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

In the Matter of the Accusation Against:

**MARIA CARMEN SCHREIBER
2306 England Street, #B
Huntington Beach, CA 92648**

Pharmacy Technician No. TCH 12067

Respondent.

Case No. 3565

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 30, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3565 against Maria Carmen Schreiber (Respondent) before the Board of Pharmacy.

2. On or about March 18, 1984, the Board of Pharmacy (Board) issued Pharmacy Technician No. TCH 12067 to Respondent. The Pharmacy Technician was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

3. On or about April 9, 2010, Respondent was served by Certified and First Class Mail a copy of Accusation No. 3565, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 at Respondent's

1 address of record with the Board, which was and is: 2306 England Street, #B, Huntington Beach,
2 CA 92648.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c).

5 5. On or about April 22, 2010, the aforementioned documents were returned by the U.S.
6 Postal Service marked "No Forwarding Address."

7 6. Government Code section 11506 states, in pertinent part:

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

11 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
12 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3565.

13 8. California Government Code section 11520 states, in pertinent part:

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

17 9. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence before it in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation 3565, finds that the
22 charges and allegations in Accusation No. 3565 are, separately and severally, found to be true and
23 correct by clear and convincing evidence.

24 10. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code Section 125.3, it is hereby determined that the reasonable cost for Investigation
26 and Enforcement is \$3,502.00 as of August 20, 2010.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Maria Carmen Schreiber has
3 subjected her Pharmacy Technician License No. TCH 12067 to discipline.

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

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 license based upon the following violations alleged in the Accusation, which are supported by the
7 evidence contained in the Default Decision Evidence Packet:

8 a. Respondent is subject to disciplinary action under Business and Professions Code
9 sections 490 and 4301(l) for conviction of a crime that is substantially related to the
10 qualifications, functions and duties of a pharmacy technician in that in *The People of the State of*
11 *California v. Maria Mimi Schreiber, aka Maria Carmen Schreiber, aka Mimi Rosado, aka Maria*
12 *Carmen Rosado*, Orange County Superior Court, Newport Beach Facility, Case No. 08HM05114,
13 Respondent was convicted of petty theft, in violation of Penal Code section 484(a).

14 b. Respondent is subject to disciplinary action under Business and Professions Code
15 section 4301(f) for unprofessional conduct by committing acts involving moral turpitude and
16 dishonesty when on or about May 14, 2008, and the two weeks prior, Respondent stole
17 approximately 325 Soma pills from her employer, Pavillions Grocery Store.

18 c. Respondent is subject to disciplinary action under Business and Professions Code
19 section 4301(h) for unprofessional conduct in administering to herself a dangerous drug, Soma, to
20 the extent or in a matter that was dangerous or injurious to herself such that Respondent
21 admittedly became addicted to the drug and resorted to stealing from her employer, Pavillions
22 Grocery Store.

23 d. Respondent is subject to disciplinary action under Business and Professions Code
24 section 4301(j), in conjunction with Business and Professions Code section 4059(a), for
25 unprofessional conduct in violating any statutes of this state regulating controlled substances and
26 dangerous drugs in that Respondent stole Soma pills, a dangerous drug.

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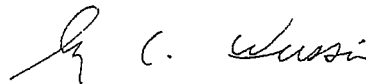
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 12067, heretofore issued to Respondent Maria Carmen Schreiber, is revoked.

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

This Decision shall become effective on December 10, 2010.

It is so ORDERED November 10, 2010.



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

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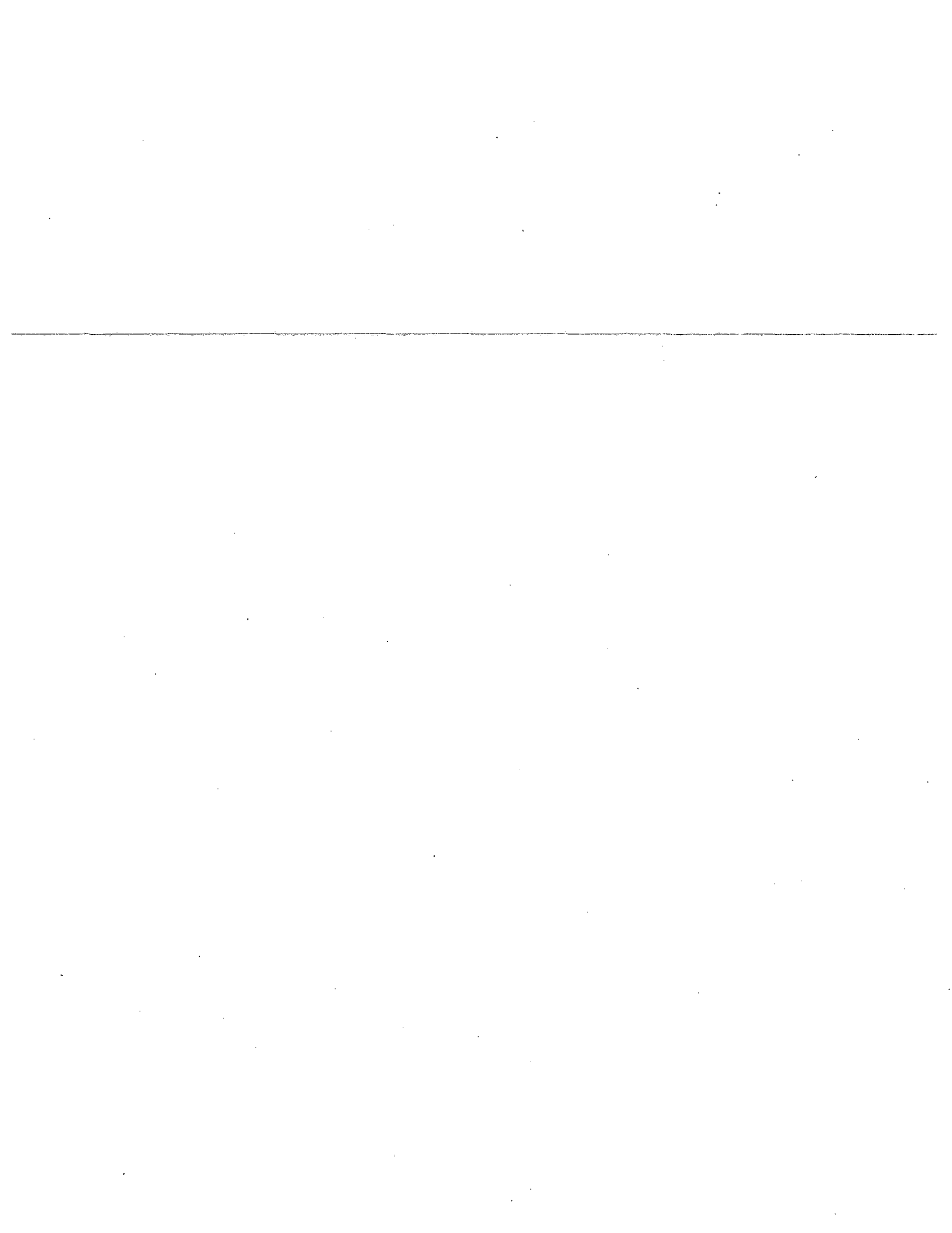


Exhibit A
Accusation No. 3565

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266

6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061.
Attorneys for Complainant
8

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

11 In the Matter of the Accusation Against:

Case No. 3565

12 **MARIA CARMEN SCHREIBER**
2306 England Street, #B
13 Huntington Beach, CA 92648

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **12067**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 18, 1984, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 12067 to Maria Carmen Schreiber (Respondent). The Pharmacy
24 Technician registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2011, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

13 (e) The proceedings under this article shall be conducted in accordance with Chapter
14 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
15 and the board shall have all the powers granted therein. The action shall be final,
except that the propriety of the action is subject to review by the superior court
pursuant to Section 1094.5 of the Code of Civil Procedure.

16 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
17 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
18 disciplinary action during the period within which the license may be renewed, restored, reissued
19 or reinstated.

20 STATUTORY PROVISIONS AND REGULATIONS

21 6. Section 475 of the Code states:

22 (a) Notwithstanding any other provisions of this code, the provisions of this
23 division shall govern the denial of licenses on the grounds of:

24 (2) Conviction of a crime.

25 (4) Commission of any act which, if done by a licentiate of the business or
profession in question, would be grounds for suspension or revocation of license.

26 (c) A license shall not be denied, suspended, or revoked on the grounds of a lack of
27 good moral character or any similar ground relating to an applicant's character,
reputation, personality, or habits.

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7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

10. Section 4059(a) of the Code provides:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, or veterinarian.

11. Section 4301 of the Code states:

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

- (f) The commission of any act involving moral turpitude, dishonesty, 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.

1 (h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
3 dangerous or injurious to oneself, to a person holding a license under this chapter, or
4 to any other person or to the public, or to the extent that the use impairs the ability of
5 the person to conduct with safety to the public the practice authorized by the license.

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

8 (l) The conviction of a crime substantially related to the qualifications, functions,
9 and duties of a licensee under this chapter. The record of conviction of a violation of
10 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
11 regulating controlled substances or of a violation of the statutes of this state
12 regulating controlled substances or dangerous drugs shall be conclusive evidence of
13 unprofessional conduct. In all other cases, the record of conviction shall be
14 conclusive evidence only of the fact that the conviction occurred. The board may
15 inquire into the circumstances surrounding the commission of the crime, in order to
16 fix the degree of discipline or, in the case of a conviction not involving controlled
17 substances or dangerous drugs, to determine if the conviction is of an offense
18 substantially related to the qualifications, functions, and duties of a licensee under this
19 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
20 contendere is deemed to be a conviction within the meaning of this provision. The
21 board may take action when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made
23 suspending the imposition of sentence, irrespective of a subsequent order under
24 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
25 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
26 dismissing the accusation, information, or indictment.

27
28 12. California Code of Regulations, title 16, section 1769(b) sets forth the following
criteria in evaluating the rehabilitation of a licensee:

When considering the suspension or revocation of a facility or a personal license on
the ground that the licensee or the registrant has been convicted of a crime, the board,
in evaluating the rehabilitation of such person and his present eligibility for a license
will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution
or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

For the purpose of denial, suspension, or revocation of a personal or 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 to the

1 qualifications, functions or duties of a licensee or registrant if to a substantial degree
2 it evidences present or potential unfitness of a licensee or registrant to perform the
3 functions authorized by his license or registration in a manner consistent with the
4 public health, safety, or welfare.

3 DRUGS

4 14. Carisoprodol, sold under the brand name Soma, is a dangerous drug pursuant to
5 Business & Professions Code section 4022 and is used as a muscle relaxant.

6 COST RECOVERY

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

11 FACTS

12 16. At about 6:00 p.m. on May 14, 2008, officers of the Laguna Beach Police Department
13 were dispatched to Pavillions Grocery Store with regard to a theft. Upon arriving at the store, the
14 officers were greeted by Loss Prevention Manager D.M. D.M. had been contacted by a Pavillions
15 store pharmacist with regard to missing drugs from the pharmacy, specifically Soma tablets.
16 Respondent was suspected of stealing the drugs because the thefts occurred on the days
17 Respondent was working as a pharmacy technician in the pharmacy. As a result of the suspected
18 thefts, D.M. installed surveillance cameras in the store pharmacy. D.M. was monitoring the
19 surveillance tapes on May 14, 2008 when at about 4:30 p.m., he observed Respondent take a
20 quantity of pills out of a container and place them in her left pocket. D.M. contacted the on-duty
21 pharmacist, who conducted an audit and confirmed that 25 Soma pills were missing.

22 17. D.M. contacted Respondent for an interview. Respondent subsequently admitted to
23 stealing 25 Soma pills and removed the pills from her pocket and gave them to D.M.

24 Respondent was being detained by D.M. when the Laguna Beach police officers arrived.

25 18. When the officers contacted Respondent, she admitted that she took the Soma pills
26 that day and also "many" times over the past two weeks. She stated she had a prescription for
27 Soma but sometimes had taken some from the pharmacy when she ran out. She admitted to
28 taking about 300 Soma pills from the Pavillions Grocery Store pharmacy in the past and admitted

1 that she was addicted to Soma because of the quantity of drugs she has to take. The value of the
2 325 Soma pills Respondent stole was about \$1,625.00. Respondent was arrested and charged
3 with grand theft, a violation of Penal Code section 487, and embezzlement by an employee, a
4 violation of Penal Code section 508.

5 19. In *The People of the State of California v. Maria Mimi Schreiber, aka Maria Carmen*
6 *Schreiber, aka Mimi Rosado, aka Maria Carmen Rosado*, Orange County Superior Court,
7 Newport Beach Facility, Case No. 08HM05114, Respondent was charged with grand theft by an
8 employee, in violation of Penal Code section 487(b)(3), and possession of a controlled substance
9 without a prescription, in violation of Business and Professions Code section 4060. On July 11,
10 2008, Respondent was convicted on her guilty plea to a lesser charge of petty theft, a violation of
11 Penal Code section 484(a). The charge was subsequently reduced to a misdemeanor and the other
12 charges were dismissed.

13 20. As a result of her conviction, Respondent was sentenced to 3 years probation, ordered
14 to complete 40 hours of community service, ordered to serve 1 day in jail, ordered to pay \$130 in
15 fines and fees and to pay restitution to her employer.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(July 11, 2008 Conviction of Petty Theft on May 14, 2008)**

18 21. Respondent is subject to disciplinary action under Code sections 490 and 4301(l) for
19 conviction of a crime that is substantially related to the qualifications, functions and duties of a
20 pharmacy technician in that in *The People of the State of California v. Maria Mimi Schreiber, aka*
21 *Maria Carmen Schreiber, aka Mimi Rosado, aka Maria Carmen Rosado*, Orange County
22 Superior Court, Newport Beach Facility, Case No. 08HM05114, Respondent was convicted of
23 petty theft as more fully set forth in paragraphs 17-21, above and incorporated by this reference as
24 though set forth in full herein.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct – Commission of Acts Involving Dishonesty)**

27 22. Respondent is subject to disciplinary action under Code section 4301(f) for
28 unprofessional conduct by committing acts involving moral turpitude and dishonesty when on or

1 about May 14, 2008, and the two weeks prior, Respondent stole approximately 325 Soma pills
2 from her employer, Pavillions Grocery Store, as more fully set forth in paragraphs 17-21, above
3 and incorporated by this reference as though set forth in full herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct – Self-administration of Dangerous Drugs)**

6 ~~23. Respondent is subject to disciplinary action under Code section 4301(h) for~~
7 unprofessional conduct in administering to herself a dangerous drug, Soma, to the extent or in a
8 matter that was dangerous or injurious to herself such that Respondent admittedly became
9 addicted to the drug and resorted to stealing from her employer, Pavillions Grocery Store, as more
10 fully set forth in paragraphs 17-21, above and incorporated by this reference as though set forth in
11 full herein

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct – Violation of Laws Regulating Dangerous Drugs)**

14 24. Respondent is subject to disciplinary action under Code section 4301(j), in
15 conjunction with Code section 4059(a), for unprofessional conduct in violating any statutes of
16 this state regulating controlled substances and dangerous drugs in that Respondent stole Soma
17 pills, a dangerous drug, as more fully set forth in paragraphs 17-21, above and incorporated by
18 this reference as though set forth in full herein.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 12067,
23 issued to Maria Carmen Schreiber.

24 2. Ordering Maria Carmen Schreiber to pay the Board of Pharmacy the reasonable costs
25 of the investigation and enforcement of this case, pursuant to Business and Professions Code
26 section 125.3;

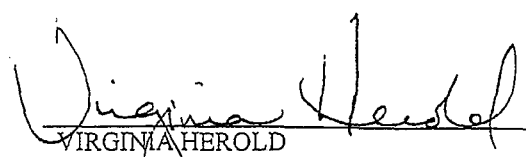
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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/30/10



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

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