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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:  
12 **MARC ANTHONY BASALLO**  
13 **841 Canterbury Lane**  
**San Dimas, CA 91773**  
14  
15 **Pharmacy Technician License**  
16 Respondent.

Case No. 3259

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

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about July 29, 2003, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician License Number TCH 46875 to Marc Anthony Basallo (Respondent). The Pharmacy  
24 Technician License expired on March 31, 2009, and has not been 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.

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STATUTORY PROVISIONS

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2       4.     Section 4060 states, in pertinent part:

3            “No person shall possess any controlled substance, except that furnished to a person upon  
4 the prescription of a physician, dentist, podiatrist, or veterinarian. . .”

5       5.     Section 4300 permits the Board to take disciplinary action to suspend or revoke a  
6 license issued by the Board.

7       6.     Section 4301 states, in pertinent part:

8            "The board shall take action against any holder of a license who is guilty of unprofessional  
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10          Unprofessional conduct shall include, but is not limited to, any of the following:

11            .....

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

15            .....

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

1 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
2 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
3 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
4 indictment.”

### 5 REGULATORY PROVISIONS

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

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

### 13 COST RECOVERY

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

### 18 CONTROLLED SUBSTANCE – DANGEROUS DRUG

19 9. Methamphetamine is a Schedule II controlled substance as designated by Health and  
20 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
21 Business and Professions Code section 4022.

### 22 FIRST CAUSE FOR DISCIPLINE

#### 23 (Possession of a Controlled Substance)

24 10. Respondent is subject to disciplinary action under section 4060, section 4300, and  
25 section 4301, subdivision (l), on the grounds of unprofessional conduct for violating Health and  
26 Safety Code section 11055, subdivision (d)(2), in that on or about December 15, 2007, during a  
27 vehicle stop, Respondent was arrested for possession of methamphetamine, after Los Angeles  
28 Police officers found methamphetamine, a baggie of white crystallized substance, a glass pipe

1 containing white crystal-like substance in Respondent's right pocket, and a second glass pipe with  
2 L-bend shape containing a white power residue in the vehicle. On or about December 29, 2007,  
3 Respondent was arrested for a smoking device and possession of a controlled substance, after  
4 Glendale Police officers found a smoking device used for smoking methamphetamine, a baggie  
5 containing a white crystalline substance, and a small digital scale containing another small glass  
6 pipe. When questioned by the Glendale police, Respondent admitted the crystalline substance  
7 was methamphetamine and it belonged to him. Respondent is currently participating in a court  
8 ordered Deferred Entry of Judgment Program. Two criminal cases are pending: (1) (Super. Ct.  
9 Los Angeles County, 2007, No. 8GN03316) and (2) (Super. Ct. Los Angeles County, 2007, No.  
10 BA333754.)

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 11. Respondent is subject to disciplinary action under section 4060, in that Respondent  
14 engaged in unprofessional conduct on or about December 15, 2007 and December 29, 2007, when  
15 he was arrested for possession of a controlled substance). Complainant refers to, and by this  
16 reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

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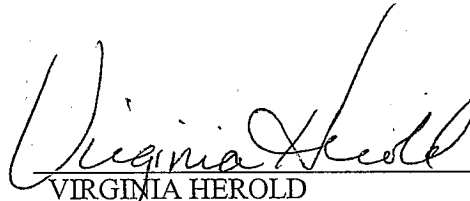
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PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 46875, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/24/09



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

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