

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

In the Matter of the Accusation Against:

**JOSE PACHECO**  
10433 Midway Street  
Bellflower, CA 90706

Pharmacy Technician Registration  
No. TCH 72785

Respondent.

Case No. 3874

OAH No. 2012040169

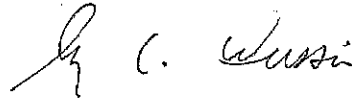
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 10, 2014.

It is so ORDERED on January 10, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

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

In the Matter of the Accusation Against:

JOSE A. PACHECO  
a.k.a. JOSE ANTONIO PACHECO  
a.k.a. JOSE A. PACHECO RAMIREZ  
a.k.a. JOSE ANTONIO RAMIREZ  
a.k.a. FARIAS OMAR RODRIGUEZ

Pharmacy Technician Registration  
No. TCH 72785,

Respondent.

Case No. 3874

OAH No. 2012040169

**PROPOSED DECISION**

This matter came on regularly for hearing on September 16, 2013, in Los Angeles, California, before Laurie R. Pearlman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Virginia Herold (Complainant) was represented by Helene E. Swanson, Deputy Attorney General.

Respondent Jose A. Pacheco, a.k.a. Jose Antonio Pacheco, a.k.a. Jose A. Pacheco Ramirez, a.k.a. Jose Antonio Ramirez, a.k.a. Farias Omar Rodriguez (Respondent) was present at the hearing and represented himself.

Oral and documentary evidence was received. The record was left open until October 21, 2013, to allow Complainant and Respondent to submit closing briefs. Complainant's brief was timely submitted and was marked as Exhibit 17 for identification and admitted into evidence. Nothing was received from Respondent. The record was closed on October 21, 2013, and the matter was submitted for decision.

**FACTUAL FINDINGS**

1. On July 11, 2013, Complainant made the Second Amended Accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

### *Application and License*

2. On October 10, 2006, Respondent signed an application for Registration as a Pharmacy Technician. On this application, under penalty of perjury, he answered "no" to Question No. 6, which asked if he had ever been convicted, or pled no contest to, a violation of law. Respondent's application contained false information in that he omitted his October 25, 2004 conviction, for which he was still on criminal probation at the time of his application.

3. On January 10, 2007, the Board issued Pharmacy Technician Registration No. TCH 72785 to Respondent. It expired on May 31, 2012. The Board maintains jurisdiction over this matter pursuant to Business and Professions Code section 118, subdivision (b).

4. De'Bora White, a Board inspector, testified credibly. The duties of a pharmacy technician include filling prescriptions under the supervision of a pharmacist and obtaining insurance information and personal information from patients. Pharmacy Technicians have access to a patient's social security number, date of birth, address, medical records, employment information, credit cards, debit cards and cash. They also have access to prescription drugs.

### *Respondent's Criminal Convictions*

5. On October 25, 2004, in the Superior Court of California, County of Los Angeles, in Case Number VA078373, Respondent pled nolo contendere and was convicted of violating Penal Code section 459 (second degree commercial burglary), a felony. Respondent was sentenced to serve two days in county jail and was placed on formal probation for a period of 36 months. Respondent was found to be in violation of probation and was ordered to serve 365 days in county jail.

6. The facts and circumstances underlying the October 25, 2004 conviction are that on August 18, 2003, Respondent attempted to cash a counterfeit check.

7. On June 2, 2010, in the Superior Court of California, County of Los Angeles, in Case Number 0BF02569, Respondent pled nolo contendere and was convicted of violating Penal Code section 243, subdivision (b) (battery upon an officer and emergency personnel), a misdemeanor. Respondent was placed on probation for a period of 36 months and was ordered to complete 52 weeks of anger management counseling, not to use or possess any false identification, and to pay fines and fees.

8. The facts and circumstances underlying the June 2, 2010 conviction are that on May 20, 2010, Respondent used force and violence upon a peace officer. Respondent testified that he assaulted an animal control officer in order to protect his dog.

9. On February 1, 2012, in the Superior Court of California, County of Los Angeles, in Case Number NA089091, Respondent pled nolo contendere and was convicted

of violating Penal Code section 487, subdivision (a) (grand theft), a felony. Respondent was sentenced to serve four days in county jail, placed on formal probation for a period of 36 months, and ordered to pay restitution to the victim in the amount of \$13,575.

10. The facts and circumstances underlying the February 1, 2012 conviction were that in May 2010, Respondent and the victim met while both were incarcerated. Respondent told the victim that he knew an attorney who would represent the victim. Upon Respondent's release from jail, he contacted the victim's wife and obtained \$2,100 from her to pass along to the attorney for payment of her husband's attorney's fees. When the attorney showed up to represent the victim, the attorney demanded payment because Respondent had not given any money to him on the victim's behalf. The victim also gave \$6,825 to Respondent to be used as bail money for the victim, who had been taken into custody by United States Immigration and Customs Enforcement. Respondent never forwarded the money to any attorneys. As a result, the victim was unable to post bail and had to remain in custody. The victim demanded repayment of the funds given to Respondent. Respondent gave the victim a check, which was returned for insufficiency of funds. Respondent also told the victim that he had, in fact, paid the attorneys and he prepared a falsified State Bar complaint form, which he gave to the victim. The attorneys told the victim that Respondent had not provided any money to them on his behalf and that the complaint form was false. Respondent was arrested on June 2, 2011.

11. On December 13, 2012, in the Superior Court of California, County of Los Angeles, in Case Number VA126962, Respondent pled guilty and was convicted of violating Penal Code section 530.5, subdivision (a) (identity theft), a felony. Respondent was sentenced to serve 16 months in jail, was ordered to pay fines and fees, and was denied probation.

12. Detective Rebecca Vaughn, with the Los Angeles County Sheriff's Department, testified as to the facts and circumstances underlying the December 13, 2012 conviction. These events occurred between May 10, 2012 and October 10, 2012. In the course of investigating identity theft involving victim M.G.<sup>1</sup>, on October 10, 2012, Detective Vaughn executed a search warrant at Respondent's residence and observed Respondent attempting to purchase airline tickets using another victim's credit card information. Respondent admitted to Detective Vaughn that while umpiring Little League games, he had taken volunteer applications containing personal information. He had attempted to obtain credit cards and payday loans with this information and had successfully obtained a loan in M.G.'s name. Respondent also admitted to Vaughn that he had previously used his former landlord's personal information to obtain credit cards. He was arrested on October 10, 2012, while still on criminal probation for the February 1, 2012 conviction.

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<sup>1</sup> For privacy purposes, the victim will be identified by initials only.

### *Respondent's Evidence*

13. Respondent testified at hearing. He is 49 years old and has five children, two of whom are adopted. Respondent served in the United States Army for six years and was honorably discharged in May 1990. The Army trained him to become a pharmacy technician and he has worked in that field from 1984, until April or May 2010, when he was incarcerated. He is not currently employed. He last worked in October 2012, as a missionary for his church. He has no history of prior discipline by the Board against his license. Respondent did not provide any corroboration to support his testimony that he has had only positive employer evaluations and has never had any customer complaints or employer discipline.

14. Respondent explained his failure to disclose his 2004 criminal conviction on his application by stating that he had relied on advice from his attorney as to whether he was required to disclose his conviction on his Pharmacy Technician application. He justified his failure to disclose by stating that his attorney informed him that "it was okay to say no on the application because the conviction had been expunged." Respondent testified that he did not knowingly omit any facts on his application because he thought his 2004 criminal conviction had been expunged. However, his testimony is not credible since he did not provide any evidence of expungement. Even if his 2004 criminal conviction had been expunged, the application clearly required the applicant to disclose all criminal convictions, including those that had been expunged.

15. Respondent did not express any remorse for his wrongful conduct, which resulted in multiple criminal convictions. He explained that he entered into plea deals because he "didn't know the judicial system" and pointed out that "those allegations were never testified to in a court of law" and no one ever "heard his side of the story." He asserted that he accepted plea deals because he did not want his adopted children to be taken from him. Regardless of the various motives which may have impelled these pleas, the convictions which were based thereon stand as conclusive evidence of Respondent's guilt of the offenses charged. To hold otherwise would impose upon administrative boards extensive, time-consuming hearings aimed at relitigating criminal charges which had culminated in final judgments of conviction. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.) His convictions are conclusive evidence of his guilt upon which the Administrative Law Judge must rely in these proceedings.

### *Cost Recovery*

16. The reasonable cost of the investigation and prosecution incurred by the Board in this case is \$10,347.50.

## LEGAL CONCLUSIONS

1. Business and Professions Code (Code) section 490, subdivisions (a) through (c), and Code section 4301, subdivision (l), provide that the Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, and duties of a licensee. The record of conviction is conclusive evidence of the fact that the conviction occurred. A plea of guilty or nolo contendere or a verdict of guilty is deemed to be a conviction.

2. A crime shall be considered "substantially related" if "to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16, § 1770.) Respondent's convictions for committing battery on a peace officer, attempting to cash a counterfeit check, stealing money from an inmate by falsely representing that Respondent would use the money to pay an attorney to represent the inmate and for bail, and committing identity theft fall within the definition of "substantial relationship." His actions demonstrate a propensity for violence and for dishonesty and thus evidence a present or potential unfitness to discharge the duties of a licensed pharmacy technician.

3. Code section 4301 provides that the Board may suspend or revoke a license on the ground that the licensee is guilty of unprofessional conduct or has procured a license by fraud or misrepresentation. Code section 4301, subdivision (f) defines "unprofessional conduct" to include any act involving moral turpitude, dishonesty, or fraud. Code section 4301, subdivision (g) defines "unprofessional conduct" to include knowingly signing any document that falsely represents the existence or nonexistence of facts.

4. Code section 125.3 provides that a Board may request an Administrative Law Judge to direct a licensee to pay the reasonable costs of investigation and enforcement if the licensee is found to have committed a violation of the licensing act.

5. Cause exists to revoke Respondent's pharmacy technician license pursuant to Code sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted of crimes substantially related to the qualifications, functions and duties of a pharmacy technician, as set forth in Factual Findings 5-12.

6. Cause exists to discipline Respondent's pharmacy technician license pursuant to Code section 4301, subdivision (f), in that Respondent committed multiple acts involving moral turpitude, dishonesty, fraud, or deceit, including committing battery on a peace officer, attempting to cash a counterfeit check, stealing money from an inmate by falsely representing that Respondent would use the money to pay an attorney to represent the inmate and for bail, committing identity theft and making a false statement under penalty of perjury on his application for pharmacy technician licensure, as set forth in Factual Findings 2-12.

7. Cause exists to revoke Respondent's pharmacy technician license pursuant to Code sections 490 and 4301, subdivision (g), in that Respondent knowingly made a false statement of fact by failing to disclose his 2004 criminal conviction on his application for licensure, and by certifying under penalty of perjury to the truthfulness of the answers on his application, as set forth in Factual Finding 2.

8. Cause exists to order Respondent to pay the costs of \$10,347.50 claimed under Code section 125.3, as set forth in Factual Finding 16.

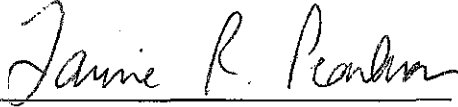
9. Respondent has suffered four criminal convictions in a span of eight years. Three of these were felony convictions. Respondent committed multiple acts involving moral turpitude, dishonesty, fraud, and deceit, including committing battery on a peace officer, attempting to cash a counterfeit check, stealing money from an inmate by falsely representing that Respondent would use the money to pay an attorney to represent the inmate and for bail, committing identity theft and making a false statement under penalty of perjury on his application for pharmacy technician licensure. He showed no remorse and failed to take any responsibility for these serious acts of wrong-doing. Respondent did not offer any evidence that might militate against the revocation of his license by establishing mitigation or rehabilitation. As a pharmacy technician, Respondent would have access to confidential personal information, credit and debit cards, cash and prescription drugs. This access could enable Respondent to misuse this information and his position for criminal purposes, including identity theft. License revocation is warranted to ensure the public's protection.

#### ORDER

1. Pharmacy technician license number No. TCH 72785 issued to Respondent, Jose A. Pacheco, is revoked.

2. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$10,347.50, at such time and in such manner as the Board may direct.

Dated: November 20, 2013

  
LAURIE R. PEARLMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
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7 *Attorneys for Complainant*

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. 3874

13 **JOSE A. PACHECO**  
a.k.a., **JOSE ANTONIO PACHECO**  
14 a.k.a., **JOSE A. PACHECO RAMIREZ**  
a.k.a., **JOSE ANTONIO RAMIREZ**  
15 a.k.a., **FARIAS OMAR RODRIGUEZ**  
10433 Midway St.  
Bellflower, CA 90706

**SECOND AMENDED ACCUSATION**

16 Pharmacy Technician Registration  
17 No. TCH 72785

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

23 **LICENSE APPLICATION AND HISTORY**

24 2. On or about October 10, 2006, Jose A. Pacheco signed an Application for  
25 Registration as a Pharmacy Technician. On this application, Respondent answered "no" to  
26 Question No. 6, which asked if he had ever been convicted of, or pled no contest to, a violation of  
27 any law of the United States or a foreign country. Respondent certified under penalty of perjury  
28



1 under the laws of the State of California the accuracy and truthfulness of all of his answers in his  
2 application. Respondent's application contained false information, in that he omitted from the  
3 application that he had been convicted of a crime on October 25, 2004, and was at the time on an  
4 active formal court probation, as set forth in Paragraph 11, subparagraphs (a)-(c) below.

5 3. On or about January 10, 2007, the Board of Pharmacy (Board) issued Pharmacy  
6 Technician Registration No. TCH 72785 to Jose A. Pacheco, also known as Jose Antonio  
7 Pacheco, Jose A. Pacheco Ramirez, Jose Antonio Ramirez, and Farias Omar Rodriguez  
8 (Respondent). The Pharmacy Technician Registration expired on May 31, 2012, and has not been  
9 renewed.

10 **JURISDICTION**

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

13 5. Section 118, subdivision (b), provides in pertinent part, that the expiration of a license  
14 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
15 within which the license may be renewed, restored, reissued or reinstated.

16 6. Section 4300 provides in pertinent part, that every license issued by the Board is  
17 subject to discipline, including suspension or revocation.

18 **STATUTORY PROVISIONS**

19 7. Section 490 states, in pertinent part:

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

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

28 //

1           (c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
5 made suspending the imposition of sentence, irrespective of a subsequent order under the  
6 provisions of Section 1203.4 of the Penal Code.”

7           8. Section 4301 states, in pertinent part:

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

11           ....

12           “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
13 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
14 whether the act is a felony or misdemeanor or not.

15           (g) Knowingly making or signing any certificate or other document that falsely  
16 represents the existence or nonexistence of a state of facts.”

17           ....

18           “(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order  
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment.”

### 7 REGULATORY PROVISIONS

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

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

### 20 FIRST CAUSE FOR DISCIPLINE

#### 21 (Convictions of Substantially Related Crimes)

22 11. Respondent is subject to disciplinary action under Sections 4301, subdivision (l) and  
23 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
24 Respondent has been convicted of crimes substantially related to the qualifications, functions or  
25 duties of a pharmacy technician, as follows:

26 a. On or about June 2, 2010, after pleading nolo contendere, Respondent was convicted  
27 of one misdemeanor count of violating Penal Code section 243, subdivision (b) [battery upon an  
28 officer and emergency personnel] in the criminal proceeding entitled *People of the State of*

1 *California v. Jose Antonio Pacheco* (Super. Ct. Los Angeles County, 2010, No. 0BF02569). The  
2 Court sentenced Respondent to serve 24 days in Los Angeles County Jail, placed him on 36  
3 months probation, ordered him to enroll in and complete 52 anger management counseling  
4 sessions, not to use or possess any false identifications, pay fines, fees and restitution, among  
5 other terms and conditions. The circumstances surrounding the conviction are that on or about  
6 May 20, 2010, Respondent willfully and unlawfully used force and violence upon a police officer.

7 b. On or about October 25, 2004, after pleading nolo contendere, Respondent was  
8 convicted of one felony count of violating Penal Code section 459 [second degree commercial  
9 burglary] in the criminal proceeding entitled *People of the State of California v. Jose Pacheco*  
10 *Ramirez, aka Jose Antonio Ramirez, and Farias Omar Rodriguez* (Super. Ct. Los Angeles  
11 County, 2004, No. VA078373). The Court sentenced Respondent to serve two days in Los  
12 Angeles County Jail and placed him on three years' formal probation, with additional terms and  
13 conditions.

14 c. On or about December 20, 2006, December 20, 2006 and January 22, 2007, court  
15 hearings were held about Respondent's possible violation(s) of probation. His probation was  
16 revoked and reinstated, and the court modified the terms of his probation by ordering that it  
17 would allow Respondent to complete community service in lieu of Cal Trans. On or about  
18 September 24, 2007, Respondent failed to appear, without sufficient excuse, at the Norwalk  
19 Superior Court, with proof of completion of his community service hours. The Court found  
20 Respondent to be in violation of his probation, revoked Respondent's probation, and ordered a  
21 "no bail" bench warrant issued. On or about June 21, 2010, the case was called for a formal  
22 hearing on Respondent's probation violation. Respondent was present in court and admitted that  
23 he had violated the Court's probation order. The Court reinstated Respondent's previous  
24 probation on the same terms and conditions, but, due to the probation violation, modified the  
25 previous order to add 365 days in Los Angeles County Jail and ordered Respondent remanded to  
26 custody.

27 d. The circumstances surrounding the October 25, 2004 conviction are that on or about  
28 August 18, 2003, Respondent entered a commercial building occupied by Money Mart, located at

1 15790 Bellflower Blvd., Bellflower, CA, with the intent to commit larceny and a felony.  
2 Respondent presented a check for \$1,645.50 from Choice Enterprises, made payable to "Jose P.  
3 Ramirez", to be cashed by Money Mart. When the manager told Respondent she would contact  
4 Choice Enterprises to verify the check, Respondent said he would wait outside, and then left the  
5 facility before the check was processed. When the manager of Money Mart contacted Choice  
6 Enterprises by telephone to confirm the check, she was informed that Choice Enterprises had  
7 never issued that check, and that it was a counterfeit.

8 e. On or about February 1, 2012, after pleading nolo contendere, Respondent was  
9 convicted of one felony count of violating Penal Code section 487(A) [grand theft] in the criminal  
10 proceeding entitled *People of the State of California v. Jose Pacheco Ramirez* (Super. Ct. Los  
11 Angeles County, 2011, No. NA089091). The Court sentenced Respondent to serve four days in  
12 the Los Angeles County Jail, placed him on three years' formal probation, and ordered him to pay  
13 restitution to his victim in the amount of \$13,575. The charge will be reduced to a misdemeanor  
14 and summary, non-reporting probation, if full payment of restitution is made by Respondent to  
15 the victim within one year. The circumstances surrounding the conviction are as follows:

16 f. On or about May of 2010, the victim met Respondent while he was in the Los  
17 Angeles County Jail due to a forgery/fraud case, and Respondent told him that he had a great  
18 lawyer who could assist him with his case. After being released from custody, Respondent  
19 contacted the victim's wife, and asked for payment for the lawyer's fees in the total amount of  
20 \$2,100, between August 8, 2010 and November 10, 2010. In September of 2010, the victim sent  
21 Respondent three money orders in the amount of \$6,825, for the purpose of bailing him out of  
22 U.S. Immigration custody. In October of 2010, when the supposedly hired lawyer showed up in  
23 court, he denied that he had ever received any lawyer fees from Respondent, and requested  
24 payment from the victim in the amount of \$2,500. After the court hearing, the victim contacted  
25 Respondent and requested the \$10,000 bail money back, because the victim was never bailed out.  
26 Respondent gave the victim a \$10,000 check, but the check bounced when the victim attempted to  
27 cash it. Respondent also falsely represented that the lawyers had been paid and had failed to  
28 provide their services. Respondent falsified a complaint form to the bar for fraud and gave it to

1 the victim. Both lawyers told the victim that Respondent never gave them any payments, and the  
2 documents which Respondent presented to the victim had been falsified. On or about June 2,  
3 2011, an arrest warrant was issued, pursuant to which the Respondent was arrested by an officer  
4 of the Long Beach Police Department and charged with a violation of Penal Code section 487(A).

5 g. On or about December 13, 2012, after pleading guilty, Respondent was convicted of  
6 one felony count of violating Penal Code section 530.5(A) [identity theft] in the criminal  
7 proceeding entitled *People of the State of California v. Jose Antonio Ramirez* (Super. Ct. Los  
8 Angeles County, 2012, No. VA126962). The Court sentenced Respondent to serve 16 months in  
9 the Los Angeles County Jail, ordered him to pay restitution fines and fees and denied probation.  
10 The circumstances surrounding the conviction occurred on or between May 10, 2012 and October  
11 10, 2012, as follows:

12 h. On or about September 9, 2012, the County of Los Angeles Sheriff's Department  
13 investigated a crime involving identity theft, which had occurred on an unknown date and time.  
14 The victim M.G. informed a Deputy Sheriff that an unknown person had used his identity to take  
15 out a loan in the victim's name, without the victim's knowledge or consent. On or about  
16 September 18, 2012, the victim received a telephone call from a collection agency, Prime Source  
17 Capital Management (Prime Source), which the victim had never heard of, and with whom the  
18 victim did not have any accounts. A service representative from Prime Source informed the  
19 victim that the victim's name, social security number, and workplace information had been used  
20 to open a "Cash Yes Loan", and that this had been paid to "Jose Pacheco". Information about this  
21 loan was sent to Jose Pacheco's wife, W.P., at her email address. Prime Source sent the victim a  
22 letter, stating that there was a balance due on Account No. 28389174 of \$1,705. The victim told  
23 law enforcement that he did not have any transactions with "Cash Yes" and did not authorize  
24 anyone to obtain a loan in his name from "Cash Yes".

25 i. In April of 2012, victim M.G. had been contacted by mail by Chase Bank and  
26 informed that his personal information may have been compromised, and in June of 2012,  
27 unknown persons had attempted to obtain credit from Chase Bank unsuccessfully because the  
28 address on the credit application did not match the victim's correct home address. On or about

1 October 10, 2012, when Los Angeles County Sheriff's Department law enforcement officers  
2 executed a search warrant at Respondent's residence, they observed Respondent attempting to  
3 purchase airline tickets to Puerto Rico using another victim's credit information. Respondent  
4 admitted that he was involved with the Greater Bellflower Little League and, in February and  
5 March of 2012 after umpiring a game, found a brown bag with several little league volunteer  
6 applications. Respondent said he used this personal information to attempt to open up credit  
7 cards and payday loans, but the only money he obtained was an \$800 loan in victim M.G.'s name.  
8 Respondent further admitted he attempted to open credit accounts in victim M.G.'s name,  
9 including Capital One, Chase and American Airlines. Also, Respondent admitted he had been in  
10 the "same sort of trouble" in the City of Downey, and that he had used his landlord's personal  
11 information to obtain credit cards without his permission. The landlord agreed not to prosecute a  
12 case against Respondent if he moved out of his rental property. On or about October 10, 2012,  
13 Respondent was arrested and booked into the L.A. County Jail on charges of violating Penal Code  
14 Section 530.5(A). At the time of his arrest, he was on active probation for a criminal conviction  
15 for violating Penal Code section 487(A) [grand theft].

16 **SECOND CAUSE FOR DISCIPLINE**

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

18 12. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in  
19 that Respondent committed multiple acts involving moral turpitude, dishonesty, fraud, or deceit,  
20 including but not limited to: committing battery on a peace officer and/or emergency personnel;  
21 attempting to pass a bogus check at Money Mart; stealing money from an inmate by falsely  
22 representing that Respondent would use it to pay for a lawyer to represent the inmate and bail him  
23 out of jail; committing identity theft and by making a false statement under penalty of perjury on  
24 his application for licensure as a pharmacy technician. Complainant refers to, and by this  
25 reference incorporates, the allegations set forth above in Paragraphs 2 and 11, subparagraphs (a)-  
26 (i), inclusive, as though set forth fully.

27 //

28 //

1 THIRD CAUSE FOR DISCIPLINE

2 (Knowingly Made a False Statement of Fact)

3 13. Respondent is subject to disciplinary action under Section 4301, subdivision (g), in  
4 that on or about October 20, 2006, Respondent knowingly made a false statement of fact, by  
5 failing to disclose his 2004 conviction case against him on his application for licensure, and by  
6 certifying under penalty of perjury the truthfulness of the answers on his application.

7 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
8 Paragraphs 2 and 11, subparagraphs (b)-(d), as though set forth fully.

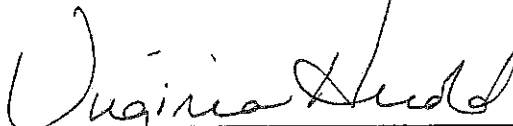
9 PRAYER

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

- 12 1. Revoking or suspending Pharmacy Technician Registration No. TCH 72785, issued  
13 to Respondent;
- 14 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
15 enforcement of this case, pursuant to section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: \_\_\_\_\_

7/11/13



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



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1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
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4 State Bar No. 130426  
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5 Los Angeles, CA 90013  
Telephone: (213) 620-3005  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3874

12 **JOSE A. PACHECO**  
a.k.a., **JOSE ANTONIO PACHECO**  
13 a.k.a., **JOSE A. PACHECO RAMIREZ**  
a.k.a., **JOSE ANTONIO RAMIREZ**  
14 a.k.a., **FARIAS OMAR RODRIGUEZ**  
10433 Midway St.  
15 Bellflower, CA 90706

**FIRST AMENDED ACCUSATION**

16 Pharmacy Technician Registration  
17 No. TCH 72785

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

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

23 **LICENSE APPLICATION AND HISTORY**

24 2. On or about October 10, 2006, Jose A. Pacheco signed an Application for  
25 Registration as a Pharmacy Technician. On this application, Respondent answered "no" to  
26 Question No. 6, which asked if he had ever been convicted of, or pled no contest to, a violation of  
27 any law of the United States or a foreign country. Respondent certified under penalty of perjury  
28

1 under the laws of the State of California the accuracy and truthfulness of all of his answers in his  
2 application. Respondent's application contained false information, in that he omitted from the  
3 application that he had been convicted of a crime on October 25, 2004, and was at the time on an  
4 active formal court probation, as set forth in Paragraph 11, subparagraphs (a)-(c) below.

5 3. On or about January 10, 2007, the Board of Pharmacy (Board) issued Pharmacy  
6 Technician Registration No. TCH 72785 to Jose A. Pacheco, also known as Jose Antonio  
7 Pacheco, Jose A. Pacheco Ramirez, Jose Antonio Ramirez, and Farias Omar Rodriguez  
8 (Respondent). The Pharmacy Technician Registration expired on May 31, 2012, and has not been  
9 renewed.

10 **JURISDICTION**

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

13 5. Section 118, subdivision (b), provides in pertinent part, that the expiration of a license  
14 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
15 within which the license may be renewed, restored, reissued or reinstated.

16 6. Section 4300 provides in pertinent part, that every license issued by the Board is  
17 subject to discipline, including suspension or revocation.

18 **STATUTORY PROVISIONS**

19 7. Section 490 states, in pertinent part:

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

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

28 //

1           (c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
4 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
5 made suspending the imposition of sentence, irrespective of a subsequent order under the  
6 provisions of Section 1203.4 of the Penal Code.”

7           8. Section 4301 states, in pertinent part:

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

11           ....

12           (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
13 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
14 whether the act is a felony or misdemeanor or not.

15           (g) Knowingly making or signing any certificate or other document that falsely  
16 represents the existence or nonexistence of a state of facts.”

17           ....

18           (l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order  
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment.”

7 **REGULATORY PROVISIONS**

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

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

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Convictions of Substantially Related Crimes)**

22 11. Respondent is subject to disciplinary action under Sections 4301, subdivision (l) and  
23 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
24 Respondent has been convicted of crimes substantially related to the qualifications, functions or  
25 duties of a pharmacy technician, as follows:

26 a. On or about June 2, 2010, after pleading nolo contendere, Respondent was convicted  
27 of one misdemeanor count of violating Penal Code section 243, subdivision (b) [battery upon an  
28 officer and emergency personnel] in the criminal proceeding entitled *People of the State of*

1 *California v. Jose Antonio Pacheco* (Super. Ct. Los Angeles County, 2010, No. 0BF02569). The  
2 Court sentenced Respondent to serve 24 days in Los Angeles County Jail, placed him on 36  
3 months probation, ordered him to enroll in and complete 52 anger management counseling  
4 sessions, not to use or possess any false identifications, pay fines, fees and restitution, among  
5 other terms and conditions. The circumstances surrounding the conviction are that on or about  
6 May 20, 2010, Respondent willfully and unlawfully used force and violence upon a police officer.

7 b. On or about October 25, 2004, after pleading nolo contendere, Respondent was  
8 convicted of one felony count of violating Penal Code section 459 [second degree commercial  
9 burglary] in the criminal proceeding entitled *People of the State of California v. Jose Pacheco*  
10 *Ramirez, aka Jose Antonio Ramirez, and Farias Omar Rodriguez* (Super. Ct. Los Angeles  
11 County, 2004, No. VA078373). The Court sentenced Respondent to serve two days in Los  
12 Angeles County Jail and placed him on three years' formal probation, with additional terms and  
13 conditions.

14 c. On or about December 20, 2006, December 20, 2006 and January 22, 2007, court  
15 hearings were held about Respondent's possible violation(s) of probation. His probation was  
16 revoked and reinstated, and the court modified the terms of his probation by ordering that it  
17 would allow Respondent to complete community service in lieu of Cal Trans. On or about  
-18 September 24, 2007, Respondent failed to appear, without sufficient excuse, at the Norwalk  
19 Superior Court, with proof of completion of his community service hours. The Court found  
20 Respondent to be in violation of his probation, revoked Respondent's probation, and ordered a  
21 "no bail" bench warrant issued. On or about June 21, 2010, the case was called for a formal  
22 hearing on Respondent's probation violation. Respondent was present in court and admitted that  
23 he had violated the Court's probation order. The Court reinstated Respondent's previous  
24 probation on the same terms and conditions, but, due to the probation violation, modified the  
25 previous order to add 365 days in Los Angeles County Jail and ordered Respondent remanded to  
26 custody.

27 d. The circumstances surrounding the October 25, 2004 conviction are that on or about  
28 August 18, 2003, Respondent entered a commercial building occupied by Money Mart, located at

1 15790 Bellflower Blvd., Bellflower, CA, with the intent to commit larceny and a felony.

2 Respondent presented a check for \$1,645.50 from Choice Enterprises, made payable to "Jose P.  
3 Ramirez", to be cashed by Money Mart. When the manager told Respondent she would contact  
4 Choice Enterprises to verify the check, Respondent said he would wait outside, and then left the  
5 facility before the check was processed. When the manager of Money Mart contacted Choice  
6 Enterprises by telephone to confirm the check, she was informed that Choice Enterprises had  
7 never issued that check, and that it was a counterfeit.

8 e. On or about February 1, 2012, after pleading nolo contendere, Respondent was  
9 convicted of one felony count of violating Penal Code section 487(A) [grand theft] in the criminal  
10 proceeding entitled *People of the State of California v. Jose Pacheco Ramirez* (Super. Ct. Los  
11 Angeles County, 2011, No. NA089091). The Court sentenced Respondent to serve four days in  
12 the Los Angeles County Jail, placed him on three years' formal probation, and ordered him to pay  
13 restitution to his victim in the amount of \$13,575. The charge will be reduced to a misdemeanor  
14 and summary, non-reporting probation, if full payment of restitution is made by Respondent to  
15 the victim within one year. The circumstances surrounding the conviction are as follows:

16 f. On or about May of 2010, the victim met Respondent while he was in the Los  
17 Angeles County Jail due to a forgery/fraud case, and Respondent told him that he had a great  
18 lawyer who could assist him with his case. After being released from custody, Respondent  
19 contacted the victim's wife, and asked for payment for the lawyer's fees in the total amount of  
20 \$2,100, between August 8, 2010 and November 10, 2010. In September of 2010, the victim sent  
21 Respondent three money orders in the amount of \$6,825, for the purpose of bailing him out of  
22 U.S. Immigration custody. In October of 2010, when the supposedly hired lawyer showed up in  
23 court, he denied that he had ever received any lawyer fees from Respondent, and requested  
24 payment from the victim in the amount of \$2,500. After the court hearing, the victim contacted  
25 Respondent and requested the \$10,000 bail money back, because the victim was never bailed out.  
26 Respondent gave the victim a \$10,000 check, but the check bounced when the victim attempted to  
27 cash it. Respondent also falsely represented that the lawyers had been paid and had failed to  
28 provide their services. Respondent falsified a complaint form to the bar for fraud and gave it to

1 the victim. Both lawyers told the victim that Respondent never gave them any payments, and the  
2 documents which Respondent presented to the victim had been falsified. On or about June 2,  
3 2011, an arrest warrant was issued, pursuant to which the Respondent was arrested by an officer  
4 of the Long Beach Police Department and charged with a violation of Penal Code section 487(A).

5 **SECOND CAUSE FOR DISCIPLINE**

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

7 12. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in  
8 that Respondent committed multiple acts involving moral turpitude, dishonesty, fraud, or deceit,  
9 including but not limited to: committing battery on a peace officer and/or emergency personnel;  
10 attempting to pass a bogus check at Money Mart; stealing money from an inmate by falsely  
11 representing that Respondent would use it to pay for a lawyer to represent the inmate and bail him  
12 out of jail; and by making a false statement under penalty of perjury on his application for  
13 licensure as a pharmacy technician. Complainant refers to, and by this reference incorporates, the  
14 allegations set forth above in Paragraphs 2 and 11, subparagraphs (a)-(f), inclusive, as though set  
15 forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Knowingly Made a False Statement of Fact)**

18 13. Respondent is subject to disciplinary action under Section 4301, subdivision (g), in  
19 that on or about October 20, 2006, Respondent knowingly made a false statement of fact, by  
20 failing to disclose his 2004 conviction case against him on his application for licensure, and by  
21 certifying under penalty of perjury the truthfulness of the answers on his application.  
22 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
23 Paragraphs 2 and 11, subparagraphs (b)-(d), as though set forth fully.

24 **PRAYER**

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

27 1. Revoking or suspending Pharmacy Technician Registration No. TCH 72785, issued  
28 to Respondent;

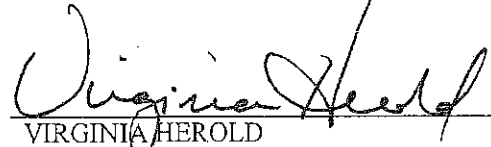


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2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: 8/27/12



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

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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. 3874

13 **JOSE A. PACHECO**  
a.k.a., **JOSE ANTONIO PACHECO**  
14 a.k.a., **JOSE A. PACHECO RAMIREZ**  
a.k.a., **JOSE ANTONIO RAMIREZ**  
15 a.k.a., **FARIAS OMAR RODRIGUEZ**  
10433 Midway St.  
Bellflower, CA 90706

**A C C U S A T I O N**

16 Pharmacy Technician Registration  
17 No. TCH 72785

Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 **LICENSE APPLICATION AND HISTORY**

24 2. On or about October 10, 2006, Jose A. Pacheco signed an Application for  
25 Registration as a Pharmacy Technician. On this application, Respondent answered "no" to  
26 Question No. 6, which asked if he had ever been convicted of, or pled no contest to, a violation of  
27 any law of the United States or a foreign country. Respondent certified under penalty of perjury  
28

1 under the laws of the State of California the accuracy and truthfulness of all of his answers in his  
2 application. Respondent's application contained false information, in that he omitted from the  
3 application that he had been convicted of a crime on October 25, 2004, and was at the time on an  
4 active formal court probation, as set forth in Paragraph 11, subparagraphs (a)-(c) below.

5 3. On or about January 10, 2007, the Board of Pharmacy (Board) issued Pharmacy  
6 Technician Registration No. TCH 72785 to Jose A. Pacheco, also known as Jose Antonio  
7 Pacheco, Jose A. Pacheco Ramirez, Jose Antonio Ramirez, and Farias Omar Rodriguez  
8 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times  
9 relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

10 **JURISDICTION**

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

13 5. Section 118, subdivision (b), provides in pertinent part, that the expiration of a license  
14 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
15 within which the license may be renewed, restored, reissued or reinstated.

16 6. Section 4300 provides in pertinent part, that every license issued by the Board is  
17 subject to discipline, including suspension or revocation.

18 **STATUTORY PROVISIONS**

19 7. Section 490 states, in pertinent part:

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

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

28

1           "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
2 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
3 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
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6 provisions of Section 1203.4 of the Penal Code."

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

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12           "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
13 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
14 whether the act is a felony or misdemeanor or not.

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21 substances or of a violation of the statutes of this state regulating controlled substances or  
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8 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Convictions of Substantially Related Crimes)**

22 11. Respondent is subject to disciplinary action under Sections 4301, subdivision (l) and  
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24 Respondent has been convicted of crimes substantially related to the qualifications, functions or  
25 duties of a pharmacy technician, as follows:

26 a. On or about June 2, 2010, after pleading nolo contendere, Respondent was convicted  
27 of one misdemeanor count of violating Penal Code section 243, subdivision (b) [battery upon an  
28 officer and emergency personnel] in the criminal proceeding entitled *People of the State of*

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5 other terms and conditions. The circumstances surrounding the conviction are that on or about  
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7 b. On or about October 25, 2004, after pleading nolo contendere, Respondent was  
8 convicted of one felony count of violating Penal Code section 459 [second degree commercial  
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10 *Ramirez, aka Jose Antonio Ramirez, and Farias Omar Rodriguez* (Super. Ct. Los Angeles  
11 County, 2004, No. VA078373). The Court sentenced Respondent to serve 2 days in Los Angeles  
12 County Jail and placed him on 3 years formal probation, with additional terms and conditions.

13 c. On or about December 20, 2006, December 20, 2006 and January 22, 2007, court  
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15 revoked and reinstated, and the court modified the terms of his probation by ordering that it  
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17 September 24, 2007, Respondent failed to appear, without sufficient excuse, at the Norwalk  
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19 Respondent to be in violation of his probation, revoked Respondent's probation, and ordered a  
20 "no bail" bench warrant issued. On or about June 21, 2010, the case was called for a formal  
21 hearing on Respondent's probation violation. Respondent was present in court and admitted that  
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23 probation on the same terms and conditions, but, due to the probation violation, modified the  
24 previous order to add 365 days in Los Angeles County Jail and ordered Respondent remanded to  
25 custody.

26 d. The circumstances surrounding the October 25, 2004 conviction are that on or about  
27 August 18, 2003, Respondent entered a commercial building occupied by Money Mart, located at  
28 15790 Bellflower Blvd., Bellflower, CA, with the intent to commit larceny and a felony.

1 Respondent presented a check for \$1,645.50 from Choice Enterprises, made payable to "Jose P.  
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3 Choice Enterprises to verify the check, Respondent said he would wait outside, and then left the  
4 facility before the check was processed. When the manager of Money Mart contacted Choice  
5 Enterprises by telephone to confirm the check, she was informed that Choice Enterprises had  
6 never issued that check, and that it was a counterfeit.

7 **SECOND CAUSE FOR DISCIPLINE**

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

9 12. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in  
10 that Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit, including  
11 committing battery on a peace officer and/or emergency personnel, attempting to pass a bogus  
12 check at Money Mart, and by making a false statement under penalty of perjury on his application  
13 for licensure as a pharmacy technician. Complainant refers to, and by this reference incorporates,  
14 the allegations set forth above in Paragraphs 2 and 11, subparagraphs (a)-(d), inclusive, as though  
15 set forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Knowingly Made a False Statement of Fact)**

18 13. Respondent is subject to disciplinary action under section 4301, subdivision (g), in  
19 that on or about October 20, 2006, Respondent knowingly made a false statement of fact, by  
20 failing to disclose his 2004 conviction case against him on his application for licensure, and by  
21 certifying under penalty of perjury the truthfulness of the answers on his application.  
22 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
23 Paragraphs 2 and 11, subparagraphs (b)-(d), as though set forth fully.

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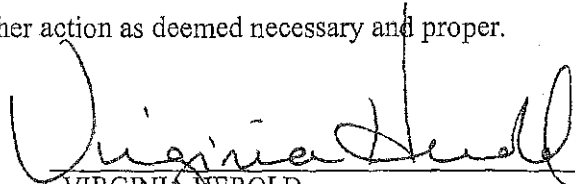
**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 72785, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

12/6/11



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