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

In the Matter of the Accusation Against:

JOSE JUAN RAMOS
830 Cleveland Road
Glendale, CA 91202

c/o Ironwood State Prison
CDC # G61666
P.O. Box 2229
Blythe, CA 92226

**Pharmacy Technician License No. TCH
38837**

Respondent.

Case No. 3657

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 15, 2010, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 3657 against Jose Juan Ramos (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about July 20, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 38837 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2010, unless renewed. On or about April 23, 2010, the Board notified Respondent that his Pharmacy Technician License was automatically suspended pursuant to Business and Professions Code section 4311, subdivision (a), and shall remain suspended until at least December 1, 2019 (during period of incarceration), or until further order of the Board.

1 3. On or about August 11, 2010, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 3657, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 136 and/or agency specific statute or regulation, is required to be reported and maintained
6 with the Board, which was and is: 830 Cleveland Road, Glendale, CA 91202. Respondent was
7 also served by Certified and First Class Mail at his current known address of c/o Ironwood State
8 Prison, CDC # G61666, P.O. Box 2229, Blythe, CA 92226.

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

12 5. A signed certified mail return receipt from the Accusation package sent to c/o
13 Ironwood State Prison, CDC # G61666, P.O. Box 2229, Blythe, CA 92226 was returned to this
14 Office.

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

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

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
23 3657.

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

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

 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board offices regarding the allegations contained in Accusation No. 3657, finds that the
3 charges and allegations in Accusation No. 3657, are separately and severally, found to be true and
4 correct by clear and convincing evidence.

5 10. By taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$5,275.00 as of October 5, 2010.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Jose Juan Ramos has subjected
10 his Pharmacy Technician Registration No. TCH 38837 to discipline.

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

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

15 a. Business and Professions Code sections 4301, subdivision (l), and 490 (Convictions
16 of Substantially-Related Crimes: violation of Penal Code sections 245, subdivision (a)(1) (assault
17 with a deadly weapon), with special allegations of violating 186.22(b)(1)(B) (offense committed
18 in association with a criminal street gang) and 12022.5(A) (offense committed with use of a fire
19 arm) and violation of Vehicle Code section 23152, subdivision (b) (driving under the influence of
20 alcohol with 0.08 percent BAC)) and

21 b. Business and Professions Code section 4301, subdivision (h) (Dangerous Use of
22 Alcohol).

23 ORDER

24 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 38837, heretofore
25 issued to Respondent Jose Juan Ramos, is revoked.

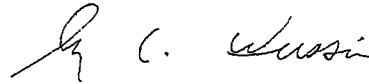
26 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
27 written motion requesting that the Decision be vacated and stating the grounds relied on within

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1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

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

4 It is so ORDERED December 20, 2010.

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

10
11 60561381.DOC
12 DOJ Matter ID:LA2010600413

13 Attachment:
14 Exhibit A: Accusation

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Exhibit A

Accusation

1 EDMUND G. BROWN JR.
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2 GREGORY J. SALUTE
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3657

13 **JOSE JUAN RAMOS**
830 Cleveland Road
14 Glendale, CA 91202

ACCUSATION

15 c/o Ironwood State Prison
CDC # G61666
16 P.O. Box 2229
Blythe, CA 92226

17 **Pharmacy Technician License No. TCH 38837**

18 Respondent.
19

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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about July 20, 2001, the Board of Pharmacy issued Pharmacy Technician
26 License Number TCH 38837 to Jose Juan Ramos (Respondent). The Pharmacy Technician,

27 License was in full force and effect at all times relevant to the charges brought herein and will

1 expire on November 30, 2010, unless renewed. On or about April 23, 2010, the Board notified
2 Respondent that his Pharmacy Technician License was automatically suspended pursuant to
3 Business and Professions Code section 4311, subdivision (a), and shall remain suspended until at
4 least December 1, 2019 (during period of incarceration), or until further order of the Board.

5 **JURISDICTION**

6 3. This Accusation is brought before the Board of Pharmacy (Board), under the
7 authority of the following laws. All section references are to the Business and Professions Code
8 (Code), unless otherwise indicated.

9 4. Section 4032 of the Code states:

10 "License' means and includes any license, permit, registration, certificate, or exemption
11 issued by the board and includes the process of applying for and renewing the same."

12 5. Section 4300 provides, in part, that every license issued by the Board is subject to
13 discipline, including suspension or revocation.

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

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

18 ...

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

24 ...

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

1 substances or of a violation of the statutes of this state regulating controlled substances or
2 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
3 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
4 The board may inquire into the circumstances surrounding the commission of the crime, in order
5 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
6 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
7 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
8 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
9 of this provision. The board may take action when the time for appeal has elapsed, or the
10 judgment of conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
12 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
13 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
14 indictment."

15 7. Section 490 of the Code states, in part, that:

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

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

24 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
25 conviction following a plea of nolo contendere. Any action that a board is permitted to take
26 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
27 the judgment of conviction has been affirmed on appeal, or when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a subsequent order under the
2 provisions of Section 1203.4 of the Penal Code."

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

7 REGULATORY PROVISIONS

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

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

15 COST RECOVERY

16 10. Section 125.3 of the Code states that the Board may request the administrative law
17 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

19 FIRST CAUSE FOR DISCIPLINE

20 (Convictions of Substantially-Related Crimes)

21 11. Respondent has subjected his license to disciplinary action under sections 4301,
22 subdivision (1), and 490, in conjunction with California Code of Regulations, title 16, section
23 1770, in that Respondent was convicted of crimes substantially related to the qualifications,
24 functions or duties of a licensed pharmacy technician, as follows:

25 a. On or about November 18, 2008, in the criminal proceeding entitled *People of the*
26 *State of California v. Jose Juan Ramos (11/10/73), aka Tito* (Super. Ct. Los Angeles County,
27 2008, No. GA072253), Respondent was found guilty following a jury trial of one felony count of

1 violating Penal Code sections 245, subdivision (a)(1) (assault with a deadly weapon), with special
2 allegations of violating 186.22(b)(1)(B) (offense committed in association with a criminal street
3 gang), 12022.5(A) (offense committed with use of a fire arm). On or about March 25, 2009, the
4 Court sentenced Respondent to a state prison term of twelve (12) years with a total credit of 477
5 days for time served. Pursuant to Penal Code section 186.30, Respondent was ordered to register
6 as a street gang participant with the local law enforcement agency upon release from custody.

7 b. The circumstances surrounding the conviction are that on or about December 23,
8 2007, victim R.E. was sitting in his parked vehicle eating his lunch, when he was approached by
9 Respondent. Respondent stated to R.E. "West Side Locos bitch, this is my turf." R.E. told
10 Respondent that he didn't want any trouble. Respondent told R.E. to "Shut the f--- up," shoved a
11 semi-automatic gun into the victim's ribcage, and stated, "This is my turf, west side bitch do you
12 know where the f--- you are." Respondent then left the area. Subsequently, Respondent was
13 arrested by an officer from the Glendale Police Department for violating Penal Code sections
14 245(A)(1) (assault with a deadly weapon) and 186.22(b) (participating with a criminal street
15 gang).

16 c. On or about July 23, 2001, Respondent was convicted of one misdemeanor count of
17 violating Vehicle Code section 23152, subdivision (b) (driving under the influence of alcohol
18 with 0.08 percent BAC) in the criminal proceeding entitled *The People of the State of California*
19 *v. Jose Juan Ramos* (Super. Ct. Los Angeles County, 2001, No. 1BU120801).

20 d. The circumstances surrounding the conviction are that on or about May 20, 2001, the
21 California Highway Patrol stopped Respondent for failing to stop at a red light. During the stop,
22 officers' noticed signs of intoxication. Respondent's eyes were red and watery and his speech
23 was slurred. Respondent performed and failed field sobriety tests. Consequently, he was
24 arrested for driving a vehicle while under the influence of alcohol and/or drugs.

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