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 27 renewed. 28 /// 	25		
28 ///			l 15, 2013, expired on July 31, 2014, and has not been
1	28		
DEFAULT DECISION AND ORDER Case No. 4663			

1	3. On or about September 3, 2014, Respondent was served by Certified and First Class
2	Mail copies of the Accusation No. 4663, Statement to Respondent, Notice of Defense, Request
3	for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4	11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5	section 4100, is required to be reported and maintained with the Board. Respondent's address of
6	record was and is:
7	15876 Azalea Ave
8	Fontana, CA 92335
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. Government Code section 11506 states, in pertinent part:
13	(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts
14	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
15	may nevertheless grant a hearing.
16	6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18	4663.
19	7. California Government Code section 11520 states, in pertinent part:
20	(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions
21	or upon other evidence and affidavits may be used as evidence without any notice to respondent.
22	
23	8. Pursuant to its authority under Government Code section 11520, the Board finds
24	Respondent is in default. The Board will take action without further hearing and, based on the
25	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26	taking official notice of all the investigatory reports, exhibits and statements contained therein on
27	file at the Board's offices regarding the allegations contained in Accusation No. 4663, finds that
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1	the charges	and allegations in Accusation No. 4663, are separately and severally, found to be true
2	and correct	by clear and convincing evidence.
3	9.	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 Enforce	ement is \$3,192.50 as of April 10, 2015.
6		DETERMINATION OF ISSUES
7	1.	Based on the foregoing findings of fact, Respondent Felipe DeJesus Villalobos has
8	subjected hi	is Pharmacy Technician Registration No. TCH 85349 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	n based upon the following violations alleged in the Accusation which are supported
12	by the evide	ence contained in the Default Decision Evidence Packet in this case:
13	a.	Business and Professions Code sections 490, 4300 and 4301, in conjunction with
14	CCR	., title 16, section 1770 – Conviction of Substantially Related Crimes: People v. Felipe
15	Villa	lobos, (Super. Ct. San Bernardino County, 2013, Case No. FVA1201920):
16		(1) Health and Safety Code section 11351 (possession of for sale of controlled
17		substance – Hydrocodone), a felony, and
18		(2) Penal Code section 487(a) (grand theft by embezzlement), a felony;
19	b.	Business and Professions Code sections 4300 and 4301(i) and (k) - Conviction
20	Invol	ving Drugs;
21	с.	Business and Professions Code sections 4300 and 4301(i) – Unlawful Possession of
22	Contr	rolled Substances;
23	d.	Business and professions Code section 4301(j) and (o) – Unprofessional
24	Cond	uct/Violation of Licensing Chapter.
25	111	
26	111	
27	111	
28	///	
		3
	1	DEFAULT DECISION AND ORDER Case No. 4663

 ORDER <i>IT IS SO ORDERED</i> that Pharmacy Technician Registration No. TCH 85349, he issued to Respondent Felipe DeJesus Villalobos, is revoked. Pursuant to Government Code section 11520, subdivision (c), Respondent may s written motion requesting that the Decision be vacated and stating the grounds relied of 	
 issued to Respondent Felipe DeJesus Villalobos, is revoked. Pursuant to Government Code section 11520, subdivision (c), Respondent may section 11520. 	
4 Pursuant to Government Code section 11520, subdivision (c), Respondent may s	retofore
5 written motion requesting that the Decision be vacated and stating the grounds relied of	erve a
	n within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion	on may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the	statute.
8 This Decision shall become effective on June 12, 2015.	
9 It is so ORDERED May 13, 2015.	
10 BOARD OF PHARMACY	
11 DEPARTMENT OF CONSUMER A STATE OF CALIFORNIA	FFAIRS
12 By G. C. Wussin	
13 J STAN C. WEISSER	
14 Board President	
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26 Attachment:	
27 Exhibit A: Accusation	
28	
4 DEFAULT DECISION AND ORDER O	Vace No. 1662

Exhibit A

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1	Kamala D. Harris
2	Attorney General of California GREGORY J. SALUTE
3	Supervising Deputy Attorney General DESIREE TULLENERS
4	Deputy Attorney General State Bar No. 157464
5	300 So. Spring Street, Suite 1702
6	Los Angeles, CA 90013 Telephone: (213) 897-2578
	Facsimile: (213) 897-2804 Attorneys for Complainant
7	
8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 4663
12	FELIPE VILLALOBOSA C C U S A T I O N15876 Azalea Avenue
13	Fontana, California 92335
14	Original Pharmacy Technician Registration
15	No. TCH 85349
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 (Board).
22	2. On or about August 13, 2008, the Board issued Original Pharmacy Technician
23	Registration No. TCH 85349 to Felipe DeJesus Villalobos (Respondent). On April 15, 2013, in
24	the matter of The People of the State of California v. Felipe DeJesus Villalobos, (Super. Ct. San
25	Bernardino County, 2013, No. FVA1201920), Respondent was prohibited by order of the
26	superior court from engaging, either directly or indirectly, in any activity for which a pharmacy
27	technician license was required during the pendency of the criminal proceedings against him until
28	further order of the court. The Pharmacy Technician Registration was in full force and effect at
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all times relevant to the charges brought herein, and will expire on July 31, 2014, unless renewed.

JURISDICTION

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

STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

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7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to
discipline a licensee for conviction of a crime that is independent of the authority granted under
subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
conviction following a plea of nolo contendere. Any action that a board is permitted to take
following the establishment of a conviction may be taken 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 the
provisions of Section 1203.4 of the Penal Code. . . ."

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

23 6. Section 4300.1 states:

24 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
25 operation of law or by order or decision of the board or court of law, the placement of a license on
26 a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
27 jurisdiction to commence or proceed with any investigation of, or action or disciplinary
28 proceeding against, the licensee or to render a decision suspending or revoking the license."

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1	7. Section 4301 states, in pertinent part:
2	"The board shall take action against any holder of a license who is guilty of unprofessional
3	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:
4	Chiprotessional conduct shall include, but is not miniced to, any of the following:
5	(f) The commission of any set involving manal turnitude distances for the in-
6	(f) The commission of any act involving moral turpitude, dishonesty, fraud deceit or
7	corruption, whether the act is committed in the course of relations as a license or otherwise, and
8	whether the act is a felony or misdemeanor or not.
9	
10	(i) Except as authorized by law, knowingly selling, furnishing giving away, or
11	administering, or offering to sell, furnish, give away, or administer any controlled substance to an
12	addict.
13	(j) The violation of any of the statues of this state, or any other state, or of the United
14	States regulating controlled substances and dangerous drugs.
15	(k) The conviction of more that one misdemeanor or any felony involving the use,
16	consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
17	combination of those substances.
18	(1) The conviction of a crime substantially related to the qualifications, functions, and
19	duties of a licensee under this chapter
20	
21	(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22	violation of or conspiring to violate any provision of term of this chapter or of the applicable
23	federal and state laws and regulations governing pharmacy, including regulations established by
24	the board or by any other state or federal agency."
25	REGULATORY PROVISION
26	8. California Code of Regulations, title 16, section 1770 states:
27	"For the purpose of denial, suspension, or revocation of a personal or facility license
28	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
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crime or act shall be considered substantially related to the qualifications, functions or duties of a 1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 2 licensee or registrant to perform the functions authorized by his license or registration in a manner 3 consistent with the public health, safety, or welfare." 4 **COST RECOVERY** 5 9. Section 125.3 provides that the Board may request the administrative law judge to 6 direct a licentiate found to have committed a violation or violations of the licensing act to pay a 7 sum not to exceed the reasonable costs of the investigation and enforcement of the case. 8 10. CONTROLLED SUBSTANCES/DANGEROUS DRUGS 9 Hydrocodone is a Schedule II controlled substance as designated by Health and safety Code 10 section 11055, subdivision (b)(1)(I), and is categorize as a dangerous drug pursuant to section 11 4022. 12 FIRST CAUSE FOR DISCIPLINE 13 (Conviction of a Substantially Related Crimes) 14 Respondent is subject to disciplinary action under sections 490, 4300 and 4301, 11. 15 16 subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, on the 17 grounds of unprofessional conduct, in that, Respondent was convicted of a substantially related crime, as follows: 18 On or about November 5, 2013, after pleading guilty, Respondent was convicted of 19 a. two felonies: (1) one felony count of violating Health and Safety Code section 11351 (possession 20 21 for sale of controlled substance - Hydrocodone), and, (2) one felony count of violating Penal Code section 487(a) (grand theft by embezzlement) the criminal proceeding entitled The People 22 of the State of California v. Felipe Villalobos (Super. Ct. San Bernardino County, 2013, No. 23 FVA1201920). The Court sentenced Respondent to 120 days in jail and 36 months supervised 24 probation upon release from jail with fines, and terms and conditions. 25 The circumstances underlying the convictions are that from on or about January 1, Ь. 26 2012, through December 26, 2012, while employed as a pharmacy technician at Walgreens, took 27 property from his employer during that time period. In addition, on or about December 26, 2012, 28 4

1	Respondent was observed on a security video surveillance tape taking 500 pills of Hydrocodone
2	from the inventory at Walgreens.
3	SECOND CAUSE FOR DISCIPLINE
4	(Conviction Involving Drugs)
5	12. Respondent is subject to disciplinary action under sections 4300 and 4301,
6	subdivision (i) and (k), on the grounds of unprofessional conduct, in that, Respondent sustained
7	two felony criminal convictions involving drugs. Complainant refers to, and by this reference
8	incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive,
9	as though set forth fully herein.
10	THIRD CAUSE FOR DISCIPLINE
11	(Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)
12	13. Respondent is subject to disciplinary action under sections 4300 and 4301,
13	subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed an act
14	or acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he stole and/or
15	embezzled 500 (10mg) Hydrocodone pills from the inventory at Walgreens. Complainant refers
16	to, and by this reference incorporates, the allegations set forth above in paragraphs 10 and 11,
17	inclusive, as though set forth fully herein.
18	FOURTH CAUSE FOR DISCIPLINE
19	(Unprofessional Conduct/Violation of Licensing Chapter)
20	14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
21	(o), on the grounds of unprofessional conduct, in that, Respondent was found to be in illegal
22	possession of Hydrocodone, a controlled substance. Complainant refers to, and by reference
23	incorporates, the allegations set forth in paragraph 11, subparagraphs (a) and (b), as though fully
24	set forth herein.
25	PRAYER
26	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27	and that following the hearing, the Board issue a decision:
28	1. Revoking or suspending Original Pharmacy Technician Registration No. TCH 85349
	5
	Accusation

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1	issued to Felipe DeJesus Villalobos;
2	2. Ordering Felipe DeJesus Villalobos to pay the Board the reasonable costs of the
3	investigation and enforcement of this case, pursuant to section 125.3; and
4	3. Taking such other and further action as deemed necessary and proper.
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.7	DATED: 8/8/14 Juginia fred
8	VIRGINIA HEROLD Executive Officer
9	Board of Pharmacy Department of Consumer Affairs
10	State of California Complainant
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