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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against:	Case No. 5344
12	ELAINE MANCIA	DEFAULT DECISION AND ORDER
13	12566 Sanford Street Los Angeles, CA 90066	[Gov. Code, §11520]
14 15	Pharmacy Technician Registration No. TCH 124458	
16	Respondent.	
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18	FINDINGS OF FACT	
19	1. On or about April 24, 2015, Complainant Virginia K. Herold, in her official capacity	
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed	
21	Accusation No. 5344 against Elaine Mancia (Respondent) before the Board of Pharmacy.	
22	(Accusation attached as Exhibit A.)	
23	2. On or about September 14, 2012, the	e Board of Pharmacy (Board) issued Pharmacy
24	Technician Registration No. TCH 124458 to Respondent. The Pharmacy Technician Registration	
25	was in full force and effect at all times relevant to the charges brought in Accusation No. 5344	
26	and will expire on February 29, 2016, unless renewed.	
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- 3. On or about May 6, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5344, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is: 12566 Sanford Street, Los Angeles, CA 90066.
- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
 - 5. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts 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.
- 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5344.
 - 7. California Government Code section 11520 states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.
- 8. Pursuant to its authority under Government Code section 11520, the Board finds 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. 5344, finds that the charges and allegations in Accusation No. 5344, are separately and severally, found to be true and correct by clear and convincing evidence.

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1	9.	Taking official notice of its own internal records, pursuant to Business and
2	Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation	
3	and Enforcement is \$1,227.50 as of May 29, 2015.	
4		<u>DETERMINATION OF ISSUES</u>
5	1.	Based on the foregoing findings of fact, Respondent Elaine Mancia has subjected her
6	Pharmacy	Technician Registration No. TCH 124458 to discipline.
7	2.	The agency has jurisdiction to adjudicate this case by default.
8	3.	The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9	Registration based upon the following violations alleged in the Accusation which are supported	
10	by the evidence contained in the Default Decision Evidence Packet in this case:	
11	a.	Business and Professions Code section 4301(f), for Acts Involving Dishonesty,
12	Fraud, or Deceit.	
13	ь.	Business and Professions Code section 4301(o), for Unprofessional
14	Conduct/Violation of Licensing Chapter.	
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(ELAINE MANCIA) DEFAULT DECISION & ORDER

ORDER 1 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 124458, heretofore 2 issued to Respondent Elaine Mancia, is revoked. 3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a 4 written motion requesting that the Decision be vacated and stating the grounds relied on within 5 seven (7) days after service of the Decision on Respondent. The agency in its discretion may 6 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute. 7 This Decision shall become effective on July 31, 2015. 8 It is so ORDERED July 1, 2015. 9 10 BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS 11 STATE OF CALIFORNIA 12 13 14 By 15 **AMARYLIS GUTIERREZ** 16 **Board President** 17 51790706.DOC DOJ Matter ID:LA2015500006 18 19 Attachment: Exhibit A: Accusation 20 21 22. 23 24 25 26 27 28

Exhibit A

Accusation

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1	KAMALA D. HARRIS Attorney General of California		
2	LINDA L. SUN Supervising Deputy Attorney General		
3	HELENE SWANSON Deputy Attorney General		
4	State Bar No. 130426		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 620-3005 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE		
9			
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against: Case No. 5344		
12	ELAINE MANCIA 12566 Sanford Street ACCUSATION		
13	Los Angeles, CA 90066		
14	Pharmacy Technician Registration No. TCH 124458		
15			
16	Respondent.		
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18	Complainant alleges:		
19	<u>PARTIES</u>		
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as		
21	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.		
22	2. On or about September 14, 2012, the Board issued Pharmacy Technician Registration		
23	No. TCH 124458 to Elaine Mancia (Respondent). The Pharmacy Technician Registration was in		
24	full force and effect at all times relevant to the charges brought herein and will expire on February		
25	29, 2016, unless renewed.		
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	Accusation		

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

STATUTORY PROVISIONS

- 4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.
 - 5. Section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a 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.

6. Section 4301 states, in pertinent part:

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

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

REGULATORY PROVISIONS

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

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

 COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

- 9. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit herself, or substantially injure another, as follows:
- a. On or about June 29, 2014, Respondent entered a Wal-Mart in Orange, CA and stole several DVDs and video games. Respondent admitted to stealing merchandise over ten times before, but that she had only been caught once. Furthermore, Respondent admitted that she had a problem with stealing.
- b. Subsequently, criminal charges were filed against Respondent, as a result of the theft alleged in the immediately preceding paragraph, for violating Penal Code section 484, subdivision (a) [petty theft] in the criminal proceeding entitled *The People of the State of California v. Elaine Mancia* (Super. Ct. Orange County, 2014, No. 14CM05928). On or about July 28, 2014, the Court placed Respondent on a Deferred Entry of Judgment Program and ordered Respondent to complete a six or 12-hour Education Program and pay restitution, among other terms. On or about July 28, 2014, Respondent signed a "General Misdemeanor Guilty Plea Form", in which she admitted that she willfully and unlawfully took the personal property of Wal-Mart without its consent. On or about October 28, 2014, the matter was dismissed.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Violation of Licensing Chapter)

10. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that Respondent committed acts of unprofessional conduct and/or violated provisions of the licensing

chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above in Paragraph 9, inclusive, as though set forth fully.

DISCIPLINE CONSIDERATIONS

- 11. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges, as follows:
- On or about December 17, 2009, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty theft] in the criminal proceeding entitled The People of the State of California v. Elaine Mancia (Super. Ct. L.A. County, 2009, No. 9SY08857). The Court sentenced Respondent to serve one day in the Los Angeles County Jail and placed her on three years' probation, among other terms and conditions.
- The circumstances surrounding the conviction are that on or about July 31, 2009, on b. two separate occasions, Respondent was observed stealing several video games at Target.

PRAYER

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

- Revoking or suspending Pharmacy Technician Registration Number TCH 124458, issued to Elaine Mancia;
- Ordering Elaine Mancia to pay the Board the reasonable costs of the investigation and 2. enforcement of this case, pursuant to section 125.3; and
 - Taking such other and further action as deemed necessary and proper. 3.

4/24/15

Executive Officer Board of Pharmacy Department of Consumer Affairs State of California

Complainant

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