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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. 4008

13 **ROBERTO QUINTANA, JR.,**  
14 **1017 Chalone Ct.**  
**Modesto, Ca 95358**  
**Pharmacy Technician License No. TCH**  
**104835**

**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 July 23, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 104835 to Roberto Quintana, Jr., (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on August 31, 2011, unless renewed.

25 **JURISDICTION**

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 unless otherwise indicated.

1 4. Section 4300 of the Code states:

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

3 ...

4 5. Section 4301 of the Code states:

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

7 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  
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
11 whether the act is a felony or misdemeanor or not.

12 ...

13 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
14 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
15 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
16 substances or of a violation of the statutes of this state regulating controlled substances or  
17 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
18 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
19 The board may inquire into the circumstances surrounding the commission of the crime, in order  
20 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
21 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
22 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
23 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
24 of this provision. The board may take action when the time for appeal has elapsed, or the  
25 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
26 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

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1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
3 indictment.

4 ...

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

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

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

16 8. Section 118, subdivision (b), of the Code provides that the  
17 suspension/expiration/surrender/cancellation of a license shall not deprive the  
18 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period  
19 within which the license may be renewed, restored, reissued or reinstated.

20 FIRST CAUSE FOR DISCIPLINE

21 (CRIMINAL CONVICTION)

22 9. Respondent is subject to disciplinary action under section 4301(1) in that on or about  
23 January 11, 2011, in a criminal proceeding entitled *People v. Roberto Quintana*, in Superior  
24 Court of California, County of Alameda, Case Number 239556, Respondent was convicted by a  
25 plea of No Contest to violating Penal Code section 484(a) (Theft), a misdemeanor, which is  
26 substantially related to the qualifications, functions or duties as a pharmacy technician. The  
27 circumstances are as follows:

28 ///

1 10. On or and between October 5, 2010, and October 21, 2010, and while an agent,  
2 servant, and employee of HALLOWEEN CITY, did unlawfully take from said HALLOWEEN  
3 CITY money and personal property of a value exceeding Four Hundred Dollars (\$400).

4 SECOND CAUSE FOR DISCIPLINE

5 (MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR CORRUPTION)

6 11. Respondent is subject to disciplinary action under section 4301(f) by stealing money  
7 and property from his employer as described in paragraph 10 above.

8 PRAYER

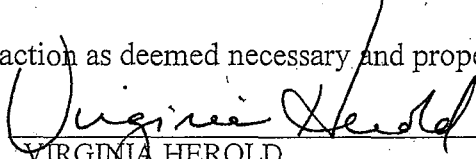
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacy Technician License Number TCH 104835, issued  
12 to Roberto Quintana, Jr.,

13 2. Ordering ROBERTO QUINTANA JR to pay the Board of Pharmacy the reasonable  
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
15 Code section 125.3;

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

17 DATED: 10/28/11

  
18 VIRGINIA HEROLD  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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