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8	BEFORE THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 5658
12	KAREN CLEO VENITA MCMILLIAN	ACCUSATION
13	793 14th Street San Pedro, CA 90731	
14	Pharmacy Technician Registration No. TCH 84800	
15	Respondent.	
16	· ·]
17	Complainant alleges:	
18	<u>PARTIES</u>	
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as	
20	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.	
21	2. On or about July 28, 2008, the Board issued Pharmacy Technician Registration No.	
22	TCH 84800 to Karen Cleo Venita McMillian (Respondent). The Pharmacy Technician	
23	Registration was in full force and effect at all times relevant to the charges brought herein and will	
24	expire on November 30, 2017, unless renewed.	
25	<u>JURISDICTION</u>	
26	3. This Accusation is brought before the Board under the authority of the following laws.	
27	All section references are to the Business and Professions Code unless otherwise indicated.	
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(KAREN CLEO VENITA MCMILLIAN) ACCUSATION

- 4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.
 - 5. Section 4300.1 states, in pertinent part:

"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. Section 4301 states, in pertinent part:

"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.

. . .

"(1) 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."

REGULATORY PROVISIONS

7. 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."

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

- 8. Respondent is subject to disciplinary action under sections 4300, and 4301, subdivision (1), in conjunction with, California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician, as follows:
- a. On or about May 6, 2015, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 487, subdivision (a) [grand theft by embezzlement] in the criminal proceeding entitled *The People of the State of California v. Karen McMillan* (Super. Ct. L.A. County, 2015, No. NA100598). The Court ordered Respondent to pay restitution to the victim in the amount of \$39,669.00.
- b. The circumstances surrounding the conviction are that in or between 2003 and 2012, Respondent took \$39,669 in funds from her employer.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

9. Respondent is subject to disciplinary action under section 4301, subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit herself, or substantially injure another.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 8, as though set forth fully

<u>PRAYER</u>

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 84800, issued to Karen Cleo Venita McMillian;
- 2. Ordering Karen Cleo Venita McMillian 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: 3/19/16

VIRGINIA HEROLD

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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