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

10
11 In the Matter of the Accusation Against:

Case No. 4032

12 **MARTHA GONZALEZ**
aka **MARTHA ALICIA GONZALEZ**
13 9635 Woodhue Street
Pico Rivera, CA 90660
14 **Pharmacy Technician Registration No. TCH 30404**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about August 23, 1999, the Board of Pharmacy ("Board") issued Original
21 Pharmacy Technician Registration No. TCH 30404 to Martha Gonzalez, also known as Martha
22 Alicia Gonzalez ("Respondent"). The Pharmacy Technician Registration was in full force and
23 effect at all times relevant to the charges and allegations brought herein, and will expire on
24 February 28, 2013, unless 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 ("Code") unless otherwise
28 indicated.

1 4. Code Section 4011 provides:

2 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
3 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10
4 (commencing with Section 11000) of the Health and Safety Code)."

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

7 6. Code section 118(b) provides:

8 "The suspension, expiration, or forfeiture by operation of law of a license issued by
9 a board in the department, or its suspension, forfeiture, or cancellation by order of
10 the board or by order of a court of law, or its surrender without the written consent
11 of the board, shall not, during any period in which it may be renewed, restored,
12 reissued, or reinstated, deprive the board of its authority to institute or continue a
disciplinary proceeding against the licensee upon any ground provided by law or to
enter an order suspending or revoking the license or otherwise taking disciplinary
action against the licensee on any such ground."

13 **STATUTORY PROVISIONS**

14 7. Code section 490 provides in pertinent part:

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

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

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

24 8. Code section 493 provides:

25 "Notwithstanding any other provision of law, in a proceeding conducted by a board
26 within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person
27 who holds a license, upon the ground that the applicant or the licensee has been
convicted of a crime substantially related to the qualifications, functions, and
28 duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of
2 the crime in order to fix the degree of discipline or to determine if the conviction is
3 substantially related to the qualifications, functions, and duties of the licensee in
4 question. As used in this section, "license" includes "certificate," "permit,"
5 "authority," and "registration."

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9. Code section 4301 provides 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.

...
(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

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

...
(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding 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 of 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. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...
10. Code section 4021 provides:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

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1 11. Code section 4022 provides:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
3 use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
5 without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this device
7 to sale by or on the order of a _____," "Rx only," or words of similar import, the
8 blank to be filled in with the designation of the practitioner licensed to use or order
9 use of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully dispensed
11 only on prescription or furnished pursuant to Section 4006.

12 12. Code section 4060 provides in pertinent part:

13 "No person shall possess any controlled substance, except that furnished to a
14 person upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
17 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
18 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
19 pharmacist pursuant to either Section 4052.1 or 4052.2. . ."

20 REGULATORY PROVISION

21 13. California Code of Regulations, title 16, section 1770, provides:

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

29 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

30 14. Methamphetamine is a Schedule II controlled substance per Health and Safety Code
31 section 11055(d)(2) and is a powerful central nervous system stimulant.

32 15. Cocaine is a Schedule II controlled substance per Health and Safety Code section
33 11055(a)(6) and is a powerful central nervous system stimulant.

34 16. Marijuana is listed as a Schedule I controlled substance per Health and Safety Code
35 section 11054(d)(13).

36 COST RECOVERY

37 17. Section 125.3 of the Code states, in pertinent part, that the Board may request the
38 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime – Money Laundering)**

5 18. Respondent has subjected her pharmacy technician registration to discipline under
6 Code sections 490 and 4301(l), in accordance with California Code of Regulations, Title 16,
7 section 1770, for unprofessional conduct because the Respondent has been convicted of a crime
8 substantially related to the qualifications, functions, and duties of a pharmacy technician:

9 a. On November 26, 2007, in the United States District Court for the Central District of
10 California, the Respondent entered a guilty plea and was convicted of the crime of Conspiracy to
11 Launder Money in violation of 18 U.S.C. Sections 1956(h), 1956(a)(1), and 1957, a Class C
12 felony. The Respondent was sentenced to three (3) years probation, ordered to serve six months
13 in home detention, perform 200 hours of community service, and enroll in a mental-health
14 counseling program. (*United States of America v. Martha Gonzalez, United States District Court*
15 *for the Central District of California, case number CR-05-1178-MMM).*

16 b. The facts and circumstances surrounding the conviction are that between August
17 2003 and November 2005, the Respondent was involved in a criminal conspiracy that engaged in
18 multiple financial transactions using proceeds derived from unlawful activity, and the Respondent
19 knowingly intended to disguise the true source of the illegal proceeds and activity. During this
20 period, the Respondent received at least \$64,680 in cash from narcotics trafficking proceeds, then
21 deposited the money into a bank account, and wrote checks from that account at the direction of
22 her co-conspirators, so that the final transactions would appear to be from a legitimate source.
23 The Respondent also assisted co-conspirators by purchasing real property with drug proceeds,
24 obtaining loans for the purchase of real property by providing false information to banks, and
25 making mortgage payments with drug proceeds. Additionally, the Respondent assisted the
26 conspiracy by communicating coded messages between narcotic traffickers. In November 2005,
27 the Respondent's co-conspirators were involved in the trafficking of approximately 15 kilograms
28 of cocaine and 65 kilograms of marijuana near Ontario, CA.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Commission of an Act Involving Moral Turpitude, Deceit, or Corruption)**

3 19. Respondent has subjected her pharmacy technician registration to discipline under
4 Code section 4301(f), for unprofessional conduct because the Respondent committed a criminal
5 act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to, and
6 by this reference incorporates the allegations set forth in paragraph 18, inclusive, as though set
7 forth fully herein.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime – Under the Influence of Methamphetamine)**

10 20. Respondent has subjected her pharmacy technician registration to discipline under
11 Code sections 490 and 4301(l), in accordance with California Code of Regulations, Title 16,
12 section 1770, for unprofessional conduct because the Respondent has been convicted of a crime
13 substantially related to the qualifications, functions, and duties of a pharmacy technician.

14 a. On August 29, 2005, in the Superior Court of the State of California, County of Kern,
15 the Respondent entered a guilty plea and was convicted of a violation of Health and Safety Code
16 section 11550(a), namely Under the Influence of a Controlled Substance, a misdemeanor. The
17 Respondent requested that her sentence be deferred so that she could enroll and participate in a
18 drug diversion program. The court agreed to defer entry of judgment for 18 months to April 20,
19 2007. The Respondent failed to appear at subsequent status hearings on September 27, 2005 and
20 October 18, 2005. On January 9, 2006, the Respondent failed to appear and the court ordered a
21 \$10,000 bench warrant and noted the Respondent's failure to comply with the deferred entry of
22 judgment program. A new misdemeanor charge was added to the criminal complaint alleging a
23 violation of Penal Code section 853.7 for her willful violation of a written promise to appear in
24 court. (*People of the State of California v. Martha Alicia Gonzalez, Superior Court of the State of*
25 *California, County of Los Angeles, Case No. SM090946A*).

26 b. The facts and circumstances surrounding the criminal conviction are that on or about
27 August 13, 2005, police officers from the Shafter Police Department contacted the Respondent
28 who was walking near the roadway holding a DVD player and an electric drill. During the

1 contact, the police noticed the Respondent had rapid speech, was sweating, and unable to stand
2 still, with constant moving of her hands and feet. The Respondent later admitted that she was
3 trying to trade the items for drugs and that she had smoked methamphetamine 90 minutes earlier
4 and wanted to buy more drugs. She also indicated she was willing to get help for her drug
5 problem before she loses her children. A urine sample was obtained, which a laboratory analysis
6 indicated contained amphetamines.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Violation of a Statute Involving Controlled Substances and Dangerous Drugs)**

9 21. Respondent has subjected her pharmacy technician registration to discipline under
10 Code section 4301(j) in accordance with Code section 4060, for unprofessional conduct because
11 the Respondent was convicted of a crime in violation of a statute of this state, of any other state,
12 or of the United States regulating controlled substances and dangerous drugs. Complainant refers
13 to, and by this reference incorporates the allegations set forth in paragraph 20, inclusive, as
14 though set forth fully herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Illegal Use of Controlled Substances and Posing Danger to Public)**

17 22. Respondent has subjected her pharmacy technician registration to discipline under
18 Code section 4301(h) in accordance with Code section 4060, for unprofessional conduct because
19 the Respondent administering to herself a controlled substance to the extent or in a manner as to
20 be dangerous or injurious to herself, to a person holding a license, or to any other person or to the
21 public, or to the extent that the Respondent's use impairs her ability to conduct with safety to the
22 public the practice authorized by the license. Complainant refers to, and by this reference
23 incorporates the allegations set forth in paragraph 20, inclusive, as though set forth fully herein.

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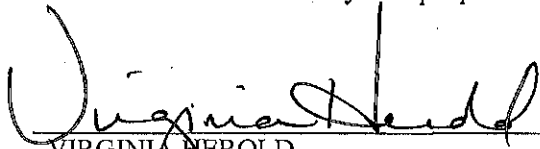
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PRAYER

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 Registration No. TCH 30404, issued to Respondent Martha Gonzalez;
2. Ordering Martha Gonzalez to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/1/13



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

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