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

In the Matter of the Accusation Against:  
  
**JASON ALLEN ROSAL**  
  
1321 Higton Street  
Manteca, CA 95336  
Pharmacy Technician License No. TCH  
37691  
  
Respondent.

Case No. 4333

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 6, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4333 against Jason Allen Rosal (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about May 18, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 37691 to Respondent. The Pharmacy Technician expired on January 31, 2013, and was cancelled on May 5, 2013. However, this lapse in licensure does not

1 deprive the Board of its authority to institute or continue this disciplinary proceeding, pursuant to  
2 Business and Professions Code section 118(b).

3 3. On or about January 16, 2014, Respondent was served by Certified and First Class  
4 Mail copies of the Accusation No. 4333, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
8 record was and is: 1321 Higon Street, Manteca, CA 95336.

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. On or about January 21, 2014, the post office returned the return receipt post card  
13 bearing Respondent's signature with a date of January 18, 2014, demonstrating that the  
14 aforementioned documents were actually received by Respondent. Respondent failed to file a  
15 Notice of Defense or otherwise contact the Office of the Attorney General or the Board within the  
16 time required by statute.

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

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

23 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
25 4333.

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

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



1 administered the controlled substance Methamphetamine to an extent or in a manner dangerous or  
2 injurious to himself or others.

3 d. Respondent is subject to disciplinary action for unprofessional conduct under section  
4 4301 subdivision (j), in that on dates uncertain up to and including May 26, 2011, Respondent  
5 violated laws governing controlled substances. Respondent violated Health and Safety Code  
6 section 11350, subdivision (a), by possessing the controlled substance Hydrocodone without a  
7 prescription. Respondent violated and Health and Safety Code section 11377, subdivision (a) by  
8 possessing the controlled substance Methamphetamine without a prescription.

9 e. Respondent is subject to disciplinary action for unprofessional conduct under section  
10 4301, subdivision (o) in that on dates uncertain prior to May 26, 2011, Respondent violated laws  
11 governing pharmacy. Respondent violated Code section 4060 by possessing the dangerous drug  
12 Cialis without a prescription. Respondent violated Code section 4060 by possessing the  
13 dangerous drug Viagra without a prescription.

14  
15 ORDER

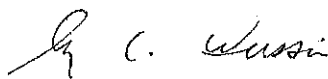
16 IT IS SO ORDERED that Pharmacy Technician License No. TCH 37691, heretofore issued  
17 to Respondent Jason Allen Rosal, is revoked.

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

22 This Decision shall become effective on May 30, 2014.

23 It is so ORDERED April 30, 2014.

24 BOARD OF PHARMACY  
25 DEPARTMENT OF CONSUMER AFFAIRS  
26 STATE OF CALIFORNIA

27 By  \_\_\_\_\_  
28 STAN C. WEISSER  
Board President

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Attachment: Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4333

12 **JASON ALLEN ROSAL**  
1321 Highton Street  
13 Manteca, CA 95336

**ACCUSATION**

14 **Pharmacy Technician License No. TCH**  
15 **37691**

16 Respondent.

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 May 18, 2001, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 37691 to Jason Allen Rosal (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and expired  
24 on January 31, 2013, and has not been 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.

Accusation





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

6 ....

7 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
9 federal and state laws and regulations governing pharmacy, including regulations established by  
10 the board or by any other state or federal regulatory agency...”

11 7. Section 4022 of the Code states

12 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in  
13 humans or animals, and includes the following:

14 “(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without  
15 prescription,” “Rx only,” or words of similar import.

16 ....

17 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
18 prescription or furnished pursuant to Section 4006.”

19 8. Section 4060 of the Code provides in pertinent part that no person shall possess any  
20 controlled substance, except that furnished to a person upon the prescription of a physician or  
21 other specified medical professional.

22 9. Health and Safety Code section 11377, subdivision (a) provides in pertinent part that  
23 it is illegal to possess any controlled substance specified in subdivision (d) of [Health and Safety  
24 Code] Section 11055.

25 10. Health and Safety Code section 11350, subdivision (a) provides in pertinent part that  
26 it is illegal to possess any controlled substance specified in subdivision (b) of [Health and Safety  
27 Code] Section 11055.

### 28 DRUGS

11. “Methamphetamine” is a Schedule II controlled substance as defined by Health and  
12 Safety Code section 11055, subdivision (d), paragraph (2).

13. “Norco” is a brand name for Hydrocodone combined with acetaminophen.  
14 Hydrocodone is a Schedule II controlled substance as defined by Health and Safety Code section

15 ///

1 11055, subdivision (b), paragraph (1), subparagraph (I), and a dangerous drug as defined by Code  
2 section 4022.

3 13. Viagra is a brand name for the drug Sildenafil Citrate, and is a dangerous drug as  
4 defined by Code section 4022.

5 14. Cialis is a brand name for the drug Tadalafil, and is a dangerous drug as defined by  
6 Code section 4022.

#### 7 COST RECOVERY

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

#### 12 BACKGROUND INFORMATION

13 16. At all times relevant in this matter Respondent worked at Kaiser Pharmacy in  
14 Manteca, California. On or about May 26, 2011, the Manteca Police Department searched  
15 Respondent's residence, finding 3.2 grams of Methamphetamine, paraphernalia for smoking  
16 Methamphetamine, six (g) empty prescription bottles that were not prescribed to Respondent,  
17 including Norco (Hydrocodone), Cialis, and Viagra. The prescription bottles of Hydrocodone and  
18 Viagra were empty, and the prescription bottles of Cialis contained 24 pills of Cialis.

19 17. Respondent admitted to stealing Hydrocodone, Cialis, and Viagra from his employer  
20 for approximately the previous 7 months. Respondent explained that he would take prescriptions  
21 that had been filled, but had not been picked up by the patient and would otherwise be returned to  
22 stock. Respondent stated the Methamphetamine, Cialis, and Viagra were for personal use, but he  
23 did not use the Hydrocodone, he sold it to friends and acquaintances.

#### 24 FIRST CAUSE FOR DISCIPLINE

##### 25 (Substantially Related Criminal Conviction)

26 18. Respondent is subject to disciplinary action for unprofessional conduct under section  
27 4301, subdivision (I), in that on or about July 18, 2011, in San Joaquin County Superior Court, in  
28 the case entitled *People v. Jason Allen Rosal*, Case Number MF033605A, Respondent was

1 convicted after his plea of guilty of violating Penal Code section 496, subdivision (a), (receiving  
2 known stolen property), a misdemeanor. The circumstances are that Respondent possessed  
3 property which he knew to be stolen from the Kaiser Pharmacy where he was employed, as stated  
4 in paragraphs 16 and 17, above.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Dishonest, Fraudulent, Corrupt, and Deceitful Acts)**

7 19. Respondent is subject to disciplinary action for unprofessional conduct under section  
8 4301, subdivision (f), in that on dates uncertain prior to May 26, 2011, Respondent embezzled  
9 prescription medications from his employer, as described in paragraphs 16 and 17, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unlawful Self-Administration of Controlled Substance to an Extent or in a Manner**

12 **Dangerous to Himself or Others)**

13 20. Respondent is subject to disciplinary action for unprofessional conduct under section  
14 4301, subdivision (h), in that on dates uncertain prior to May 26, 2011, Respondent self-  
15 administered the controlled substance Methamphetamine to an extent or in a manner dangerous or  
16 injurious to himself or others. The circumstances are as described in paragraph 17, above.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violation of Laws Governing Controlled Substances)**

19 21. Respondent is subject to disciplinary action for unprofessional conduct under section  
20 4301 subdivision (j); in that on dates uncertain up to and including May 26, 2011, Respondent  
21 violated laws governing controlled substances. The circumstances are as follows:

22 a. Respondent violated Health and Safety Code section 11350, subdivision (a), by  
23 possessing the controlled substance Hydrocodone without a prescription.

24 b. Respondent violated and Health and Safety Code section 11377, subdivision (a)  
25 by possessing the controlled substance Methamphetamine without a prescription.

26 ///

27 ///

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Laws Governing Pharmacy)**

3 22. Respondent is subject to disciplinary action for unprofessional conduct under section  
4 4301, subdivision (o) in that on dates uncertain prior to May 26, 2011, Respondent violated laws  
5 governing pharmacy. The circumstances are as stated in paragraphs 18-21 above, and as follows:

6 a. Respondent violated Code section 4060 by possessing the dangerous drug Cialis  
7 without a prescription.

8 b. Respondent violated Code section 4060 by possessing the dangerous drug  
9 Viagra without a prescription.

10 **PRAYER**

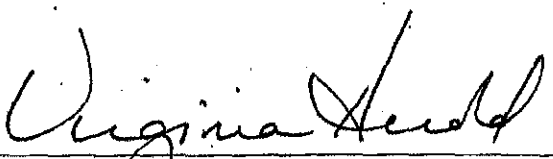
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician License Number TCH 37691, issued to  
14 Jason Allen Rosal;

15 2. Ordering Jason Allen Rosal to pay the Board of Pharmacy the reasonable costs of the  
16 investigation and enforcement of this case, pursuant to Business and Professions Code section  
17 125.3;

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

19  
20  
21 DATED: 12/6/13

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

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