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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **TILLIE HANVEY, aka TILLIE MERAZ,**  
13 **aka OTILLIA MERAZ, aka OTILIA**  
14 **HANVEY**  
636 Egan Avenue  
Beaumont, CA 92223  
15 Pharmacy Technician Registration No.  
TCH 8411  
16  
17 Respondent.

Case No. 4560.

**ACCUSATION**

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

23 2. On or about July 12, 1993, the Board issued Pharmacy Technician Registration  
24 Number TCH 8411 to Tillie Hanvey, aka Tillie Meraz, aka Otillia Meraz, aka Otilia Hanvey  
25 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times  
26 relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

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1 JURISDICTION

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

4 STATUTORY PROVISIONS

5 4. 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 5. Section 492 states:

21 “Notwithstanding any other provision of law, successful completion of any diversion  
22 program under the Penal Code, or successful completion of an alcohol and drug problem  
23 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
24 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
25 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
26 division, from taking disciplinary action against a licensee or from denying a license for  
27 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
28 record pertaining to an arrest.

1 This section shall not be construed to apply to any drug diversion program operated by any  
2 agency established under Division 2 (commencing with Section 500) of this code, or any  
3 initiative act referred to in that division."

4 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or  
5 revoked."

6 7. Section 4300.1 of the Code states:

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

12 8. Section 4301 states, in pertinent part:

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

16 . . . .

17 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
18 corruption; whether the act is committed in the course of relations as a licensee or otherwise, and  
19 whether the act is a felony or misdemeanor or not.

20 . . . .

21 (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
22 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
23 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
24 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
25 practice authorized by the license.

26 . . . .

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

1 (k) The conviction of more than one misdemeanor or any felony involving the use,  
2 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
3 combination of those substances.

4 (l) The conviction of a crime substantially related to the qualifications, functions, and  
5 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
6 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
7 substances or of a violation of the statutes of this state regulating controlled substances or  
8 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
9 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
10 The board may inquire into the circumstances surrounding the commission of the crime, in order  
11 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
12 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
13 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
14 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
15 of this provision. The board may take action when the time for appeal has elapsed, or the  
16 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
17 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
18 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
19 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
20 indictment.

21  
22 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
23 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
24 federal and state laws and regulations governing pharmacy, including regulations established by  
25 the board or by any other state or federal regulatory agency.”

26 **REGULATORY PROVISION**

27 9. California Code of Regulations, title 16, section 1770, states:

28 “For the purpose of denial, suspension, or revocation of a personal or facility license

1 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
2 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
3 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
4 licensee or registrant to perform the functions authorized by his license or registration in a manner  
5 consistent with the public health, safety, or welfare.”

6 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Convictions of Substantially-Related Crimes)**

13 11. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,  
14 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the  
15 grounds of unprofessional conduct, in that Respondent was convicted of a crime substantially  
16 related to the qualifications, functions, or duties of a registered pharmacy technician which to a  
17 substantial degree evidence her present or potential unfitness to perform the functions authorized  
18 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

19 a. On or about February 01, 2012, after pleading *guilty*, Respondent was convicted of  
20 one misdemeanor count of violating Penal Code section 503 [embezzlement], in the criminal  
21 proceeding entitled *The People of the State of California v. Otilia Hanvey, aka Tillie Hanvey, aka*  
22 *Tillie Meraz, aka Otilia Meraz* (Super. Ct. Riverside County, 2011, No. BAM1200006). The  
23 court sentenced Respondent to serve 5 days in jail, placed her on probation with terms and  
24 conditions for a period of 36 months and fined her. The circumstances surrounding the  
25 conviction are that on or about November 29, 2011, a Beaumont Police Department Officer was  
26 dispatched to a Wal-Mart Supercenter department store, in the city of Beaumont, California,  
27 regarding an embezzlement, by an employee working as a pharmacy technician in their pharmacy  
28 department from the period of approximately August 12, 2011 through October 04, 2011. The

1 employee was later identified as the Respondent, who was observed in the store surveillance  
2 camera, taking cash from customers and placing it in her sweater pocket instead of the cash  
3 register. The Respondent admitted to Wal-Mart's two Asset Protection Coordinators that she had  
4 stolen money from Wal-Mart on five different occasions. The Respondent made a written  
5 statement and was subsequently convicted of Penal Code section 503.

6 b. On or about May 05, 2009, after pleading *guilty*, Respondent was convicted of one  
7 misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving a vehicle  
8 while under the influence of an alcoholic beverage and / or drugs]; and one misdemeanor count of  
9 violating Vehicle Code section 23152, subdivision (b) [driving a vehicle while having 0.08% and  
10 more by weight of alcohol in her blood], in the criminal proceeding entitled *The People of the*  
11 *State of California v. Otilia Harvey, aka Tillie Harvey, aka Tillie Meraz, aka Otilia Meraz*  
12 (Super. Ct. Riverside County, 2009, No. BAM038125). The court sentenced Respondent to serve  
13 15 days in jail, placed her on probation with terms and conditions for a period of 36 months and  
14 fined her. The circumstances surrounding the conviction are that on or about February 25, 2009,  
15 a Banning California Highway Patrol Officer was dispatched to investigate a traffic collision.  
16 The officer arrived at the scene and observed the Respondent sitting in the driver's seat with her  
17 seat belt trapped in her vehicle. The officer made contact with Respondent and detected an odor  
18 of an alcoholic beverage emitting from Respondent's breath and person. The officer also  
19 observed Respondent to have slow, slurred speech. The officer conducted a limited field sobriety  
20 test, and determined that the Respondent was driving a vehicle while under the influence of an  
21 alcoholic beverage. The Respondent during her booking, agreed to a blood test with a result of  
22 0.08% and more by weight of alcohol in her blood.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Convictions Involving Use of Alcohol and / or Drugs)**

25 12. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision  
26 (k), on the grounds of unprofessional conduct, in that Respondent was convicted of a crime that  
27 involved the use of alcohol and / or drugs. Complainant refers to, and by this reference  
28 incorporates, the allegations set forth above in paragraph 11, subparagraph (b), inclusive, as

1 though set forth fully herein.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Dangerous Use of Alcohol and / or Drugs)**

4 13. Respondent is subject to disciplinary action under sections 4300 and 4301,  
5 subdivision (h), on the grounds of unprofessional conduct, in that Respondent did use alcohol and  
6 / or drugs in a dangerous manner. Complainant refers to, and by this reference incorporates, the  
7 allegations set forth above in paragraph 11, subparagraph (b), inclusive, as though set forth fully  
8 herein.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Acts Involving Dishonesty)**

11 14. Respondent is subject to disciplinary action under sections 4300 and 4301,  
12 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed an act  
13 that involved moral turpitude, dishonesty, fraud, deceit, and / or corruption. Complainant refers  
14 to, and by this reference incorporates, the allegations set forth above in paragraph 11,  
15 subparagraph (a), inclusive, as though set forth fully herein.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Violation of Pharmacy Act Statutes and Regulations)**

18 15. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
19 (o), on the grounds of unprofessional conduct, in that Respondent committed acts that violated the  
20 Pharmacy Law and regulations relating thereto. Complainant refers to, and by this reference  
21 incorporates, the allegations set forth above in paragraphs 11 through 14, inclusive, as though set  
22 forth fully herein.

23 **PRAYER**

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

- 26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 8411, issued to  
27 Tillie Hanvey, aka Tillie Meraz, aka Otillia Meraz, aka Otilia Hanvey;  
28 2. Ordering Tillie Hanvey, aka Tillie Meraz, aka Otillia Meraz, aka Otilia Hanvey to pay

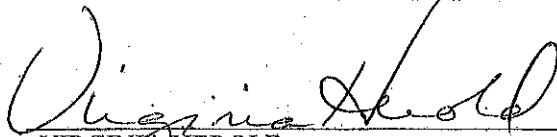
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the Board the reasonable costs of the investigation and enforcement of this case, pursuant to  
Business and Professions Code section 125.3; and

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

DATED:

6/16/14



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

LA2013508828  
IC