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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. 4393

12 **VINCENT V. RUIZ**
4511 Baumbach Lane
13 Acampo, CA 95220

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
15 92083

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 August 31, 2009, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 92083 to Vincent V. Ruiz ("Respondent"). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on January 31, 2013, 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.

1 4. Section 4300 of the Code states:

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

3 "(b) The board shall discipline the holder of any license issued by the
4 board, whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

5 "(1) Suspending judgment.

6 "(2) Placing him or her upon probation.

7 "(3) Suspending his or her right to practice for a period not exceeding one
8 year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the
board in its discretion may deem proper...

11 "(d) The board may initiate disciplinary proceedings to revoke or suspend
12 any probationary certificate of licensure for any violation of the terms and conditions
of probation. Upon satisfactory completion of probation, the board shall convert the
13 probationary certificate to a regular certificate, free of conditions.

14 "(e) The proceedings under this article shall be conducted in accordance
with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
15 Government Code, and the board shall have all the powers granted therein. The
action shall be final, except that the propriety of the action is subject to review by the
16 superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

17 5. Section 4301 of the Code states in pertinent part:

18 "The board shall take action against any holder of a license who is guilty
19 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:

20 ...

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

23 ...

24 "(l) The conviction of a crime substantially related to the qualifications,
25 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
26 States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
27 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
28 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

1 substantially related to the qualifications, functions, and duties of a licensee under this
2 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere is deemed to be a conviction within the meaning of this provision. The
4 board may take action when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under
7 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
9 dismissing the accusation, information, or indictment.

6 ...

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

10 "(p) Actions or conduct that would have warranted denial of a license.

11 6. Code section 4060 states in pertinent part:

12 "No person shall possess any controlled substance, except that furnished to a person upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
15 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
16 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
17 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
18 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
19 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
20 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled
21 with the name and address of the supplier or producer. Section 490 of the Code provides, in
22 pertinent part, that a board may suspend or revoke a license on the ground that the licensee has
23 been convicted of a crime substantially related to the qualifications, functions, or duties of the
24 business or profession for which the license was issued..."

25 7. Health and Safety Code section 11350 states in pertinent part:

26 "(a) Except as otherwise provided in this division, every person who possesses (1) any
27 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
28 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or

1 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
2 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
3 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
4 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
5 Section 1170 of the Penal Code.”

6 8. Health and Safety Code section 11351 states :

7 “Except as otherwise provided in this division, every person who possesses for sale or
8 purchases for purposes of sale (1) any controlled substance specified in subdivision (b), (c), or (e)
9 of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054,
10 or specified in subdivision (b) or (c) of Section 11055, or specified in sub-division (h) of Section
11 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
12 drug, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
13 Code for two, three, or four years.”

14 9. Health and Safety Code section 11352 states in pertinent part:

15 “(a) Except as otherwise provided in this division, every person who transports, imports
16 into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this
17 state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1)
18 any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision
19 (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section
20 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of
21 Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
22 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
23 veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to
24 subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.”

25 DRUGS

26 10. “**Alprazolam**” (also know as Xanax) is a Schedule IV controlled substance pursuant
27 to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to
28 Business and Professions Code section 4022.

- 1 a. One small baggie with four unmarked white round pills.
- 2 b. Three digital scales with suspected Heroin residue (later tested positive as an Opiate).
- 3 c. Three razor blades with suspected Heroin residue (later tested positive as an Opiate).
- 4 d. Several torn "pinch baggies" and plastic material commonly used for packaging drugs
- 5 and narcotics.
- 6 e. Hypodermic syringe.
- 7 f. One hyper kit with burnt aluminum can with heroin residue (later tested positive as an
- 8 opiate).
- 9 g. A "tie line."
- 10 h. 2 empty wrappers from a heroin bindle with Opiate residue.

11 17. Respondent was arrested and booked for violations of felony Penal Code section
12 25800 (a) (carry loaded firearm), felony Health and Safety Code section 11351
13 (possession/purchase for sale narcotic controlled substance), 11352 (a) (transport sell/narcotic
14 controlled substance), 11350 (a) (possession of a narcotic controlled substance), and
15 misdemeanor Code section 4140 (possession of hypodermic needle/syringe), and 4060
16 (possession of controlled substance without a prescription).

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Violation of Statues Regulating Controlled Substance)**

19 18. Respondent has subjected his license to disciplinary action under Code section 4301
20 subdivision (j),(o), and (p) on the grounds of unprofessional conduct in that Respondent violated
21 Health and Safety Code section 11351 (possession/purchase for sale narcotics controlled
22 substance), 11352 (a) (transport sell/narcotic controlled substance), and 11350 (a) (possession of
23 a narcotic controlled substance) and Code section 4060 (possession of controlled substance
24 without a prescription), as set forth in paragraphs 8-10 above.

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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 of Pharmacy issue a decision:

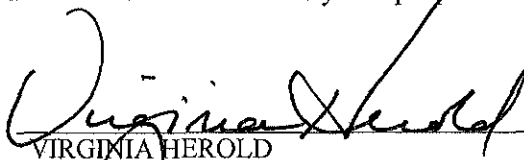
1. Revoking or suspending Pharmacy Technician Registration Number TCH 92083, issued to Vincent V. Ruiz;

2. Ordering Vincent V. Ruiz to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

3/16/13



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

SA2012107614