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

In the Matter of the Accusation Against:  
**JOHN PAOLO M. CACHO**  
315 1/4 W. 220th Street  
Carson, CA 90745  
**Pharmacy Technician Registration No.  
TCH 114307**  
  
Respondent.

Case No. 5954  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about November 30, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5954 against John Paolo M. Cacho ("Respondent") before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 20, 2011, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 114307 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5954 and will expire on September 30, 2017, unless renewed.

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1           3.     On or about December 16, 2016, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5954, 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: 315 1/4 W. 220th Street, Carson, CA 90745.

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.     Government Code section 11506(c) states, in pertinent part:

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

16          6.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
18 5954.

19          7.     California Government Code section 11520(a) states, in pertinent part:

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

24          8.     Pursuant to its authority under Government Code section 11520, the Board finds  
25 Respondent is in default. The Board will take action without further hearing and, based on the  
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
28 file at the Board's offices regarding the allegations contained in Accusation No. 5954, finds that  
the charges and allegations in Accusation No. 5954, are separately and severally, found to be true  
and correct by clear and convincing evidence.

///



1 d. Business and Professions Code section 4301, subdivisions (o) and (p), on the grounds  
2 of unprofessional conduct, in that Respondent committed acts violating the Pharmacy Law and/or  
3 federal and state laws that would have warranted denial of a license.

4 **ORDER**

5 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 114307, heretofore  
6 issued to Respondent John Paolo M. Cacho, is revoked.

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

11 This Decision shall become effective at 5:00 p.m. on March 16, 2017.

12 It is so ORDERED on February 14, 2017.

13  
14 BOARD OF PHARMACY  
15 DEPARTMENT OF CONSUMER AFFAIRS  
16 STATE OF CALIFORNIA

17 

18  
19 By \_\_\_\_\_

20 Amy Gutierrez, Pharm.D.  
21 Board President

22 52354710.DOC  
23 DOJ Matter ID:LA2016602093

24 Attachment:  
25 Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California.  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General.  
3 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
4 State Bar No. 225325  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2542  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5954

12 **JOHN PAOLO M. CACHO**  
13 315 1/4 W. 220th Street  
Carson, CA 90745

**ACCUSATION**

14 Pharmacy Technician Registration No.  
15 TCH 114307

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.

22 2. On or about September 20, 2011, the Board of Pharmacy issued Pharmacy Technician  
23 Registration No. TCH 114307 to John Paolo M. Cacho ("Respondent"). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on September 30, 2017, unless renewed.

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JURISDICTION

3. This Accousation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated:

4. Section 4011 of the Code provides that "[t]he board shall administer and enforce this chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

5. Section 4300, subdivision (a), of the Code states, in pertinent part, that "[e]very license issued may be suspended or revoked."

6. Section 4300.1 of the Code 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.

STATUTORY AND REGULATORY PROVISIONS

7. Section 4301 of the Code states, in pertinent 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.

.....  
(j) The violation of any of the statutes of this state, or 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

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

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

22 (p) Actions or conduct that would have warranted denial of a license. . . .

23 8. Section 4060 of the Code states, in pertinent part:

24 No person shall possess any controlled substance, except that furnished to a  
25 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
26 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
27 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
28 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
(A) of paragraph (5) of, subdivision (a) of Section 4052. 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. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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.





1 2016 and May 5, 2016, the investigation included surveillance video that indicated Respondent  
2 unlawfully took approximately 70 tablets of acetaminophen-codaine #4, valued at \$11.99 each.  
3 On May 10, 2016, the surveillance video showed Respondent unlawfully taking approximately  
4 100 tablets of acetaminophen-codaine #4. The value of the acetaminophen-codaine #4 for all  
5 three incidents was \$2,038.30.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unlawful Possession of Dangerous Drug / Controlled Substance)**

8 13. Respondent is subject to disciplinary action under Code sections 4301, subdivision  
9 (j), and 4060, on the grounds of unprofessional conduct, in that Respondent possessed or  
10 conspired to possess dangerous drugs and controlled substances without a valid prescription.  
11 Complainant refers to and by this reference incorporates the allegations set forth above in  
12 paragraph 12, inclusive, as though set forth fully.

13 **THIRD CAUSE FOR DISCIPLINE**

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

15 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
16 on the grounds of unprofessional conduct, in that Respondent committed acts involving moral  
17 turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference  
18 incorporates the allegations set forth above in paragraph 12, inclusive, as though set forth fully.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Violating Pharmacy Law / Acts Warranting Denial of Licensure)**

21 15. Respondent is subject to disciplinary action under Code section 4301, subdivisions  
22 (o) and (p), on the grounds of unprofessional conduct, in that Respondent committed acts  
23 violating the Pharmacy Law and/or federal and state laws that would have warranted denial of a  
24 license. Complainant refers to and by this reference incorporates the allegations set forth above  
25 in paragraph 12, inclusive, as though set forth fully.

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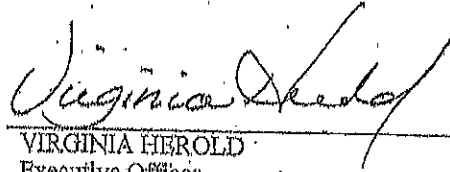
PRAYER

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 114307, issued to John Paolo M. Cacho, aka John Paolo Cacho;
2. Ordering John Paolo M. Cacho, aka John Paolo Cacho to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

11/30/16



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

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