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

In the Matter of the Accusation Against:  
  
**MARCELLA SAAVEDRA-MARTIN**  
1034 E. Buckingham Way  
Fresno, California 93704  
  
**Pharmacy Technician License No. TCH  
105417**  
  
Respondent.

Case No. 5258

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 2, 2014, Virginia K. Herold (“Complainant”), in her official capacity as the Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer Affairs, filed Accusation No. 5258 against Marcella Saavedra-Martin (“Respondent”) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about October 19, 2010, the Board issued Pharmacy Technician License No. TCH 105417 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 5258. The license expired on September 30, 2014, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1, does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1           3.     On or about December 22, 2014, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5258, 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     1034 E. Buckingham Way  
8     Fresno, California 93704.

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.     No documents were returned by the U.S. Postal Service marked as undeliverable.

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

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

19          7.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5258.

21          8.     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          9.     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. 5258, finds that

1 the charges and allegations in Accusation No. 5258, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 10. 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 \$1,945 as of February 9, 2015.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Marcella Saavedra-Martin has  
8 subjected her Pharmacy Technician License No. TCH 105417 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 License based upon the following violations alleged in the Accusation which are supported by the  
12 evidence contained in the Default Decision Evidence Packet in this case:

13 a. Respondent is subject to disciplinary action pursuant to Business and Professions  
14 Code ("Code") section 4301, subdivision (I), on the grounds of unprofessional conduct, in that  
15 Respondent committed crimes substantially related to the qualifications, functions, and duties of a  
16 licensed pharmacy technician. Specifically, on or about February 25, 2014, in a criminal  
17 proceeding entitled *People v. Marcella Saavedra Martin*, Superior Court of California, County of  
18 Fresno, Central Division, Case No. F13905508, Respondent was convicted by the court on her  
19 plea of no contest to violating Penal Code section 487(a) (grand theft of personal property), a  
20 felony. Respondent was ordered to serve 180 days in the Fresno County Jail, to pay restitution in  
21 the amount of \$28,162.80, and was placed on formal probation for five years. The circumstance  
22 of the crime is that between in or around October 2010 and June 2012, Respondent signed  
23 timesheets averaging approximately 6-7 hours a day, five days a week, and submitted them to In-  
24 Home Supportive Services ("IHSS") of Fresno County (a Medi-Cal program) for her services as  
25 an in-home care provider to "M.M.", her ex-husband who lived in San Diego, California.  
26 Respondent lived in Fresno, California at the time. Between late 2010 through June 2012,  
27 Respondent worked in Clovis, California, approximately 40 hours a week. Respondent cashed  
28

1 pay warrants received from the State of California totaling \$28,162.80, for her alleged  
2 services for the in-home care of M.S. through IHSS.

3 b. Respondent is subject to disciplinary action pursuant to Code section 4301,  
4 subdivision (f), on the grounds of unprofessional conduct, in that she committed acts involving  
5 dishonesty, fraud, deceit, or corruption. Specifically, Respondent committed grand theft of  
6 personal property, as set forth in paragraph 3, subpart (a), above.

7 **ORDER**

8 IT IS SO ORDERED that Pharmacy Technician License No. TCH 105417, heretofore  
9 issued to Respondent Marcella Saavedra-Martin, is revoked.

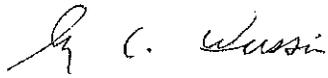
10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
11 written motion requesting that the Decision be vacated and stating the grounds relied on within  
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
13 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

14 This decision shall become effective on April 10, 2015.

15 It is so ORDERED on March 11, 2015.

16 BOARD OF PHARMACY  
17 DEPARTMENT OF CONSUMER AFFAIRS  
18 STATE OF CALIFORNIA

19  
20 By

  
\_\_\_\_\_  
21 STAN C. WEISSER  
22 Board President

23 11727516.DOC  
24 DOJ Matter ID:SA2014313926

25 Attachment:  
26 Exhibit A: Accusation

# Exhibit A

Accusation No. 5258

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STEPHANIE ALAMO-LATIF  
Deputy Attorney General  
4 State Bar No. 283580  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 327-6819  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5258

12 **MARCELLA SAAVEDRA-MARTIN**  
1034 E. Buckingham Way  
13 Fresno, California 93704

**A C C U S A T I O N**

14 **Pharmacy Technician License**  
15 **No. TCH 105417**

16 Respondent

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about October 19, 2010, the Board issued Pharmacy Technician License  
23 Number TCH 105417 to Marcella Saavedra-Martin ("Respondent"). The pharmacy technician  
24 license was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on September 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

28 (a) Every license issued may be suspended or revoked.

1 (b) The board shall discipline the holder of any license issued by the board,  
2 whose default has been entered or whose case has been heard by the board and found  
guilty, by any of the following methods:

3 (1) Suspending judgment.

4 (2) Placing him or her upon probation.

5 (3) Suspending his or her right to practice for a period not exceeding one year.

6 (4) Revoking his or her license.

7 (5) Taking any other action in relation to disciplining him or her as the board in  
8 its discretion may deem proper . . .

9 4. Code section 4300.1 states:

10 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
11 by operation of law or by order or decision of the board or a court of law, the  
12 placement of a license on a retired status, or the voluntary surrender of a license by a  
13 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.

14 **STATUTORY PROVISIONS**

15 5. Code section 4301 states, in pertinent part:

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

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
20 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.

21 (l) The conviction of a crime substantially related to the qualifications,  
22 functions, and duties of a licensee under this chapter. The record of conviction of a  
23 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  
24 state regulating controlled substances or dangerous drugs shall be conclusive  
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
26 be conclusive evidence only of the fact that the conviction occurred. The board may  
27 inquire into the circumstances surrounding the commission of the crime, in order to  
28 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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
3 dismissing the accusation, information, or indictment.

3 **COST RECOVERY**

4 6. Code section 125.3 provides, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licentiate found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
9 included in a stipulated settlement.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Criminal Conviction)

12 7. Respondent is subject to disciplinary action pursuant to Code section 4301(l), on the  
13 grounds of unprofessional conduct, in that Respondent committed crimes substantially related to  
14 the qualifications, functions, and duties of a licensed pharmacy technician. Specifically, on or  
15 about February 25, 2014, in a criminal proceeding entitled *People v. Marcella Saavedra Martin*,  
16 Superior Court of California, County of Fresno, Central Division, Case No. F13905508,  
17 Respondent was convicted by the court on her plea of no contest to violating Penal Code section  
18 487(a) (grand theft of personal property), a felony. Respondent was ordered to serve 180 days in  
19 the Fresno County Jail, to pay restitution in the amount of \$28,162.80, and was placed on formal  
20 probation for five years. The circumstance of the crime is that between in or around October  
21 2010 and June 2012, Respondent signed timesheets averaging approximately 6-7 hours a day, five  
22 days a week, and submitted them to In-Home Supportive Services ("IHSS") of Fresno County (a  
23 Medi-Cal program) for her services as an in-home care provider to "M.M.", her ex-husband who  
24 lived in San Diego, California. Respondent lived in Fresno, California at the time. Between late  
25 2010 through June 2012, Respondent worked in Clovis, California, approximately 40 hours a  
26 week. Respondent cashed pay warrants received from the State of California totaling \$28,162.80,  
27 for her alleged services for the in-home care of M.S. through IHSS.

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**SECOND CAUSE FOR DISCIPLINE**

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

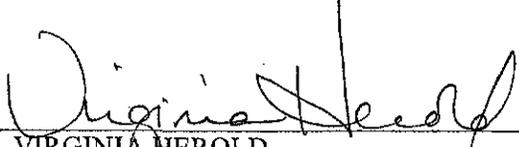
8. Respondent is subject to disciplinary action pursuant to Code section 4301(f), on the grounds of unprofessional conduct, in that she committed acts involving dishonesty, fraud, deceit, or corruption. Specifically, Respondent committed grand theft of personal property, as set forth in paragraph 7, above.

**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 105417, issued to Marcella Saavedra-Martin;
- 2. Ordering Marcella Saavedra-Martin 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: 12/2/14

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

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