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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **REBECCA MURILLO** **32076 Meadow Wood Lane** **Lake Elsinore, CA 92704** **Pharmacy Technician Registration No. TCH 3695** Respondent.	Case No. 5271 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On January 26, 1993, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 3695 to Rebecca Murillo (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2014, unless renewed.

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JURISDICTION

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

4. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

5. Code section 4300.1 states:

> The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Code section 482 states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
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> (a) Considering the denial of a license by the board under Section 480; or
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> (b) Considering suspension or revocation of a license under Section 490.
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> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Code section 490 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.

8. Code section 493 states:

> Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. This section shall not be construed to apply to any drug

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diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

9. 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.

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

. . . .

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

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REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) 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.

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

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(March 9, 2014 Conviction for Grand Theft on January 11, 2008)

13. Respondent has subjected her registration to discipline under Code sections 490 and 4301, subdivision (l) in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are as follows:

a. On March 9, 2014, in a criminal proceeding entitled *The People of the State of California vs. Rebecca Murillo*, in Riverside County Superior Court, Larson Justice

Center, Criminal Division Case Number RIF1302564, Respondent was convicted on her plea of guilty to violating Penal Code (PC) section 487, subdivision (a), grand theft, a misdemeanor. Felony charges for two counts of violation of PC section 115, procuring and offering false and forged instruments, were dismissed, and the allegation that in the commission of grand theft Respondent took, damaged, and destroyed property of a value exceeding $65,000.00 under PC section 12022.6, subdivision (a)(1), was stricken, pursuant to a plea bargain.

b. As a result of the conviction, on March 9, 2014, Respondent was sentenced to be committed to the custody of the Riverside County Sheriff for 30 days, with credit for 16 days actually served and 16 days for good behavior, and granted 36 months summary probation under drug, search, and test program terms. Respondent was ordered to pay fees, fines, assessments, and victim restitution. Respondent was also ordered to surrender her notary commission and not have any induement, association, or employment related to real estate or notary public.

c. The facts that led to the conviction are that on or about January 11, 2008, Respondent and her associate, R.L.O., created and offered a false and forged grant deed and deed of trust, which were registered in Riverside County, California. Respondent, using her notary commission, notarized the documents in the absence of the victim, M.A., a listed party to both the grant deed and the deed of trust. As a result, Respondent and her associate defrauded money from a bank in the amount of $99,000.00.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

14. Respondent has subjected her registration to discipline under Code section 4301, subdivision (f), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, and corruption when she stole $99,000.00 from a bank by fraudulently notarizing a grant deed and deed of trust, as described in paragraph 13, above, and incorporated herein by this reference.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Signing Any Certificate that Falsely Represented the Existence of a State of Facts)

15. Respondent has subjected her registration to discipline under Code section 4301, subdivision (g), in that she committed acts involving signing of documents that falsely represented the existence of a state of facts when she fraudulently notarized a grant deed and a deed of trust when a party who was required by law to sign them in her presence was absent, as described in paragraph 13, above, and incorporated herein by this reference.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 3695, issued to Rebecca Murillo;

2. Ordering Rebecca Murillo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 11/10/14

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

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