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

10 In the Matter of the Accusation Against:

Case No. 5258

11 **MARCELLA SAAVEDRA-MARTIN**
12 1034 E. Buckingham Way
13 Fresno, California 93704

DEFAULT DECISION AND ORDER

14 **Pharmacy Technician License No. TCH**
15 **105417**

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

18 1. On or about December 2, 2014, Virginia K. Herold (“Complainant”), in her official
19 capacity as the Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer
20 Affairs, filed Accusation No. 5258 against Marcella Saavedra-Martin (“Respondent”) before the
21 Board of Pharmacy. (Accusation attached as Exhibit A.)

22 2. On or about October 19, 2010, the Board issued Pharmacy Technician License No.
23 TCH 105417 to Respondent. The Pharmacy Technician License was in full force and effect at all
24 times relevant to the charges brought in Accusation No. 5258. The license expired on September
25 30, 2014, and has not been renewed. This lapse in licensure, however, pursuant to Business and
26 Professions Code section 4300.1, does not deprive the Board of its authority to institute or
27 continue this disciplinary proceeding.
28

1 3. On or about December 22, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5258, 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 1034 E. Buckingham Way
8 Fresno, California 93704.

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. No documents were returned by the U.S. Postal Service marked as undeliverable.

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
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5258.

21 8. 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 9. 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. 5258, finds that

1 the charges and allegations in Accusation No. 5258, 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 the reasonable costs for Investigation
5 and Enforcement is \$1,945 as of February 9, 2015.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Marcella Saavedra-Martin has
8 subjected her Pharmacy Technician License No. TCH 105417 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 License based upon the following violations alleged in the Accusation which are supported by the
12 evidence contained in the Default Decision Evidence Packet in this case:

13 a. Respondent is subject to disciplinary action pursuant to Business and Professions
14 Code ("Code") section 4301, subdivision (l), on the grounds of unprofessional conduct, in that
15 Respondent committed crimes substantially related to the qualifications, functions, and duties of a
16 licensed pharmacy technician. Specifically, on or about February 25, 2014, in a criminal
17 proceeding entitled *People v. Marcella Saavedra Martin*, Superior Court of California, County of
18 Fresno, Central Division, Case No. F13905508, Respondent was convicted by the court on her
19 plea of no contest to violating Penal Code section 487(a) (grand theft of personal property), a
20 felony. Respondent was ordered to serve 180 days in the Fresno County Jail, to pay restitution in
21 the amount of \$28,162.80, and was placed on formal probation for five years. The circumstance
22 of the crime is that between in or around October 2010 and June 2012, Respondent signed
23 timesheets averaging approximately 6-7 hours a day, five days a week, and submitted them to In-
24 Home Supportive Services ("IHSS") of Fresno County (a Medi-Cal program) for her services as
25 an in-home care provider to "M.M.", her ex-husband who lived in San Diego, California.
26 Respondent lived in Fresno, California at the time. Between late 2010 through June 2012,
27 Respondent worked in Clovis, California, approximately 40 hours a week. Respondent cashed
28

1 pay warrants received from the State of California totaling \$28,162.80, for her alleged
2 services for the in-home care of M.S. through IHSS.

3 b. Respondent is subject to disciplinary action pursuant to Code section 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that she committed acts involving
5 dishonesty, fraud, deceit, or corruption. Specifically, Respondent committed grand theft of
6 personal property, as set forth in paragraph 3, subpart (a), above.

7 **ORDER**

8 IT IS SO ORDERED that Pharmacy Technician License No. TCH 105417, heretofore
9 issued to Respondent Marcella Saavedra-Martin, is revoked.

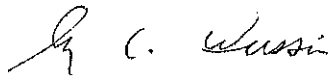
10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
11 written motion requesting that the Decision be vacated and stating the grounds relied on within
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
13 vacate the Decision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

14 This decision shall become effective on April 10, 2015.

15 It is so ORDERED on March 11, 2015.

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

19
20 By



21 STAN C. WEISSER
22 Board President

23 11727516.DOC
24 DOJ Matter ID:SA2014313926

25 Attachment:
26 Exhibit A: Accusation

Exhibit A

Accusation No. 5258

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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. 5258

12 **MARCELLA SAAVEDRA-MARTIN**
1034 E. Buckingham Way
13 Fresno, California 93704

A C C U S A T I O N

14 **Pharmacy Technician License**
15 **No. TCH 105417**

16 Respondent

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about October 19, 2010, the Board issued Pharmacy Technician License
23 Number TCH 105417 to Marcella Saavedra-Martin ("Respondent"). The pharmacy technician
24 license was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

28 (a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board,
2 whose default has been entered or whose case has been heard by the board and found
guilty, by any of the following methods:

3 (1) Suspending judgment.

4 (2) Placing him or her upon probation.

5 (3) Suspending his or her right to practice for a period not exceeding one year.

6 (4) Revoking his or her license.

7 (5) Taking any other action in relation to disciplining him or her as the board in
8 its discretion may deem proper . . .

9 4. Code section 4300.1 states:

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

14 **STATUTORY PROVISIONS**

15 5. Code section 4301 states, in pertinent part:

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

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

21 (l) The conviction of a crime substantially related to the qualifications,
22 functions, and duties of a licensee under this chapter. The record of conviction of a
23 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
24 state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction shall
25 be conclusive evidence only of the fact that the conviction occurred. The board may
26 inquire into the circumstances surrounding the commission of the crime, in order to
fix the degree of discipline or, in the case of a conviction not involving controlled
27 substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
28 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action 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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

3 **COST RECOVERY**

4 6. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Criminal Conviction)

12 7. Respondent is subject to disciplinary action pursuant to Code section 4301(l), on the
13 grounds of unprofessional conduct, in that Respondent committed crimes substantially related to
14 the qualifications, functions, and duties of a licensed pharmacy technician. Specifically, on or
15 about February 25, 2014, in a criminal proceeding entitled *People v. Marcella Saavedra Martin*,
16 Superior Court of California, County of Fresno, Central Division, Case No. F13905508,
17 Respondent was convicted by the court on her plea of no contest to violating Penal Code section
18 487(a) (grand theft of personal property), a felony. Respondent was ordered to serve 180 days in
19 the Fresno County Jail, to pay restitution in the amount of \$28,162.80, and was placed on formal
20 probation for five years. The circumstance of the crime is that between in or around October
21 2010 and June 2012, Respondent signed timesheets averaging approximately 6-7 hours a day, five
22 days a week, and submitted them to In-Home Supportive Services ("IHSS") of Fresno County (a
23 Medi-Cal program) for her services as an in-home care provider to "M.M.", her ex-husband who
24 lived in San Diego, California. Respondent lived in Fresno, California at the time. Between late
25 2010 through June 2012, Respondent worked in Clovis, California, approximately 40 hours a
26 week. Respondent cashed pay warrants received from the State of California totaling \$28,162.80,
27 for her alleged services for the in-home care of M.S. through IHSS.

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

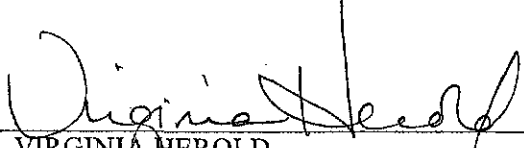
8. Respondent is subject to disciplinary action pursuant to Code section 4301(f), on the grounds of unprofessional conduct, in that she committed acts involving dishonesty, fraud, deceit, or corruption. Specifically, Respondent committed grand theft of personal property, as set forth in paragraph 7, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 105417, issued to Marcella Saavedra-Martin;
2. Ordering Marcella Saavedra-Martin to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/2/14


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

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