

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

In the Matter of the Accusation Against:

JUAN C. RENDEROS
Designated Representative Certificate
No. EXC 16578

Respondent.

Case No. 3208

OAH No. 2009080298

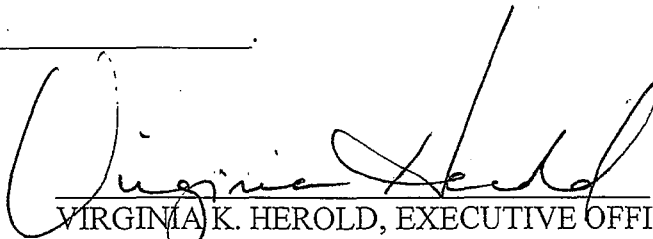
NOTICE OF DECISION AND ORDER

No action having been taken and processed timely on the attached Proposed Decision, pursuant to Government Code section 11517(c)(2) the attached decision is hereby deemed adopted by operation of law on February 26, 2010, by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in the above entitled matter.

Pursuant to Government Code section 11519, this Decision shall become effective on April 3, 2010.

Date

3/4/10



VIRGINIA K. HEROLD, EXECUTIVE OFFICER
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JUAN C. RENDEROS
435 S. Poplar Street
Santa Ana, CA 92703

Designated Representative Certificate No.
EXC 16578,

Respondent.

No. 3208

OAH No. 2009080298

PROPOSED DECISION

On October 28, 2009, in San Diego, California, Alan S. Meth, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Rita M. Lanè, Deputy Attorney General, represented the complainant.

Respondent Juan C. Renderos represented himself.

The matter was submitted on October 28, 2009.

FACTUAL FINDINGS

1. On December 8, 2008, Virginia Herold, Executive Officer, Board of Pharmacy, Department of Consumer Affairs, State of California (hereafter, "Board") filed Accusation No. 3208 in her official capacity. Respondent filed a timely Notice of Defense.
2. On April 4, 2002, the Board issued Original Certificate Number EXC 16578 to respondent to act as a designated representative in California.
3. On June 9, 2006, respondent was driving his Toyota pickup truck in Santa Ana, California, when he was stopped by a police officer for failing to signal before making a right turn. The officer approached respondent's vehicle after they stopped and eventually asked respondent for permission to search the pickup. Respondent consented to a search. The officer found a Ziploc baggie containing 1.2 grams of cocaine. Respondent later

admitted to the officer that the cocaine was his, he had purchased it for \$15.00, and he had been using cocaine off and on due to emotional trouble. Respondent added that he had been trying to stop using cocaine and had attended a Victory Outreach Program.

4. On July 14, 2006, in the Superior Court of Orange County, respondent pled guilty and was convicted of violating Health and Safety Code section 11350, subdivision (a), possession of a controlled substance. Entry of judgment was deferred and respondent was ordered to enroll in a drug program pursuant to Penal Code section 1000.

On October 26, 2006, the court terminated the Penal Code section 1000 proceedings. The court then placed respondent on probation for three years on condition, among others, that he complete a drug treatment program pursuant to Penal Code section 1210, and he pay various fines and fees.

On December 1, 2006, a petition for probation violation was filed and on December 7, respondent admitted the probation violation. The court revoked probation, but reinstated it on modified terms. Another petition for probation violation was filed on January 10, 2007. On January 17, respondent admitted the probation violation. The court again revoked respondent's probation, reinstated it, and modified the terms. Respondent was to resume the Penal Code section 1210 program and enroll in the Diversified Level 2 program.

On January 22, 2008, the court found that respondent had successfully completed drug treatment and had substantially complied with the conditions of probation. The court dismissed the case pursuant to Penal Code section 1210.

5. Respondent testified in his own behalf at the hearing. He has not worked in the pharmaceutical field since 2003 and has no intention of resuming work in that field. He last worked for Medtronic Heart Valves but was laid off in March 2009. He previously held two part-time jobs. He testified he does not need his license any longer.

During the court-mandated drug program respondent completed, he was tested for drug use and never tested positive. He testified he does not use cocaine any longer, but he does not currently participate in any drug rehabilitation program. He completed the court-mandated program in August 2007.

Respondent does volunteer work at his church.

6. The Board incurred costs for the investigation and enforcement of this matter in the amount of \$3,089.50 for the services of the Attorney General. The amount is reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 4301 provides in 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.

[¶] . . .

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

[¶] . . .

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

2. Business and Professions Code section 4060 provides in part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

3. Cause to revoke or suspend respondent's designated representative certificate pursuant to Business and Professions Code sections 4300, subdivision (a) and 4301, subdivisions (f), (j), and (o) was established by Findings 3 and 4 in that respondent illegally possessed and used controlled substances.

4. Respondent offered little evidence of rehabilitation. He did complete the drug program mandated by the court and had the case dismissed in 2008, but he offered no proof

that he is continuing his efforts to remain drug-free. He has not worked under his license since 2003, and has no apparent interest in finding employment in the pharmaceutical field. Indeed, he has little interest in retaining his certificate. It is readily apparent that a person who has recently used controlled substances cannot continue to work in a position that allows him ready and unsupervised access to dangerous drugs and controlled substances, as respondent's certificate permits. For these reasons, revocation is the only disciplinary order appropriate in this matter.

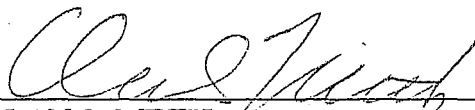
5. Cause to order respondent to reimburse the Board for its costs of investigation and enforcement of this matter in the amount of \$3,089.50 was established by reason of Finding 6.

ORDER

1. Designated Representative Certificate Number EXC 16578 issued to respondent Juan C. Renderos is revoked.

2. Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,089.50.

DATED: 11/17/09


ALAN S. METH
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE, State Bar No. 171352
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2614
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

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11 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 3208

14 JUAN C. RENDEROS
435 S. Poplar Street
15 Santa Ana, CA 92703

A C C U S A T I O N

16 Designated Representative Certificate
No. EXC 16578

17
18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about April 4, 2002, the Board of Pharmacy issued Designated
25 Representative Certificate Number EXC 16578 to Juan C. Renderos (Respondent). The
26 Designated Representative Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on April 1, 2009, unless renewed.

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2 JURISDICTION

3 3. This Accusation is brought before the Board of Pharmacy (Board),
4 Department of Consumer Affairs, under the authority of the following laws of the Business and
5 Professions Code (Code):

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

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

13 6. Section 4060 of the Code provides, in pertinent part, that no person shall
14 possess any controlled substance, except that furnished to a person upon the prescription of a
15 physician, dentist, podiatrist, or veterinarian.

16 7. Section 4300(a) of the Code provides in pertinent part, that every license
17 issued may be suspended or revoked.

18 8. Section 4301 of the Code states in pertinent part:

19 The board shall take action against any holder of a license who is guilty of
20 unprofessional conduct or whose license has been procured by fraud or
21 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
22 is not limited to, any of the following:

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

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

28 (o) Violating or attempting to violate, directly or indirectly, or assisting in

1 or abetting the violation of or conspiring to violate any provision or term of this
2 chapter or of the applicable federal and state law and regulations governing
3 pharmacy, including regulations established by the board or by any other state or
4 federal regulatory agency.

5 9. Health and Safety Code section 11350 states:

6 (a) Except as otherwise provided in this division, every person who
7 possesses (1) any controlled substance specified in subdivision (b) or (c), or
8 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14),
9 (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or
10 (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any
11 controlled substance classified in Schedule III, IV, or V which is a narcotic drug,
12 unless upon the written prescription of a physician, dentist, podiatrist, or
13 veterinarian licensed to practice in this state, shall be punished by imprisonment
14 in the state prison.

15 10. Health and Safety Code section 11170 provides that no person shall
16 prescribe, administer, or furnish a controlled substance for himself.

17 DRUG

18 11. At all times material herein, cocaine was and is a Schedule II controlled
19 substance as set forth in Health and Safety Code section 11054.

20 FIRST CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct: Possession of a Controlled Substance)

22 12. Respondent's license is subject to discipline for unprofessional conduct
23 under sections 4301(j) and 4060 in that he violated state statutes regulating controlled substances
24 by possessing a controlled substance in violation of the law. The circumstances are as follows:

25 a. On June 9, 2006, Respondent, while driving his vehicle, stopped at a
26 posted stop sign and then failed to use his vehicle signal before making a right hand turn.
27 Respondent was pulled over by a police officer who observed the traffic violation. The officer
28 observed Respondent reaching down towards the center console area of the vehicle and moving
something with his right hand. The officer asked Respondent if he could search Respondent's
vehicle and Respondent gave the officer permission to do so. The officer found cocaine in a
baggie hidden in the vehicle's four-wheel drive stick shift rubber liner. Respondent admitted
that the cocaine was his and that he had been using cocaine on and off due to emotional trouble.
Respondent was arrested for possession of a narcotic in violation of Health and Safety Code

1 section 11350.

2 b. On or about July 14, 2006, in the proceeding entitled *People vs. Juan*
3 *Carlos Renderos*, Orange County Superior Court, Case Number 06CF1817, Respondent pled
4 guilty to possession of a narcotic controlled substance (cocaine) in violation of Health and Safety
5 Code section 11350(a). Entry of the judgment was deferred pursuant to Penal Code section 1000
6 and Respondent was ordered to enroll in a diversion program.

7 c. On or about October 26, 2006, the court ordered that proceedings pursuant
8 to Penal Code section 1000 be terminated. Sentence was suspended and Respondent was placed
9 on three years formal probation and ordered to submit to drug testing; complete a drug treatment
10 program pursuant to Penal Code section 1210; pay \$200 restitution and pay various costs to the
11 court.

12 d. On or about December 7, 2006, the court found Respondent had violated
13 his probation. Respondent's probation was revoked and the court ordered Respondent's
14 probation to be reinstated with modified terms of no alcohol consumption, enroll in a Penal Code
15 section 1210 program at La Familia; obtain employment by December 13, 2006 and provide
16 proof to the probation officer.

17 e. On or about January 10, 2007, a probation violation petition was filed with
18 the court.

19 f. On or about January 16, 2007, a probation violation hearing was held and
20 the court found that Respondent violated his probation. The probation order was revoked and
21 the court ordered Respondent's probation reinstated with the modified terms of no alcohol
22 consumption, resume attendance in the Penal Code section 1210 program, enroll in Diversified
23 Level 2 program and provide proof to the court on January 20, 2007.

24 g. On or about January 22, 2007, the court held a dismissal hearing wherein
25 the court set aside Respondent's guilty plea and vacated the probation imposed on October 26,
26 2006 due to Respondent's successful completion of his drug treatment program.

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SECOND CAUSE FOR DISCIPLINE

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(Unprofessional Conduct: Administering of a Controlled Substance to Oneself)

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13. Respondent's license is subject to discipline for unprofessional conduct under section 4301(j) and Health and Safety Code section 11170 for administering controlled substances to himself in violation of state statues regulating controlled substances in that on or about June 9, 2006, Respondent admitted to a police officer that he uses cocaine. The circumstances are more specifically set forth in paragraph 12 above and incorporated herein by reference.

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THIRD CAUSE FOR DISCIPLINE

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(Unprofessional Conduct: Violating State Law Governing Pharmacy)

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14. Respondent's license is subject to discipline for unprofessional conduct under sections 4301(o) and Health and Safety Code section 11350(a) for violating state law governing pharmacy in that on July 14, 2006 Respondent was in possession of cocaine in violation of the law as set forth in paragraph 12 above and incorporated herein by reference.

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FOURTH CAUSE FOR DISCIPLINE

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(Unprofessional Conduct: Act of Moral Turpitude)

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15. Respondent's license is subject to discipline for unprofessional conduct under section 4301(f) for an act of moral turpitude in that on July 14, 2006 Respondent was in possession of cocaine as set forth in paragraph 12 above and incorporated herein by reference.

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PRAYER

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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:

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1. Revoking or suspending Designated Representative Certificate Number EXC 16578 issued to Juan C. Renderos;
2. Ordering Juan C. Renderos to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions

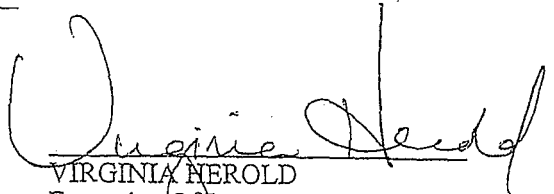
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Code section 125.3; and

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

DATED: 12/8/08



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

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