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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against:

Case No. 3615

12 **JOE LUIS SOSA**
13 **P.O. Box 1893**
Hanford, CA 93232

PETITION TO REVOKE PROBATION

14
15 **Pharmacy Technician Registration No.**
TCH 32591

16 One.

17
18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
22 Consumer Affairs.

23 2. On or about March 10, 2000, the Board issued Pharmacy Technician Registration
24 Number TCH 32591 to Joe Luis Sosa (Respondent). The Pharmacy Technician Registration
25 expired on January 31, 2008, and has not been renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Joe L. Sosa,"
27 Case No. 2971, the Board issued a decision, effective February 13, 2007, in which Respondent's
28 Pharmacy Technician Registration was revoked. However, the revocation was stayed and

1 Respondent was placed on probation for a period of five (5) years with certain terms and
2 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 4300 of the Code states:

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

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

12 "(1) Suspending judgment.

13 "(2) Placing him or her upon probation.

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

15 "(4) Revoking his or her license.

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

18

19 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
20 certificate of licensure for any violation of the terms and conditions of probation. Upon
21 satisfactory completion of probation, the board shall convert the probationary certificate to a
22 regular certificate, free of conditions.

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

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1 6. Section 4301 of the Code states:

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

5

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

11

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

1 THIRD CAUSE TO REVOKE PROBATION

2 (Failure to Report Quarterly to the Board)

3 12. At all times after the effective date of Respondent's probationary period in Board
4 Case No. 2971, Condition 3 required Respondent to report to the Board quarterly, either orally or
5 in writing, as directed.

6 13. Respondent's probation is subject to revocation because he failed to comply with
7 Probation Condition 3, in that Respondent failed to appear before the Board or its designee as
8 requested on the following dates: April 11, 2007, May 10, 2007, and July 5, 2007. Respondent
9 first appeared before the Board or its designee as requested on or about February 21, 2008.

10 FOURTH CAUSE TO REVOKE PROBATION

11 (Failure to Pay Cost Recovery)

12 14. At all times after the effective date of Respondent's probationary period in Board
13 Case No. 2971, Condition 7 required Respondent to pay the costs of investigation and prosecution
14 of Board Case No. 2971, in the amount of \$5,334.75. The cost recovery was to be paid pursuant
15 to a reasonable schedule of payments approved by the Board.

16 15. Respondent's probation is subject to revocation because he failed to comply with
17 Probation Condition 7, in that Respondent has failed to any pay cost recovery to the Board.

18 FIFTH CAUSE TO REVOKE PROBATION

19 (Failure to Maintain an Active License)

20 16. At all times after the effective date of Respondent's probationary period in Board
21 Case No. 2971, Condition 9 required Respondent to maintain an active and current Pharmacy
22 Technician Registration/Certification at all times while on probation.

23 17. Respondent's probation is subject to revocation because he failed to comply with
24 Probation Condition 9, in that Respondent's Pharmacy Technician Registration expired on
25 January 31, 2008, and has not been renewed.

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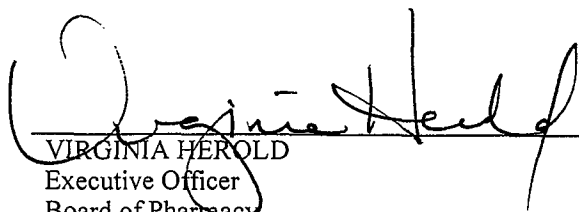
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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/22/10



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

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