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

In the Matter of the Accusation Against:

**ANDRE BALIAN  
165 N. Michigan St. 204  
Pasadena, CA 91106**

**Pharmacy Technician Registration TCH  
35894**

Respondent.

Case No. 3232

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 27, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3232 against Andre Balian (Respondent) before the Board of Pharmacy.
2. On or about February 14, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 35894 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and will expire on December 31, 2010, if not renewed.
3. On or about January 7, 2010, S. Reyes, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3232, a Statement to Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with

1 the Board: 165 N. Michigan St., No. 204, Pasadena, CA 91106. Copies of the Accusation are  
2 attached as exhibit A, and are incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c).

5 5. Government Code section 11506 states, in pertinent part:

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon his of  
11 the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 3232.

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

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

16 8. Pursuant to its authority under Government Code section 11520, the Board finds  
17 Respondent is in default. The Board will take action without further hearing and, based on the  
18 evidence on file herein, finds that the allegations in Accusation No. 3232 are true.

19 9. The total costs for investigation and enforcement in connection with the Accusation  
20 are \$710.25 as of February 9, 2010.

21  
22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Andre Balian has subjected his  
24 Pharmacy Technician License No. TCH 35894 to discipline.

25 2. A copy of the Accusation is attached.

26 3. The agency has jurisdiction to adjudicate this case by default.

27 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
28 License based upon the following violations alleged in the Accusation:

1 a. In violation of Business and Professions Code section 4301(f), Respondent  
2 committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption;

3 b. In violation of Business and Professions Code sections 4301(j) Respondent possessed  
4 controlled substances;

5 c. In violation of Business and Professions Code section 4301 (h), Respondent self-  
6 administered controlled substances.

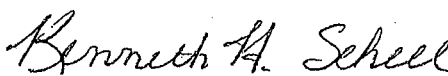
7  
8 ORDER

9 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 35894, heretofore  
10 issued to Respondent Andre Balian, 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 29, 2010.

16 It is so ORDERED on March 30, 2010.

17 

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

21 Attachment: Exhibit A: Accusation No. 3232  
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of the State of California  
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6 Attorneys for Complainant

7  
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. 3232

13 **ANDRE BALIAN**  
165 N. Michigan Street, No. 204  
Pasadena, California 91106

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

14 Pharmacy Technician Registration  
15 Number TCH 35894

Respondent.

16  
17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about February 14, 2001, the Board of Pharmacy issued Pharmacy  
23 Technician Registration Number TCH 35894 to Andre Balian ("Respondent"). The pharmacy  
24 technician registration will expire on December 31, 2010.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 4202, subdivision (d),  
27 states that the Board may suspend or revoke a registration issued pursuant to this section on any  
28 ground specified in Section 4301.

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4. Code section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. Code section 4301 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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

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

6. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, 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.

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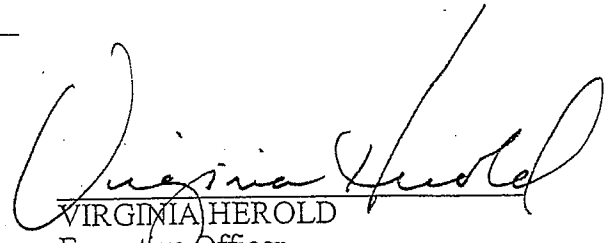


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2. Ordering Andre Balian to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

3. Taking such other and further action as deemed necessary and proper.

DATED: 10/27/09



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