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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 5344

13 **ELAINE MANCIA**
12566 Sanford Street
Los Angeles, CA 90066

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 124458

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about September 14, 2012, the Board issued Pharmacy Technician Registration
23 No. TCH 124458 to Elaine Mancía (Respondent). The Pharmacy Technician Registration was in
24 full force and effect at all times relevant to the charges brought herein and will expire on February
25 29, 2016, unless renewed.

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1 **JURISDICTION**

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

3 All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

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

7 5. Section 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued
9 license by operation of law or by order or decision of the board or a court of law, the
10 placement of a license on a retired status, or the voluntary surrender of a license by a
11 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.

12 6. Section 4301 states, in pertinent part:

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

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17 (f) The commission of any act involving moral turpitude, dishonesty,
18 fraud, 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.

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20 (o) Violating or attempting to violate, directly or indirectly, or assisting
21 in or abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing
22 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

23 **REGULATORY PROVISIONS**

24 7. California Code of Regulations, title 16, section 1770, states:

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

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COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE
(Acts Involving Dishonesty, Fraud, or Deceit)

9. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit herself, or substantially injure another, as follows:

a. On or about June 29, 2014, Respondent entered a Wal-Mart in Orange, CA and stole several DVDs and video games. Respondent admitted to stealing merchandise over ten times before, but that she had only been caught once. Furthermore, Respondent admitted that she had a problem with stealing.

b. Subsequently, criminal charges were filed against Respondent, as a result of the theft alleged in the immediately preceding paragraph, for violating Penal Code section 484, subdivision (a) [petty theft] in the criminal proceeding entitled *The People of the State of California v. Elaine Mancia* (Super. Ct. Orange County, 2014, No. 14CM05928). On or about July 28, 2014, the Court placed Respondent on a Deferred Entry of Judgment Program and ordered Respondent to complete a six or 12-hour Education Program and pay restitution, among other terms. On or about July 28, 2014, Respondent signed a "General Misdemeanor Guilty Plea Form", in which she admitted that she willfully and unlawfully took the personal property of Wal-Mart without its consent. On or about October 28, 2014, the matter was dismissed.

SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct/ Violation of Licensing Chapter)

10. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that Respondent committed acts of unprofessional conduct and/or violated provisions of the licensing

1 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above
2 in Paragraph 9, inclusive, as though set forth fully.

3 **DISCIPLINE CONSIDERATIONS**

4 11. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges, as follows:

6 a. On or about December 17, 2009, after pleading nolo contendere, Respondent was
7 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty
8 theft] in the criminal proceeding entitled *The People of the State of California v. Elaine Mancia*
9 (Super. Ct. L.A. County, 2009, No. 9SY08857). The Court sentenced Respondent to serve one
10 day in the Los Angeles County Jail and placed her on three years' probation, among other terms
11 and conditions.

12 b. The circumstances surrounding the conviction are that on or about July 31, 2009, on
13 two separate occasions, Respondent was observed stealing several video games at Target.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 124458,
18 issued to Elaine Mancia;
- 19 2. Ordering Elaine Mancia to pay the Board the reasonable costs of the investigation and
20 enforcement of this case, pursuant to section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 4/24/15


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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