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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. 4113

13 **MARIA ELENA SANTOS**
14 **335 N. Vendome Street**
15 **Los Angeles, CA 90026**
16 **Pharmacy Technician Registration No.**
17 **TCH 25616**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

18 **FINDINGS OF FACT**

19 1. On or about March 1, 2013, Complainant Virginia Herold, in her official capacity as
20 the Executive Officer of the Board of Pharmacy, (Board) Department of Consumer Affairs, filed
21 Accusation No. 4113 against Maria Elena Santos (Respondent) before the Board of Pharmacy.
22 (Accusation attached as Exhibit A.)

23 2. On or about April 27, 1998, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 25616 to Respondent. The Pharmacy Technician Registration
25 was in full force and effect at all times relevant to the charges brought in Accusation No. 4113
26 and expired on August 31, 2013, and has not been renewed. This lapse in licensure, however,
27 pursuant to Business & Professions Code section 118(b) and or agency specific statute does not
28 deprive the board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about April 26, 2013, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4113, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 335 N. Vendome Street
8 Los Angeles, CA 90026.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On May 4, 2013, the aforementioned documents were returned by the U.S. Postal
13 Service marked " Unable to forward."

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

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4113.

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

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 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
file at the Board's offices regarding the allegations contained in Accusation No. 4113, finds that

1 the charges and allegations in Accusation No. 4113, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$3,140.00 as of November 12, 2013.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Maria Elena Santos has
8 subjected her Pharmacy Technician Registration No. TCH 25616 to discipline.

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

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

13 a. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and
14 (o), for violating section 4060, in that Respondent was found to be in illegal possession of a
15 controlled substance. On or about November 2, 2010, during a traffic stop by the Riverside
16 County Sheriff's Department, the officer observed Respondent to have dilated pupils and a slow
17 reaction to the officer's flashlight. Through training and experience of the officer, Respondent
18 showed objective symptoms of being under the influence of a central nervous stimulant, such as
19 twitching and rapid speech. The officer conducted an initial evaluation of Respondent and found
20 her to have excessive eye-lid flutter, a white chalky mouth, and a pulse rate of 112bpm, which
21 was well above the normal pulse rate of 60 to 90bpm. When asked when was the last time she
22 used illegal drugs, Respondent admitted that she had smoked Methamphetamine in the vehicle.
23 In addition, Respondent admitted that she had used Methamphetamine for several months.
24 Additionally, Respondent admitted that the Methamphetamine and the pipes belonged to her. She
25 was subsequently arrested for violating Health and Safety Code section 11377, subdivision (a)
26 [possession of a controlled substance], Health and Safety Code section 11550, subdivision (a)
27 [under the influence of a controlled substance], and Health and Safety Code section 11364
28 [possession of drug paraphernalia].

12. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and (j), in that on or about November 2, 2010, Respondent, by her own admission, used and/or was under the influence of a controlled substance. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth in full.

ORDER

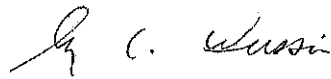
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 25616, heretofore issued to Respondent Maria Elena Santos, is revoked.

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 February 18, 2014.

It is so ORDERED ON January 17, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


By _____
STAN C. WEISSER
Board President

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DOJ Matter ID:LA2011601137

Attachment:
Exhibit A: Accusation

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2 MARC D. GREENBAUM
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3 CHRISTINA THOMAS
Deputy Attorney General
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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 **MARIA ELENA SANTOS**
13 **a.k.a., MARIA ELENA ANDRES**
335 N. Vendome Street
Los Angeles, CA 90026

14 Pharmacy Technician Registration
15 No. TCH 25616

16 Respondent.

Case No. 4113

A C C U S A T I O N

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 April 27, 1998, the Board of Pharmacy issued Pharmacy Technician
23 Registration No. TCH 25616 to Maria Elena Santos, aka Maria Elena Andres (Respondent). The
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
25 brought herein and it will expire on August 31, 2013, 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.

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

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

8 8. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

9 "No person shall use, or be under the influence of any controlled substance which is (1)
10 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
11 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
12 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
13 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
14 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
15 by the state to dispense, prescribe, or administer controlled substances."

16 **COST RECOVERY**

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

21 10. **CONTROLLED SUBSTANCE**

22 "Methamphetamine," is a Schedule II controlled substance as designated by Health and
23 Safety Code section 11055, subdivision (d) (2) and is categorized as a dangerous drug pursuant to
24 section 4022.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Illegal Possession of a Controlled Substance)**

27 11. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and
28 (o), for violating section 4060, in that Respondent was found to be in illegal possession of a

1 controlled substance. On or about November 2, 2010, during a traffic stop by the Riverside
2 County Sheriff's Department, the officer observed Respondent to have dilated pupils and a slow
3 reaction to the officer's flashlight. Through training and experience of the officer, Respondent
4 showed objective symptoms of being under the influence of a central nervous stimulant, such as
5 twitching and rapid speech. The officer conducted an initial evaluation of Respondent and found
6 her to have excessive eye-lid flutter, a white chalky mouth, and a pulse rate of 112bpm, which
7 was well above the normal pulse rate of 60 to 90bpm. When asked when was the last time she
8 used illegal drugs, Respondent admitted that she had smoked Methamphetamine in the vehicle.
9 In addition, Respondent admitted that she had used Methamphetamine for several months.
10 Additionally, Respondent admitted that the Methamphetamine and the pipes belonged to her. She
11 was subsequently arrested for violating Health and Safety Code section 11377, subdivision (a)
12 [possession of a controlled substance], Health and Safety Code section 11550, subdivision (a)
13 [under the influence of a controlled substance], and Health and Safety Code section 11364
14 [possession of drug paraphernalia].

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Use/Under Influence of a Controlled Substance)**

17 12. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and
18 (j), in that on or about November 2, 2010, Respondent, by her own admission, used and/or was
19 under the influence of a controlled substance. Complainant refers to, and by this reference
20 incorporates, the allegations set forth above in paragraph 11, as though set forth in full.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Technician Registration No. TCH 25616, issued
25 to Respondent;

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

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

DATED:

3/1/13

VIRGINIA HEROLD

Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

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