosecuted and convicted of violating Health and Safety Code section
2 11377(a), based on his plea of guilty, entered on or about October 18, 2007, as more fully
3 described in paragraph 11, above.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Dishonest Act)**

6 13. Respondent is subject to disciplinary action under section 4301, subdivision (f), on
7 the grounds of unprofessional conduct in Respondent committed an act involving involving moral
8 turpitude, dishonesty, fraud, deceit, or corruption, by reason of criminal misconduct resulting in
9 his arrest and conviction for possession of a controlled substance, as described in paragraph 11,
10 above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 14. Respondent is subject to disciplinary action under section 4060, in that Respondent
14 engaged in unprofessional conduct on or about October 18, 2007, when he committed acts
15 resulting in his arrest and conviction for possession of a controlled substance as described in
16 paragraph 11, above.

17 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

18 15. As an additional disciplinary consideration, the Board alleges that on or about
19 August 1, 2001, after pleading guilty, Respondent was convicted of one misdemeanor count of
20 violating Penal Code section 490.5, subdivision (a) (petty theft retail merchandise) in the criminal
21 proceeding entitled *The People of The State of California v. Jose Alberto Villasenor* (Super. Ct.
22 San Bernardino County, 2001, No. MWV065973). Respondent was sentenced to one day in San
23 Bernardino County Jail, payment of fines, and 2 years of probation.

24 16. Circumstances of the conviction are that on May 18, 2001, Respondent was
25 observed removing packaging from a music compact disc at a 'Virgin Megastore' store in Ontario
26 Mills Mall, slipping the disc into his notebook, then leaving the store without paying for it.
27 Estimated value of the disc was \$18.99.

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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 issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 47115, issued to Respondent;
2. Ordering Respondent to pay the Board 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: 9/24/09


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

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