

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KRITHTHIKA VASUDEVAN
Deputy Attorney General
4 State Bar No. 247590
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2540
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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. 4900

12 **RICHARD MENCHACA**
3505 Michigan Ave., #E
13 South Gate, CA 90280

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH 97927**

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. 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 ("Board").

22 2. On or about January 7, 2010, the Board issued Original Pharmacy Technician
23 Registration No. TCH 97927 to Richard Menchaca ("Respondent"). The Pharmacy Technician
24 Registration expired on February 28, 2011, and has not been renewed. A temporary license was
25 issued pursuant to Family Code Section 17520; however, it has since been denied pursuant to
26 Family Code Section 17520.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board under the authority of the following

1 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
2 indicated.

3 4. Code Section 4011 provides:

4 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
5 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10
6 (commencing with Section 11000) of the Health and Safety Code)."

7 5. Code Section 4300 permits the Board to take disciplinary action to suspend or revoke
8 a license issued by the Board.

9 6. Code section 118(b) provides:

10 "The suspension, expiration, or forfeiture by operation of law of a license issued by
11 a board in the department, or its suspension, forfeiture, or cancellation by order of
12 the board or by order of a court of law, or its surrender without the written consent
13 of the board, shall not, during any period in which it may be renewed, restored,
14 reissued, or reinstated, deprive the board of its authority to institute or continue a
disciplinary proceeding against the licensee upon any ground provided by law or to
enter an order suspending or revoking the license or otherwise taking disciplinary
action against the licensee on any such ground."

15 STATUTORY PROVISIONS

16 7. Code section 4301 provides in pertinent part:

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

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

22 8. Section 4300.1 of the Code 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."

28

1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770, provides:

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

10 **COST RECOVERY**

11 10. 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 **FIRST CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct- Aiding and Abetting Bank Robbery)**

17 11. Respondent has subjected his pharmacy technician registration to discipline under
18 Code sections 4301, in accordance with California Code of Regulations, Title 16, section 1770,
19 for unprofessional conduct because the Respondent has done an act substantially related to the
20 qualifications, functions, and duties of a pharmacy technician:

21 a. On April 25, 2013, in the United States District Court for the Central District of
22 California, the United States Attorney's Office filed an indictment against Respondent charging
23 him with Conspiracy to Commit Bank Robbery in violation of 18 U.S.C. Section 371; and Aiding
24 and Abetting a Bank Robbery in violation of 18 U.S.C. Sections 2113(a) and (d), and 18 U.S.C.
25 Section 2. Respondent pled not guilty and is awaiting his trial. (*United States of America v.*
26 *Richard Menchaca, United States District Court for the Central District of California, case*
27 *number 2:13cr295*).

28 b. The facts and circumstances surrounding the charges are that on September 5, 2012,
Respondent and two other co-conspirators robbed a bank. On or before September 4, 2012, one of
Respondent's co-conspirators had formulated the plan to rob the bank where the co-conspirator's
girlfriend, A.B., was working. The day before the robbery, Respondent and another co-

1 conspirator traveled to the bank to examine the exterior layout of the bank and the area around the
2 bank. On or about the morning of September 5, 2012, Respondent drove to the bank. A.B. went
3 into the bank wearing an item resembling an explosive device to make it appear that A.B. was a
4 hostage in a bank robbery and the purported explosive device would detonate unless an employee
5 at the bank helped A.B. remove money from the bank's vault. A.B. retrieved approximately
6 \$565,000 from the bank vault, and placed it outside the bank's side door. Respondent, then,
7 picked up the money and gave it to one of the co-conspirators. The plan was for Respondent and
8 his co-conspirators to split the money at a later time at a different location.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Commission of an Act Involving Moral Turpitude, Deceit, or Corruption)**

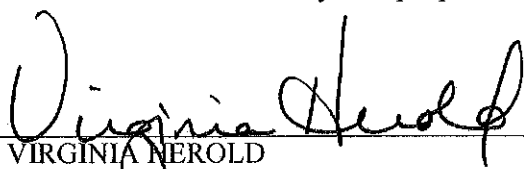
11 12. Respondent has subjected his pharmacy technician registration to discipline under
12 Code section 4301(f), for unprofessional conduct because the Respondent committed a criminal
13 act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to, and
14 by this reference incorporates the allegations set forth in paragraph 11, inclusive, as though set
15 forth fully herein.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 97927, issued
20 to Respondent Richard Menchaca;
- 21 2. Ordering Richard Menchaca to pay the Board the reasonable costs of the investigation
22 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 23 3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: 10/21/13


26 VIRGINIA NEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

1 LA2013509709/10.03.13

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28