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

In the Matter of the Accusation Against:

DENICE MARIE HECTOR
2643 Casey Ray Court
Turlock, CA 95382

**Pharmacy Technician Registration
No. TCH 41071**

Respondent.

Case No. 4065

OAH No. 2012010570

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 28, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4065 against Denice Marie Hector (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 22, 2002, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 41071 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4065 and will expire on October 31, 2011, unless renewed

3. On or about December 8, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4065, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is: 2643 Casey Ray Court, Turlock, CA 95382.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. On or about December 18, 2011, Respondent signed and returned a Notice of
8 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at
9 Respondent's address of record and it informed her that an administrative hearing in this matter
10 was scheduled for August 7, 2012. Respondent failed to appear at that hearing.

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

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

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 4065, finds that
27 the charges and allegations in Accusation No. 4065, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$1,530.00 as of July 30, 2012.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Denice Marie Hector has
3 subjected her Pharmacy Technician Registration No. TCH 41071 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 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Respondent is subject to disciplinary action under section 4301(1), in that on or
9 about October 30, 2009, in a criminal proceeding entitled, *United States of America v.*
10 *Denice Marie Hector*, in the United States District Court, Eastern District of California,
11 Case No. 1:09 CR00104, Respondent was convicted upon a plea of guilty to violating Title
12 18, United States Code Section 101 (False Statements), a felony, which is substantially
13 related to the qualifications, functions or duties as a pharmacy technician. The
14 circumstance are as follows:

15 1. On or about March 11, 2009, Respondent, Respondent made a false,
16 fraudulent, and fictitious statement and representation in connection with a DEA
17 investigation of her husband and DEA's seizure in excess of \$700,000, in U.S.
18 currency associated with her husband's drug trafficking. Respondent told agents she
19 did not know what her safe deposit box contained, when in truth and in fact as she
20 then knew, she had access to the safe deposit box and knew that it contained
21 approximately \$199,832, in U.S. currency, some of which was delivered from sources
22 unknown to her.

23 b. Respondent is subject to disciplinary action under section 4301(f) by making
24 false statements as described in sub-paragraph a above.

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ORDER

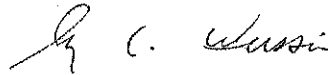
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 41071, heretofore issued to Respondent Denice Marie Hector, is revoked.

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 November 30, 2012.

It is so ORDERED ON October 31, 2012

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

10934769.DOC
DOJ Matter ID:SA2011101282

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY
Deputy Attorney General
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Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
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:
12 DENICE MARIE HECTOR
2643 Casey Ray Court
13 Turlock, CA 95382
14 Pharmacy Technician Registration No. TCH 41071
15 Respondent.

Case No. 4065

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about January 22, 2002, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 41071 to Denice Marie Hector (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on October 31, 2011, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 of the Code states:

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

3

4 5. Section 4301 of the Code states:

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

8

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

12

13 "(l) The conviction of a crime substantially related to the qualifications, functions, and
14 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
15 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
16 substances or of a violation of the statutes of this state regulating controlled substances or
17 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
18 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
19 The board may inquire into the circumstances surrounding the commission of the crime, in order
20 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
21 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
22 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
23 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
24 of this provision. The board may take action when the time for appeal has elapsed, or the
25 judgment of conviction has been affirmed on appeal or when an order granting probation is made
26 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
27 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
28

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.

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

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

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

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

19 **FIRST CAUSE FOR DISCIPLINE**
20 **(CRIMINAL CONVICTION)**

21 9. Respondent is subject to disciplinary action under section 4301(l), in that on or about
22 October 30, 2009, in a criminal proceeding entitled, *United States of America v. Denice Marie*
23 *Hector*, in the United States District Court, Eastern District of California, Case No. 1:09
24 CR00104, Respondent was convicted upon a plea of guilty to violating Title 18, United States
25 Code Section 101 (False Statements), a felony, which is substantially related to the
26 qualifications, functions or duties as a pharmacy technician. The circumstances are as follows:

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1 10. On or about March 11, 2009, Respondent made a false, fraudulent, and fictitious
2 statement and representation in connection with a DEA investigation of her husband and DEA's
3 seizure in excess of \$700,000, in U.S. currency associated with her husband's drug trafficking.
4 Respondent told agents she did not know what her safe deposit box contained, when in truth and
5 in fact as she then knew, she had access to the safe deposit box and knew that it contained
6 approximately \$199,832, in U.S. currency, some of which was derived from sources unknown to
7 her.

8 SECOND CAUSE FOR DISCIPLINE

9 (MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR CORRUPTION)

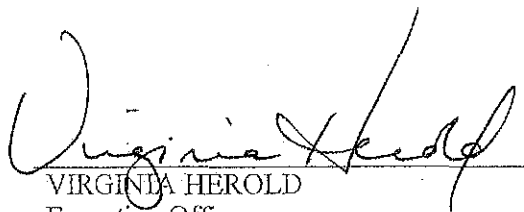
10 11. Respondent is subject to disciplinary action under section 4301(f) by making false
11 statements as described in paragraph 10 above.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 41071,
16 issued to Denice Marie Hector.;
- 17 2. Ordering Denice Marie Hector to pay the Board of Pharmacy the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 10/28/11


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

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SAN JOAQUIN COUNTY
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