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

12 In the Matter of the Accusation Against:

Case No. 5354

13 **JOSELITO DURAN RICO**  
14 **646 N. Madison Ave. #4**  
15 **Los Angeles, CA 90004**

**DEFAULT DECISION AND ORDER**

16 **Inmate #AX9583**  
17 **Wasco State Prison-Reception Center**  
18 **701 Scofield Avenue**  
19 **P O BOX 8800**  
20 **Wasco, CA 93280**  
21 **Pharmacy Technician Registration No. TCH**  
22 **39066**

[Gov. Code, §11520]

Respondent.

23 **FINDINGS OF FACT**

24 1. On or about December 7, 2015, Complainant Virginia K. Herold, in her official  
25 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
26 filed Accusation No. 5354 against Joselito Duran Rico (Respondent) before the Board of  
27 Pharmacy. (Accusation attached as **Exhibit A.**)  
28

1           2.    On or about October 17, 2001, the Board of Pharmacy (Board) issued Pharmacy  
2 Technician Registration No. TCH 39066 to Respondent. The Pharmacy Technician Registration  
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 5354  
4 and was cancelled on July 1, 2015.

5           3.    On or about December 22, 2015, Respondent was served by Certified and First Class  
6 Mail copies of the Accusation No. 5354, Statement to Respondent, Notice of Defense, Request  
7 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
8 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
9 section 4100, is required to be reported and maintained with the Board. Respondent's address(es)  
10 of record were and are:

11                               646 N. Madison Ave. #4  
12                               Los Angeles, CA 90004

13                               ~~Inmate #AX9583~~  
14                               Wasco State Prison-Reception Center  
15                               701 Scofield Avenue  
                                  P O BOX 8800  
                                  Wasco, CA 93280

16           4.    Service of the Accusation was effective as a matter of law under the provisions of  
17 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
18 124.

19           5.    Government Code section 11506(c) states, in pertinent part:

20               (c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
21 notice of defense . . . and the notice shall be deemed a specific denial of all parts of  
22 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.

23           6.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
25 5354.

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

27               (a) If the respondent either fails to file a notice of defense . . . or to appear at  
28 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. 5354, finds that the charges and allegations in Accusation No. 5354, are separately and severally, found to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$2,722.50 as of May 20, 2016.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Joselito Duran Rico has subjected his Pharmacy Technician Registration No. TCH 39066 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Bus. & Prof. Code § 4301, subdivision (l) and 490, in conjunction with California  
Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime  
substantially related to the qualifications, functions or duties of a pharmacy technician.

b. Bus. & Prof. Code § 4301(f) of the code in that Respondent committed acts constituting moral turpitude.

c. Bus. & Prof. Code § 4301(p) of the code in that Respondent committed acts warranting denial of licensure.

d. Bus. & Prof. Code § 4301 of the code in that Respondent committed acts constituting unprofessional conduct.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 39066, heretofore issued to Respondent Joselito Duran Rico, 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 July 29, 2016.

It is so ORDERED on June 29, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.

Board President

52107095.DOCX  
DOJ Matter ID:LA2015500459

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 LANGSTON M. EDWARDS  
Deputy Attorney General  
4 State Bar No. 237926  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-6343  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:

Case No. 5354

12 **JOSELITO DURAN RICO**  
646 N. Madison Ave. #4  
13 Los Angeles, CA 90004

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

14 Inmate #AX9583  
Wasco State Prison-Reception Center  
15 701 Scofield Avenue  
P O BOX 8800  
16 Wasco, CA 93280

17 Pharmacy Technician Registration No. TCH  
39066

18 Respondent.  
19

20  
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).  
25 2. On or about October 17, 2001, the Board of Pharmacy issued Pharmacy Technician  
26 Registration Number TCH 39066 to Joselito Duran Rico (Respondent). The Pharmacy  
27 Technician Registration was in full force and effect at all times relevant to the charges brought  
28

1 herein and expired on March 31, 2015. The Pharmacy Technician Registration was cancelled on  
2 July 1, 2015 pursuant to Bus. & Prof. Code § 4402(e).

3  
4 JURISDICTION

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

8 4. Section 4300 of the Code state, in pertinent part:

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

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

13 (1) Suspending judgment.

14 (2) Placing him or her upon probation.

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

16 (4) Revoking his or her license.

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

19 (c) The Board may refuse a license to any applicant guilty of unprofessional conduct.

20 ...

21 (e) The proceedings under this article shall be conducted in accordance with Chapter 5  
22 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
23 shall have all the powers granted therein. The action shall be final, except that the propriety of  
24 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
25 Civil Procedure."

26 5. Section 4300.1 of the Code states, in pertinent part:

27 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
28 operation of law or by order or decision of the board or a court of law, the placement of a license

1 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
2 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
3 proceeding against, the licensee or to render a decision suspending or revoking the license.”  
4

#### 5 STATUTORY PROVISIONS

6 6. Section 490 states, in pertinent part:

7 “(a) In addition to any other action that a board is permitted to take against a licensee, a  
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
10 or profession for which the license was issued.

11 (b) Notwithstanding any other provision of law, a board may exercise any authority to  
12 discipline a licensee for conviction of a crime that is independent of the authority granted under  
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
14 of the business or profession for which the licensee's license was issued.

15 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
19 made suspending the imposition of sentence, irrespective of a subsequent order under the  
20 provisions of Section 1203.4 of the Penal Code.”

21 7. Section 4301 of the Code states, in pertinent part:

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

25 ...

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



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(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. [T]he record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Board may inquire into the circumstances surround the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is 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.

(p) Actions or conduct that would have warranted denial of a license."

**REGULATORY PROVISIONS**

8. 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**

9. Section 125.3 provides, 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 case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially Related Crime)

3 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
4 490, in conjunction with California Code of Regulations, Title 16, section 1770, in that,  
5 Respondent was convicted of a crime substantially related to the qualifications, functions or  
6 duties of a pharmacy technician, as follows:

7 a. On or around August 7, 2015, Respondent was convicted of eight (8) felony counts of  
8 Pen. Code § 211 [robbery], five (5) felony counts of Pen. Code § 664-211 [attempted robbery]  
9 and four (4) felony counts of Pen. Code § 459 [burglary] in *The Matter the People of the State of*  
10 *California v. Joselito Durana Rico*, Los Angeles Co. Super. Ct., Case No. BA428605 (2014).  
11 The crimes occurred over a six-month period of time between December 2012 and April 2013  
12 and involved more than a dozen victims. The Court ordered the Respondent to serve twenty five  
13 (25) years in prison. The underlying circumstances, in part, are as follows:

14 b. On or around May 6, 2013, at 11:48 a.m., Respondent entered an unlocked door at  
15 RCBC, a business in Los Angeles, disguised wearing a wig and sunglasses. Respondent then  
16 attempted to enter a second door, which was locked/secured. Respondent asked M.J.<sup>1</sup>, an  
17 employee, to open the second door. When M.J. partially opened the door to inform Respondent  
18 that he could not come in, Respondent used his foot to prevent the door from closing.  
19 Respondent then drew a handgun and threatened, "I will shoot you in the head if you don't give  
20 me the money!" Respondent then forced himself into the building and ordered employees M.J.,  
21 and E.M. to lie "face down" and not move. Respondent demanded the key to the safe but fled  
22 when he heard police sirens. Respondent's disguise was later found near the scene of the  
23 incident.

24 c. On or around December 19, 2012, Respondent unlawfully, and by means of force and  
25 fear took personal property from the person, possession, and immediate presence of F.S.

26  
27  
28 <sup>1</sup> Initials are used here and throughout, when necessary, to protect consumer and or victim confidentiality.

- 1 d. On or around January 7, 2013, Respondent unlawfully, and by means of force and  
2 fear took personal property from the person, possession, and immediate presence of T.D.
- 3 e. On or around February 5, 2013, Respondent unlawfully, and by means of force and  
4 fear took personal property from the person, possession, and immediate presence of M.C.
- 5 f. On or around February 21, 2013, Respondent unlawfully, and by means of force and  
6 fear took personal property from the person, possession, and immediate presence of R.A.
- 7 g. On or around February 21, 2013, Respondent unlawfully, and by means of force and  
8 fear took personal property from the person, possession, and immediate presence of D.F.
- 9 h. On or around April 2, 2013, Respondent unlawfully, and by means of force and fear  
10 took personal property from the person, possession, and immediate presence of A.B.
- 11 i. On or around April 2, 2013, Respondent unlawfully, and by means of force and fear  
12 took personal property from the person, possession, and immediate presence of C.C.
- 13 j. On or around April 4, 2013, Respondent unlawfully, and by means of force and fear  
14 attempted to take personal property from the person, possession, and immediate presence of A.D.
- 15 k. On or around April 4, 2013, Respondent unlawfully, and by means of force and fear  
16 attempted to take personal property from the person, possession, and immediate presence of P.P.
- 17 l. On or around May 6, 2013, Respondent unlawfully, and by means of force and fear  
18 took personal property from the person, possession, and immediate presence of S.P.
- 19 m. On or around May 6, 2013, Respondent unlawfully, and by means of force and fear  
20 attempted to take personal property from the person, possession, and immediate presence of W.A.

21  
22 **SECOND CAUSE FOR DISCIPLINE**

23 (Acts Constituting Moral Turpitude)

24 11. Respondent is subject to disciplinary action under section 4301(f) of the code in that  
25 Respondent committed acts constituting moral turpitude. Complainant refers to, and by reference  
26 incorporates, the allegations set forth above in paragraph 10, and all subparagraphs, as though set  
27 forth fully herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Acts Warranting Denial of Licensure)

3 12. Respondent is subject to disciplinary action under section 4301(p) of the code in that  
4 Respondent committed acts warranting denial of licensure. Complainant refers to, and by  
5 reference incorporates, the allegations set forth above in paragraph 10, and all subparagraphs, as  
6 though set forth fully herein.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct)

9 13. Respondent is subject to disciplinary action under section 4301 of the code in that  
10 Respondent committed acts constituting unprofessional conduct. Complainant refers to, and by  
11 reference incorporates, the allegations set forth above in paragraph 10, and all subparagraphs, as  
12 though set forth fully herein.

13 14. In addition, on or around March 28, 2013, Respondent entered BDO, a business  
14 located in Los Angeles disguised in a wig and sunglasses. Upon seeing Respondent, employees  
15 C.G. and M.R. fled to a bathroom, where they barricaded themselves and called 911. Respondent  
16 gained access to the restricted employee area and unsuccessfully attempted to open the bathroom  
17 door. Respondent then returned to the front desk, where he unlawfully stole \$7,000 from desk  
18 drawers.  
19

20 **PRAYER**

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

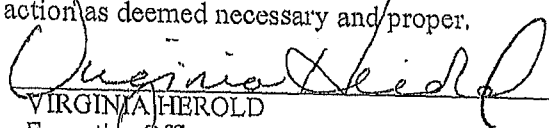
23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 39066,  
24 issued to Joselito Duran Rico  
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26 2. Ordering Joselito Durana Rico to pay the Board of Pharmacy the reasonable costs of  
27 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
28 125.3;

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

DATED: 12/7/15



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

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