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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 **JUAN LUIS ALARCON**
11233 Sue Ave.
13 Lynwood, CA 90262
14 Pharmacy Technician Registration
No. TCH 82087
15 Respondent.

Case No. 4870
A C C U S A T I O N

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.
22 2. On or about March 13, 2008, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 82087 to Juan Luis Alarcon (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on March 31, 2016, 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 4060 states:

6 "No person shall possess any controlled substance, except that furnished to a person upon
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
9 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
10 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
11 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
13 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
14 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
15 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
16 labeled with the name and address of the supplier or producer.

17 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
18 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
19 and devices."

20 5. Section 4300 provides in pertinent part, that every license issued by the Boards is
21 subject to discipline, including suspension or revocation.

22 6. Section 4300.1 states:

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

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1 c. "Vicodin", is a Schedule III controlled substance as defined in Health and Safety
2 Code section 11056, subdivision (e)(7) and is categorized as a dangerous drug according to
3 section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Illegally Obtained or Possessed Controlled Substances)**

6 10. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
7 (o), for violating section 4060, as follows,

8 a. On or about September 4, 2011, Respondent while employed by CVS was observed
9 by the pharmacist picking up medication through the drive thru window. An investigation was
10 conducted and the video surveillance showed another employee filling a prescription bottle with
11 Promethazine with Codeine, placing it in a bag without label or receipt and passing it to
12 Respondent without prescription or payment. Respondent admitted to picking up the medications
13 for self-use thru the drive thru window without a prescription or payment from another employee
14 several times. These included Promethazine-Codeine, Soma, and Vicodin. Respondent was
15 subsequently arrested on September 20, 2011 for violating Penal Code section 496 [receiving
16 stolen property].

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Acts Involving Dishonesty, Fraud, or Deceit)**

19 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
20 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
21 substantially benefit himself, or substantially injure another. Complainant refers to, and by this
22 reference incorporates, the allegations set forth above in paragraph 10, subparagraph (a), as
23 though set forth fully.

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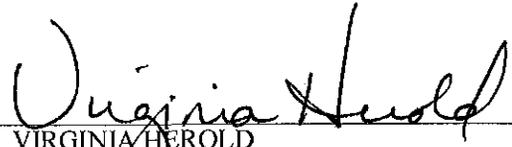
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 82087, issued to Juan Luis Alarcon;
2. Ordering Juan Luis Alarcon 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: 8/12/14


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

LA2013510088