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

12 In the Matter of the Accusation Against:

Case No. 4617

13 **EFRAIN RODRIGUEZ**
14 **1411 Mt. Whitney Drive**
15 **San Jose, CA 95127**

A C C U S A T I O N

16 **Pharmacy Technician Registration No. TCH**
17 **94671**

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 October 27, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 94671 to Efrain Rodriguez (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought in this
25 Accusation and will expire on April 30, 2015, unless renewed.

26 **JURISDICTION**

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

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.

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

8 7. Title 16, California Code of Regulations, section 1770, states:

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

15 COST RECOVERY

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

20 FIRST CAUSE FOR DISCIPLINE

21 **(Unprofessional Conduct - Conviction of a Substantially Related Crime)**

22 9. Respondent has subjected his license to disciplinary action under Code sections 4301,
23 subdivision (l) and 490 in that he was convicted of a crime substantially related to the
24 qualifications, functions, and duties of a pharmacy technician, as defined in title 16, California
25 Code of Regulations section 1770. The circumstances are set forth in paragraph 10, below.

26 10. On or about December 27, 2012, in *People v. Rodriguez, Efrain Bautista Jr.*,
27 Stanislaus County Superior Court case number 1451043, Respondent pled nolo contendere to
28 violating Penal Code section 508 (embezzlement by servant). Respondent was sentenced to

1 ninety (90) days in jail, payment of fines and fees, and three years probation under terms which
2 included, but were not limited to, restitution, a stay away order from Walgreens located at 840
3 Oakdale Road, in Modesto, California. The factual circumstances of the conviction are that
4 between on or about September 1, 2012, and October 3, 2012, while employed as a pharmacy
5 technician at Walgreens in Modesto, California, Respondent admitted to providing free
6 merchandise to friends and family when he acted as a cashier.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Commission of an Act Involving Dishonesty)**

9 11. Respondent has subjected his license to disciplinary action under Code section 4301,
10 subdivision (f) in that he engaged in unprofessional conduct by committing acts of dishonesty,
11 namely embezzlement. The circumstances are set forth in paragraph 10, above.

12 **PRAYER**

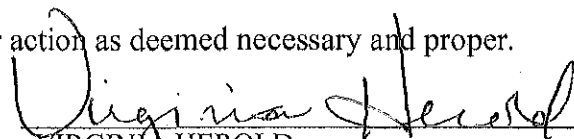
13 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
14 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 94671,
16 issued to Efrain Rodriguez;

17 2. Ordering Efrain Rodriguez to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;

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

21 DATED: 6/27/13



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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