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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. 4146

12 **JEREMIAH JOSEPH YABUT VIRAY**
16262 Vermeer Drive
13 Chino Hills, CA 91709

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 100473

16 Respondent.

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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 May 20, 2010, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 100473 to Jeremiah Joseph Yabut Viray (Respondent). The
24 Pharmacy Technician Registration, which was in full force and effect at all times relevant to the
25 charges brought herein, expired on May 31, 2012 and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b) provides, in pertinent part that the expiration of a license
3 shall not deprive the Board 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 490 states, in pertinent part:

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

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

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

20 6. Section 4300 provides in pertinent part, that every license issued by the Boards is
21 subject to discipline, including suspension or revocation.

22 7. Section 4301 states, in pertinent part:

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

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of a Substantially Related Crime)**

9 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
10 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
11 Respondent was convicted of a crime substantially related to the qualifications, functions or
12 duties of a pharmacy technician. On or about June 14, 2011, after pleading guilty, Respondent
13 was convicted of one misdemeanor count of violating Penal Code section 459-460 subdivision (b)
14 [burglary: second degree] and one misdemeanor count of violating Penal Code section 488
15 subdivision (a) [petty theft] in the criminal proceeding entitled *The People of the State of*
16 *California v. Jeremiah Joseph Yabut Viray* (Super. Ct. Orange County, 2011, No. 11HM04378).
17 The Court sentenced Respondent to serve one (1) day in Orange County Jail and placed him on
18 one (1) year probation, with terms and conditions. The circumstances surrounding the conviction
19 are that on or about December 21, 2010, an Asset Protection Specialist for Target reviewed the
20 surveillance video, observed Respondent scan an unused Target gift card, and load it with a \$300
21 cash credit, without paying for it. From on or about December 17, 2010 through on or about
22 December 20, 2010, Respondent was observed taking an unknown amount of cash from the
23 register. When confronted by the Asset Protection Specialist, Respondent admitted to loading the
24 gift card with a \$300 cash credit without placing any cash payment into the cash register. In
25 addition, Respondent admitted that he had stolen an additional \$2,005.00 in cash from his
26 employer on numerous occasions since November 6, 2010.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Acts Involving Dishonesty, Fraud, or Deceit)**

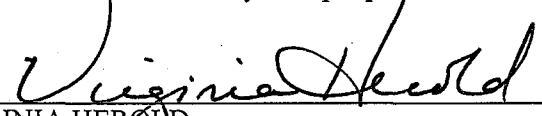
3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
5 and by reference incorporates, the allegations set forth above in paragraph 10, as though set forth
6 fully.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 100473, issued
11 to Respondent;
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
13 enforcement of this case, pursuant to section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: 7/12/12

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

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