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

10 In the Matter of the Accusation Against:

Case No. 3668

11 **JUAN JAVIER FLORES**  
12 **aka JUAN JAVIER FLORES SOTO**  
13 11812 Borden Avenue  
14 Pacoima, CA 91331

**DEFAULT DECISION AND ORDER**

15 Pharmacy Technician License No. TCH 62816

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about December 17, 2010, Complainant Virginia Herold, in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
20 filed Accusation No. 3668 against Juan Javier Flores aka Juan Javier Flores Soto (Respondent)  
21 before the Board of Pharmacy. (Accusation attached as Exhibit A.)

22 2. On or about June 9, 2005, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 62816 to Respondent. The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought in Accusation No. 3668  
25 expired on February 28, 2011, and has not been renewed.

26 3. On or about January 5, 2011, Respondent was served by Certified and First Class  
27 Mail copies of the Accusation No. 3668, Statement to Respondent, Notice of Defense, Request  
28 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
section 4100, is required to be reported and maintained with the Board, which was and is: 11812  
Borden Avenue, Pacoima, CA 91331.

1 4. Service of the Accusation was effective as a matter of law under the provisions of  
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
3 124.

4 5. Government Code section 11506 states, in pertinent part:

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
11 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
12 No. 3668.

13 7. California Government Code section 11520 states, in pertinent part:

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

18 8. Pursuant to its authority under Government Code section 11520, the Board finds  
19 Respondent is in default. The Board will take action without further hearing and, based on the  
20 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
21 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
22 file at the Board's offices regarding the allegations contained in Accusation No. 3668, finds that  
23 the charges and allegations in Accusation No. 3668, are separately and severally, found to be true  
24 and correct by clear and convincing evidence.

25 9. Taking official notice of its own internal records, pursuant to Business and  
26 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
27 and Enforcement is \$3,752.50 as of August 11, 2011.

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DETERMINATION OF ISSUES

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2           1.    Based on the foregoing findings of fact, Respondent Juan Javier Flores aka Juan  
3 Javier Flores Soto has subjected his Pharmacy Technician Registration No. TCH 62816 to  
4 discipline.

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

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

9           a.    Business and Professions Code sections 490 and 4301, subdivision (l), and California  
10 Code of Regulations, title 16, section 1770, convictions of substantially related crimes.

11           b.    Business and Professions Code section 4301, subdivision (k), alcohol related criminal  
12 convictions.

13           c.    Business and Professions Code section 4301, subdivision (h), dangerous use of  
14 alcohol.

15           d.    Business and Professions Code section 4301, subdivision (g), false statement on  
16 application for licensure.

17           e.    Business and Professions Code sections 4301, subdivision (p), 480, subdivisions  
18 (a)(1) and (2), acts warranting denial of licensure.

19           f.    Business and Professions Code section 4301, subdivision (f), acts involving moral  
20 turpitude, dishonesty, fraud, deceit, or corruption.

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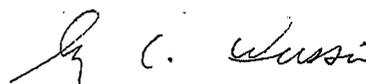
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 62816, heretofore issued to Respondent Juan Javier Flores aka Juan Javier Flores Soto, is revoked.

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

This Decision shall become effective on November 23, 2011.

It is so ORDERED October 24, 2011.



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STANLEY C. WEISSER, BOARD PRESIDENT  
FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

60665351.DOC  
DOJ Matter ID:LA2010600496

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 STEPHEN A. MILLS  
Deputy Attorney General  
4 State Bar No. 54145  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2539  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:  
11  
12 **JUAN JAVIER FLORES**  
**aka JUAN JAVIER FLORES SOTO**  
11812 Borden Avenue  
13 Pacoima, CA 91331  
14 Pharmacy Technician Registration No. TCH 62816  
15 Respondent.

Case No. 3668

**A C C U S A T I O N**

16  
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 (Board).  
22 2. On or about June 9, 2005, the Board issued Pharmacy Technician Registration No.  
23 TCH 62816 to Juan Javier Flores aka Juan Javier FloresSoto (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 February 28, 2011, 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.

STATUTORY PROVISIONS

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2       4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or  
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
4 action during the period within which the license may be renewed, restored, reissued or  
5 reinstated.

6       5. Section 480 states:

7       "(a) A board may deny a license regulated by this code on the grounds that the applicant  
8 has one of the following:

9       "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
11 board is permitted to take following the establishment of a conviction may be taken when the  
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
13 an order granting probation is made suspending the imposition of sentence, irrespective of a  
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15       "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
16 benefit himself or herself or another, or substantially injure another.

17       6. Section 490 provides that a board may suspend or revoke a license on the ground that  
18 the licensee has been convicted of a crime substantially related to the qualifications, functions, or  
19 duties of the business or profession for which the license was issued.

20       7. Section 4300 states, subdivision (a), states that "[e]very license issued may be  
21 suspended or revoked."

22       8. Section 4301 states, in pertinent part:

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

26       ....

27       "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
28 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and

1 whether the act is a felony or misdemeanor or not.

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

4 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
5 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
6 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
7 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
8 practice authorized by the license.

9 . . . . .  
10 "(k) The conviction of more than one misdemeanor or any felony involving the use,  
11 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
12 combination of those substances.

13 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
14 duties of a licensee under this chapter. . . . .

15 . . . . .  
16 "(p) Actions or conduct that would have warranted denial of a license. . . ."

17 **REGULATORY PROVISIONS**

18 9. California Code of Regulations, title 16, section 1770, states:

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

25 **COST RECOVERY**

26 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
27 law judge to direct a licensee found to have committed a violation or violations of the licensing

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1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
2 case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Convictions of Substantially Related crimes)**

5 11. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision  
6 (l), on the grounds of unprofessional conduct, in conjunction with California Code of  
7 Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially  
8 related to the qualifications, functions or duties of a licensee which to a substantial degree  
9 evidence his present or potential unfitness to perform the functions authorized by his license in a  
10 manner consistent with the public health, safety, or welfare, as follows:

11 a. On or about December 14, 2009, after pleading nolo contendere, Respondent was  
12 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while  
13 having a 0.08% or higher blood alcohol, to wit, 0.12%], in the criminal proceeding entitled *the*  
14 *People of the State of California v. Juan Javier Flores* (Super. Ct. Los Angeles County, 2009, No.  
15 9GF00776). The Court sentenced Respondent to 96 hours in jail, placed him on 60 months of  
16 probation, ordered him in lieu of fines, to complete 13 days of Cal Trans duty, and ordered him to  
17 complete an 18-month alcohol program. The circumstances underlying the conviction are that on  
18 or about October 31, 2009, Respondent was driving under the influence of alcohol and had a test  
19 blood alcohol of 0.15/0.18%.

20 b. On or about December 16, 2005, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while  
22 having a 0.08% or higher blood alcohol], with admissions to violating Vehicle Code section  
23 23578 [driving with blood alcohol of .20 or more] and the special allegation of having a prior  
24 violation to Vehicle Code section 23152<sup>1</sup>, in the criminal proceeding entitled *The People of the*  
25 *State of California v. Juan Javier Flores Soto* (Super. Ct. Ventura County, 2005,

26 <sup>1</sup> On or about January 8, 1996, Respondent was convicted of one misdemeanor count of  
27 violating Vehicle Code section 23152 [driving while under the influence, on or about Jan. 8,  
28 1986] in the criminal proceeding entitled *The People of the State of Los Angeles v. Juan Javier*  
*Flores Soto* (Super. Ct. Los Angeles County, 1986, No. 600231).

1 No. 2005028272). The Court sentenced Respondent to 35 days in jail, placed him on 60 months  
2 of probation, and ordered him to complete a Drinking Driver Program (multiple convictions  
3 program). The circumstances underlying the conviction are that on or about August 18, 2005,  
4 Respondent was driving under the influence of alcohol and had a tested blood alcohol of  
5 0.22/0.22%.

6 c. On or about April 8, 1993, after pleading nolo contendere, Respondent was convicted  
7 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having a  
8 0.08% or higher blood alcohol, to wit, 0.18%] in the criminal proceeding entitled *The People of*  
9 *the State of California v. Javier Flores* (Super. Ct. Los Angeles County, 1993, No. 93F02099).  
10 The Court sentenced Respondent to 13 days in jail, placed him on 36 months of probation,  
11 ordered him to complete a three (3) month First Offender Alcohol Program, and ordered him to  
12 complete community service in lieu of fine. The circumstances underlying the conviction are that  
13 on or about March 17, 1993, Respondent was driving under the influence of alcohol.

14 d. On or about February 24, 1989, after pleading guilty, Respondent was convicted of  
15 two (2) misdemeanor counts of violating Penal Code sections 484(a) [theft] and 487(c) [petty  
16 theft – convert real property] in the criminal proceeding entitled *The People of the State of*  
17 *California v. Javier Flores* (Super. Ct. Ventura County, 1988, No. VE55157). The Court  
18 sentenced Respondent to 200 hours of direct work, placed him on three (3) years of probation,  
19 and ordered him to pay restitution. On or about January 27, 1989, Respondent was arrested for  
20 the acts relating to the two (2) convictions herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Alcohol Related Criminal Convictions)**

23 12. Respondent is subject to disciplinary action under section 4301, subdivision (k), on  
24 the grounds of unprofessional conduct, in that Respondent sustained misdemeanor convictions  
25 involving the use, consumption, or self-administration of alcoholic beverages. Complainant  
26 refers to and by this reference incorporates the allegations set forth above in paragraph 11,  
27 subdivisions a - c, inclusive, as though set forth fully.

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1 another. Complainant refers to and by this reference incorporates the allegations set forth above  
2 in paragraphs 11 – 14, inclusive, as though set forth fully.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

5 16. Respondent is subject to disciplinary action under sections 4301, subdivision (f), on  
6 the grounds of unprofessional conduct, in that Respondent committed acts involving moral  
7 turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference  
8 incorporates the allegations set forth above in paragraphs 11 – 15, inclusive, as though set forth  
9 fully.

10 **PRAYER**

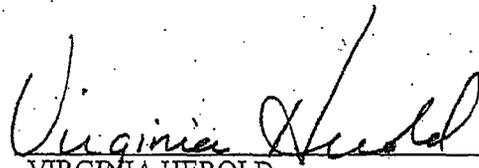
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board issue a decision:

13 Revoking or suspending Pharmacy Technician Registration No. TCH 62816, issued  
14 Respondent;

15 Ordering Respondent to pay the Board the reasonable costs of the investigation and  
16 enforcement of this case, pursuant to section 125.3; and

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

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20 DATED: 12/17/10



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

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