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

In the Matter of the Accusation Against:
ANTANIQUA MARCELLA CLAY
7952 Richion Drive
Sacramento, CA 95823
Pharmacy Technician Registration No.
115768

Respondent.

Case No. 4996
OAH No. 2014030631
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 18, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs, filed Accusation No. 4996 against Antaniqua Marcella Clay ("Respondent") before the Board of Pharmacy. (A true and correct copy of Accusation No. 4996 is attached hereto, marked Exhibit A, and incorporated herein by reference.)

2. On or about September 7, 2011, the Board issued Pharmacy Technician Registration No. 115768 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4996 and will expire on September 30, 2015, unless renewed.

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1 3. On or about March 5, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4996, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 7952 Richion Drive, Sacramento, CA 95823.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about March 11, 2014, Respondent signed and returned a Notice of Defense,
11 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
12 address of record and it informed her that an administrative hearing in this matter was scheduled
13 for October 30, 2014. Respondent failed to appear at that hearing.

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

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

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
28 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. 4996,
finds that the charges and allegations in Accusation No. 4996, are separately and severally, found
to be true and correct by clear and convincing evidence.

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
4 State Bar No. 117576
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4996

13 **ANTANIQUA MARCELLA CLAY**
14 **7952 Richion Drive**
15 **Sacramento, CA 95823**

A C C U S A T I O N

16 **Pharmacy Technician Registration No.**
17 **115768**

Respondent.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about September 7, 2011, the Board issued Pharmacy Technician Registration
24 Number 115768 to Antaniqua Marcella Clay ("Respondent"). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on September 30, 2015, unless renewed.

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1 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.

3 7. Section 490 of the Code states, in pertinent part:

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

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

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

21 COST RECOVERY

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

26 FIRST CAUSE FOR DISCIPLINE

27 (Criminal Convictions)

28 9. Respondent is subject to disciplinary action under Code sections 4301, subdivision
(l), and 490, in that she was convicted of crimes substantially related to the qualifications,
functions, and duties of a licensee as alleged below:

10. On or about December 20, 2012, in the case titled *People v. Antaniqua Marcella
Clay*, Sacramento County Superior Court Case No. 12M07993, Respondent was convicted on her
plea of nolo contendere to violating Penal Code section 530.5, subdivision (a) [obtained
identifying information of another, without consent, to use for unlawful purposes], a
misdemeanor.

1 a. The underlying circumstances are as follows: On or about December 4, 2012,
2 Respondent obtained personal identifying information for victim D.Y., without authorization, and
3 used the victim's personal information for the unlawful purpose of obtaining and attempting to
4 obtain credit, goods, service, and information in the victim's name, and without consent.

5 11. On or about March 13, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
6 Sacramento County Superior Court Case No. 13M01195, Respondent was convicted on her plea
7 of nolo contendere to violating Penal Code section 475, subdivision (a) [intent to defraud,
8 knowingly passed a forged, altered, counterfeit, and possessed and received, with intent to pass, a
9 forged, altered, counterfeit check], a misdemeanor.

10 a. The underlying circumstances are: On or about December 3, 2012, Respondent
11 entered a Bank of America, located in Sacramento, California, and intentionally presented a
12 fraudulent and/or counterfeit personal check in the amount of \$740.00 to a teller to cash. The
13 fraudulent and/or counterfeit personal check was to be drawn on the bank account of victim J.M.

14 12. On or about April 15, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
15 Sacramento County Superior Court Case No. 13M01694, Respondent was convicted on her plea
16 of nolo contendere to violating Penal Code section 484, subdivision (a) [unlawfully steal, take,
17 and carry away the personal property of another], a misdemeanor.

18 a. The underlying circumstances are: On or about November 10, 2012,
19 Respondent shoplifted property of Sears, located at Arden Faire Mall, Sacramento, California,
20 that is, she stole intimate apparel, socks, jeans, shirt, and two sweaters, in a value currently
21 unknown, without paying for them.

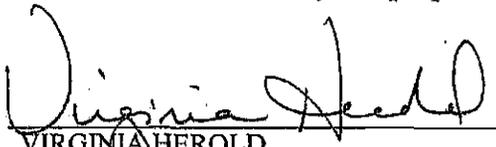
22 13. On or about July 30, 2013, in the case titled *People v. Antaniqua Marcella Clay*,
23 Sacramento County Superior Court Case No. 13MO5237, Respondent was convicted on her plea
24 of nolo contendere to violating Penal Code section 484, subdivision (a) [unlawfully steal, take,
25 and carry away the personal property of another], a misdemeanor.

26 a. The underlying circumstances are: On or about July 27, 2013, Respondent
27 shoplifted property of Kohl's, located in Elk Grove, California, that is, she stole, took, and carried
28 away the property of Kohl's without paying for it.

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1. Revoking or suspending Pharmacy Technician Registration Number 115768, issued to Antaniqua Marcella Clay;
2. Ordering Antaniqua Marcella Clay 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/18/14



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

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