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

11 In the Matter of the Accusation Against:	Case No. 4408
12 <b>JUAN CARLOS RAMOS</b>	<b>A C C U S A T I O N</b>
13 <b>233 Auburn Street</b>	
14 <b>Salinas, CA 93901</b>	
15 <b>Pharmacy Technician Registration No.</b>	
16 <b>41963</b>	
Respondent.	

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about April 26, 2002, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number 41963 to Juan Carlos Ramos (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought in this  
24 Accusation and will expire on September 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1           4.     Section 118, subdivision (b), of the Code provides that the expiration of a license  
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
3 within which the license may be renewed, restored, reissued or reinstated.

4   **STATUTORY PROVISIONS**

5           5.     Section 4300 of the Code states, in pertinent part:

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

7           6.     Section 4301 of the Code states, in pertinent part:

8                         . . . .

9                         "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
11 whether the act is a felony or misdemeanor or not.

12                         . . . .

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

18                         . . . .

19                         "(j) The violation of any of the statutes of this state, or any other state, or of the United  
20 States regulating controlled substances and dangerous drugs.

21                         . . . .

22                         "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
23 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
24 federal and state laws and regulations governing pharmacy, including regulations established by  
25 the board or by any other state or federal regulatory agency."

26           7.     Section 4060 of the Code states, in pertinent part:

27                         "No person shall possess any controlled substance, except that furnished to a person upon  
28 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor

1 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
2 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
3 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
4 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
5 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
6 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
7 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
8 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
9 labeled with the name and address of the supplier or producer.”

#### 10 COST RECOVERY

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

#### 15 DRUGS

16 9. “**Vicoprofen**” (generic name Hydrocodone/Ibuprofen) is used short-term to relieve  
17 severe pain. It is a Schedule III controlled substance, as designated by Health and Safety Code  
18 section 11056, subdivision (e)(4), and a dangerous drug pursuant to Business and Professions  
19 Code section 4022.

20 10. “**Tussinoex**” (generic name Hydrocodone/Chlorpheniramine) is used to treat runny  
21 nose, sneezing, and cough caused by a common cold. It is a Schedule III controlled substance, as  
22 designated by Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug  
23 pursuant to Business and Professions Code section 4022.

24 11. “**Ativan**” (generic name Lorazepam) is used for short-term treatment of insomnia and  
25 anxiety. It is a Schedule IV controlled substance, as designated by Health and Safety Code  
26 section 11057, subdivision (d)(16), and a dangerous drug pursuant to Business and Professions  
27 Code section 4022.

28

1 12. "**Phenergan/Codeine**" (generic name Promethazine/Codeine) is a cough suppressant.  
2 It is a Schedule V controlled substance, as designated by Health and Safety Code section 11058,  
3 subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

4 13. "**Pyridium**" (generic name Phenazopyridine) is used to relieve urinary tract pain,  
5 burning, and urgency. It is a dangerous drug pursuant to Business and Professions Code section  
6 4022 in that it can be lawfully dispensed only by prescription.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Theft of Controlled Substances)**

9 14. Respondent has subjected his license to disciplinary action under Code section 4301,  
10 subdivision (f), in that while working as a pharmacy technician at CVS Pharmacy #9186 in  
11 Salinas, California, Respondent admitted to stealing three tablets of Acetaminophen, two tablets  
12 of Aspirin, 30 tablets of Ibuprofen, one tablet of Lorazepam, one tablet of Pyridium, three tablets  
13 of Vicoprofen, 10 ml of Tussinoex, and 10 ml of Promethazine with codeine, for his own personal  
14 use.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Self-Administration of Controlled Substances)**

17 15. Respondent has subjected his license to disciplinary action under Code section 4301,  
18 subdivision (h), in that he administered controlled substances and/or dangerous drugs to himself,  
19 as set forth in paragraph 14, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Commission of Act Involving Dishonesty)**

22 16. Respondent has subjected his license to disciplinary action under section 4301,  
23 subdivision (f) in that he engaged in unprofessional conduct by committing acts of dishonesty,  
24 namely theft. The circumstances are set forth in paragraph 14, above.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct: Violation of State Statutes Regulating Controlled Substances and  
27 Dangerous Drugs)**

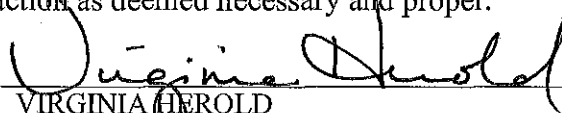
1 17. Respondent has subjected his license to disciplinary action under section 4301,  
2 subdivisions (j) and (o) in that he engaged in unprofessional conduct by violating statutes of this  
3 state regulating controlled substances and dangerous drugs, namely Code section 4059,  
4 subdivision (a) and Health and Safety Code section 11173, subdivision (a).

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
7 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 8 1. Revoking or suspending Pharmacy Technician Registration Number 41963, issued to  
9 Juan Carlos Ramos
- 10 2. Ordering Juan Carlos Ramos to pay the Board of Pharmacy the reasonable costs of  
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: 1/18/13

  
15 VIRGINIA HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

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