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

10 In the Matter of the Accusation Against:

Case No. 4147

11 **JENEL BACUAL**
12 **a.k.a., JENEL SUGANOB BACUAL**
10840 #2 Hortense
North Hollywood, CA 91602

A C C U S A T I O N

13 Pharmacy Technician Registration
14 No. TCH 58548

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 September 21, 2004, the Board of Pharmacy ("Board") issued Pharmacy
22 Technician Registration No. TCH 58548 to Jenel Bacual, also known as Jenel Suganob Bacual
23 ("Respondent"). The Pharmacy Technician Registration was in full force and effect at all times
24 relevant to the charges brought herein and will expire on February 29, 2012, 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.

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 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 Board 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 licentiate 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 the
7 case.

8 **FIRST CAUSE FOR DISCIPLINE**

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

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
12 Respondent has been convicted of crimes substantially related to the qualifications, functions, or
13 duties of a pharmacy technician as follows:

14 11. On or about February 22, 2011, after pleading nolo contendere, Respondent was
15 convicted of one felony count of violating Penal Code section 487, subdivision (a) [grand theft of
16 personal property] in the criminal proceeding entitled *The People of the State of California v.*
17 *Jenel Bacual* (Super. Ct. Los Angeles County, 2011, No. GA082118). The Court sentenced
18 Respondent to serve 2 days in Los Angeles County Jail and placed her on 3 years formal
19 probation, with terms and conditions. The circumstances surrounding the conviction are that on
20 or between October and December of 2010, while working as a store manager for Rite-Aid, in
21 Burbank, California, Respondent processed fraudulent returns and pocketed the cash. When
22 confronted by the Burbank Police Department Officer, Respondent admitted that he began
23 processing fraudulent returns in September or October 2010. In addition, he estimated that he
24 stole about twenty different times from Rite Aid, admitted that he stole over one thousand dollars,
25 but less than ten thousand dollars.

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

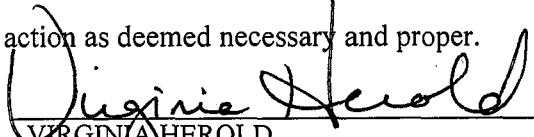
12. Respondent is subject to disciplinary action under sections 4301, subdivision (f), in that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

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 58548, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/31/12


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

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