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

In the Matter of the Accusation Against:  
  
**RICKY MAR SABIAGA**  
2041 Oniell Place  
Oxnard, CA 93033  
Pharmacy Technician Registration No. TCH  
97302  
  
Respondent.

Case No. 4944  
  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 27, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4944 against Ricky Mar Sabiaga (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about February 8, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 97302 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4944 and will expire on November 30, 2015, unless renewed.

1           3.    On or about April 9, 2014, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 4944, 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    2041 Oniell Place  
8    Oxnard, CA 93033.

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  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18           6.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20 4944.

21           7.    California Government Code section 11520 states, in pertinent part:

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

26           8.    Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 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. 4944, finds that

1 the charges and allegations in Accusation No. 4944, 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 Enforcement is \$6,707.00 as of July 24, 2014.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Ricky Mar Sabiaga has subjected  
8 his Pharmacy Technician Registration No. TCH 97302 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 Business and Professions Code  
14 section 4301, subdivision (f), in that he committed acts involving moral turpitude, dishonesty,  
15 fraud, or deceit in that he participated in the theft of controlled substances from his employer,  
16 CVS pharmacy.

17 b. Respondent is subject to disciplinary action under Business and Professions Code  
18 section 4301, subdivision (j), for violating Health and Safety Code section 11352, subdivision (a),  
19 in that he furnished controlled substances without a prescription.

20 c. Respondent is subject to disciplinary action under Business and Professions Code  
21 section 4301, subdivision (j), for violating Business and Professions Code section 4060, in that he  
22 possessed controlled substances without a prescription.

23 d. Respondent is subject to disciplinary action under Business and Professions Code  
24 section 4301, subdivision (j), for violating Business and Professions Code section 4059,  
25 subdivision (a), in that he furnished dangerous drugs without a prescription.

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ORDER

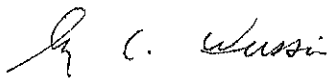
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 97302, heretofore issued to Respondent Ricky Mar Sabiaga, is revoked.

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 September 12, 2014.

It is so ORDERED August 13, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STAN C. WEISSER  
Board President

51520730.DOC  
DOJ Matter ID:LA2013510341

Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 M. TRAVIS PEERY  
Deputy Attorney General  
4 State Bar No. 261887  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-0962  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 4944

11 **RICKY MAR SABIAGA**  
12 **2041 Oniell Place**  
13 **Oxnard, CA 93033**

14 **Pharmacy Technician Registration No. TCH**  
**97302**

15 Respondent.

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

16  
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 February 8, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 97302 to Ricky Mar Sabiaga (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on November 30, 2015, 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 4. Section 4300 of the Code states, in pertinent part:  
2 "(a) Every license issued may be suspended or revoked.  
3 "(b) The board shall discipline the holder of any license issued by the board, whose default  
4 has been entered or whose case has been heard by the board and found guilty, by any of the  
5 following methods:  
6 "(1) Suspending judgment.  
7 "(2) Placing him or her upon probation.  
8 "(3) Suspending his or her right to practice for a period not exceeding one year.  
9 "(4) Revoking his or her license.  
10 "(5) Taking any other action in relation to disciplining him or her as the board in its

11 discretion may deem proper."

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

16 **STATUTORY PROVISIONS**

17 6. Section 4301 of the Code states:  
18 "The board shall take action against any holder of a license who is guilty of unprofessional  
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
20 Unprofessional conduct shall include, but is not limited to, any of the following:  
21 ...  
22 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
23 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
24 whether the act is a felony or misdemeanor or not.  
25 ...  
26 "(j) The violation of any of the statutes of this state, or any other state, or of the United  
27 States regulating controlled substances and dangerous drugs."

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7. Section 4059, subdivision (a) of the Code states:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

8. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1 or a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph D of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

9. Section 11352, subdivision (a) of the California Health and Safety Code states:

"(a) Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years. "

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1 COST RECOVERY

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

6 DRUGS

7 11. Norco, a brand name for Hydrocodone/acetaminophen, is a narcotic Schedule III  
8 controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a  
9 dangerous drug pursuant to Business and Professions Code section 4022.

10 Hydrocodone/acetaminophen is used as a narcotic analgesic in the relief of severe pain.

11 STATEMENT OF FACTS

12 12. On or about October 27, 2012, the Board received an e-mail from the Director of  
13 Regulatory Compliance for CVS confirming a loss of controlled substance at CVS Pharmacy  
14 #09530 due to theft by Respondent. In a statement given to CVS pharmacy on or about August  
15 14, 2012, Respondent admitted to personally handing 150 Norco tablets to his shift supervisor  
16 without a prescription or payment while working as a pharmacy technician at CVS pharmacy in  
17 Moorpark in or around 2012. Respondent's shift supervisor, who was not licensed by the board  
18 and whose job did not involve work inside the pharmacy, was addicted to the pills and had on  
19 multiple occasions asked Respondent to provide him with Norco and himself taken Norco from  
20 bottles inside the pharmacy while in the presence of Respondent.

21 FIRST CAUSE FOR DISCIPLINE

22 **(Unprofessional Conduct in the Commission of an Act Involving Dishonesty, Fraud, Deceit)**

23 13. Respondent is subject to disciplinary action under Business and Professions Code  
24 section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud  
25 or deceit. Complainant hereby incorporates paragraph 12, above, as though set forth fully.

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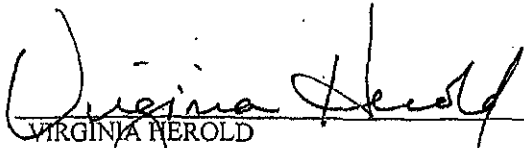
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3: Taking such other and further action as deemed necessary and proper.

DATED: 3/27/14   
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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