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

In the Matter of the Accusation Against:

Case No. 4146

JEREMIAH JOSEPH YABUT VIRAY
16262 Vermeer Drive
Chino Hills, CA 91709

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Pharmacy Technician Registration No. TCH
100473

Respondent.

FINDINGS OF FACT

1. On or about July 12, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4146 against Jeremiah Joseph Yabut Viray (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.);

2. On or about May 20, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 100473 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4146 expired on May 31, 2012, has not been renewed, and is now delinquent. This lapse in licensure,

1 however, pursuant to Business and Professions Code section 118(b), does not deprive the Board
2 of its authority to institute or continue this disciplinary proceeding.

3 3. On or about August 22, 2012, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 4146, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of
8 record was and is: 16262 Vermeer Drive, Chino Hills, CA 91709.

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 or about August 23, 2012, the aforementioned documents were delivered by the
13 U.S. Postal Service.

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 him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 4146.

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

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

28 9. 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. 4146, finds that
2 the charges and allegations in Accusation No. 4146, are separately and severally, found to be true
3 and correct by clear and convincing evidence.

4 10. 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 \$2,992.50 as of February 11, 2014.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Jeremiah Joseph Yabut Viray
9 has subjected his Pharmacy Technician Registration No. TCH 100473 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 Registration based upon the following violations alleged in the Accusation which are supported
13 by the evidence contained in the Default Decision Evidence Packet in this case:

14 a. Conviction of Substantially Related Crimes [pursuant to sections 4301, subdivision (l)
15 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
16 Respondent was convicted of one misdemeanor count of violating Penal Code section 459-460
17 subdivision (b) (burglary: second degree) and one misdemeanor count of violating Penal Code
18 section 488 subdivision (a) (petty theft)]; and Acts Involving Dishonesty, Fraud, or Deceit
19 [pursuant to section 4301, subdivision (f)].

20 ORDER

21 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 100473, heretofore
22 issued to Respondent Jeremiah Joseph Yabut Viray, is revoked.

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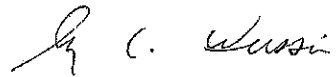
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1 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2 written motion requesting that the Decision be vacated and stating the grounds relied on within
3 seven (7) days after service of the Decision on Respondent. The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

5 This Decision shall become effective on April 7, 2014.

6 It is so ORDERED ON March 6, 2014.

7 BOARD OF PHARMACY
8 DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 

11 By _____
12 STAN C. WEISSER
13 Board President

12 51454918.DOC
13 DOJ Matter ID:LA2011601367

13 Attachment:
14 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
State Bar No. 131800
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 620-2558
Facsimile: (213) 897-2804
6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4146

12 **JEREMIAH JOSEPH YABUT VIRAY**
16262 Vermeer Drive
13 Chino Hills, CA 91709

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 100473

16 Respondent.

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.

22 2. On or about May 20, 2010, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 100473 to Jeremiah Joseph Yabut Viray (Respondent). The
24 Pharmacy Technician Registration, which was in full force and effect at all times relevant to the
25 charges brought herein, expired on May 31, 2012 and has not been 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.

1
EX "A"

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of a Substantially Related Crime)**

9 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
10 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
11 Respondent was convicted of a crime substantially related to the qualifications, functions or
12 duties of a pharmacy technician. On or about June 14, 2011, after pleading guilty, Respondent
13 was convicted of one misdemeanor count of violating Penal Code section 459-460 subdivision (b)
14 [burglary: second degree] and one misdemeanor count of violating Penal Code section 488
15 subdivision (a) [petty theft] in the criminal proceeding entitled *The People of the State of*
16 *California v. Jeremiah Joseph Yabut Viray* (Super. Ct. Orange County, 2011, No. 11HM04378).
17 The Court sentenced Respondent to serve one (1) day in Orange County Jail and placed him on
18 one (1) year probation, with terms and conditions. The circumstances surrounding the conviction
19 are that on or about December 21, 2010, an Asset Protection Specialist for Target reviewed the
20 surveillance video, observed Respondent scan an unused Target gift card, and load it with a \$300
21 cash credit, without paying for it. From on or about December 17, 2010 through on or about
22 December 20, 2010, Respondent was observed taking an unknown amount of cash from the
23 register. When confronted by the Asset Protection Specialist, Respondent admitted to loading the
24 gift card with a \$300 cash credit without placing any cash payment into the cash register. In
25 addition, Respondent admitted that he had stolen an additional \$2,005.00 in cash from his
26 employer on numerous occasions since November 6, 2010.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Acts Involving Dishonesty, Fraud, or Deceit)

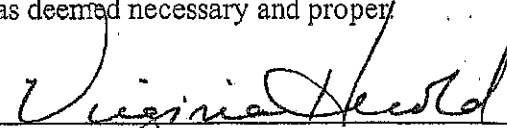
3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
5 and by reference incorporates, the allegations set forth above in paragraph 10, as though set forth
6 fully.

7 PRAYER

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

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 100473, issued
- 11 to Respondent;
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 13 enforcement of this case, pursuant to section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper

15 DATED: 7/12/12

16 
 17 VIRGINIA HEROLD
 18 Executive Officer
 19 Board of Pharmacy
 20 Department of Consumer Affairs
 21 State of California
 22 Complainant

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