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

12 In the Matter of the Accusation Against:

Case No. 3862

13 **JOLYNN AMANDA RAMIREZ**
14 **696 South Aspen Ave.**
15 **Bloomington, CA 92316**

DEFAULT DECISION AND
ORDER

16 **Pharmacy Technician Registration No. TCH 84739**

17 Respondent. [Gov. Code, §11520]

18 **FINDINGS OF FACT**

19 1. On or about July 1, 2013; Complainant Virginia Herold, in her official capacity as the
20 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation
21 No. 3862 against Jolynn Amanda Ramirez (Respondent) before the Board of Pharmacy.

22 (Accusation attached as Exhibit A.)

23 2. On or about September 24, 2008, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 84739 to Respondent. The Pharmacy Technician Registration
25 expired on September 30, 2012, and was canceled on January 6, 2013 pursuant to Business and
26 Professions Code section 4402(e).

27 3. On or about July 18, 2013, Respondent was served by Certified and First Class Mail
28 copies of the Accusation No. 3862, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3 is required to be reported and maintained with the Board. Respondent's address of record was
4 and is: 696 South Aspen Ave, Bloomington, CA 92316.

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
7 section 124.

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

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3862.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 3862, finds that
26 the charges and allegations in Accusation No. 3862, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$4,970.00 as of November 18, 2013.

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Exhibit A

Accusation

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2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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7

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

11 In the Matter of the Accusation Against:

Case No. 3862

12 **JOLYNN AMANDA RAMIREZ**
696 South Aspen Ave.
13 Bloomington, CA 92316

ACCUSATION

14 Pharmacy Technician Registration No. TCH 84739

15 Respondent.

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 September 24, 2008, the Board issued Pharmacy Technician Registration
23 No. TCH 84739 to Jolynn Amanda Ramirez (Respondent). The Pharmacy Technician
24 Registration expired on September 30, 2012, and is cancelled.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 ///

STATUTORY PROVISIONS

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

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

6. Section 490 provides 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.

7. 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.

....

"(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

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
3 of this provision. The board may take action when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
8 indictment. . . ."

9 REGULATORY PROVISION

10 8. California Code of Regulations, title 16, section 1770, states:

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

17 COST RECOVERY

18 9. Section 125.3 provides that the Board may request the administrative law judge to
19 direct a licensee found to have committed a violation or violations of the licensing act to pay a
20 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

21 FIRST CAUSE FOR DISCIPLINE

22 (Conviction of Substantially Related Crimes)

23 10. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
24 subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, in that
25 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
26 of a licensee which to a substantial degree evidence her present or potential unfitness to perform
27 the functions authorized by her license in a manner consistent with the public health, safety, or
28 welfare. The circumstances of the convictions are as follows:

1 a. On or about March 26, 2012, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 484(a)/490.5a [petty theft]
3 in the criminal proceeding entitled *The People of the State of California v. Jolynn Amanda*
4 *Ramirez* (Super. Ct. San Bernardino County, 2011, No. MWV1102893). The Court placed
5 Respondent on 24 months probation, ordered her to complete 35 hours work duty, and ordered
6 her to stay away from Sephora, Rancho Cucamonga.

7 b. The circumstances underlying the conviction are that on or about June 15, 2011,
8 Respondent entered a cosmetics store, Sephora, Rancho Cucamonga, and stole \$67.00 worth of
9 cosmetics. Respondent was on criminal probation at the time of her arrest.

10 c. On or about January 26, 2012, after pleading nolo contendere Respondent was
11 convicted of three (3) counts, Count 1, a felony violation of Penal Codes section 459 [second
12 degree commercial burglary], Count 2, a misdemeanor violation of Penal Code section 594(a)
13 [vandalism under \$400 damage -- damage/destroy], and Count 3, a lesser misdemeanor violation
14 of Penal Code section 12020(a)(1) [possession of a deadly weapon] in the criminal proceeding
15 entitled *The People of the State of California v. Jason Robert Fluharty and Jolynn Amanda*
16 *Ramirez* (Super. Ct. Los Angeles County, 2011, No. VA122978). The Court sentenced
17 Respondent to 90 days jail, placed her on three (3) years probation, ordered her to pay restitution
18 to Artesia Cemetery, and ordered her to stay away from Artesia Cemetery.

19 d. The circumstances underlying the conviction are that on or about December 27, 2011,
20 Respondent vandalized Artesia Cemetery's maintenance yard. Respondent pried through a
21 wrought iron fence, damaged a window and stole a wooden grave cross with a veteran's insignia
22 while her accomplice stood guard. Respondent was found in possession of brass knuckles.
23 Respondent was on criminal probation at the time of her arrest.

24 e. On or about June 8, 2011, after pleading nolo contendere, Respondent was convicted
25 of one misdemeanor violation of Penal Code section 459 [second degree commercial burglary] in
26 the criminal proceeding entitled *The People of the State of California v. Joynn Ramirez* (Super.
27 Ct. Los Angeles County, 2011, No. 1WW02646). The Court sentenced Respondent to 30 days
28 jail; placed her on 36 months probation, ordered to stay away from CVS pharmacy, and ordered

1 her to complete a 12 month anger management program.

2 f. The circumstances underlying the conviction are that on or about May 24, 2011,
3 Respondent entered a CVS pharmacy and stole \$67.00 worth of merchandise. When confronted
4 by a CVS employee, Respondent became physical and pushed past the employee trying to flee.
5 Responding officers recovered the stolen items and found a glass pipe with char marks in
6 Respondent's possession. Respondent was on criminal probation at the time of her arrest.

7 g. On or about June 22, 2010, after pleading nolo contendere, Respondent was convicted
8 of two (2) counts, Count 1, one misdemeanor violation of Penal Code section 459 [second degree
9 commercial burglary], and Count 3, one misdemeanor violation of Penal Code
10 section 242 [battery], in the criminal proceeding entitled *The People of the State of California v.*
11 *Jolynn Amanda Ramirez* (Super. Ct. Los Angeles County, 2010, No. 0BF03019). The Court
12 sentenced Respondent to ten (10) days jail, and placed her on 36 months probation.

13 h. The circumstances underlying the conviction are that on or about June 18, 2010,
14 Respondent entered a CVS pharmacy, stole \$21.00 worth of merchandise and became physical
15 with an employee who attempted to stop her.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Acts Involving Moral Turpitude/Dishonesty)**

18 11. Respondent is subject to disciplinary action under sections 4300, and 4301
19 subdivision (f), on the grounds of unprofessional conduct, in that Respondent engaged in acts
20 involving moral turpitude and dishonesty. Complainant refers to and by this reference
21 incorporates the allegations set forth above in paragraph 10, subparagraphs a - h, inclusive, as
22 though set forth fully.

23 **PRAYER**

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

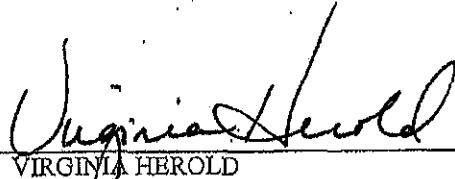
26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 84739, issued
27 to Jolynn Amanda Ramirez;

28 2. Ordering Jolynn Amanda Ramirez to pay the Board the reasonable costs of the

1 investigation and enforcement of this case, pursuant to section 125.3; and
2 3. Taking such other and further action as deemed necessary and proper.
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5 DATED:

7/1/13



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

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