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

11 In the Matter of the Accusation Against:

Case No. 4605

12 **VICTOR MANUEL VILLANUEVA**  
13 **108 S. Elm Street**  
**Visalia, CA 93291**

**A C C U S A T I O N**

14 **Original Pharmacy Technician Registration**  
15 **No. TCH 8106**

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 June 28, 1993, the Board of Pharmacy issued Original Pharmacy  
22 Technician Registration Number TCH 8106 to Victor Manuel Villanueva (Respondent). The  
23 Original Pharmacy Technician Registration was in full force and effect at all times relevant to the  
24 charges brought herein and will expire on March 31, 2015, 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.

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4. Section 4300 of the Code states, in pertinent part:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
  - (1) Suspending judgment.
  - (2) Placing him or her upon probation.
  - (3) Suspending his or her right to practice for a period not exceeding one year.
  - (4) Revoking his or her license.
  - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

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

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:

...

(j) The violation of any of the statutes of this state, of 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 judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
2 or indictment.

3 ...

4 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
5 suspension of a board-issued license by operation of law or by order or decision of the board or a  
6 court of law, the placement of a license on a retired status, or the voluntary surrender of a license  
7 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any  
8 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision  
9 suspending or revoking the license.

#### 10 COST RECOVERY

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

#### 15 DRUGS

16 8. Methamphetamine is a Schedule II controlled substance as designated by Health and  
17 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions  
18 Code section 4022. It is a stimulant drug.

#### 19 FIRST CAUSE FOR DISCIPLINE

##### 20 (Criminal Conviction)

21 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that  
22 he was convicted of a crime substantially related to the qualifications, functions, and duties of a  
23 licensee. The circumstances are as follows:

24 10. On or about October 3, 2012, in the case of *People v. Victor Manuel Villanueva* (Yolo  
25 County Superior Court Case No. 12-3062), Respondent was convicted on his plea of guilty to a  
26 felony violation of Health and Safety Code section 11377, subdivision (a) (possession of a  
27 controlled substance). The circumstances are as follows:

28 11. On or about July 12, 2012, Yolo County Deputy Sheriff Pineda initiated a traffic stop  
and contacted Respondent, who was driving, and a female passenger. Respondent consented to a

1 search of his vehicle, and Deputy Pineda found two small zip lock bags with .03 grams of  
2 methamphetamine inside Respondent's wallet. In addition, Deputy Pineda also located a purse  
3 that contained a plastic bindle containing 4.60 grams of methamphetamine, as well as drug  
4 paraphernalia. Respondent and the passenger were transported in the patrol vehicle to the Yolo  
5 County Jail. Surveillance video inside the patrol vehicle recorded a conversation between  
6 Respondent and the passenger in which Respondent admitted ownership of the two baggies of  
7 methamphetamine in his wallet.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of Statutes Regulating Controlled Substances)**

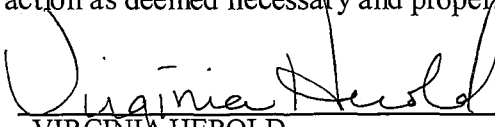
10 12. Respondent is subject to disciplinary action under section 4301, subdivision (j), in  
11 that Respondent violated California statutes regulating controlled substances, in that he violated  
12 Health and Safety Code section 11377, subdivision (a) (possession of a controlled substance), as  
13 set forth above in paragraphs 10-11.

14 **PRAYER**

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

- 17 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH  
18 8106, issued to Victor Manuel Villanueva;
- 19 2. Ordering Victor Manuel Villanueva to pay the Board of Pharmacy the reasonable  
20 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
21 Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper

23 DATED: 8/14/13

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