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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. 4333

13 **JASON ALLEN ROSAL**
1321 Highton Street
Manteca, CA 95336

ACCUSATION

14 **Pharmacy Technician License No. TCH**
15 **37691**

16 Respondent.

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 May 18, 2001, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 37691 to Jason Allen Rosal (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and expired
24 on January 31, 2013, and has not been 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 in pertinent part:

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

5. Section 4300.1 of the Code states:

“The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.”

STATUTORY PROVISIONS

6. 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.

....

“(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, or 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

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

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7 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency...”

11 7. Section 4022 of the Code states

12 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in
13 humans or animals, and includes the following:

14 “(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without
15 prescription,” “Rx only,” or words of similar import.

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

19 8. Section 4060 of the Code provides in pertinent part that no person shall possess any
20 controlled substance, except that furnished to a person upon the prescription of a physician or
21 other specified medical professional.

22 9. Health and Safety Code section 11377, subdivision (a) provides in pertinent part that
23 it is illegal to possess any controlled substance specified in subdivision (d) of [Health and Safety
24 Code] Section 11055.

25 10. Health and Safety Code section 11350, subdivision (a) provides in pertinent part that
26 it is illegal to possess any controlled substance specified in subdivision (b) of [Health and Safety
27 Code] Section 11055.

28 DRUGS

11. “Methamphetamine” is a Schedule II controlled substance as defined by Health and
12 Safety Code section 11055, subdivision (d), paragraph (2).

13. “Norco” is a brand name for Hydrocodone combined with acetaminophen.
14 Hydrocodone is a Schedule II controlled substance as defined by Health and Safety Code section

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1 11055, subdivision (b), paragraph (1), subparagraph (I), and a dangerous drug as defined by Code
2 section 4022.

3 13. Viagra is a brand name for the drug Sildenafil Citrate, and is a dangerous drug as
4 defined by Code section 4022.

5 14. Cialis is a brand name for the drug Tadalafil, and is a dangerous drug as defined by
6 Code section 4022.

7 **COST RECOVERY**

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

12 **BACKGROUND INFORMATION**

13 16. At all times relevant in this matter Respondent worked at Kaiser Pharmacy in
14 Manteca, California. On or about May 26, 2011, the Manteca Police Department searched
15 Respondent's residence, finding 3.2 grams of Methamphetamine, paraphernalia for smoking
16 Methamphetamine, six (g) empty prescription bottles that were not prescribed to Respondent,
17 including Norco (Hydrocodone), Cialis, and Viagra. The prescription bottles of Hydrocodone and
18 Viagra were empty, and the prescription bottles of Cialis contained 24 pills of Cialis.

19 17. Respondent admitted to stealing Hydrocodone, Cialis, and Viagra from his employer
20 for approximately the previous 7 months. Respondent explained that he would take prescriptions
21 that had been filled, but had not been picked up by the patient and would otherwise be returned to
22 stock. Respondent stated the Methamphetamine, Cialis, and Viagra were for personal use, but he
23 did not use the Hydrocodone, he sold it to friends and acquaintances.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Substantially Related Criminal Conviction)**

26 18. Respondent is subject to disciplinary action for unprofessional conduct under section
27 4301, subdivision (I), in that on or about July 18, 2011, in San Joaquin County Superior Court, in
28 the case entitled *People v. Jason Allen Rosal*, Case Number MF033605A, Respondent was

1 convicted after his plea of guilty of violating Penal Code section 496, subdivision (a), (receiving
2 known stolen property), a misdemeanor. The circumstances are that Respondent possessed
3 property which he knew to be stolen from the Kaiser Pharmacy where he was employed, as stated
4 in paragraphs 16 and 17, above.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Dishonest, Fraudulent, Corrupt, and Deceitful Acts)**

7 19. Respondent is subject to disciplinary action for unprofessional conduct under section
8 4301, subdivision (f), in that on dates uncertain prior to May 26, 2011, Respondent embezzled
9 prescription medications from his employer, as described in paragraphs 16 and 17, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unlawful Self-Administration of Controlled Substance to an Extent or in a Manner
12 Dangerous to Himself or Others)**

13 20. Respondent is subject to disciplinary action for unprofessional conduct under section
14 4301, subdivision (h), in that on dates uncertain prior to May 26, 2011, Respondent self-
15 administered the controlled substance Methamphetamine to an extent or in a manner dangerous or
16 injurious to himself or others. The circumstances are as described in paragraph 17, above.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violation of Laws Governing Controlled Substances)**

19 21. Respondent is subject to disciplinary action for unprofessional conduct under section
20 4301 subdivision (j), in that on dates uncertain up to and including May 26, 2011, Respondent
21 violated laws governing controlled substances. The circumstances are as follows:

22 a. Respondent violated Health and Safety Code section 11350, subdivision (a), by
23 possessing the controlled substance Hydrocodone without a prescription.

24 b. Respondent violated and Health and Safety Code section 11377, subdivision (a)
25 by possessing the controlled substance Methamphetamine without a prescription.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Laws Governing Pharmacy)**

3 22. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (o) in that on dates uncertain prior to May 26, 2011, Respondent violated laws
5 governing pharmacy. The circumstances are as stated in paragraphs 18-21 above, and as follows:

6 a. Respondent violated Code section 4060 by possessing the dangerous drug Cialis
7 without a prescription.

8 b. Respondent violated Code section 4060 by possessing the dangerous drug
9 Viagra without a prescription.

10 **PRAYER**

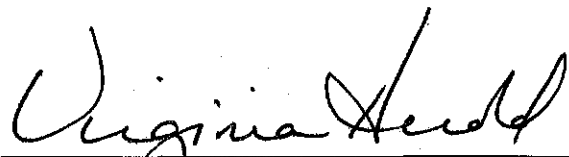
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician License Number TCH 37691, issued to
14 Jason Allen Rosal;

15 2. Ordering Jason Allen Rosal to pay the Board of Pharmacy the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3;

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

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21 DATED: 12/6/13



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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