

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:
MANNUEL MACEDA CABUGOS
2230 S Loara Street #205
Anaheim, CA 92802
Pharmacy Technician Registration No. TCH
59049

Respondent.

Case No. 4618
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 22, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4618 against Mannuel Maceda Cabugos (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about October 4, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 59049 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4618 and will expire on May 31, 2014, unless renewed.
3. On or about August 1, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4618, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 11121 Dino Cir. 319, Garden Grove, CA 92840.

3 4. On or about September 4, 2013, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 4618, 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: 2230 S Loara Street #205, Anaheim, CA 92802.

9 5. 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 6. On or about August 13, 2013, the signed domestic return receipt reflecting service of
13 the aforementioned documents by Certified Mail to 11121 Dino Cir. 319, Garden Grove, CA
14 92840 was returned by the U.S. Postal Service. On or about September 10, 2013, the signed
15 domestic return receipt reflecting service of the aforementioned documents by Certified Mail to
16 2230 S Loara Street #205, Anaheim, CA 92802 was returned by the U.S. Postal Service.

17 7. 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 8. 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 4618.

26 9. 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

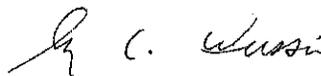
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 59049, heretofore issued to Respondent Manuel Maceda Cabugos, is revoked.

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 January 2, 2014.

It is so ORDERED ON December 2, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

70760175.DOC
DOJ Matter ID:SD2013705150

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 **MANNUEL MACEDA CABUGOS**
14 **11121 Dino Cir. 19**
Garden Grove, CA 92840
15 **Pharmacy Technician Registration No. TCH 59049**
16 Respondent.

Case No. 4618
ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On October 4, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 59049 to Manuel Maceda Cabugos (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 May 31, 2014, 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 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
2 is not limited to, any of the following:

3
4 (f) The commission of any act involving moral turpitude, dishonesty,
5 fraud, deceit, or corruption, whether the act is committed in the course of relations
6 as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

7
8 (l) The conviction of a crime substantially related to the qualifications,
9 functions, and duties of a licensee under this chapter. The record of conviction of
10 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
11 United States Code regulating controlled substances or of a violation of the
12 statutes of this state regulating controlled substances or dangerous drugs shall be
13 conclusive evidence of unprofessional conduct. In all other cases, the record of
14 conviction shall be conclusive evidence only of the fact that the conviction
15 occurred. The board may inquire into the circumstances surrounding the
16 commission of the crime, in order to fix the degree of discipline or, in the case of
17 a conviction not involving controlled substances or dangerous drugs, to determine
18 if the conviction is of an offense substantially related to the qualifications,
19 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
20 a conviction following a plea of *nolo contendere* is deemed to be a conviction
21 within the meaning of this provision. The board may take action when the time
22 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
23 or when an order granting probation is made suspending the imposition of
24 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
25 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
26 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
27 information, or indictment.

28
REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

21
22 (b) When considering the suspension or revocation of a facility or a
23 personal license on the ground that the licensee or the registrant has been
24 convicted of a crime, the board, in evaluating the rehabilitation of such person and
25 his present eligibility for a license will consider the following criteria:

- 26 (1) Nature and severity of the act(s) or offense(s).
- 27 (2) Total criminal record.
- 28 (3) The time that has elapsed since commission of the act(s) or
offense(s).

///

1 (4) Whether the licensee has complied with all terms of parole,
2 probation, restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

12 **COST RECOVERY**

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licentiate found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
18 may be included in a stipulated settlement.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(October 4, 2012 Criminal Conviction for Grand Theft on September 4, 2012)**

21 13. Respondent subjected his pharmacy technician registration to discipline under
22 sections 490 and 4301, subdivision (l) of the Code in that Respondent was convicted of a crime
23 that is substantially related to the qualifications, functions, and duties of a registered pharmacy
24 technician. The circumstances are as follows:

25 a. On October 4, 2012, in a criminal proceeding entitled *The People of the*
26 *State of California vs. Manuel Maceda Cabugos*, in Los Angeles County Superior Court,
27 Bellflower Courthouse, Case Number 2BF04549, Respondent was convicted on his plea of *nolo*
28 *contendere* to violating Penal Code (PC) section 487, subdivision (a), grand theft by
embezzlement, a misdemeanor.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

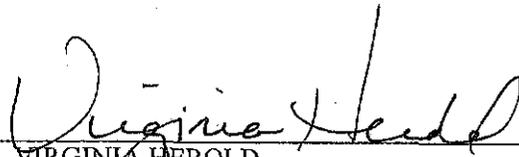
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 59049, issued to Manuel Maceda Cabugos;
2. Ordering Manuel Maceda Cabugos to pay the Board of Pharmacy 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 deemed necessary and proper.

DATED: _____

7/22/13



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

SD2013705150
70722707.doc