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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. 3744

13 **DANTE SANTOS DIAZ**

14 **1232 E. 2nd Street, #3**
Long Beach, CA 90802
Pharmacy Technician Registration No. TCH
26083

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about June 22, 1998, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 26083 to Dante Santos Diaz ("Respondent"). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on February 29, 2012, unless renewed.

25 **STATUTORY PROVISIONS**

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

1
2 4. Section 118, subdivision (b), of the Code provides that the expiration of a license
3 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 492 of the Code states, in pertinent part:

6 "Notwithstanding any other provision of law, successful completion of any diversion
7 program under the Penal Code, or successful completion of an alcohol and drug problem
8 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
9 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
10 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
11 division, from taking disciplinary action against a licensee or from denying a license for
12 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
13 record pertaining to an arrest..."

14 6. Section 4301 of the Code states, in pertinent part:

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

18 ...

19 (j) The violation of any of the statutes of this state, or any other state, or of the United
20 States regulating controlled substances and dangerous drugs..."

21 7. Section 4060 of the Code states, in pertinent part:

22 "No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
24 doctor..."

25 **CONTROLLED SUBSTANCE-DANGEROUS DRUGS**

26 8. "Cocaine" is designated as a Schedule II substance under the Controlled Substances
27 Act under Health and Safety Code section 11055(b)(6), and is a dangerous drug pursuant to
28 Business and Professions Code section 4022.

1 **COSTS**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Possession of a Controlled Substance)**

8 10. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
9 subdivisions (j), on the grounds of unprofessional conduct in that Respondent was found in
10 possession of cocaine, a violation of Health and Safety Code section 11350, subdivision (a). The
11 conduct is more particularly described as follows:

12 a. On or about January 2, 2010, a security guard at the Avalon nightclub in Hollywood,
13 observed Respondent engage in a hand to hand drug sale transaction.

14 b. The security guard confronted Respondent and found 1.08 grams of cocaine in
15 Respondent's hand.

16 c. Respondent was booked into the Hollywood jail for possession of cocaine.

17 d. On or about January 5, 2010, Los Angeles County District Attorney's Office filed
18 criminal charges against Respondent for violating Health and Safety Code section 11350,
19 possession of cocaine, a felony.

20 e. On or about March 9, 2010, Respondent entered a plea of guilty to violating Health
21 and Safety Code section 11350, possession of cocaine, a felony.

22 f. On that same day, the sentencing judge deferred entry of judgment pursuant to Penal
23 Code section 1001.2 for a period of 18 months.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct)**

26 11. Respondent is subject to disciplinary action under Code section 4301, in that
27 Respondent engaged in unprofessional conduct. Respondent committed acts constituting
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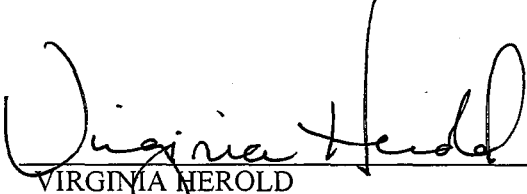
1 unprofessional conduct, as more particularly set forth in paragraph 10, subdivisions (a) through
2 (f), above.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26083,
7 issued to Dante Santos Diaz.
8 2. Ordering Dante Santos Diaz to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3.
11 3. Taking such other and further action as deemed necessary and proper.

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13
14 DATED: 8/23/10


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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