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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. 4996

12 **ANTANIQUA MARCELLA CLAY**
13 **7952 Richion Drive**
Sacramento, CA 95823

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **115768**

Respondent.

16
17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about September 7, 2011, the Board issued Pharmacy Technician Registration
24 Number 115768 to Antaniqua Marcella Clay ("Respondent"). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on September 30, 2015, unless renewed.

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JURISDICTION

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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 (“Code”) unless otherwise
4 indicated.

5 4. Section 4300 of the Code provides that every license issued may be suspended or
6 revoked, placed on probation, or take any other disciplinary action, that the Board, at it’s
7 discretion, may deem proper.

8 5. Section 4300.1 of the Code states as follows:

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

STATUTORY PROVISIONS

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

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

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

22 (g) Knowingly making or signing any certificate or other document that
23 falsely represents the existence or nonexistence of a state of facts.

24 (i) The conviction of a crime substantially related to the qualifications,
25 functions, and duties of a license under this chapter. . . . In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the
27 conviction occurred. The board may inquire into the circumstances surrounding
28 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 of
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

1 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.

3 7. Section 490 of the Code states, in pertinent part:

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

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

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

21 COST RECOVERY

22 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 FIRST CAUSE FOR DISCIPLINE

27 (Criminal Convictions)

28 9. Respondent is subject to disciplinary action under Code sections 4301, subdivision
(1), and 490, in that she was convicted of crimes substantially related to the qualifications,
functions, and duties of a licensee as alleged below:

10. On or about December 20, 2012, in the case titled *People v. Antaniqua Marcella
Clay*, Sacramento County Superior Court Case No. 12M07993, Respondent was convicted on her
plea of nolo contendere to violating Penal Code section 530.5, subdivision (a) [obtained
identifying information of another, without consent, to use for unlawful purposes], a
misdemeanor.

1 a. The underlying circumstances are as follows: On or about December 4, 2012,
2 Respondent obtained personal identifying information for victim D.Y., without authorization, and
3 used the victim's personal information for the unlawful purpose of obtaining and attempting to
4 obtain credit, goods, service, and information in the victim's name, and without consent.

5 11. On or about March 13, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
6 Sacramento County Superior Court Case No. 13M01195, Respondent was convicted on her plea
7 of nolo contendere to violating Penal Code section 475, subdivision (a) [intent to defraud,
8 knowingly passed a forged, altered, counterfeit, and possessed and received, with intent to pass, a
9 forged, altered, counterfeit check], a misdemeanor.

10 a. The underlying circumstances are: On or about December 3, 2012, Respondent
11 entered a Bank of America, located in Sacramento, California, and intentionally presented a
12 fraudulent and/or counterfeit personal check in the amount of \$740.00 to a teller to cash. The
13 fraudulent and/or counterfeit personal check was to be drawn on the bank account of victim J.M.

14 12. On or about April 15, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
15 Sacramento County Superior Court Case No. 13M01694, Respondent was convicted on her plea
16 of nolo contendere to violating Penal Code section 484, subdivision (a) [unlawfully steal, take,
17 and carry away the personal property of another], a misdemeanor.

18 a. The underlying circumstances are: On or about November 10, 2012,
19 Respondent shoplifted property of Sears, located at Arden Faire Mall, Sacramento, California,
20 that is, she stole intimate apparel, socks, jeans, shirt, and two sweaters, in a value currently
21 unknown, without paying for them.

22 13. On or about July 30, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
23 Sacramento County Superior Court Case No. 13MO5237, Respondent was convicted on her plea
24 of nolo contendere to violating Penal Code section 484, subdivision (a) [unlawfully steal, take,
25 and carry away the personal property of another], a misdemeanor.

26 a. The underlying circumstances are: On or about July 27, 2013, Respondent
27 shoplifted property of Kohl's, located in Elk Grove, California, that is, she stole, took, and carried
28 away the property of Kohl's without paying for it.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 14. Respondent is subject to disciplinary action under Code sections 4301, subdivision (f),
4 in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption,
5 whether the act is committed in the course of relations as a licensee or otherwise, and whether the
6 act is a felony or misdemeanor or not, as follows:

7 a. On or about October 6, 2012, Respondent committed the act of attempted grand theft
8 in that she obtained three fraudulent Visa credit cards and attempted to use them to purchase a
9 laptop, television, DVD television series, and Motorola wireless 4 at the Best Buy located in
10 Vacaville, California, totaling nearly \$3,300.00.

11 b. On or about October 6, 2012, November 10, 2012, December 4, 2012, and July 27,
12 2013, Respondent committed acts of involving moral turpitude, dishonesty, fraud, deceit, or
13 corruption, as alleged in paragraphs 10, 11, 12, and 13, and their subparts, above, incorporated
14 herein by reference.

15 c. On or about December 4, 2012, Respondent entered a Bank of America, located in
16 Elk Grove, California, and intentionally presented a fraudulent and/or counterfeit personal check
17 in the in an unknown amount, to a teller to cash.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Knowingly Signing Document - False Representation of Fact)**

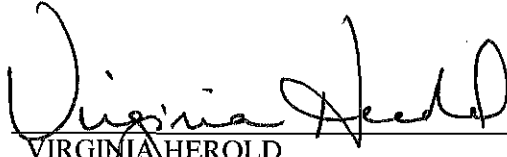
20 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (g),
21 in that she responded "No" on her renewal application to the question "since you last renewed
22 your license, have you had any license disciplined by any governmental agency, or other
23 disciplinary body; or have you been convicted of any crime in any state, the USA and its
24 territories, military court or a foreign country?" The truth is, Respondent had been convicted of
25 the crimes alleged in paragraphs 9, 10, 11, 12, and 13, above, incorporated herein by reference.

26 **PRAYER**

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

- 1 1. Revoking or suspending Pharmacy Technician Registration Number 115768, issued
2 to Antaniqua Marcella Clay;
3 2. Ordering Antaniqua Marcella Clay to pay the Board of Pharmacy the reasonable costs
4 of the investigation and enforcement of this case, pursuant to Business and Professions Code
5 section 125.3; and
6 3. Taking such other and further action as deemed necessary and proper.

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8 DATED: 2/18/14



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

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