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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. 4720

13 **DRAHNIER DEL ROSARIO SCHMIDT**
14222 Filmore Street
Arleta, CA 91331

A C C U S A T I O N

15 Pharmacy Technician Registration
No. TCH 122982

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 May 29, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration No. TCH 122982 to Drahnier Del Rosario Schmidt (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 September 30, 2015, unless renewed.

26 **JURISDICTION**

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

1

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

5

6 "(g) Knowingly making or signing any certificate or other document that falsely
7 represents the existence or nonexistence of a state of facts.

8

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

26

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency."

3 **REGULATORY PROVISIONS**

4 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

11 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

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

18 10. Respondent is subject to disciplinary action under Sections 4301, subdivision (l) and
19 490, in conjunction with California Code of Regulations, title 16, Section 1770, in that
20 Respondent was convicted of a crime substantially related to the qualifications, functions or
21 duties of a pharmacy technician, as follows:

22 a. On or about January 4, 2013, after pleading nolo contendere, Respondent was
23 convicted of one misdemeanor count of violating Penal Code section 470, subdivision (d) [false
24 check/record/certificate] and one misdemeanor count of Penal Code section 484G, subdivision (a)
25 [theft by fraudulent use of forged/invalid access card] in the criminal proceeding entitled *The*
26 *People of the State of California v. Drahnier Del Rosario Schmidt* (Super Ct. Los Angeles
27 County, 2013, No. 2WA23576.) The Court placed Respondent on 24 months probation and
28 ordered him to make restitution to the victim, among other terms and conditions.

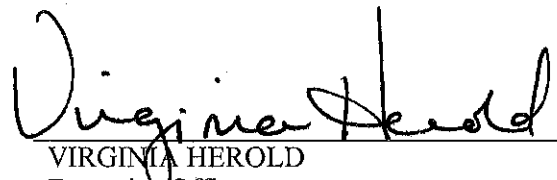
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PRAYER

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 NO. TCH 122982, issued to Drahnier Del Rosario Schmidt;
2. Ordering Drahnier Del Rosario Schmidt to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/21/13



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

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