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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. 4663

12 **FELIPE VILLALOBOS**
15876 Azalea Avenue
13 Fontana, California 92335

A C C U S A T I O N

14 Original Pharmacy Technician Registration
15 No. TCH 85349

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 13, 2008, the Board issued Original Pharmacy Technician
23 Registration No. TCH 85349 to Felipe DeJesus Villalobos (Respondent). On April 15, 2013, in
24 the matter of *The People of the State of California v. Felipe DeJesus Villalobos*, (Super. Ct. San
25 Bernardino County, 2013, No. FVA1201920), Respondent was prohibited by order of the
26 superior court from engaging, either directly or indirectly, in any activity for which a pharmacy
27 technician license was required during the pendency of the criminal proceedings against him until
28 further order of the court. The Pharmacy Technician Registration was in full force and effect at

1 all times relevant to the charges brought herein, and will expire on July 31, 2014, unless renewed.

2 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Section 490 states, in pertinent part:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

11 (b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
14 of the business or profession for which the licensee's license was issued.

15 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code. . . ."

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

23 6. Section 4300.1 states:

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

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
3 licensee or registrant to perform the functions authorized by his license or registration in a manner
4 consistent with the public health, safety, or welfare."

5 **COST RECOVERY**

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

9 10. **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

10 Hydrocodone is a Schedule II controlled substance as designated by Health and safety Code
11 section 11055, subdivision (b)(1)(I), and is categorize as a dangerous drug pursuant to section
12 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 ***(Conviction of a Substantially Related Crimes)***

15 11. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
16 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
17 grounds of unprofessional conduct, in that, Respondent was convicted of a substantially related
18 crime, as follows:

19 a. On or about November 5, 2013, after pleading guilty, Respondent was convicted of
20 two felonies: (1) one felony count of violating Health and Safety Code section 11351 (possession
21 for sale of controlled substance - Hydrocodone), and, (2) one felony count of violating Penal
22 Code section 487(a) (grand theft by embezzlement) the criminal proceeding entitled *The People*
23 *of the State of California v. Felipe Villalobos* (Super. Ct. San Bernardino County, 2013, No.
24 FVA1201920). The Court sentenced Respondent to 120 days in jail and 36 months supervised
25 probation upon release from jail with fines, and terms and conditions.

26 b. The circumstances underlying the convictions are that from on or about January 1,
27 2012, through December 26, 2012, while employed as a pharmacy technician at Walgreens, took
28 property from his employer during that time period. In addition, on or about December 26, 2012,

1 Respondent was observed on a security video surveillance tape taking 500 pills of Hydrocodone
2 from the inventory at Walgreens.

3 **SECOND CAUSE FOR DISCIPLINE**

4 ***(Conviction Involving Drugs)***

5 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (i) and (k), on the grounds of unprofessional conduct, in that, Respondent sustained
7 two felony criminal convictions involving drugs. Complainant refers to, and by this reference
8 incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive,
9 as though set forth fully herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 ***(Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)***

12 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed an act
14 or acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he stole and/or
15 embezzled 500 (10mg) Hydrocodone pills from the inventory at Walgreens. Complainant refers
16 to, and by this reference incorporates, the allegations set forth above in paragraphs 10 and 11,
17 inclusive, as though set forth fully herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 ***(Unprofessional Conduct/Violation of Licensing Chapter)***

20 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
21 (o), on the grounds of unprofessional conduct, in that, Respondent was found to be in illegal
22 possession of Hydrocodone, a controlled substance. Complainant refers to, and by reference
23 incorporates, the allegations set forth in paragraph 11, subparagraphs (a) and (b), as though fully
24 set forth herein.

25 **PRAYER**

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

- 28 1. Revoking or suspending Original Pharmacy Technician Registration No. TCH 85349

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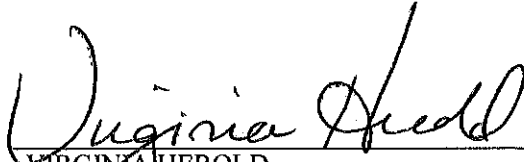
issued to Felipe DeJesus Villalobos;

2. Ordering Felipe DeJesus Villalobos to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED:

8/8/14



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