

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 MARICHELLE S. TAHIMIC  
Deputy Attorney General  
4 State Bar No. 147392  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3154  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3565

12 **MARIA CARMEN SCHREIBER**  
2306 England Street, #B  
13 Huntington Beach, CA 92648

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
15 **12067**

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 March 18, 1984, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 12067 to Maria Carmen Schreiber (Respondent). The Pharmacy  
24 Technician registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on December 31, 2011, unless renewed.

26 ///

27 ///

28 ///

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:

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

7 (b) The board shall discipline the holder of any license issued by the board, whose  
8 default has been entered or whose case has been heard by the board and found guilty,  
by any of the following methods:

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

11 (4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its  
12 discretion may deem proper.

...

13 (e) The proceedings under this article shall be conducted in accordance with Chapter  
14 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,  
and the board shall have all the powers granted therein. The action shall be final,  
15 except that the propriety of the action is subject to review by the superior court  
pursuant to Section 1094.5 of the Code of Civil Procedure.

16 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
17 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
18 disciplinary action during the period within which the license may be renewed, restored, reissued  
19 or reinstated.

20 **STATUTORY PROVISIONS AND REGULATIONS**

21 6. Section 475 of the Code states:

22 (a) Notwithstanding any other provisions of this code, the provisions of this  
23 division shall govern the denial of licenses on the grounds of:

...

24 (2) Conviction of a crime.

...

25 (4) Commission of any act which, if done by a licentiate of the business or  
profession in question, would be grounds for suspension or revocation of license.

...

26 (c) A license shall not be denied, suspended, or revoked on the grounds of a lack of  
27 good moral character or any similar ground relating to an applicant's character,  
reputation, personality, or habits.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

10. Section 4059(a) of the Code provides:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, or veterinarian.

11. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not 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.

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

6 (j) The violation of any of the statutes of this state or of the United States regulating  
7 controlled substances and dangerous drugs.

8 (l) The conviction of a crime substantially related to the qualifications, functions,  
9 and duties of a licensee under this chapter. The record of conviction of a violation of  
10 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
11 regulating controlled substances or of a violation of the statutes of this state  
12 regulating controlled substances or dangerous drugs shall be conclusive evidence of  
13 unprofessional conduct. In all other cases, the record of conviction shall be  
14 conclusive evidence only of the fact that the conviction occurred. The board may  
15 inquire into the circumstances surrounding the commission of the crime, in order to  
16 fix the degree of discipline or, in the case of a conviction not involving controlled  
17 substances or dangerous drugs, to determine if the conviction is of an offense  
18 substantially related to the qualifications, functions, and duties of a licensee under this  
19 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
20 contendere is deemed to be a conviction within the meaning of this provision. The  
21 board may take action when the time for appeal has elapsed, or the judgment of  
22 conviction has been affirmed on appeal or when an order granting probation is made  
23 suspending the imposition of sentence, irrespective of a subsequent order under  
24 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
25 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
26 dismissing the accusation, information, or indictment.

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

12. California Code of Regulations, title 16, section 1769(b) sets forth the following  
criteria in evaluating the rehabilitation of a licensee:

When considering the suspension or revocation of a facility or a personal license on  
the ground that the licensee or the registrant has been convicted of a crime, the board,  
in evaluating the rehabilitation of such person and his present eligibility for a license  
will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution  
or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

13. 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

1 qualifications, functions or duties of a licensee or registrant if to a substantial degree  
2 it evidences present or potential unfitness of a licensee or registrant to perform the  
3 functions authorized by his license or registration in a manner consistent with the  
4 public health, safety, or welfare.

5 **DRUGS**

6 14. **Carisoprodol**, sold under the brand name Soma, is a dangerous drug pursuant to  
7 Business & Professions Code section 4022 and is used as a muscle relaxant.

8 **COST RECOVERY**

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

13 **FACTS**

14 16. At about 6:00 p.m. on May 14, 2008, officers of the Laguna Beach Police Department  
15 were dispatched to Pavillions Grocery Store with regard to a theft. Upon arriving at the store, the  
16 officers were greeted by Loss Prevention Manager D.M. D.M. had been contacted by a Pavillions  
17 store pharmacist with regard to missing drugs from the pharmacy, specifically Soma tablets.  
18 Respondent was suspected of stealing the drugs because the thefts occurred on the days  
19 Respondent was working as a pharmacy technician in the pharmacy. As a result of the suspected  
20 thefts, D.M. installed surveillance cameras in the store pharmacy. D.M. was monitoring the  
21 surveillance tapes on May 14, 2008 when at about 4:30 p.m., he observed Respondent take a  
22 quantity of pills out of a container and place them in her left pocket. D.M. contacted the on-duty  
23 pharmacist, who conducted an audit and confirmed that 25 Soma pills were missing.

24 17. D.M. contacted Respondent for an interview. Respondent subsequently admitted to  
25 stealing 25 Soma pills and removed the pills from her pocket and gave them to D.M.  
26 Respondent was being detained by D.M. when the Laguna Beach police officers arrived.

27 18. When the officers contacted Respondent, she admitted that she took the Soma pills  
28 that day and also "many" times over the past two weeks. She stated she had a prescription for  
Soma but sometimes had taken some from the pharmacy when she ran out. She admitted to  
taking about 300 Soma pills from the Pavillions Grocery Store pharmacy in the past and admitted

1 that she was addicted to Soma because of the quantity of drugs she has to take. The value of the  
2 325 Soma pills Respondent stole was about \$1,625.00. Respondent was arrested and charged  
3 with grand theft, a violation of Penal Code section 487, and embezzlement by an employee, a  
4 violation of Penal Code section 508.

5 19. In *The People of the State of California v. Maria Mimi Schreiber, aka Maria Carmen*  
6 *Schreiber, aka Mimi Rosado, aka Maria Carmen Rosado*, Orange County Superior Court,  
7 Newport Beach Facility, Case No. 08HM05114, Respondent was charged with grand theft by an  
8 employee, in violation of Penal Code section 487(b)(3), and possession of a controlled substance  
9 without a prescription, in violation of Business and Professions Code section 4060. On July 11,  
10 2008, Respondent was convicted on her guilty plea to a lesser charge of petty theft, a violation of  
11 Penal Code section 484(a). The charge was subsequently reduced to a misdemeanor and the other  
12 charges were dismissed.

13 20. As a result of her conviction, Respondent was sentenced to 3 years probation, ordered  
14 to complete 40 hours of community service, ordered to serve 1 day in jail, ordered to pay \$130 in  
15 fines and fees and to pay restitution to her employer.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(July 11, 2008 Conviction of Petty Theft on May 14, 2008)**

18 21. Respondent is subject to disciplinary action under Code sections 490 and 4301(l) for  
19 conviction of a crime that is substantially related to the qualifications, functions and duties of a  
20 pharmacy technician in that in *The People of the State of California v. Maria Mimi Schreiber, aka*  
21 *Maria Carmen Schreiber, aka Mimi Rosado, aka Maria Carmen Rosado*, Orange County  
22 Superior Court, Newport Beach Facility, Case No. 08HM05114, Respondent was convicted of  
23 petty theft as more fully set forth in paragraphs 17-21, above and incorporated by this reference as  
24 though set forth in full herein.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct – Commission of Acts Involving Dishonesty)**

27 22. Respondent is subject to disciplinary action under Code section 4301(f) for  
28 unprofessional conduct by committing acts involving moral turpitude and dishonesty when on or

1 about May 14, 2008, and the two weeks prior, Respondent stole approximately 325 Soma pills  
2 from her employer, Pavillions Grocery Store, as more fully set forth in paragraphs 17-21, above  
3 and incorporated by this reference as though set forth in full herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct – Self-administration of Dangerous Drugs)**

6 23. Respondent is subject to disciplinary action under Code section 4301(h) for  
7 unprofessional conduct in administering to herself a dangerous drug, Soma, to the extent or in a  
8 matter that was dangerous or injurious to herself such that Respondent admittedly became  
9 addicted to the drug and resorted to stealing from her employer, Pavillions Grocery Store, as more  
10 fully set forth in paragraphs 17-21, above and incorporated by this reference as though set forth in  
11 full herein

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct – Violation of Laws Regulating Dangerous Drugs)**

14 24. Respondent is subject to disciplinary action under Code section 4301(j), in  
15 conjunction with Code section 4059(a), for unprofessional conduct in violating any statutes of  
16 this state regulating controlled substances and dangerous drugs in that Respondent stole Soma  
17 pills, a dangerous drug, as more fully set forth in paragraphs 17-21, above and incorporated by  
18 this reference as though set forth in full herein.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 12067,  
23 issued to Maria Carmen Schreiber.

24 2. Ordering Maria Carmen Schreiber to pay the Board of Pharmacy the reasonable costs  
25 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
26 section 125.3;

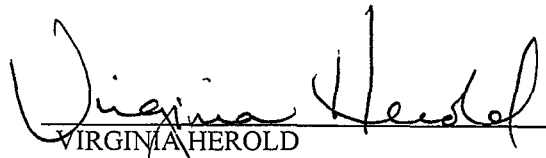
27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

DATED: 3/30/10



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

SD2009805231  
80428914.doc