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

In the Matter of the Accusation Against:
FELIPE DEJESUS VILLALOBOS
15876 Azalea Ave
Fontana, CA 92335
**Pharmacy Technician Registration No.
TCH 85349**

Respondent.

Case No. 4663
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 8, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4663 against Felipe DeJesus Villalobos (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 13, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 85349 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4663, was restricted from practice effective April 15, 2013, expired on July 31, 2014, and has not been renewed.

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1 3. On or about September 3, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4663, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 15876 Azalea Ave
8 Fontana, CA 92335

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. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20 4663.

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

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

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4663, finds that

1 the charges and allegations in Accusation No. 4663, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$3,192.50 as of April 10, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Felipe DeJesus Villalobos has
8 subjected his Pharmacy Technician Registration No. TCH 85349 to discipline.

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

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

13 a. Business and Professions Code sections 490, 4300 and 4301, in conjunction with
14 CCR, title 16, section 1770 – Conviction of Substantially Related Crimes: *People v. Felipe*
15 *Villalobos*, (Super. Ct. San Bernardino County, 2013, Case No. FVA1201920):

16 (1) Health and Safety Code section 11351 (possession of for sale of controlled
17 substance – Hydrocodone), a felony, and

18 (2) Penal Code section 487(a) (grand theft by embezzlement), a felony;

19 b. Business and Professions Code sections 4300 and 4301(i) and (k) - Conviction
20 Involving Drugs;

21 c. Business and Professions Code sections 4300 and 4301(i) – Unlawful Possession of
22 Controlled Substances;

23 d. Business and professions Code section 4301(j) and (o) – Unprofessional
24 Conduct/Violation of Licensing Chapter.

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ORDER

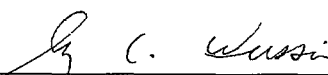
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 85349, heretofore issued to Respondent Felipe DeJesus Villalobos, is revoked.

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 June 12, 2015.

It is so ORDERED May 13, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 GREGORY J. SALUTE
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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. 4663

12 **FELIPE VILLALOBOS**
15876 Azalea Avenue
13 Fontana, California 92335

A C C U S A T I O N

14 Original Pharmacy Technician Registration
15 No. TCH 85349

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 13, 2008, the Board issued Original Pharmacy Technician
23 Registration No. TCH 85349 to Felipe DeJesus Villalobos (Respondent). On April 15, 2013, in
24 the matter of *The People of the State of California v. Felipe DeJesus Villalobos*, (Super. Ct. San
25 Bernardino County, 2013, No. FVA1201920), Respondent was prohibited by order of the
26 superior court from engaging, either directly or indirectly, in any activity for which a pharmacy
27 technician license was required during the pendency of the criminal proceedings against him until
28 further order of the court. The Pharmacy Technician Registration was in full force and effect at

1 all times relevant to the charges brought herein, and will expire on July 31, 2014, unless renewed.

2 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Section 490 states, in pertinent part:

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

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

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

21 5. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
22 revoked."

23 6. Section 4300.1 states:

24 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
25 operation of law or by order or decision of the board or court of law, the placement of a license on
26 a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
27 jurisdiction to commence or proceed with any investigation of, or action or disciplinary
28 proceeding against, the licensee or to render a decision suspending or revoking the license."

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
3 licensee or registrant to perform the functions authorized by his license or registration in a manner
4 consistent with the public health, safety, or welfare."

5 **COST RECOVERY**

6 9. Section 125.3 provides that the Board may request the administrative law judge to
7 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
8 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

9 10. **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

10 Hydrocodone is a Schedule II controlled substance as designated by Health and safety Code
11 section 11055, subdivision (b)(1)(I), and is categorize as a dangerous drug pursuant to section
12 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 *(Conviction of a Substantially Related Crimes)*

15 11. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
16 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
17 grounds of unprofessional conduct, in that, Respondent was convicted of a substantially related
18 crime, as follows:

19 a. On or about November 5, 2013, after pleading guilty, Respondent was convicted of
20 two felonies: (1) one felony count of violating Health and Safety Code section 11351 (possession
21 for sale of controlled substance - Hydrocodone), and, (2) one felony count of violating Penal
22 Code section 487(a) (grand theft by embezzlement) the criminal proceeding entitled *The People*
23 *of the State of California v. Felipe Villalobos* (Super. Ct. San Bernardino County, 2013, No.
24 FVA1201920). The Court sentenced Respondent to 120 days in jail and 36 months supervised
25 probation upon release from jail with fines, and terms and conditions.

26 b. The circumstances underlying the convictions are that from on or about January 1,
27 2012, through December 26, 2012, while employed as a pharmacy technician at Walgreens, took
28 property from his employer during that time period. In addition, on or about December 26, 2012,

1 Respondent was observed on a security video surveillance tape taking 500 pills of Hydrocodone
2 from the inventory at Walgreens.

3 **SECOND CAUSE FOR DISCIPLINE**

4 *(Conviction Involving Drugs)*

5 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (i) and (k), on the grounds of unprofessional conduct, in that, Respondent sustained
7 two felony criminal convictions involving drugs. Complainant refers to, and by this reference
8 incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive,
9 as though set forth fully herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 *(Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)*

12 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed an act
14 or acts involving moral turpitude, dishonesty, fraud, deceit or corruption when he stole and/or
15 embezzled 500 (10mg) Hydrocodone pills from the inventory at Walgreens. Complainant refers
16 to, and by this reference incorporates, the allegations set forth above in paragraphs 10 and 11,
17 inclusive, as though set forth fully herein.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 *(Unprofessional Conduct/Violation of Licensing Chapter)*

20 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
21 (o), on the grounds of unprofessional conduct, in that, Respondent was found to be in illegal
22 possession of Hydrocodone, a controlled substance. Complainant refers to, and by reference
23 incorporates, the allegations set forth in paragraph 11, subparagraphs (a) and (b), as though fully
24 set forth herein.

25 **PRAYER**

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

- 28 1. Revoking or suspending Original Pharmacy Technician Registration No. TCH 85349

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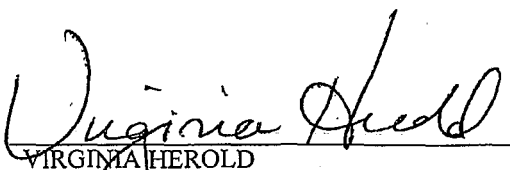
issued to Felipe DeJesus Villalobos;

2. Ordering Felipe DeJesus Villalobos 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:

8/8/14



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