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

In the Matter of the Accusation Against:  
**RIHAAD ALI**  
**843 Viceroy Way**  
**San Jose, California 95133**  
**Pharmacy Technician License No. TCH 38102**  
  
Respondent.

Case No. 3221  
OAH No. 2009090537  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 10, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3221 against Rihaad Ali (Respondent), before the Board of Pharmacy. On or about August 20, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed First Amended Accusation No. 3221 against Rihaad Ali (Respondent), before the Board of Pharmacy.
2. On or about February 21, 2002, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 38102 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2011, unless renewed.
3. On or about April 14, 2009 and August 26, 2009, Fe M. Domingo, an employee of the Department of Justice, served Accusation No. 3221 and First Amended Accusation No. 3221, each with accompanying materials, by Certified and First Class Mail, to Respondent's address of record with the Board, which was and is: 843 Viceroy Way, San Jose California 95133. A copy of the First Amended Accusation is attached as exhibit A, and is incorporated herein by reference.



- 1           2.    A copy of the First Amended Accusation is attached.
- 2           3.    The agency has jurisdiction to adjudicate this case by default.
- 3           4.    The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
- 4 License based upon the following violations alleged in the First Amended Accusation:

5           a.    In violation of Business and Professions Code section 4301(f), Respondent engaged

6 in actions involving moral turpitude, dishonesty, fraud, deceit or corruption when he, on or about

7 September 10, 2006, was found apparently under the influence of drugs or alcohol, in possession

8 of the controlled substance **methamphetamine**, a smoking pipe, and a wild catfish for which he

9 could not produce a fishing license, and/or when he, on or about July 20, 2007, made a red turn

10 on a red light, and was found to be driving while under the influence of alcohol or drugs and/or to

11 be driving with a blood alcohol content in excess of 0.08%;

12           b.    In violation of Business and Professions Code section 4301(h), by way of the actions

13 described in paragraph 4(a) above, Respondent administered a controlled substance to himself

14 and/or used alcoholic beverages in a dangerous or injurious manner;

15           c.    In violation of Business and Professions Code sections 4301(l) and or 490, on or

16 about June 19, 2008, based on the conduct described in paragraph 4(a) above, Respondent was

17 convicted of the substantially related crimes of violating Health and Safety Code sections 11377

18 (Possession of Controlled Substance – **methamphetamine**), 11550 (Being Under the Influence of

19 Controlled Substance – **methamphetamine**), and 11364 (Possession of Drug Paraphernalia);

20           d.    In violation of Business and Professions Code sections 4301(j), 4301(o) and/or 4060,

21 and/or Health and Safety Code section 11350, by way of the actions described in paragraph 4(a)

22 above, Respondent possessed, conspired to possess, and/or assisted in or abetted possession of, a

23 controlled substance, without a prescription;

24           e.    In violation of Business and Professions Code sections 4301(j), 4301(o) and/or Health

25 and Safety Code section(s) 11170 and/or 11550 , by way of the actions described in paragraph

26 4(a) above, Respondent self-administered/used, conspired to self-administer/use, and/or assisted

27 in or abetted self-administration use of, a controlled substance, without a prescription;

28           ///

1 f. In violation of Business and Professions Code sections 4301(l) and or 490, on or  
2 about March 12, 2008, based on the conduct described in paragraph 4(a) above, Respondent was  
3 convicted of the substantially related crimes of violating Vehicle Code section 23152(b) (Driving  
4 with a Blood Alcohol Content in Excess of 0.08%) and Health and Safety Code section 11550  
5 (Being Under the Influence of Controlled Substance – **methamphetamine**);

6 g. In violation of Business and Professions Code section 4301, by way of the actions  
7 described in paragraph(s) 4(a) to 4(f) above, Respondent engaged in unprofessional conduct.

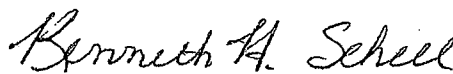
8 ORDER

9 IT IS SO ORDERED that Pharmacy Technician License No. TCH 38102, heretofore issued  
10 to Respondent Rihaad Ali, is revoked.

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

15 This Decision shall become effective on April 8, 2010.

16 It is so ORDERED March 9, 2010.

17 

18 KENNETH H. SCHELL, BOARD PRESIDENT  
19 FOR THE BOARD OF PHARMACY  
20 DEPARTMENT OF CONSUMER AFFAIRS

21 40406627.DOC  
22 DOJ docket number: SF2008201012

23 Attachments:

24 Exhibit A: First Amended Accusation No.3221

25 Exhibit B: Notice of Defense, Notice of Hearing (with service documents)

**Exhibit A**  
**First Amended Accusation No. 3221**

**Exhibit B**  
**Notice of Defense, Notice of Hearing (with service documents)**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM, State Bar No. 214663  
Deputy Attorney General  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-1299  
Facsimile: (415) 703-5480

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:

Case No. 3221

11 RIHAAD ALI  
12 843 Viceroy Way  
San Jose, California 95133

**FIRST AMENDED ACCUSATION**

13 Pharmacy Technician License No. TCH 38102

14 Respondent.

15  
16  
17 Complainant alleges:

18 PARTIES

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

21 2. On or about February 21, 2002, the Board of Pharmacy issued Pharmacy  
22 Technician License No. TCH 38102 to Rihaad Ali (Respondent). The License was in full force  
23 and effect at all times relevant to these charges and will expire on May 31, 2011, unless renewed.

24 JURISDICTION

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

28 ///





1 (l) The conviction of a crime substantially related to the qualifications, functions,  
2 and duties of a licensee under this chapter.

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

7 8. Section 490 of the Code provides, in pertinent part, that the Board may  
8 suspend or revoke a license when it finds that the licensee has been convicted of a crime  
9 substantially related to the qualifications, functions or duties of the license.

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

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

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

19 11. Health and Safety Code section 11170 provides that no person shall  
20 prescribe, administer, or furnish a controlled substance for himself or herself.

21 12. Health and Safety Code section 11364, in pertinent part, makes it unlawful  
22 to possess an opium pipe or other paraphernalia used to inject or smoke controlled substances.

23 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful  
24 to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful  
26 for any person to use or be under the influence of any controlled substance in Schedule II (Health  
27 and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules  
28 III-V, except when administered by or under the direction of an authorized licensee.





1 FOURTH CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substance)

3 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or  
4 section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as  
5 described in paragraph 19 above, possessed, conspired to possess, and/or assisted in or abetted  
6 possession of, a controlled substance, without a prescription.

7 FIFTH CAUSE FOR DISCIPLINE

8 (Self-Administration/Use of Controlled Substance)

9 25. Respondent is subject to discipline under section 4301(j) and/or (o) of the  
10 Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as  
11 described in paragraph 19 above, self-administered/used, conspired to self-administer/use, and/or  
12 assisted in/abetted self-administration/use, of a controlled substance, without prescription.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Conviction of Substantially Related Crime(s))

15 26. Respondent is subject to discipline under section 4301(l) and/or section  
16 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the  
17 conviction of substantially related crimes, in that on/about March 12, 2008, in *People v. Rihaad*  
18 *Ali*, Case No. FF722052 in Santa Clara County Superior Court, based on the conduct described in  
19 paragraph 20 above, Respondent was convicted of violating Vehicle Code section 23152(b)  
20 (Driving With a Blood Alcohol Content In Excess of 0.08%) and Health and Safety Code section  
21 11550 ( Under Influence of Controlled Substance - **methamphetamine**), both misdemeanors.  
22 Imposition of sentence was suspended - court probation for three (3) years. Among the terms and  
23 conditions of probation: ten (10) days in jail (1 day CTS); a First Offender Program of three (3)  
24 months duration; registration under Health and Safety Code section 11590; and fines and fees.

25 SEVENTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct)

27 27. Respondent is subject to discipline under section 4301 of the Code in that  
28 Respondent, as described in paragraphs 19-26 above, engaged in unprofessional conduct.



**Exhibit B**  
**Notice of Defense, Notice of Hearing (with service documents)**

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

In the Matter of the Accusation Against:  
  
RIHAAD ALI  
  
Respondent.

Case No. 3221  
  
NOTICE OF DEFENSE  
  
[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: 4-27-09

Respondent's Name RIHAAD ASHIK ALI  
 Respondent's Signature Nicole Alwanado (wife)  
 Respondent's Mailing Address 843 Viceroy Way  
 City, State and Zip Code San Jose, CA 95133  
 Respondent's Telephone Number 408-251-8079- 408-506-3997

**Check appropriate box:**

I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_  
 Counsel's Mailing Address \_\_\_\_\_  
 City, State and Zip Code \_\_\_\_\_  
 Counsel's Telephone Number \_\_\_\_\_

I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

40327088.wpd

SF2008201012



1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*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:

Case No. 3221

11 **RIHLAAD ALI**

OAH No. 2009090537

12 Respondent

**NOTICE OF HEARING**  
[Gov. Code § 11509]

13  
14 Hearing: Tuesday, November 24, 2009

15  
16 YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on **Tuesday,**  
17 **November 24, 2009 at 1:00 p.m.** before an Administrative Law Judge at

18 **Office of Administrative Hearings**  
19 **1515 Clay Street, Suite 206**  
**Oakland, CA 94612.**

20  
21 The hearing will be conducted before the Board of Pharmacy, Department of Consumer  
22 Affairs by an Administrative Law Judge of the Office of Administrative Hearings, upon the  
23 charges made in Accusation No. 3221 served upon you.

24 If you object to the place of hearing, you must notify the presiding officer within ten (10)  
25 days after this notice is served on you. Failure to notify the presiding officer within ten (10) days  
26 will deprive you of a change in the place of hearing.

27 You may be present at the hearing. You have the right to be represented by an attorney at  
28 your own expense. You are not entitled to the appointment of an attorney to represent you at

1 public expense. You are entitled to represent yourself without legal counsel. You may present  
2 any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying  
3 against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses  
4 and the production of books, documents, or other things by applying to the Office of  
5 Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, CA 94612, telephone: (510)  
6 622-2722.

7 INTERPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall  
8 be conducted in the English language. If a party or a party's witness does not proficiently speak  
9 or understand the English language and before commencement of the hearing requests language  
10 assistance, an agency subject to the language assistance requirement in section 11435.15 of the  
11 Government Code shall provide a certified interpreter or an interpreter approved by the  
12 administrative law judge conducting the proceedings. The cost of providing the interpreter shall  
13 be paid by the agency having jurisdiction over the matter if the administrative law judge or  
14 hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a  
15 witness require the assistance of an interpreter, ample advance notice of this fact should be given  
16 to the Office of Administrative Hearings so that appropriate arrangements can be made.

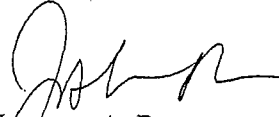
17 CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a  
18 continuance, but when an administrative law judge of the Office of Administrative Hearings has  
19 been assigned to the hearing, no continuance may be granted except by him or her or by the  
20 presiding Administrative Law Judge for good cause. When seeking a continuance, a party shall  
21 apply for the continuance within ten (10) working days following the time the party discovered or  
22 reasonably should have discovered the event or occurrence which establishes good cause for the  
23 continuance. A continuance may be granted for good cause after the ten (10) working days have  
24 lapsed only if the party seeking the continuance is not responsible for and has made a good faith  
25 effort to prevent the condition or event establishing the good cause.

26 Continuances are not favored. If you need a continuance, immediately write or call the  
27 Office of Administrative Hearings: 1515 Clay Street, Suite 206, Oakland, CA 94612 telephone:  
28 (510) 622-2722.

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Dated: September 18, 2009

Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JOSHUA A. ROOM  
Deputy Attorney General  
*Attorneys for Complainant*

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**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

Case Name: In The Matter Of The Accusation Against: RIHAAD ALI

Case No.: 3221

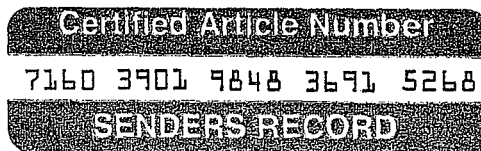
OAH Case No.: 2009090537

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 18, 2009, I served the attached NOTICE OF HEARING by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the NOTICE OF HEARING was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Rihaad Ali  
843 Viceroy Way  
San Jose, CA 95133



I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 18, 2009, at San Francisco, California.

Wallace Greene

A handwritten signature in cursive script that reads "Wallace Greene".

Declarant

Signature

3. Service type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

Rihaad Ali  
843 Viceroy Way  
San Jose California 95133

*NOTICE OF HEARING  
03583110SF20082010  
Joshua A. Room*

PS Form 3811, January 2005

Domestic Return Receipt

7160 3901 9848 3691 5268

**TO:**  
Rihaad Ali  
843 Viceroy Way  
San Jose California 95133

**SENDER:** Joshua A. Room

**REFERENCE:** 03583110SF2008201012

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service

**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

9/18/09  
wg