

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-6819
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 5258

12 **MARCELLA SAAVEDRA-MARTIN**
1034 E. Buckingham Way
13 Fresno, California 93704

A C C U S A T I O N

14 **Pharmacy Technician License**
15 **No. TCH 105417**

16 Respondent

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about October 19, 2010, the Board issued Pharmacy Technician License
23 Number TCH 105417 to Marcella Saavedra-Martin ("Respondent"). The pharmacy technician
24 license was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

28 (a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board,
2 whose default has been entered or whose case has been heard by the board and found
guilty, by any of the following methods:

3 (1) Suspending judgment.

4 (2) Placing him or her upon probation.

5 (3) Suspending his or her right to practice for a period not exceeding one year.

6 (4) Revoking his or her license.

7 (5) Taking any other action in relation to disciplining him or her as the board in
8 its discretion may deem proper . . .

9 4. Code section 4300.1 states:

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

14 STATUTORY PROVISIONS

15 5. Code section 4301 states, in pertinent part:

16 The board shall take action against any holder of a license who is guilty of
17 unprofessional conduct or whose license has been procured by fraud or
18 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
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
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

21 (l) The conviction of a crime substantially related to the qualifications,
22 functions, and duties of a licensee under this chapter. The record of conviction of a
23 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
24 States Code regulating controlled substances or of a violation of the statutes of this
25 state regulating controlled substances or dangerous drugs shall be conclusive
26 evidence of unprofessional conduct. In all other cases, the record of conviction shall
27 be conclusive evidence only of the fact that the conviction occurred. The board may
28 inquire into the circumstances surrounding 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 or 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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

3 **COST RECOVERY**

4 6. Code section 125.3 provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Criminal Conviction)

12 7. Respondent is subject to disciplinary action pursuant to Code section 4301(1), on the
13 grounds of unprofessional conduct, in that Respondent committed crimes substantially related to
14 the qualifications, functions, and duties of a licensed pharmacy technician. Specifically, on or
15 about February 25, 2014, in a criminal proceeding entitled *People v. Marcella Saavedra Martin*,
16 Superior Court of California, County of Fresno, Central Division, Case No. F13905508,
17 Respondent was convicted by the court on her plea of no contest to violating Penal Code section
18 487(a) (grand theft of personal property), a felony. Respondent was ordered to serve 180 days in
19 the Fresno County Jail, to pay restitution in the amount of \$28,162.80, and was placed on formal
20 probation for five years. The circumstance of the crime is that between in or around October
21 2010 and June 2012, Respondent signed timesheets averaging approximately 6-7 hours a day, five
22 days a week, and submitted them to In-Home Supportive Services ("IHSS") of Fresno County (a
23 Medi-Cal program) for her services as an in-home care provider to "M.M.", her ex-husband who
24 lived in San Diego, California. Respondent lived in Fresno, California at the time. Between late
25 2010 through June 2012, Respondent worked in Clovis, California, approximately 40 hours a
26 week. Respondent cashed pay warrants received from the State of California totaling \$28,162.80,
27 for her alleged services for the in-home care of M.S. through IHSS.

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SECOND CAUSE FOR DISCIPLINE

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

8. Respondent is subject to disciplinary action pursuant to Code section 4301(f), on the grounds of unprofessional conduct, in that she committed acts involving dishonesty, fraud, deceit, or corruption. Specifically, Respondent committed grand theft of personal property, as set forth in paragraph 7, above.

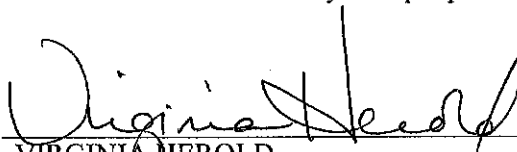
PRAYER

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 105417, issued to Marcella Saavedra-Martin;
2. Ordering Marcella Saavedra-Martin 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

12/2/14



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

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