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

In the Matter of the Accusation Against:

**GUS A. MEJIA
P.O. Box 3517
San Rafael, CA 94912**

Pharmacy Technician License No. TCH 41474

Respondent.

Case No. 4459

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 12, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), filed Accusation No. 4459 against Gus A. Mejia (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as exhibit A.)

2. On or about February 20, 2002, the Board issued Pharmacy Technician License No. TCH 41474 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 4459 and will expire on September 30, 2013, unless renewed.

3. On or about February 28, 2013, Respondent was served by Certified and First Class Mail with copies of: Accusation No. 4468; a Statement to Respondent, a Notice of Defense; a Request for Discovery; and Discovery Statutes (Gov.Code, §§ 11507.5, 11507.6, 11507.7) at Respondent's address of record, which was and is: P.O. Box 3517, San Rafael, CA 94912.

1 4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California
2 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes
3 thereto, are required to be reported and maintained with the Board.

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

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

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

12 7. Respondent failed to file a Notice of Defense within 15 days after service on him of
13 the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 4459.

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

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

19 9. Pursuant to its authority under Government Code section 11520, the Board finds
20 Respondent is in default. The Board will take action without further hearing and, based on the
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
22 taking official notice of all the investigatory reports, exhibits and statements contained therein on
23 file at the Board's offices regarding the allegations contained in Accusation No. 4459, finds that
24 the charges and allegations in Accusation No. 4459, are separately and severally, found to be true
25 and correct by clear and convincing evidence.

26 10. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement are \$1,897.50 as of July 3, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Gus A. Mejia has subjected his
Pharmacy Technician License No. TCH 41474 to discipline.

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

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

5 a. Respondent's License is subject to revocation pursuant to Business and Professions
6 Code section 4301(f), for acts involving moral turpitude, dishonesty, fraud, deceit, or corruption,
7 in that between in or about July 2010 and in or about July 2012, Respondent engaged in several
8 dishonest and/or deceitful acts, including (i) six (6) instances of theft, attempted theft, burglary, or
9 attempted burglary from vendors, stores, or merchants in San Rafael, California, and (ii) two (2)
10 instances of purchase or sale of base/rock **cocaine** in San Francisco, California;

11 b. Respondent's License is subject to revocation pursuant to Business and Professions
12 Code section(s) 4301(j), (o) and/or 4060, and/or Health and Safety Code section 11350, in that
13 Respondent, as described above, possessed, conspired to possess, and/or assisted in or abetted
14 possession of, a controlled substance, without a prescription.

15 c. Respondent's License is subject to revocation pursuant to Business and Professions
16 Code section(s) 4301(l) and/or 490, by reference to California Code of Regulations, title 16,
17 section 1770, for conviction of substantially related crime(s), in that based on the conduct above,
18 on or about November 23, 2011, in *People v. Gustavo Mejia Contreras*, Case No. CR178155A in
19 Marin County Superior Court, Respondent was convicted of violating Penal Code section 459
20 (Commercial Burglary), a misdemeanor.

21 d. Respondent's License is subject to revocation pursuant to Business and Professions
22 Code section 4301, in that Respondent, as described above, engaged in unprofessional conduct.

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ORDER

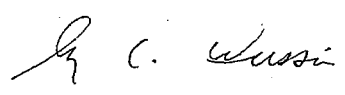
IT IS SO ORDERED that Pharmacy Technician License No. TCH 41474, heretofore issued to Respondent Gus A. Mejia, is revoked.

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 October 14, 2013.

It is so ORDERED ON September 12, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

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DOJ Matter ID:SF2012403058

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 FRANK H. PACOE
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4459

11 **GUS A. MEJIA**
12 **aka GUSTAVO MEJIA CONTRERAS**
13 **P.O. Box 3517**
San Rafael, CA 94912

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 41474**

15 **Respondent.**

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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 February 20, 2002, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 41474 to Gus A. Mejia aka Gustavo Mejia Contreras (Respondent). The
23 Pharmacy Technician License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on September 30, 2013, 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 (Code) unless otherwise indicated.

1 20. On or about January 4, 2011, Respondent was interrupted by San Francisco Police in
2 the midst of a transaction in which he exchanged/sold or purchased/bought base (rock/crack)
3 **cocaine** for cash. A search of his person discovered two off-white rock-like substances wrapped
4 in clear plastic, which were subsequently determined to be rock **cocaine** weighing 0.4 grams.

5 21. On or about January 19, 2011, Respondent was apprehended by a manager for a thrift
6 or grocery store in San Rafael on suspicion of attempting to steal razor blades. The manager told
7 the responding officer(s) from the San Rafael Police Department that on or about January 9, 2011
8 he had seen Respondent take razor blades without paying for them, and had followed him on that
9 occasion but not apprehended him. So when Respondent came into the store on or about January
10 19, 2011, the store manager followed him, and observed him placing razor blades in his jacket; on
11 this occasion, Respondent removed the razor blades from his jacket before exiting the store.

12 22. On or about April 29, 2011, Respondent was again apprehended by store security at a
13 Safeway store in San Rafael after having left the store without paying for two (2) packages of
14 razors in his possession, valued at \$64.00. Respondent admitted to the responding officer(s) from
15 the San Rafael Police Department that he had taken the razors, and said he forgot to pay for them.

16 23. On or about May 16, 2011, based on the incident in paragraph 22 above, Respondent
17 was charged, in *People v. Gustavo Mejia-Contreras*, Case No. CR175606A in Marin County
18 Superior Court, with violating Penal Code section 490.5 (Petty Theft from a Merchant), a
19 misdemeanor. On or about November 23, 2011, the charge was dismissed pursuant to a Harvey
20 waiver (considered for sentencing), pursuant to action in Case No. CR178155A (see below).

21 24. On or about November 12, 2011, Respondent was apprehended by store security at a
22 Rite Aid store in San Rafael after having left the store without paying for six (6) packages of
23 razors in his possession, valued at \$140.00. Respondent admitted to the responding officer(s)
24 from the San Rafael Police Department that he had come into the store intending to steal the
25 razors, and further admitted that he sells stolen merchandise on the streets to pay for medication.
26 A search of Respondent's property discovered six (6) men's watches with store price tags, total
27 value \$200.00. Respondent stated that he stole the watches from a Kohl's store the previous day.
28 Subsequent police contact with Kohl's determined that the watches did not come from Kohl's.

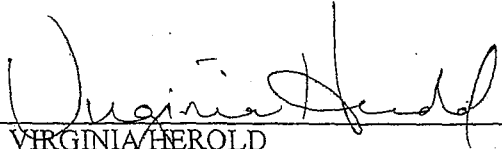
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1. Revoking or suspending Pharmacy Technician License No. TCH 41474, issued to Gus A. Mejia aka Gustavo Mejia Contreras (Respondent);

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

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

DATED: 2/12/13



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

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