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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. 5116

**JOSEPH ELIJAH MADRID**  
**14374 Upas Ct.**  
**Fontana, CA 92335**  
**Pharmacy Technician Registration No. TCH**  
**78849**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 5, 2015, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), filed Accusation No. 5116 against Joseph Elijah Madrid (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about October 29, 2007, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 78849 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5116 and expired on February 28, 2015.

1           3.     On or about September 29, 2015, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5116, 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 14374 Upas Ct., Fontana, CA 92335.

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

11           5.     Government Code section 11506 states, in pertinent part:

12           .....

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 5116.

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. 5116, finds that

1 the charges and allegations in Accusation No. 5116, 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 \$4,264.00 as of October 30, 2015.

#### 6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Joseph Elijah Madrid has  
8 subjected his Pharmacy Technician Registration No. TCH 78849 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, subdivision (1) and  
14 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
15 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
16 duties of a pharmacy technician. On or about November 5, 2013, after pleading guilty,  
17 Respondent was convicted of one misdemeanor count of violating Penal Code section 484,  
18 subdivision (a) [theft of personal property] and one misdemeanor count of Health and Safety  
19 Code section 11377, subdivision (a) [possession of a controlled substance] in the criminal  
20 proceeding entitled *The People of the State of California v. Joseph Elijah Madrid* (Super. Ct. San  
21 Bernardino County, 2013, No. FSB1303689). The Court sentenced Respondent to serve 2 days in  
22 San Bernardino County Jail and placed him on 36 months probation, with terms and conditions.  
23 The circumstances surrounding the conviction are that at the time of the misconduct for which he  
24 was convicted, Respondent had been employed as a pharmacy technician at CVS Pharmacy  
25 (CVS), in Grand Terrace, CA for approximately 6 years. On or about June 1, 2013, CVS security  
26 personnel reviewing surveillance camera videos from that day, observed Respondent concealing 1  
27 bottle of Hydrocodone/APAP 10-325 with approximately 100 pills. Respondent subsequently  
28 admitted to stealing an additional bottle of Hydrocodone/APAP 10-325 with approximately 100

1 pills from CVS over the last couple of weeks to feed his addiction. Respondent further admitted  
2 that he was taking Hydrocodone given to his wife from a dentist and began to steal Hydrocodone  
3 from his parents. Respondent was subsequently arrested for violating Penal Code section 459,  
4 subdivision (c) [commercial burglary], Penal Code section 496, subdivision (a) [receiving known  
5 stolen property], and Health and Safety Code section 11350, subdivision (a) [possession of a  
6 controlled substance].

7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 78849, heretofore  
9 issued to Respondent Joseph Elijah Madrid, is revoked.

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

14 This Decision shall become effective on February 8, 2016.

15 It is so ORDERED January 8, 2016.

16 BOARD OF PHARMACY  
17 DEPARTMENT OF CONSUMER AFFAIRS  
18 STATE OF CALIFORNIA

19 

20  
21 By \_\_\_\_\_

22 Amy Gutierrez, Pharm.D.  
23 Board President

24 51951465.DOCX  
25 DOJ Matter ID:LA2014511257

26 Attachment:  
27 Exhibit A:  
28

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC GREENBAUM  
Supervising Deputy Attorney General  
3 CHRISTINA THOMAS  
Deputy Attorney General  
4 State Bar No. 171168  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2520  
6 Facsimile: (213) 897-2804

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 **JOSEPH ELIJAH MADRID**  
3969 Severance Ave.  
13 San Bernardino, CA 92405  
14 Pharmacy Technician Registration  
15 No. TCH 78849  
16 Respondent.

Case No. 5116  
**ACCUSATION**

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 October 29, 2007, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 78849 to Joseph Elijah Madrid (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on February 28, 2017, unless renewed.

25 **JURISDICTION**

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

28 ///

STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business 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 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

///

1           6.    Section 4059, subdivision (a) states, in pertinent part:

2            "A person may not furnish any dangerous drug, except upon the prescription of a physician,  
3 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
4 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
5 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to  
6 Section 3640.7."

7           7.    Section 4060 provides in pertinent part, that no person shall possess any controlled  
8 substance, except that furnished to a person upon the prescription of a physician, dentist,  
9 podiatrist, optometrist, veterinarian, or other authorized prescriber.

10          8.    Section 4300 provides, in pertinent part, that every license issued by the Board is  
11 subject to discipline, including suspension or revocation.

12          9.    Section 4300.1 states:

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

18          10.   Section 4301 states:

19           "The board shall take action against any holder of a license who is guilty of unprofessional  
20 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
21 Unprofessional conduct shall include, but is not limited to, any of the following:

22           ....

23           "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
24 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
25 whether the act is a felony or misdemeanor or not.

26           ....

27           "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to



1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 . . . .

5 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or  
6 administering, or offering to sell, furnish, give away, or administer, any controlled substance to an  
7 addict.

8 . . . .

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

11 . . . .

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
15 substances or of a violation of the statutes of this state regulating controlled substances or  
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
18 The board may inquire into the circumstances surrounding the commission of the crime, in order  
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
23 of this provision. The board may take action when the time for appeal has elapsed, or the  
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
28 indictment."

1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

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

14 13. **CONTROLLED SUBSTANCE**

15 "Vicodin ES," is the brand name for Hydrocodone/Acetaminophen. It is a Schedule III  
16 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(7)  
17 and is categorized as a dangerous drug pursuant to section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

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

20 14. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
22 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
23 duties of a pharmacy technician. On or about November 5, 2013, after pleading guilty,  
24 Respondent was convicted of one misdemeanor count of violating Penal Code section 484,  
25 subdivision (a) [theft of personal property] and one misdemeanor count of Health and Safety  
26 Code section 11377, subdivision (a) [possession of a controlled substance] in the criminal  
27 proceeding entitled *The People of the State of California v. Joseph Elijah Madrid* (Super. Ct. San  
28 Bernardino County, 2013, No. FSB1303689). The Court sentenced Respondent to serve 2 days in

1 San Bernardino County Jail and placed him on 36 months probation, with terms and conditions.  
2 The circumstances surrounding the conviction are that at the time of the misconduct for which he  
3 was convicted, Respondent had been employed as a pharmacy technician at CVS Pharmacy  
4 (CVS), in Grand Terrace, CA for approximately 6 years. On or about June 1, 2013, CVS security  
5 personnel reviewing surveillance camera videos from that day, observed Respondent concealing 1  
6 bottle of Hydrocodone/APAP 10-325 with approximately 100 pills. Respondent subsequently  
7 admitted to stealing an additional bottle of Hydrocodone/APAP 10-325 with approximately 100  
8 pills from CVS over the last couple of weeks to feed his addiction. Respondent further admitted  
9 that he was taking Hydrocodone given to his wife from a dentist and began to steal Hydrocodone  
10 from his parents. Respondent was subsequently arrested for violating Penal Code section 459,  
11 subdivision (c) [commercial burglary], Penal Code section 496, subdivision (a) [receiving known  
12 stolen property], and Health and Safety Code section 11350, subdivision (a) [possession of a  
13 controlled substance].

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Obtained or Possessed a Controlled Substance)**

16 15. Respondent is subject to disciplinary action under section 4301, subdivision (j), as  
17 defined in section 4060, in that on or about June 1, 2013, while working as a pharmacy technician  
18 at CVS, Respondent, by his own admission, stole controlled substances from his employer to feed  
19 his addiction. Complainant refers to, and by this reference incorporates, the allegations set forth  
20 above in paragraph 14, as though set forth fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Furnishing Controlled Substances Without a Prescription)**

23 16. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and  
24 (i), as defined in section 4059, subdivision (a), in that on or about June 1, 2013, while working as  
25 a pharmacy technician at CVS, Respondent, by his own admission, stole controlled substances  
26 from his employer, to feed his addiction. Complainant refers to, and by this reference  
27 incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
4 that on or about June 1, 2013, while working as a pharmacy technician at CVS, Respondent, by  
5 his own admission, stole controlled substances from his employer, which he furnished to himself  
6 to feed his addiction. Complainant refers to, and by this reference incorporates, the allegations  
7 set forth above in paragraph 14, as though set forth fully.

8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacy Technician Registration No. TCH 78849, issued  
12 to Joseph Elijah Madrid;
- 13 2. Ordering Joseph Elijah Madrid to pay the Board of Pharmacy the reasonable costs of  
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
15 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 9/5/15

*Virginia Herold*  
18 VIRGINIA HEROLD  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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