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

10 In the Matter of the Accusation Against:  
11 **ADRIAN ALFONSO**  
12 **617 Tamarack Lane**  
13 **South San Francisco, CA 94080**  
14 **Pharmacy Technician Registration No. TCH**  
**122838**  
15 Respondent.

Case No. 5523

**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 September 6, 2012, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 122838 to Adrian Alfonso (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on September 30, 2016, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11 STATUTORY AND REGULATORY PROVISIONS

12 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
14 not be limited to, any of the following:

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

17 8. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
18 controlled substance, except that furnished upon a valid prescription/drug order.

19 9. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
20 a controlled substance in Schedule I, subdivision(s) (b), (c), or (f)(1), Schedule II, subdivision(s)  
21 (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

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

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

1 COST RECOVERY

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

5 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

6 12. Section 4021 of the Code states:

7 “Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
8 11053) of Division 10 of the Health and Safety Code.”

9 13. Section 4022 of the Code states, in pertinent part:

10 “Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
11 except veterinary drugs that are labeled as such, and includes the following:

12 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
13 prescription,’ ‘Rx only,’ or words of similar import.

14 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
15 prescription or furnished pursuant to Section 4006.”

16 14. **Cocaine** is a Schedule I (in base/rock/crack form) or Schedule II controlled substance  
17 as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous  
18 drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

19 FACTUAL BACKGROUND

20 15. On or about November 8, 2014, San Diego Harbor Police responded to a report of a  
21 vehicle driving erratically. Responding officers witnessed the vehicle make an illegal U-turn and  
22 initiated a traffic stop. The vehicle smelled of marijuana. The vehicle was searched, and police  
23 found cocaine under the passenger seat, where Respondent had been sitting. Respondent admitted  
24 that it was cocaine and stated that it was for “personal use.”

25 FIRST CAUSE FOR DISCIPLINE

26 (Possession of Controlled Substance(s))

27 16. Respondent is subject to discipline under section 4301(j) and/or section 4060 of the  
28 Code, and/or Health and Safety Code section(s) 11350, in that Respondent, as described in

1 paragraph 15 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a  
2 controlled substance, without a prescription.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct)

5 17. Respondent is subject to discipline under section 4301 of the Code in that, as  
6 described in paragraphs 15 and 16 above, Respondent engaged in unprofessional conduct.

7 PRAYER

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

- 10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 122838,  
11 issued to Adrian Alfonso;
- 12 2. Ordering Adrian Alfonso to pay the Board of Pharmacy the reasonable costs of the  
13 investigation and enforcement of this case, pursuant to Business and Professions Code section  
14 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.
- 16  
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18  
19 DATED: 10/20/15 Virginia Herold  
20 VIRGINIA HEROLD  
21 Executive Officer  
22 Board of Pharmacy  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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