

1  
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

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**EMILY MARIA LAZARO  
532 North N. St., #C  
Lompoc, CA 90621**

**Pharmacy Technician Registration No. TCH  
33870**

Respondent.

Case No. 3498

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about June 1, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3498 against Emily Maria Lazaro (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A. See also, Default Decision Evidence Packet, Exhibit 1)

2. On or about July 11, 1989, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 33870 to Respondent. The Pharmacy Technician Registration License was in full force and effect at all times relevant to the charges brought herein and will expired on May 31, 2010, and has not been renewed. (See Default Evidence Packet, Exhibit 2.)

///

1           3.     On or about June 18, 2010, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 3498, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
4 Respondent's address of record which, pursuant to Business and Professions Code section 136  
5 and/or agency specific statute or regulation, is required to be reported and maintained with the  
6 Board, which was and is:

7 532 North N. St., #C  
8 Lompoc, CA 90621.

9 (See, Default Decision and Evidence Packet, Exhibits 1 and 2).

10           4.     Service of the Accusation was effective as a matter of law under the provisions of  
11 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
12 124.

13           5.     Government Code section 11506 states, in pertinent part:

14                 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 of the accusation not expressly admitted. Failure to file a notice of defense shall  
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
18 may nevertheless grant a hearing.

19           6.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3498.

21           7.     California Government Code section 11520 states, in pertinent part:

22                 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 3498, finds that

1 the charges and allegations in Accusation No. 3498, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,907.50 as of September 3, 2010. (See, Default Decision Evidence Packet,  
6 Exhibit 3.)

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Emily Maria Lazaro has  
9 subjected her Pharmacy Technician Registration No. 3498 to discipline.

10 2. The agency has jurisdiction to adjudicate this case by default.

11 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
12 Registration based upon the following violations alleged in the Accusation which are supported  
13 by the evidence contained in the Default Decision Evidence Packet:

14 a. On or about January 6, 2009, Respondent was convicted of Penal Code section 508  
15 [embezzlement by employee] and Health and Safety Code section 11350 [possession of  
16 controlled substances] in violation of Business and Professions Code section 490, 4300, 4301,  
17 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770 in *The*  
18 *People of the State of California v. Emily Maria Lazaro* (Super. Ct. Santa Barbara County, 2008,  
19 Case No. 1288186). A certified copy of the criminal conviction is attached as Exhibit 4 and is  
20 incorporated by reference. (See, Default Decision Evidence Packet, Exhibit 4.)

21 b. The underlying circumstances of the conviction are contained in the Arrest Report.  
22 (See, Default Decision Evidence Packet, Exhibit 5.)

23 c. Based on Respondent's criminal convictions and the underlying circumstances  
24 (paragraphs a and b), Respondent has violated Business and Professions Code section 4300 and  
25 4301, subdivisions (j) and (o), in conjunction with section 4060, by possessing controlled  
26 substances and dangerous drugs, without valid prescriptions.

27 d. Based on Respondent's criminal convictions and the underlying circumstances  
28 (paragraphs a and b), Respondent has violated Business and Professions Code section 4300 and

1 4301, subdivisions (g), (j), and (o), in conjunction with section 4324, by fraudulently possessing  
2 prescriptions for controlled substances and dangerous drugs.

3 e. Based on Respondent's criminal convictions and the underlying circumstances  
4 (paragraphs a and b), Respondent has violated Business and Professions Code section 4300 and  
5 4301, subdivision (f), in conjunction with section 4324, subdivision (a) by committing fraud and  
6 dishonesty.

7 f. Based on Respondent's criminal convictions and the underlying circumstances  
8 (paragraphs a and b), Respondent has violated Business and Professions Code section 4300 and  
9 4301, subdivision (h), in that Respondent used dangerous drugs.

10 g. Based on Respondent's criminal convictions and the underlying circumstances  
11 (paragraphs a and b), Respondent has violated Business and Professions Code section 4300 and  
12 4301, subdivision (q), in that Respondent subverted the Board's investigation.

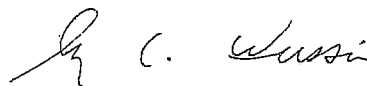
13 **ORDER**

14 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 33870, heretofore  
15 issued to Respondent Emily Maria Lazaro, is revoked.

16 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
17 written motion requesting that the Decision be vacated and stating the grounds relied on within  
18 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
19 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

20 This Decision shall become effective on January 19, 2011.

21 It is so ORDERED December 20, 2010.



22  
23 STANLEY C. WEISSER, BOARD PRESIDENT  
24 FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

25 default decision LIC.rtf  
26 DOJ Matter ID:LA2010502778

27 Attachments:  
28 Exhibit A: Accusation  
Default Decision Evidence Packet

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
4 State Bar No. 94811  
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**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:	Case No. 3498
11 <b>EMILY MARIA LAZARO</b>	
12 532 North N St., #C	
13 Lompoc, CA 90621	<b>ACCUSATION</b>
14 Pharmacy Technician Registration No. TCH 33870	
15 Respondent.	

16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
- 21 2. On or about July 11, 2000, the Board issued Pharmacy Technician Registration No.  
22 TCH 33870 to Emily Maria Lazaro (Respondent). The Pharmacy Technician Registration was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on  
24 May 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 ///



1  
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

....

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

....

"(o) Violating or attempting to violate, directly or indirectly, or assisting 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 pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

....

///





1 and Safety Code section 11056(e)(7) and is categorized as a dangerous drug according to  
2 section 4022.

3 FIRST CAUSE FOR DISCIPLINE

4 (Conviction of Substantially Related Crime)

5 14. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,  
6 subdivision (l), on the grounds of unprofessional conduct, in conjunction with California Code of  
7 Regulations, title 16, section 1770, in that on or about January 6, 2009, Respondent was convicted  
8 of a crime substantially related to the qualifications, functions or duties of a pharmacy technician  
9 which to a substantial degree evidences her present or potential unfitness to perform the functions  
10 authorized by her license or registration in a manner consistent with the public health, safety, or  
11 welfare. The circumstances of the conviction are that:

12 a. On or about January 6, 2009, after pleading nolo contendere to two (2)  
13 misdemeanors, Count 2 violating Penal Code section 508 [embezzlement by employee] and  
14 Count 3 violating Health and Safety Code section 11350 [possession of controlled substances] in  
15 the criminal proceeding entitled *The People of the State of California v. Emily Maria Lazaro*  
16 (Super. Ct. Santa Barbara County, 2008, No. 1288186), Respondent was convicted on Count 2,  
17 and on Count 3, she was placed on deferred entry of judgment. On Count 2, the Court sentenced  
18 Respondent to one (1) day in jail, placed her on three (3) years probation, and reserved  
19 jurisdiction regarding the issue of restitution. On Count 3, the Court ordered Respondent to  
20 attend a three (3) year PC1000 diversion program.

21 b. The circumstances underlying the conviction are that on or about May 20, 2008,  
22 when Respondent was working as a pharmacy technician at Public Health Pharmacy – Lompoc,  
23 Respondent fraudulently processed a deceased patient's refill prescription for 30 Norco 10mg  
24 tablets, and on or about June 6, 2008, she fraudulently processed an incarcerated patient's  
25 illegitimately obtained physician refill prescription for 60 Vicodin 5mg tablets. On or about  
26 July 24, 2008, on a filed DEA Form 106, Report of Theft or Loss of Controlled Substances,  
27 Respondent's employer identified the 90 tablets loss as employee pilferage. On or about  
28 September 11, 2008, Respondent admitted to both incidents of theft, admitted to committing

1 similar thefts on at least six (6) other occasions, and informed investigating authorities that after  
2 filling each prescription, she took the controlled substances home and sold them for \$3.00 a  
3 tablet. Subsequently, on or about September 11, 2008, Respondent resigned from her job.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Possession of Controlled Substances, Illegally)**

6 15. Respondent is subject to disciplinary action under sections 4300 and 4301,  
7 subdivisions (j) and (o), in conjunction with section 4060, on the grounds of unprofessional  
8 conduct, in that Respondent possessed controlled substances and dangerous drugs, without valid  
9 prescriptions. Complainant refers to and by this reference incorporates the allegations set forth  
10 above in paragraph 14, subparagraphs (a) and (b), inclusive, as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Fraudulent Prescriptions)**

13 16. Respondent is subject to disciplinary action under sections 4300 and 4301,  
14 subdivisions (g), (j) and (o), in conjunction with section 4324, subdivision (a), on the grounds of  
15 unprofessional conduct, in that Respondent fraudulently processed prescriptions for controlled  
16 substances and dangerous drugs. Complainant refers to and by this reference incorporates the  
17 allegations set forth above in paragraphs 14 - 15, inclusive, as though set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

20 17. Respondent is subject to disciplinary action under sections 4300 and 4301,  
21 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts  
22 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by  
23 this reference incorporates the allegations set forth above in paragraphs 14 - 16, inclusive, as  
24 though set forth fully.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Controlled Substances/Dangerous Drugs)**

27 18. Respondent is subject to disciplinary action under sections 4300 and 4301,  
28 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used dangerous

1 drugs to the extent or in a manner as to be dangerous or injurious to others when she fraudulently  
2 obtained controlled substances and dangerous drugs and sold them to others without valid  
3 prescriptions. Complainant refers to and by this reference incorporates the allegations set forth  
4 above in paragraphs 14 - 17, inclusive, as though set forth fully.

5 SIXTH CAUSE FOR DISCIPLINE

6 (Subvert or Attempt to Subvert a Board Investigation)

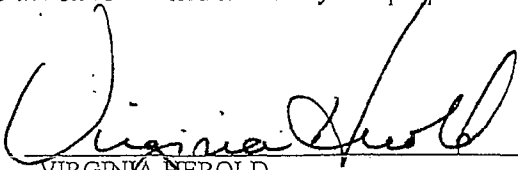
7 19. Respondent is subject to disciplinary action under sections 4300 and 4301,  
8 subdivision (q), on the grounds of unprofessional conduct, in that on or about March 2, 2009,  
9 Respondent subverted or attempted to subvert an investigation of the board when she failed to  
10 present herself as agreed before board investigators. Complainant refers to and by this reference  
11 incorporates the allegations set forth above in paragraphs 14 - 18, inclusive, as though set forth  
12 fully.

13 PRAYER

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

- 16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 33870, issued  
17 to Respondent;
- 18 2.. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
19 enforcement of this case, pursuant to section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: 6/1/10

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

LA2009604454  
4/8/2010dmm  
60531936.doc