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

11 In the Matter of the Accusation Against:

Case No. 4065

12 DENICE MARIE HECTOR
2643 Casey Ray Court
13 Turlock, CA 95382

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH 41071

15 Respondent.

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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 January 22, 2002, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 41071 to Denice Marie Hector (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 October 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.

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4. Section 4300 of the Code states:

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

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5. Section 4301 of the Code states:

"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.

....

"(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

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.

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

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

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

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

19 **FIRST CAUSE FOR DISCIPLINE**
20 **(CRIMINAL CONVICTION)**

21 9. Respondent is subject to disciplinary action under section 4301(l), in that on or about
22 October 30, 2009, in a criminal proceeding entitled, *United States of America v. Denice Marie*
23 *Hector*, in the United States District Court, Eastern District of California, Case No. 1:09
24 CR00104, Respondent was convicted upon a plea of guilty to violating Title 18, United States
25 Code Section 101 (False Statements), a felony, which is substantially related to the
26 qualifications, functions or duties as a pharmacy technician. The circumstances are as follows:

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1 10. On or about March 11, 2009, Respondent made a false, fraudulent, and fictitious
2 statement and representation in connection with a DEA investigation of her husband and DEA's
3 seizure in excess of \$700,000, in U.S. currency associated with her husband's drug trafficking.
4 Respondent told agents she did not know what her safe deposit box contained, when in truth and
5 in fact as she then knew, she had access to the safe deposit box and knew that it contained
6 approximately \$199,832, in U.S. currency, some of which was derived from sources unknown to
7 her.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR CORRUPTION)**

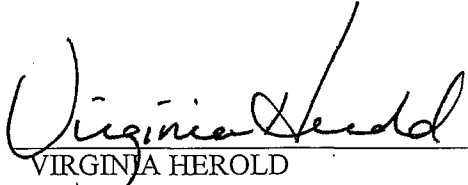
10 11. Respondent is subject to disciplinary action under section 4301(f) by making false
11 statements as described in paragraph 10 above.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 41071,
16 issued to Denice Marie Hector.;
- 17 2. Ordering Denice Marie Hector to pay the Board of Pharmacy the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

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22
23 DATED: 10/28/11


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

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