

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

In the Matter of the Accusation Against:

MIKA SOLIZ,

Pharmacy Technician License
No. TCH 24839

Respondent.

Case No. 4935

OAH No. 2015010084

**DECISION
AFTER REJECTION OF PROPOSED DECISION**

Pursuant to section 11517 of the Government Code, on October 7, 2015, the California State Board of Pharmacy (hereinafter "board") issued an Order rejecting the June 30, 2015, Proposed Decision of the Administrative Law Judge in the above-entitled matter.

On December 2, 2015, the parties were notified that the transcript had been received and the deadline for the parties to submit written argument was set for January 4, 2016. Written argument was received in a timely manner from the complainant. No argument was received from respondent.

The Board, having reviewed and considered the entire record, including the transcript, exhibits and written argument, now issues this decision.

The June 30, 2015, Proposed Decision is adopted as the Board's Decision in this matter but the Order on page 14 is revised to read as follows:

A. The Order itself is amended to read:

ORDER

No later than six (6) months from the effective date of this Decision, respondent Mika Renee Soliz (TCH 24839) shall both apply for license reissuance as a pharmacy technician and

complete the Condition Precedent outlined below. Upon satisfaction of those conditions and all statutory and regulatory requirements, a license shall be issued to respondent and be immediately revoked. The order of revocation is, however, stayed, and the license placed on probation for a period of three (3) years, subject to the terms and conditions below.

B. Condition 1 is amended to read:

1. **CONDITION PRECEDENT: Certification Required**
Prior to Issuance of License

Respondent's license as a pharmacy technician shall not be re-issued until she is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Respondent shall not resume working as a pharmacy technician under this Decision until notified by the board that her license has been re-issued.

C. Conditions 2 through 20 of the Proposed Decision are applied as expressed therein without changes.

This Decision shall become effective at 5:00 p.m. on April 8, 2016.

It is so ORDERED on March 9, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

MIKA RENEE SOLIZ

Pharmacy Technician Registration No.
TCH 24839

Respondent.

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TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The administrative record of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting the Proposed Decision dated October 7, 2015. In addition to any arguments the parties may wish to submit, the board is interested in argument directed at the following issue: If cause for discipline exists, what penalty, if any, should be applied in this case.

Pursuant to said Order written argument shall be filed with the Board of Pharmacy, 1625 N. Market Blvd, Suite N-219, Sacramento, California, on or before January 4, 2016. **No new evidence may be submitted.**

IT IS SO ORDERED this 2nd day of December 2015.



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

MIKA RENEE SOLIZ

Pharmacy Technician Registration No.
TCH 24839,

Respondent.

Case No. 4935

OAH No. 2015010084

ORDER REJECTING PROPOSED DECISION

Pursuant to section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is rejected. The California State Board of Pharmacy (hereinafter "board") will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit.

The board is particularly interested in arguments directed to the question whether the discipline should be increased. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

It is so ORDERED on October 7, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

MIKA RENEE SOLIZ

Pharmacy Technician Registration
No. TCH 24839

Respondent.

Case No. 4935

OAH No. 2015010084

PROPOSED DECISION

Administrative Law Judge Vallera J. Johnson, State of California, Office of Administrative Hearings, heard this matter in Riverside, California, on June 2, 2015.

Christina Thomas, Deputy Attorney General, California Department of Justice, represented complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

Respondent Mika Renee Soliz represented herself.

The matter was submitted on June 2, 2015.

FACTUAL FINDINGS

1. On January 15, 1998, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 24839 to Mika Rene Soliz (respondent.) At all times relevant herein, said registration was in full force and effect; it expired on May 31, 2013, and was cancelled on September 1, 2013.

2. Virginia Herold filed Accusation Case No. 4935 in her official capacity as Executive Officer of the Board of Pharmacy (board), Department of Consumer Affairs.

Respondent filed a Notice of Defense and requested a hearing in this matter.

Respondent's Conviction of a Substantially Related Crime

3. On May 29, 2013, in the case entitled *The People of the State of California v. Mika Renee Soliz* (Super. Ct. San Bernardino County, 2013, No. MVA1301068), on her plea of guilty, respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a)[petty theft]. As a consequence, the Court sentenced respondent to serve two days in San Bernardino County Jail and placed her on probation with terms and conditions.

4. The facts and circumstances underlying the conviction are that, on December 21, 2012, while working as a pharmacy technician at Super Rx Pharmacy in Fontana, California, respondent entered the stock aisles and selected a bottle of medication from the shelf. Respondent returned to the counter, opened the container, and poured the contents on the counter; then she put the pills back into the container without filling a prescription. Respondent repeated the acts with a bottle of Hydrocodone/APAP, concealing some of the pills in her hand; then she went to the back of the pharmacy before returning the container to the shelf. The store investigator detained respondent and questioned her about the pills. Respondent admitted that she removed two types of medication from the pharmacy without having a prescription for the medication or permission to take them. Respondent stated that she had ingested eight pills of Ondanestron and that she had placed in her pocket five Hydrocodone/APAP 10-325. She admitted that she immediately consumed the medications.

Subsequently, respondent was arrested for violating Penal Code section 503 [embezzlement] and Health and Safety Code section 11350, subdivision (a) [unlawful possession of a controlled substance]. During the booking process, when asked if she had any other pills in her possession, respondent handed the law enforcement officer a prescription bottle from her purse, which read Methocarbamol 500 mg with her name on it; that bottle contained 19 tables of Hydrocodone/APAP 10-325 that she had taken from the pharmacy on a different day. In addition, respondent provided law enforcement with another bottle that read Ondansetron HCL 4 mg., which contained Lorazepam pills. Respondent admitted that she had stolen medications from the pharmacy since July 2012.

5. Respondent's conviction of petty theft is substantially related to the qualifications or duties of a pharmacy technician.

Acts Involving Moral Turpitude, Dishonesty, Fraud or Deceit

6. On December 21, 2012, respondent committed acts involving moral turpitude, dishonesty, fraud and deceit with the intent to substantially benefit her.

Illegal Possession of a Controlled Substance

7. On December 21, 2012, respondent was in illegal possession of a controlled substance.

Use/Under the Influence of Controlled Substance

8. By her own admission, respondent took five Hydrocodone pills from her place of employment and immediately consumed these pills.

Evidence of Explanation, Mitigation and Rehabilitation

9. Respondent provided evidence of explanation, mitigation and rehabilitation.

- Respondent admitted her misconduct, acknowledged that she made a mistake, and expressed remorse for her misconduct.

- In 2003, respondent was diagnosed with lupus. As a consequence, she was referred to a pain management doctor who prescribed controlled substances to treat her pain. Prior to the date of her arrest, respondent realized that the controlled substances were not providing her sufficient relief from the pain; she was addicted to pills, and was in the process of obtaining treatment for her addiction.

- Less than one month after her arrest, on January 15, 2013, respondent entered a 30-day outpatient treatment program (program) at Loma Linda Behavioral Medicine Center. She attended all scheduled groups and lectures required by the program. She completed all assignments in a timely manner and developed good insight into the disease concept of addiction. She attended daily 12-step meetings, obtained a 12-step sponsor, and developed a reliable sobriety support system. She participated in the chronic pain program, attended pain process groups, and received massage therapy and acupuncture. She completed all assignments in the pain workbook and was able to develop alternative strategies to cope with chronic pain. She completed the program on February 15, 2013.

At least until April 19, 2013, respondent has followed up with continuing care, aftercare and alumni. This schedule was as follows: on Monday, she attended continuing care from 2:45 p.m. – 3:45 p.m., Thursday she attended alumni from 6:00 p.m. – 7:00 p.m., aftercare from 7:00 p.m. – 8:00 p.m. She attended women's group on Monday, Wednesday and Friday from 1:00 p.m. – 2:30 p.m. She continued to attend five to six 12-step meetings per week and had daily interaction with her 12-step sponsor.

While participating in her primary treatment process, respondent attended all scheduled groups and lectures, was on time daily, and was very motivated. All random breathalyzers and drug screens were negative.

Respondent has continued her efforts to maintain sobriety. She has been involved in 12-step meetings continuously since January 2013. Initially, she attended five to six meetings a week, reduced her meeting schedule to four meeting a week, and now attends at least one meeting a week because of work and school. She has been involved "in service". She has participated on panels, led meetings, and maintained a relationship with her sponsor, who recently moved; respondent is looking for another sponsor.

- On August 14, 2012, respondent initiated therapy with a marriage and family therapist; she participates in therapy at least once a week. Her therapist affirmed respondent's testimony that she has learned from this difficult experience and has turned her life around.

- Respondent clearly understands that she cannot take controlled substances. She has alternative treatments for her chronic pain, such as heat packs, ice packs, and over-the-counter medication. Her primary care physician and her rheumatologist are aware that she is a "recovering addict" and know not to prescribe controlled substances but to treat her with alternative methods.

- Respondent believes that if she had not been arrested, she might not be alive today. She has been sober since the date of her arrest, December 21, 2012. Her family supported her through the ordeal and remains intact. Her family means everything to her. Her family consists of Richard Soliz (Soliz), her husband, and two children, ages 19 and 12 years. She and her husband have been married for 13 years. They attend couples' therapy once a week. Her daughter has attended 12-step meetings with her; as a result, her daughter has gained some understanding of respondent's issues. Respondent supports her daughter in her daughter's college career.

- Respondent and her husband described respondent, since achieving sobriety, as a changed person. Soliz acknowledged that he was not aware that his wife had a problem with

controlled substances until she was arrested. Since her sobriety, she has emerged as the woman with whom he fell in love and married. He expressed pride in his wife for "pushing forward" and not letting this situation set her back. He thought she had an anger management problem. She is happier, kinder, healthier and no longer angry.

- Respondent has complied with the terms and conditions of her criminal probation. She completed the Court's diversion program, and on January 15, 2015, the Court dismissed the diverted charge of violating Health & Safety Code section 11350, subdivision (a)[possession of narcotics]. She has paid all fines and fees.
- Prior to the misconduct and criminal acts, the board had licensed respondent more than 13 years without prior complaint or discipline.

10. Respondent's evidence of rehabilitation was impressive. She acknowledged her wrongdoing and accepted responsibility for her actions. In addition, less than one month after her arrest, she participated in treatment to the extent necessary to obtain maximum benefit. She has been sober since the date of her arrest, more than two years. Since her arrest, she has continued to make a diligent effort to maintain her sobriety. There was no evidence of relapse. She has a solid familial relationship; she has love and familial support. In addition to her own testimony and the documentary evidence regarding her rehabilitation efforts and changes in her life, respondent's husband testimony was compelling. He was an intelligent articulate man who clearly loves his wife and has been supportive of her. Though he had reason to be biased, Soliz's testimony was candid, compassionate, moving and persuasive.

11. Respondent's registration expired, and she did not renew her registration within 60 days of expiration. She believed that her registration was automatically revoked because of the criminal charges and conviction. In addition, she did not have the money to renew her registration and believed it would be pointless to do so.

Reasonable Costs of Investigation and Enforcement

12. Complainant seeks recovery of the costs of investigation (\$1,810.50) and enforcement (\$3,262.50) in the amount of \$5,072. In support of the foregoing, Complainant submitted a certified copy of the actual costs of investigation and a declaration from Christina Thomas, the Deputy attorney General who prosecuted the case.

In support of the costs of investigation, Katherine Sill (Sill), the board's investigator and a licensed pharmacist, executed a declaration that set forth the tasks performed, the time

spent on each task and the hourly rate. She was assigned the case in November 2012, billed 17.75 hours investigating the matter, which included drafting the investigation report, at the hourly rate of \$102. Sill testified in the proceeding and was available to respond to questions.

The Deputy Attorney General who prosecuted the case executed a declaration regarding the costs of prosecution. She was assigned to handle the case on October 17, 2013. Attached to her declaration is a document entitled "Master Time Activity by Professional Type." This document identified the tasks performed, the time spent on each task and the hourly rate. In 2013, 2014 and 2015, she billed for 13.25 hours at a rate of \$170 per hour for a total of \$2,252.50. Included among the total costs sought were costs for the services of the supervising deputy attorney general and two paralegals. Neither of the foregoing executed a declaration that set forth the appropriate information, as required by California Code of Regulations, title 1, section 1042. As such, cost for services provided by the supervising deputy attorney generals and paralegals are not allowed.

13. Respondent made no objection to the requested costs, but provided evidence of her inability to pay. Since her arrest and conviction, respondent and her family have sustained financial difficulties. They have difficulty maintaining housing and making ends meet. She has had difficulty obtaining employment. As a consequence, she and her family were required to move in with her parents, and her husband worked as many hours as possible to support the family. Recently she had a part-time job, and she did not obtain full-time employment until March 2015. She earns just above minimum wage. Her husband's work hours have been reduced during the summer. Given her employment situation and the reduction of hours, it is very difficult for her family to make ends meet.

14. The reasonable costs of investigation are \$1,810.50. The reasonable costs of prosecution are \$2,252.50.

LEGAL CONCLUSIONS

The Purpose of Disciplinary Proceedings

1. The purpose of an administrative disciplinary proceeding is not to punish but to protect the public from dishonest, immoral, disreputable or incompetent practitioners. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

Burden and Standard of Proof

2. Complainant bears the burden of proof of establishing that the charges in the accusation are true.

3. Business and Professions Code section 4038 defines a "pharmacy technician" as "an individual who assists a pharmacist in a pharmacy in the performance of his or her

pharmacy related duties as specified in section 4115.” Code section 4115 sets forth various tasks a pharmacy technician may perform. For example, subdivision (a) provides “a pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of, a pharmacist.” The duties a pharmacy technician may perform are further subject to regulation.¹

Business and Professions Code section 4115, subdivision (e) provides:

No person shall act as a pharmacy technician without first being registered with the board as a pharmacy technician as set forth in Section 4202.

The pharmacy technician license may be issued upon a showing of a minimal formal education, training, and experience.

4. A nonprofessional license typically is issued without the need to demonstrate any specific education or skill and upon the mere showing of good character. In contrast, an applicant for a professional license must ordinarily satisfy extensive educational and training requirements, and then pass a rigorous state-administered competency examination. The sharp distinction between professional licenses and nonprofessional licenses supports a distinction in the standards of proof needed to revoke these two different types of licenses. (*Mann v. Department of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319.)

In determining the proper standard of proof to apply in administrative license revocation proceedings, courts have drawn a distinction between professional licenses such as those held by doctors, lawyers, and real estate brokers, on the one hand, and nonprofessional or occupational licenses such as those held by food processors, and vehicle salespersons, on the other hand. In proceedings to revoke professional licenses, the decision makers apply the clear and convincing evidence standard of proof, while in proceedings to revoke nonprofessional or occupational licenses, the decision makers apply the preponderance of the evidence standard of proof. (*Lone Star Sec. & Video, Inc. v. Bureau of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 453.)

5. The standard of proof required to suspend or revoke the registration issued to a pharmacy technician is a preponderance of the evidence.

Statutory Authority

¹ “Nondiscretionary tasks” as used in Code section 4115, include:

- (a) removing the drug or drugs from stock;
- (b) counting, pouring, or mixing pharmaceuticals;
- (c) placing the product into a container;
- (d) affixing the label or labels to the container;
- (e) packaging and repackaging.

6. Business and Professions Code² section 490 states, in part:

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

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

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

7. Code section 492 states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under

² Hereinafter, unless otherwise stated, all reference is to Business and Professions Code.

Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

8. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

9. Code section 4300 provides, in part, that every license issued by the board is subject to discipline, including suspension or revocation.

10. Code section 4300.1 states:

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

11. Code section 4301 states, in part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

[¶]...[¶]

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

[¶]...[¶]

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

[¶]...[¶]

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

[¶]...[¶]

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the

meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

[¶]...[¶]

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

12. Code section 4402 states:

(a) Any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

[¶]...[¶]

(d) This section shall not affect the authority of the board to proceed with any accusation that has been filed prior to the expiration of the three-year period.

(e) Any other license issued by the board may be canceled by the board if the license is not renewed within 60 days after its expiration. Any license canceled under this subdivision may not be reissued. Instead, a new application will be required.

Regulatory Provision

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

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential

unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

Controlled Substances/Dangerous Drugs

14. Hydrocodone/APAP 10-325 is a Schedule III controlled substance as designated in Health and Safety Code section 11056, subdivision (e)(2) and is categorized as a dangerous drug pursuant to Health and Safety Code section 4022.

15. Lorazepam is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16), and is categorized as a dangerous drug pursuant to Health and Safety Code section 4022.

16. Ondanestron is categorized as a dangerous drug pursuant to Health and Safety Code section 4022.

Cause Exists to Impose Probation

17. Pursuant to Business and Professions Code section 4300 and 4301, subdivision (l), cause exists to discipline respondent in that she engaged in unprofessional conduct; she has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pharmacy technician.

18. Pursuant to Code sections 4300 and 4301, subdivision (f), cause exists to discipline respondent in that she engaged in unprofessional conduct; on December 21, 2012 she committed acts involving moral turpitude, dishonesty, fraud or deceit with the intent to substantially benefit herself.

19. Pursuant to Code sections 4300 and 4301, subdivision (j), cause exists to discipline respondent in that she engaged in unprofessional conduct; she violated Code section 4060.

20. Pursuant to Code section 4300 and 4301, subdivision (h), cause exists to discipline respondent in that she engaged in unprofessional conduct; she stole and consumed a controlled substance while on duty as a pharmacy technician.

21. Respondent's misconduct was significant. However, she provided significant evidence of mitigation and rehabilitation. As such, it would not be contrary to the public interest to allow respondent to practice as a pharmacy technician on probation with the terms and conditions listed below.

The Reasonable Costs of Investigation and Prosecution

22. Code section 125.3 states in part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

[¶]...[¶]

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General. ...

23. The Office of Administrative Hearings has enacted a regulation for use when evaluating an agency's requests for costs under Code section 125.3. California Code of Regulations, title 1, section 1042, subdivision (b)(2) states that proof of costs at the hearing may be made by Declarations that contain specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs, which shall be presented as follows:

For services provided by persons who are not agency employees, the Declaration shall be executed by the person providing the service and describe the general tasks performed, the time spent on each task and the hourly rate or other compensation for the service. In lieu of this Declaration, the agency may attach to its Declaration copies of the time and billing records submitted by the service provider.

24. In this case, complainant seeks to recover the reasonable costs of investigation and enforcement in this case.

In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the Supreme Court held that a regulation imposing costs of investigation and enforcement under California Code of Regulations, title 16, section 317.5 (which is similar to Bus. & Prof. Code, § 125.3), did not violate due process. But, it was incumbent on the board to exercise discretion to reduce or eliminate cost awards in a manner such that costs imposed did not "deter [licensees] with potentially meritorious claims or defenses from exercising their right

to a hearing.” The Court set forth four factors to consider in deciding whether to reduce or eliminate costs: (1) whether the licensee used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the licensee had a “subjective” good faith belief in the merits of her position; (3) whether the licensee raised a “colorable challenge” to the proposed discipline; and (4) whether the licensee had the financial ability to make payments. The reasoning of *Zuckerman* must be applied to Business and Professions Code section 125.3 since the cost recovery regulation in *Zuckerman* contains substantially the same language as that is set forth in Code section 125.3.

Under *Zuckerman*, it was established that respondent had a “subjective” good faith belief in the merits of her position. In addition, she established that her ability to pay the board’s costs of investigation and prosecution are limited.

The reasonable cost of investigation and enforcement is reduced to \$500.

ORDER

No later than 60 days from the effective date of this Decision, respondent Mika Renee Soliz shall apply for the issuance of a license as a pharmacy technician. Upon satisfaction of all statutory and regulatory requirements, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed, and respondent is placed on probation for three years on the following terms and conditions.

1. **Certification Prior to Resuming Work**

Respondent shall be automatically suspended from working as a pharmacy technician until she is certified as defined by Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Failure to achieve certification within one year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises by the board in which she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

2. Obey All Laws.

Respondent shall obey all State and Federal laws and regulations.

Respondent shall report any of the following events to the board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, State and Federal food and drug laws, or State and Federal controlled substances laws,
- a plea of guilty or nolo contendere to any criminal complaint, information or indictment in any State or Federal criminal proceeding,
- a conviction of any crime, and
- discipline, citation or other administrative action filed by any State or Federal Agency which involves respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing or charging for any drug, device or controlled substance

Failure to timely report any such occurrence shall be considered a violation of probation.

3. Report to the Board.

Respondent shall report to the board, on a quarterly basis, on the schedule directed by the board or its designee. The report shall be in person or in writing as the board or its designee directs. Among other requirements, respondent shall state in each report, under penalty of perjury, whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in the form directed by the board or its designee shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed by the board or its designee may be added to the period of probation. If the final probation report is not made as directed, probation shall be automatically extended

until such time as the final report is made and accepted by the board.

4. Interview with the Board.

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff.

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of her compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

6. Notice to Employers.

During the period of probation, respondent shall notify all present and prospective employers of the Decision in case number 4935 and the terms and conditions imposed on her by the Decision, as follows:

- Within 30 days of the effective date of this Decision, and within 15 days of respondent undertaking new employment, she shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board, in writing, acknowledging that the individual(s) has/have read the Decision in case number 4935 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.
- If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the Decision in case number 4935 in advance of respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.
- Within 30 days of the effective date of this Decision, and within 15 days of respondent undertaking new employment by

or through a pharmacy employment service, respondent shall cause her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that she has read the Decision in case number 4935 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

Within the meaning of this provision, "Employment" shall include full-time, part-time, and temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician registration is a requirement or criterion for employment, whether respondent is considered an employee, independent contractor or volunteer.

7. Attend Substance Abuse and Relapse Prevention and Support Groups.

Within 30 days of the effective date of this Decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

8. Random Drug Screening.

At her expense, respondent shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probationary period, and the board or its designee shall determine the frequency of testing. Respondent shall cooperate fully with the board or its designee. When directed by the board or its designee, respondent shall submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of respondent's treatment. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be

considered a violation of probation and shall result in the automatic suspension of work by respondent as a pharmacy technician. Thereafter, respondent shall not resume work as a pharmacy technician until notified by the Board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not direct, control, or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which she holds an interest at the time this Decision becomes effective unless otherwise specified in this Order.

Failure to comply with this suspension shall be considered a violation of probation.

9. Work Site Monitor.

Within 10 days of the effective date of this Decision or within 10 days of obtaining employment as a pharmacist technician (whichever occurs first), respondent shall identify a work site monitor, who must be approved by the board. The work site monitor shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports, in writing, to the board on a quarterly basis. Should the designated work site monitor determine, at any time during the probationary period, that respondent has not maintained sobriety, he/she shall notify the board immediately, either orally or in writing, as the board or its designee directed. Should respondent change employment, a new work site monitor must be designated and approved by the board within 10 days of respondent commencing new employment. Failure to identify an acceptable initial or replacement work site monitor or to ensure quarterly reports are submitted by the work site monitor to the board in a timely manner shall constitute a violation of probation.

10. Notification of Departure.

Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than five days, respondent shall notify the board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

11. Abstain from Drugs and Alcohol.

Respondent shall abstain from the possession or use of alcohol, controlled substances, dangerous drugs and associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of documented medical treatment of respondent. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of respondent's treatment. Failure to provide such documentation in a timely manner shall be considered a violation of probation. Any possession or use of alcohol, controlled substances or associated paraphernalia not supported by the documentation provided in a timely manner shall be considered a violation of probation.

12. Reimbursement of Board Costs.

As a condition precedent to successful completion of probation, respondent shall pay the board's costs of investigation and enforcement in the amount of \$500.00. No later than 30 days of the effective date of this Decision, respondent shall commence making equal monthly payments of the foregoing. There shall be no deviation from this schedule without prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve her obligation to reimburse the board's costs of investigation and enforcement.

13. Probation Monitoring Costs.

Respondent shall pay any costs associated with probation monitoring as determined by the board for each year of probation. Such costs shall be payable to the board on a schedule directed by the board or its designee. Failure to pay such costs in a timely manner shall be considered a violation of probation.

14. Status of License.

While on probation, respondent shall maintain an active, current pharmacy technician license with the board. Failure to do so shall be considered a violation of probation.

During the period of probation, if respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

15. Notify the Board of Successful Completion of Criminal Probation.

No later than 60 days prior to termination of probation, respondent shall provide documentation to establish that she has successfully completed probation in criminal case number MVA1301068.

16. License Surrender While Registration is on Probation/Suspension.

Following the effective date of this Decision, should respondent cease work due to retirement or health or otherwise be unable to satisfy the terms and conditions of probation, Respondent may tender her pharmacy technician registration to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or to take other appropriate and reasonable action. Upon acceptance of the surrender of her license, respondent will no longer be subject to the terms and conditions of probation. The surrender of her license will constitute a record of discipline and shall become a part of the respondent's license history with the board.

Within 10 days of notification by the board of its acceptance of respondent's surrender of her license, respondent shall relinquish her pharmacy technician license to the board. Respondent may not re-apply for any license, permit, or registration from the board for three years from the effective date of the surrender. Respondent shall satisfy the requirements applicable to the license sought as of the date the application for that license is submitted to the board.

17. Notification of Change in Name, Residence Address, Mailing Address or Employment.

Within 10 days of any change of employment, respondent shall notify the board in writing. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and work schedule, if known. Further, respondent shall notify the board in writing within 10 days of a change in name, residence address and mailing address or telephone number.

Failure to timely notify the board of any change in employer, name, address, or telephone number shall be considered a violation of probation.

18. Tolling of Probation.

Except during any period of suspension, at all times while on probation, respondent shall maintain employment as a pharmacy technician in the State of California for a minimum of eighty (80) hours per calendar month. Any month during which this minimum is not met shall toll the probationary period; i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any period of tolling probation, respondent must comply with all terms and conditions of probation.

Should respondent cease working as a pharmacy technician for a minimum of 80 hours per calendar month in California, respondent must notify the board in writing within 10 days of cessation of work and must notify the board in writing within 10 days of the resumption of employment. Any failure to provide such notification(s) shall be considered a violation of probation.

It shall be a violation of probation for respondent's probationary period to remain

tolled for more than 36 months.

"Cessation of work" means a calendar month during which respondent does not work a minimum of 80 hours as a pharmacy technician (as defined in Code section 4115.)
"Resumption of work" means any calendar month during which respondent works as a pharmacy technician for a minimum of 80 hours (as defined by Code section 4115).

19. Violation of Probation.

If respondent violates the conditions of her probation, after giving her notice and an opportunity to be heard, the board may set aside the order and impose the stayed discipline of respondent's license. During probation, if an Accusation or Petition to Revoke Probation is filed against respondent's license or the Attorney General's Office has been requested to prepare an Accusation or Petition to Revoke Probation against respondent, the probationary period shall automatically be extended and shall not expire until the Accusation or Petition to Revoke Probation has been resolved by a board Decision.

20. Completion of Probation.

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license shall be fully restored.

DATED: June 30, 2015


VALLERA J. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

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6

Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **MIKA RENEE SOLIZ**
12 30532 Laramie Ave.
Redlands, CA 92374
13 Pharmacy Technician Registration
14 No. TCH 24839
15 Respondent.

Case No. 4935
ACCUSATION

16
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 15, 1998, the Board of Pharmacy (Boad) issued Pharmacy
22 Technician Registration No. TCH 24839 to Mika Renee Soliz (Respondent). The Pharmacy
23 Technician Registration expired on May 31, 2013, and has not been renewed.

24 **JURISDICTION**

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

27 *///*

1 6. Section 4060 states:

2 "No person shall possess any controlled substance, except that furnished to a person upon
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
5 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
6 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
7 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
9 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
12 labeled with the name and address of the supplier or producer.

13 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
14 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
15 devices."

16 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
17 subject to discipline, including suspension or revocation.

18 8. Section 4300.1 states:

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

24 9. Section 4301 states, in pertinent part:

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

28

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

4

5 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
6 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
7 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
8 to the extent that the use impairs the ability of the person to conduct with safety to the public the
9 practice authorized by the license.

10

11 "(j) The violation of any of the statutes of this state, or any other state, or of the United
12 States regulating controlled substances and dangerous drugs.

13

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

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

3

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

8 **REGULATORY PROVISIONS**

9 10. California Code of Regulations, title 16, section 1770, states:

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

16 **COST RECOVERY**

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

23 12. **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

24 a. "Hydrocodone/APAP 10-325" is a Schedule III controlled substance as designated in
25 Health and Safety Code section 11056, subdivision (e)(2) and is categorized as a dangerous drug
26 pursuant to section 4022.

27 ///

28 ///

1 booking procedure Respondent was asked if she had any other pills in her possession. Respondent
2 handed the officer a prescription bottle from her purse which read Methocarbamol 500mg with
3 her name on it, that contained 19 tablets of Hydrocodone/APAP 10-325 that she had taken from
4 the pharmacy on a different day. In addition, Respondent provided another bottle that read
5 Ondansetron HCL 4mg, which contained Lorazepam pills. Respondent admitted to stealing
6 medication from the pharmacy since July, 2012.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Acts Involving Moral turpitude, Dishonesty, Fraud, or Deceit)**

9 14. Respondent is subject to disciplinary action under section 4300, and 4301,
10 subdivision (f), in that on or about December 21, 2012, Respondent committed acts involving
11 moral turpitude, dishonesty, fraud, or deceit with the intent to substantially benefit herself, or
12 substantially injure another. Complainant refers to, and by reference incorporates, the allegations
13 set forth above in paragraph 13, subparagraph (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Illegal Possession of a Controlled Substance)**

16 15. Respondent is subject to disciplinary action under section 4300 and 4301, subdivision
17 (j) for violating section 4060, as follows:

18 a. On or about December 21, 2012, Respondent was found to be in illegal possession of
19 a controlled substance. Complainant refers to, and by this reference incorporates, the allegations
20 set forth above in paragraph 13, subparagraph (b), as though set forth fully.

21 b. Subsequently, on or about May 29, 2013, after pleading guilty, the Court placed
22 Respondent on 36 months Deferred Entry of Judgment for violating Health and Safety Code
23 section 11350, subdivision (a) [possession of a controlled substance] in the criminal proceeding
24 entitled *The People of the State of California v. Mika Renee Soliz* (Super. Ct. San Bernardino
25 County, 2013, No. FVA1300380).

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FOURTH CAUSE FOR DISCIPLINE

(Use/Under the Influence of Controlled Substances)

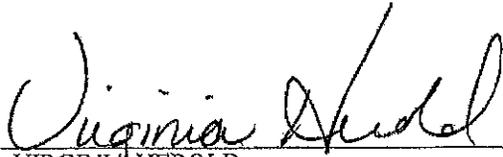
16. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that on or about December 21, 2011, Respondent by her own admission used and/or was under the influence of a controlled substance when she took five Hydrocodone pills from her place of employment and immediately consumed them. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13, subparagraph (b), as though set forth fully.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 24839, issued to Mika Renee Soliz;
2. Ordering Mika Renee Soliz 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: 9/20/14



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

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