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

12 In the Matter of the Accusation Against:

Case No. 4618

13 **MANNUEL MACEDA CABUGOS**

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

14 **11121 Dino Cir. 19**

14 **Garden Grove, CA 92840**

15 **Pharmacy Technician Registration No. TCH 59049**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On October 4, 2004, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 59049 to Manuel Maceda Cabugos (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on May 31, 2014, 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 (Code) unless otherwise indicated.

1           4.     Section 4300, subdivision (a), of the Code provides that every license issued by the  
2 Board may be suspended or revoked.

3           5.     Section 4300.1 of the Code states:

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

### 8                                     **STATUTORY PROVISIONS**

9           6.     Section 482 of the Code states:

10                     Each board under the provisions of this code shall develop criteria to  
11 evaluate the rehabilitation of a person when:

12                     (a) Considering the denial of a license by the board under Section 480; or

13                     (b) Considering suspension or revocation of a license under Section 490.

14                     Each board shall take into account all competent evidence of rehabilitation  
15 furnished by the applicant or licensee.

16           7.     Section 490 of the Code provides, in pertinent part, that a board may suspend or  
17 revoke a license on the ground that the licensee has been convicted of a crime substantially  
18 related to the qualifications, functions, or duties of the business or profession for which the  
19 license was issued.

20           8.     Section 493 of the Code states:

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

29           9.     Section 4301 of the Code states:

30                     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

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1 misrepresentation or issued by mistake. Unprofessional conduct shall include, but  
2 is not limited to, any of the following:

3 . . . .

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

7 . . . .

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

28 . . . .

### REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a  
personal license on the ground that the licensee or the registrant has been  
convicted of a crime, the board, in evaluating the rehabilitation of such person and  
his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or  
offense(s).

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1 (4) Whether the licensee has complied with all terms of parole,  
2 probation, restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

4 11. California Code of Regulations, title 16, section 1770, states:

5 For the purpose of denial, suspension, or revocation of a personal or  
6 facility license pursuant to Division 1.5 (commencing with Section 475) of the  
7 Business and Professions Code, a crime or act shall be considered substantially  
8 related to the qualifications, functions or duties of a licensee or registrant if to a  
9 substantial degree it evidences present or potential unfitness of a licensee or  
10 registrant to perform the functions authorized by his license or registration in a  
11 manner consistent with the public health, safety, or welfare.

#### 12 **COST RECOVERY**

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
14 the administrative law judge to direct a licentiate found to have committed a violation or  
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
16 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
18 may be included in a stipulated settlement.

#### 19 **FIRST CAUSE FOR DISCIPLINE**

20 **(October 4, 2012 Criminal Conviction for Grand Theft on September 4, 2012)**

21 13. Respondent subjected his pharmacy technician registration to discipline under  
22 sections 490 and 4301, subdivision (l) of the Code in that Respondent was convicted of a crime  
23 that is substantially related to the qualifications, functions, and duties of a registered pharmacy  
24 technician. The circumstances are as follows:

25 a. On October 4, 2012, in a criminal proceeding entitled *The People of the*  
26 *State of California vs. Manuel Maceda Cabugos*, in Los Angeles County Superior Court,  
27 Bellflower Courthouse, Case Number 2BF04549, Respondent was convicted on his plea of *nolo*  
28 *contendere* to violating Penal Code (PC) section 487, subdivision (a), grand theft by  
embezzlement, a misdemeanor.

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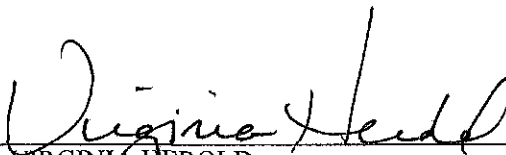
**PRAYER**

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 59049, issued to Mannuel Maceda Cabugos;
2. Ordering Mannuel Maceda Cabugos 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:

7/22/13



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

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