

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Accusation Against:  
**ROBERTO QUINTANA, JR.,  
1017 Chalone Court  
Modesto, CA. 95358**  
**Pharmacy Technician License No. TCH  
104835**  
  
Respondent.

Case No. 4008

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 5, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4008 against Roberto Quintana, Jr., (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 23, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 104835 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4008 and will expire on August 31, 2011, unless renewed. ``

3. On or about October 28, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4008, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
2 section 4100, is required to be reported and maintained with the Board, which was and is:

3 1017 Chalone Court  
4 Modesto, CA. 95358.

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. On or about February 13, 2012, the aforementioned documents were returned by the  
9 U.S. Postal Service marked "Unclaimed."

10 6. Government Code section 11506 states, in pertinent part:

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

14 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
16 4008.

17 8. California Government Code section 11520 states, in pertinent part:

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

21 9. 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 Investigatory Evidence Packet in this matter,  
24 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
25 therein on file at the Board's offices regarding the allegations contained in Accusation No. 4008,  
26 finds that the charges and allegations in Accusation No. 4008, are found to be true and correct.

27 ///

28 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

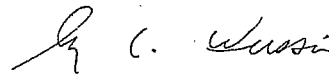
IT IS SO ORDERED that Pharmacy Technician License No. TCH 104835, heretofore issued to Respondent Roberto Quintana, Jr., is revoked.

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 June 7, 2012.

It is so ORDERED on May 8, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER

Board President

10863675.DOC  
DOJ Matter ID:SA2011100526

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 PATRICK M. KENADY  
Deputy Attorney General  
4 State Bar No. 050882  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5377  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **ROBERTO QUINTANA, JR.,**  
13 **1017 Chalone Ct.**  
14 **Modesto, Ca 95358**  
15 **Pharmacy Technician License No. TCH**  
16 **104835**  
17 Respondent.

Case No. 4008

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

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 23, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 104835 to Roberto Quintana, Jr., (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on August 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

...

5. Section 4301 of the Code states:

"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 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

///

///

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
3 indictment.

4 ...  
5 6. California Code of Regulations, title 16, section 1770, states:

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

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

16 8. Section 118, subdivision (b), of the Code provides that the  
17 suspension/expiration/surrender/cancellation of a license shall not deprive the  
18 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period  
19 within which the license may be renewed, restored, reissued or reinstated.

20 FIRST CAUSE FOR DISCIPLINE

21 (CRIMINAL CONVICTION)

22 9. Respondent is subject to disciplinary action under section 4301(l) in that on or about  
23 January 11, 2011, in a criminal proceeding entitled *People v. Roberto Quintana*, in Superior  
24 Court of California, County of Alameda, Case Number 239556, Respondent was convicted by a  
25 plea of No Contest to violating Penal Code section 484(a) (Theft), a misdemeanor, which is  
26 substantially related to the qualifications, functions or duties as a pharmacy technician. The  
27 circumstances are as follows:

28 ///



