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

Case No. 3563

In the Matter of the Accusation Against:

RAQUEL JANINE DELACRUZ
2030 W. Dogwood Avenue
Anaheim, CA 92801
Pharmacy Technician No. TCH 62221

Respondent.

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 9, 2010 Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3563 against Raquel Janine Delacruz (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit 1.)
2. On or about June 1, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician No. TCH 62221 to Respondent. The Pharmacy Technician was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.
3. On or about June 14, 2010, Respondent was served by First Class Mail and Certified Mail copies of the Accusation No. 3563, Statement to Respondent, Request for Discovery and Discovery statutes, and Notice of Defense at Respondent's address of record which, pursuant to

1 Business and Professions Code section 4100, is required to be reported and maintained with the
2 Board, which was and is:

3 2030 W. Dogwood Avenue
4 Anaheim, CA 92801.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about June 28, 2010, Respondent signed and returned a Notice of Defense,
9 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
10 address of record and it informed her that an administrative hearing in this matter was scheduled
11 for October 26, 2010. Respondent failed to appear at that hearing.

12 6. On or about October 18, 2010, Respondent requested a continuance from the Office
13 of Administrative Hearings. Respondent stated she had "multiple death in family." Respondent's
14 request was granted.

15 7. On or about October 25, 2010, a new notice of hearing was issued for a hearing
16 scheduled on June 8, 2011.

17 8. Government Code section 11506 states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if
19 the respondent files a notice of defense, and the notice shall be deemed a
20 specific denial of all parts of the accusation not expressly admitted. Failure
21 to file a notice of defense shall constitute a waiver of respondent's right to a
22 hearing, but the agency in its discretion may nevertheless grant a hearing.

23 9. California Government Code section 11520 states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense or to
25 appear at the hearing, the agency may take action based upon the
26 respondent's express admissions or upon other evidence and affidavits may
27 be used as evidence without any notice to respondent.

28 10. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 3563, finds that
2 the charges and allegations in Accusation No. 3563, are separately and severally, found to be true
3 and correct by clear and convincing evidence.

4 11. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$7,552.50 as of June 7, 2011.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Raquel Janine Delacruz has
9 subjected her Pharmacy Technician No. TCH 62221 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
12 based upon the following violations alleged in the Accusation which are supported by the
13 evidence contained in the Default Decision Evidence Packet in this case.:

14 a. Violation of Business and Professional Code section 4301 subdivisions (f), (l) and (p)
15 in that, on or about September 21, 2007, Respondent, who working as an employee at Walgreens,
16 accessed a credit card number of a customer and linked it to a different customer's Walgreen
17 Expresspay Account. This type of account allows the customer to verbally verify themselves at
18 the cash register and then those purchases are directly charged to the credit card on file.
19 Respondent did not have authorization to attach the credit card number to the Expresspay
20 Account. The customer discovered later that an unauthorized transaction of \$561.16 was
21 processed on his credit card account. Part of this transaction included a \$500 gift card.

22 b. On or about the same day on September 21, 2007, Respondent and her boyfriend
23 entered a different Walgreens located in Buena Park and redeemed a portion of the \$500 gift card.
24 In her plea of guilty, Respondent admitted that she unlawfully entered the Walgreens with the
25 intent to commit larceny.

26 c. On or about October 14, 2008, Respondent fraudulently charged \$470.36 to another
27 customer's credit card using the Expresspay Account verification. Respondent purchased four
28 \$100.00 American Express gift cards, Hallmark cards, and DVDs, and picked up a prescription

1 for Isosorbide Dinitrate 10 mg tablets. Respondent admitted that she unlawfully took money and
2 personal property from the customer.

3 d. On or about November 1, 2007, Respondent possessed, with the intent to defraud, a
4 written check payable to Respondent in the sum of \$400.00 which was not authorized by the
5 owner of the checking account. Respondent admitted that she possessed the check with the intent
6 to defraud the owner.

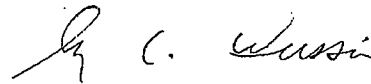
7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician No. TCH 62221, heretofore issued to
9 Respondent Raquel Janine Delacruz, is revoked.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
11 written motion requesting that the Decision be vacated and stating the grounds relied on within
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
13 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

14 This Decision shall become effective on November 23, 2011.

15 It is so ORDERED October 24, 2011.

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STANLEY C. WEISSER, BOARD PRESIDENT
19 FOR THE BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS
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Attorneys for Complainant

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

11 Case No. 3563

12 In the Matter of the Accusation Against:

13 RAQUEL JANINE DELACRUZ; a.k.a.
14 RAQUEL JANINE MARIA PATINO DELACRUZ; a.k.a.
15 RAQUEL DE LA CRUZ
2030 W. Dogwood Avenue
Anaheim, CA 92801

ACCUSATION

16 Pharmacy

16 Technician Registration No. TCH 62221

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about June 1, 2005, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 62221 to Raquel Janine Delacruz, also known as Raquel Janine Maria
25 Patino Delacruz, also known as Raquel De La Cruz (Respondent). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on June 30, 2011, unless renewed.

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1 judgment of conviction has been affirmed on appeal or when an order granting
2 probation is made suspending the imposition of sentence, irrespective of a
3 subsequent order under Section 1203.4 of the Penal Code allowing the person to
4 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
5 the verdict of guilty, or dismissing the accusation, information, or indictment.

6
7 (p) Actions or conduct that would have warranted denial of a license.

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

12 8. Section 493 of the Code states:

13 Notwithstanding any other provision of law, in a proceeding conducted by a
14 board within the department pursuant to law to deny an application for a license or
15 to suspend or revoke a license or otherwise take disciplinary action against a
16 person who holds a license, upon the ground that the applicant or the licensee has
17 been convicted of a crime substantially related to the qualifications, functions, and
18 duties of the licensee in question, the record of conviction of the crime shall be
19 conclusive evidence of the fact that the conviction occurred, but only of that fact,
20 and the board may inquire into the circumstances surrounding the commission of
21 the crime in order to fix the degree of discipline or to determine if the conviction is
22 substantially related to the qualifications, functions, and duties of the licensee in
23 question.

24 As used in this section, "license" includes "certificate," "permit,"
25 "authority," and "registration."

26 9. Section 482 of the Code states:

27 Each board under the provisions of this code shall develop criteria to
28 evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

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REGULATORY PROVISIONS

10. 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.

11. 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.

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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.

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FIRST CAUSE FOR DISCIPLINE

(7/10/2008 Felony Convictions – Acquiring Access Cards, Possessing Completed Check with Intent to Defraud, Burglary, Grand Theft on 9/21/2007)

13. Respondent is subject to disciplinary action under sections 490 and 4301(1) of the Code in that she was convicted of crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

1 a. On or about July 10, 2008, in a criminal proceeding entitled *People of the State*
2 *of California v. Raquel Janine Maria Patino Delacruz*, in Orange County Superior Court, Case
3 Number 07NF4323, Respondent was convicted on her plea of guilty to four felonies, including
4 violation of: Penal Code section 484e(d), acquiring access cards using different names, a felony;
5 Penal Code section 475(c), possessing a completed check with intent to defraud, a felony; Penal
6 Code section 459-460(b), burglary in the second degree, a felony; and Penal Code section 487(a),
7 grand theft, a felony.

8 b. As the result of her convictions, Respondent was granted 3 years of formal
9 probation, sentenced to 180 days in jail, and ordered to pay restitution.

10 c. The facts and circumstances that led to the convictions were that on or about
11 September 21, 2007, Respondent, who working as an employee at Walgreens, accessed a credit
12 card number of a customer and linked it to a different customer's Walgreen Expresspay Account.
13 This type of account allows the customer to verbally verify themselves at the cash register and
14 then those purchases are directly charged to the credit card on file. Respondent did not have
15 authorization to attach the credit card number to the Expresspay Account. The customer
16 discovered later that an unauthorized transaction of \$561.16 was processed on his credit card
17 account. Part of this transaction included a \$500 gift card.

18 d. On or about the same day on September 21, 2007, Respondent and her
19 boyfriend entered a different Walgreens located in Buena Park and redeemed a portion of the
20 \$500 gift card. In her plea of guilty, Respondent admitted that she unlawfully entered the
21 Walgreens with the intent to commit larceny.

22 e. On or about October 14, 2008, Respondent fraudulently charged \$470.36 to
23 another customer's credit card using the Expresspay Account verification. Respondent purchased
24 four \$100.00 American Express gift cards, Hallmark cards, and DVDs, and picked up a
25 prescription for Isosorbide Dinitrate 10 mg tablets. Respondent admitted that she unlawfully took
26 money and personal property from the customer.

27 f. On or about November 1, 2007, Respondent possessed, with the intent to
28 defraud, a written check payable to Respondent in the sum of \$400.00 which was not authorized

1 by the owner of the checking account. Respondent admitted that she possessed the check with the
2 intent to defraud the owner.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Moral Turpitude, Fraud and Dishonesty)**

5 14. Respondent is subject to disciplinary action for unprofessional conduct under section
6 4301(f) of the Code in that Respondent's acquiring access cards using different names, possessing
7 a completed check with the intent to defraud, burglary and grand theft constitute moral turpitude,
8 fraud, and dishonesty, as is detailed in paragraph 13, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Conduct That Would Have Warranted a Denial of a License)**

11 15. Respondent is subject to disciplinary action under section 4301(p) of the Code in that
12 Respondent committed burglary, grand theft, possession of a completed check with the intent to
13 defraud and acquired access card account information using different names. Such egregious
14 conduct would have warranted the denial of a pharmacy technician registration under section 480,
15 subdivisions (a)(1) and (a)(2) of the Code.

16 **PRAAYER**

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

19 1. Revoking or suspending Pharmacy Technician Number TCH 62221, issued to Raquel
20 Janine Delacruz;

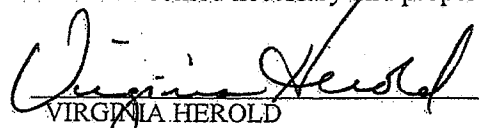
21 2. Ordering Raquel Janine Delacruz to pay the Board of Pharmacy the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3;

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

DATED: 6/9/10



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

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