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

In the Matter of the Accusation Against:

DAISY PARK POSADAS
2361 Gale Ave.
Long Beach, CA 90810
Pharmacy Technician Registration No. TCH
76489

Respondent.

Case No. 4849

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 18, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4849 against Daisy Park Posadas (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 18, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 76489 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4849 and will expire on January 31, 2015, unless renewed.

1 3. On or about March 11, 2014, Respondent was served by Certified Mail copies of the
2 Accusation No. 4849, Statement to Respondent, Notice of Defense, Request for Discovery, and
3 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's
4 address of record which, pursuant to Business and Professions Code section 4100, is required to
5 be reported and maintained with the Board. Respondent's address of record was and is 2361 Gale
6 Ave., Long Beach, CA 90810.

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

10 5. On or about March 21, 2014, the Office of the Attorney General received a Certified
11 Mail Return Receipt, signed by Respondent, confirming Respondent's receipt of the Accusation
12 and related materials served via Certified Mail on March 11, 2014.

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

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 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.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4849.

19 8. 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
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
 respondent.

23 9. 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. 4849, finds that

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1 the charges and allegations in Accusation No. 4849, 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, as of June 5, 2014, the reasonable
5 costs for Investigation and Enforcement is \$3787.50, which includes \$1,492.50 in enforcement
6 costs incurred from the Office of the Attorney General.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Daisy Park Posadas has
9 subjected her Pharmacy Technician Registration No. TCH 76489 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. Business & Professions Code § 4301(l) [Substantially-Related Criminal Conviction];

15 b. Business & Professions Code § 4301(f) [Acts Involving Dishonesty, Fraud or Deceit];

16 c. Business & Professions Code § 4301(o) [Unlawful Furnishing of Controlled
17 substances/Dangerous Drugs];

18 d. Business & Professions Code § 4301(o) [Unlawful Possession of Controlled
19 Substances/Dangerous Drugs].

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ORDER

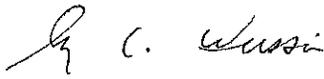
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 76489, heretofore issued to Respondent Daisy Park Posadas, is revoked.

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 August 11, 2014.

It is so ORDERED July 11, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

51528654.DOC
DOJ Matter ID:LA2013509997

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 KAREN B. CHAPPELLE
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3 William D. Gardner
Deputy Attorney General
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5 Los Angeles, CA 90013
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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:

Case No. 4849

12 **DAISY PARK POSADAS**
2361 Gale Ave.
13 Long Beach, CA 90810

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 76489

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about July 18, 2007, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 76489 to Daisy Park Posadas (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2015, unless renewed.

26 **JURISDICTION**

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

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

8

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

13 7. Section 4059 states, in pertinent part:

14 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
15 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
16 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
17 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
18 3640.7. "

19 8. Section 4060 states:

20 "No person shall possess any controlled substance, except that furnished to a person upon
21 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
22 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
23 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
24 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
25 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
26 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
27 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-

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1 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
2 with the name and address of the supplier or producer."

3 **REGULATORY PROVISIONS**

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

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

11 **COST RECOVERY**

12 10. Section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
17 included in a stipulated settlement.

18 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

19 11. "Soma," is a brand name for carisoprodol, is a dangerous drug according to section
20 4022. Its indicated use is as an adjunct to rest, physical therapy and other measures for acute
21 painful musculoskeletal conditions.

22 12. "Vicodin," is the trade names for the narcotic substance hydrocodone or
23 dihydrocodeinone with the non-narcotic substance acetaminophen. It is Schedule III controlled
24 substance pursuant to Health and Safety Code section 11056, subdivision (e)(7) and is categorized
25 as a dangerous drug according to section 4022.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially-Related Crime)

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (l) and
4 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent
5 was convicted of a crime substantially related to the qualifications, functions, and duties of a
6 pharmacy technician, as follows:

7 a. On or about June 15, 2012, in the criminal proceeding entitled *The People of the State*
8 *of California v. Daisy Posadas* (Super. Ct. Los Angeles County, 2012, No. 1LG05343),
9 Respondent entered a plea of nolo contendere and was convicted of one misdemeanor count of
10 violating Penal Code section 487, subdivision (a) [grand theft of personal property]. The Court
11 sentenced Respondent to serve 90 days in Los Angeles County Jail and placed her on probation for
12 a period of three (3) years.

13 b. The circumstances surrounding the conviction are that at the time of the misconduct
14 for which she was convicted, Respondent was employed as a pharmacy technician by Rite-Aid in
15 San Pedro, CA. The pharmacy conducted an audit revealed that an unexplained shortage of Soma
16 and Vicodin medication from their inventory. On or about May 6, 2011, Los Angeles Police
17 Department officers were called to the pharmacy after the store's loss prevention manager viewed
18 surveillance camera video which showed Respondent taking bottles of Soma and Vicodin and
19 concealing them inside her pants. Respondent was arrested, at which time she admitted to stealing
20 thousands of dollars worth of Vicodin and Soma from the pharmacy and to giving them the pills to
21 friends without prescriptions. Over the course of a year, Respondent stole approximately 6,025
22 Soma pills and 3,790 Vicodin pills from the Rite-Aid pharmacy at which she was employed.

23 SECOND CAUSE FOR DISCIPLINE

24 (Acts Involving Dishonesty, Fraud, or Deceit)

25 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
26 committed acts involving moral turpitude, dishonesty, fraud, deceit, and/or corruption.

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1 Complainant refers to, and by this reference incorporates, the allegations set forth above in
2 paragraph 13, subparagraphs (a) and (b), as though set forth fully herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Illegally Furnished Controlled Substances/Dangerous Drugs)**

5 15. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
6 conjunction with section 4059, subdivision (a), in that Respondent unlawfully furnished controlled
7 substances and/or dangerous drugs to others. Complainant refers to, and by this reference
8 incorporates, the allegations set forth above in paragraph 13, subparagraphs (a) and (b), as though
9 set forth fully herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Illegally Possessed Controlled Substances/Dangerous Drugs)**

12 16. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
13 conjunction with section 4060, in that Respondent unlawfully possessed controlled substances
14 and/or dangerous drugs. Complainant refers to, and by this reference incorporates, the allegations
15 set forth above in paragraph 13, subparagraphs (a) and (b), as though set forth fully herein.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 76489, issued to
20 Daisy Park Posadas;

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2. Ordering Daisy Park Posadas 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: 2/18/14



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

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