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

In the Matter of the Accusation Against:
REBECCA MURILLO
29931 Sugarfoot Ct.
Sun City, CA 92586
Pharmacy Technician Registration
No. TCH 3695

Respondent.

Case No. 5271
OAH No. 2015070909
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 10, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5271 against Rebecca Murillo (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about January 26, 1993, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 3695 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5271 and will expire on October 31, 2016, unless renewed.

1 3. On or about April 6, 2015, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5271, 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 29931 Sugarfoot Ct.
8 Sun City, CA 92586.

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. On or about May 1, 2015, Respondent signed and returned a Notice of Defense,
13 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
14 address of record and it informed her that an administrative hearing in this matter was scheduled
15 for April 21, 2016. Respondent failed to appear at that hearing.

16 6. Government Code section 11506(c) states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense . . . and the notice shall be deemed a specific denial of all
19 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
20 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
21 discretion may nevertheless grant a hearing.

22 7. California Government Code section 11520(a) states, in pertinent part:

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

27 8. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
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. 5271, finds that

1 the charges and allegations in Accusation No. 5271, 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 are \$2,873.00 as of April 15, 2016.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Rebecca Murillo has subjected
8 her Pharmacy Technician Registration No. TCH 3695 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 has subjected her registration to discipline under Code sections 490
14 and 4301, subdivision (l) in that Respondent was convicted of a crime that is substantially related
15 to the qualifications, functions, and duties of a registered pharmacy technician when she was
16 convicted on March 19, 2014, in *The People of the State of California vs. Rebecca Murillo*, in
17 Riverside County Superior Court, Larson Justice Center, Criminal Division Case Number
18 RIF1302564, on her plea of guilty to violating Penal Code (PC) section 487, subdivision (a),
19 grand theft. The facts that led to the conviction are that on or about January 11, 2008,
20 Respondent and her associate, R.L.O., created and offered a false and forged grant deed and deed
21 of trust, which were registered in Riverside County, California. Respondent, using her notary
22 commission, notarized the documents in the absence of the victim, M.A., a listed party to both
23 the grant deed and the deed of trust. As a result, Respondent and her associate defrauded money
24 from a bank in the amount of \$99,000.00.

25 b. Respondent is also charged with acts involving moral turpitude, dishonesty, fraud,
26 deceit, and corruption under Business and Professions Code section 4301 (f) for stealing
27 \$99,000.00 from a bank by fraudulently notarizing a grant deed and deed of trust.

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1 c. Respondent was charged with committing acts involving signing of documents
2 that falsely represented the existence of a state of facts when she fraudulently notarized a grant
3 deed and a deed of trust when a party who was required by law to sign them in her presence was
4 absent.

5 **ORDER**

6 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 3695, heretofore
7 issued to Respondent Rebecca Murillo, is revoked.

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

12 This Decision shall become effective at 5:00 p.m. on July 1, 2016.

13 It is so ORDERED on June 1, 2016.

14 BOARD OF PHARMACY
15 DEPARTMENT OF CONSUMER AFFAIRS
16 STATE OF CALIFORNIA

17 

18
19 By _____

20 Amy Gutierrez, Pharm.D.
21 Board President

22 71052912.DOC
23 DOJ Matter ID:SD2014707724

24 Attachment:
25 Exhibit A: Accusation
26
27
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Exhibit A

Accusation

(REBECCA MURILLO)

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Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5271

13 **REBECCA MURILLO**
14 **32076 Meadow Wood Lane**
Lake Elsinore, CA 92704

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 3695**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On January 26, 1993, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 3695 to Rebecca Murillo (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on October 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Code section 4300, subdivision (a) provides that every license issued by the
6 Board may be suspended or revoked.

7 5. Code section 4300.1 states:

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

12 **STATUTORY PROVISIONS**

13 6. Code section 482 states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Code section 490 provides, in pertinent part, that a board may suspend or revoke a
21 license on the ground that the licensee has been convicted of a crime substantially related to the
22 qualifications, functions, or duties of the business or profession for which the license was issued.

23 8. Code section 493 states:

24 Notwithstanding any other provision of law, successful completion of any
25 diversion program under the Penal Code, or successful completion of an alcohol
26 and drug problem assessment program under Article 5 (commencing with Section
27 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
28 any agency established under Division 2 (commencing with Section 500) of this
code, or any initiative act referred to in that division, from taking disciplinary
action against a licensee or from denying a license for professional misconduct,
notwithstanding that evidence of that misconduct may be recorded in a record
pertaining to an arrest. This section shall not be construed to apply to any drug

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1 diversion program operated by any agency established under Division 2
2 (commencing with Section 500) of this code, or any initiative act referred to in
3 that division.

4 9. Section 4301 of the Code states:

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

8

9 (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 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

10 (g) Knowingly making or signing any certificate or other document that
11 falsely represents the existence or nonexistence of a state of facts.

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13 (l) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. The record of conviction of
15 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
16 United States Code regulating controlled substances or of a violation of the
17 statutes of this state regulating controlled substances or dangerous drugs shall be
18 conclusive evidence of unprofessional conduct. In all other cases, the record of
19 conviction shall be conclusive evidence only of the fact that the conviction
20 occurred. The board may inquire into the circumstances surrounding the
21 commission of the crime, in order to fix the degree of discipline or, in the case of
22 a conviction not involving controlled substances or dangerous drugs, to determine
23 if the conviction is of an offense substantially related to the qualifications,
functions, and duties of a licensee under this 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 Section 1203.4 of the Penal
Code allowing the person to withdraw his or her plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information, or indictment.

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25 REGULATORY PROVISIONS

26 10. California Code of Regulations, title 16, section 1769, states:

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28 (b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been

1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

3 (1) Nature and severity of the act(s) or offense(s).

4 (2) Total criminal record.

5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).

7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.

9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

10 11. California Code of Regulations, title 16, section 1770, states:

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

18 **COST RECOVERY**

19 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
20 the administrative law judge to direct a licentiate found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
23 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
24 may be included in a stipulated settlement.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(March 9, 2014 Conviction for Grand Theft on January 11, 2008)**

27 13. Respondent has subjected her registration to discipline under Code sections 490
28 and 4301, subdivision (l) in that Respondent was convicted of a crime that is substantially related
to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances
are as follows:

a. On March 9, 2014, in a criminal proceeding entitled *The People of the
State of California vs. Rebecca Murillo*, in Riverside County Superior Court, Larson Justice

1 Center, Criminal Division Case Number RIF1302564, Respondent was convicted on her plea of
2 guilty to violating Penal Code (PC) section 487, subdivision (a), grand theft, a misdemeanor.
3 Felony charges for two counts of violation of PC section 115, procuring and offering false and
4 forged instruments, were dismissed, and the allegation that in the commission of grand theft
5 Respondent took, damaged, and destroyed property of a value exceeding \$65,000.00 under PC
6 section 12022.6, subdivision (a)(1), was stricken, pursuant to a plea bargain.

7 b. As a result of the conviction, on March 9, 2014, Respondent was
8 sentenced to be committed to the custody of the Riverside County Sheriff for 30 days, with credit
9 for 16 days actually served and 16 days for good behavior, and granted 36 months summary
10 probation under drug, search, and test program terms. Respondent was ordered to pay fees, fines,
11 assessments, and victim restitution. Respondent was also ordered to surrender her notary
12 commission and not have any induement, association, or employment related to real estate or
13 notary public.

14 c. The facts that led to the conviction are that on or about January 11, 2008,
15 Respondent and her associate, R.L.O., created and offered a false and forged grant deed and deed
16 of trust, which were registered in Riverside County, California. Respondent, using her notary
17 commission, notarized the documents in the absence of the victim, M.A., a listed party to both
18 the grant deed and the deed of trust. As a result, Respondent and her associate defrauded money
19 from a bank in the amount of \$99,000.00.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,
22 Fraud, Deceit, or Corruption)**

23 14. Respondent has subjected her registration to discipline under Code section 4301,
24 subdivision (f), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit,
25 and corruption when she stole \$99,000.00 from a bank by fraudulently notarizing a grant deed
26 and deed of trust, as described in paragraph 13, above, and incorporated herein by this reference.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Signing Any Certificate that Falsely Represented the Existence of a State of Facts)

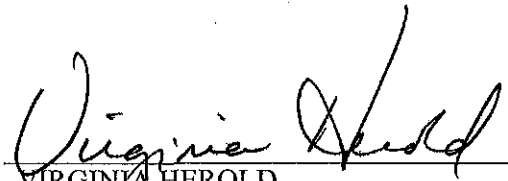
15. Respondent has subjected her registration to discipline under Code section 4301, subdivision (g), in that she committed acts involving signing of documents that falsely represented the existence of a state of facts when she fraudulently notarized a grant deed and a deed of trust when a party who was required by law to sign them in her presence was absent, as described in paragraph 13, above, and incorporated herein by this reference.

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 3695, issued to Rebecca Murillo;
- 2. Ordering Rebecca Murillo 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;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 11/10/14


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

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