

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

MOHAMAD KHALIL ELREDA

Respondent.

Case No. 3322

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 20, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 3322 against Mohamad Khalil Elreda (Respondent) before the Board of Pharmacy.

2. On or about April 28, 2006, the Board issued Pharmacy Technician Registration No. TCH 68570 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed.

3. On or about July 23, 2009, Thurman Peden, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3322, Statement to

1 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
2 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:
3 6636 Otis Ave., #1, Bell, CA 90201. A copy of the Accusation is attached Es exhibit A, and is
4 incorporated herein by reference.

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

7 5. On or about August 31, 2009, the aforementioned documents were returned by the
8 U.S. Postal Service marked "Unclaimed."

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

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

14 Respondent failed to file a Notice of Defense within 15 days after service upon him of the
15 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 3322.

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

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

20 8. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on the
22 evidence on file herein, finds that the allegations in Accusation No. 3322 are true.

23 9. The total costs for investigation and enforcement in connection with the Accusation
24 are four hundred and eight dollars (\$480.00) as of August 18, 2009.

25 ///

26 ///

27 ///

28 ///

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Mohamad Khalil Elreda has
3 subjected his Pharmacy Technician Registration No. TCH 68570 to discipline.

4 2. A copy of the Accusation is attached.

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

6 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
7 Registration based upon the following violations alleged in the Accusation:

8 a. Business and Professions Code section 4301, subdivision (f) – committed act
9 involving moral turpitude, dishonesty, fraud, deceit and/or corruption;

10 b. Business and Professions Code section 4301, subdivision (l) – substantially related
11 crime.


12 **ORDER**

13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 68570, heretofore
14 issued to Respondent Mohamad Khalil Elreda, is revoked.

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

19 This decision shall become effective on January 28, 2010.

20 It is so ORDERED on December 29, 2009.

21
22 

23 KENNETH H. SCHELL, BOARD PRESIDENT
24 FOR THE BOARD OF PHARMACY
25 DEPARTMENT OF CONSUMER AFFAIRS

26 Attachment:

27 Exhibit A: Accusation No.3322

28 60449226.DOC
DOJ docket number:LA2009602916

Exhibit A
Accusation No. 3322

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
4 State Bar No. 207108
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804
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. 3322

11 **MOHAMAD KHALIL ELREDA**
12 6636 Otis Ave., #1
Bell, CA 90201
13 Pharmacy Technician Registration No. TCH
68570

ACCUSATION

14 Respondent.
15

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 (Board), Department of Consumer Affairs.

21 2. On or about April 28, 2006, the Board issued Pharmacy Technician Registration
22 Number TCH 68570 to Mohamad Khalil Elreda (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, 2009, unless renewed.

25 **JURISDICTION**

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

1 4. Section 118, subdivision (b), of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
3 jurisdiction to proceed with a disciplinary action during the period within which the license may
4 be renewed, restored, reissued or reinstated.

5 5. Section 4300 of the Code states:

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

7 6. Section 4301 of the Code states:

8 “The board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10 Unprofessional conduct shall include, but is not limited to, any of the following:

11

12 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
13 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
14 whether the act is a felony or misdemeanor or not.

15

16 “(l) The conviction of a crime substantially related to the qualifications, functions, and
17 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
19 substances or of a violation of the statutes of this state regulating controlled substances or
20 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
21 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
22 The board may inquire into the circumstances surrounding the commission of the crime, in order
23 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
24 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
26 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
27 of this provision. The board may take action when the time for appeal has elapsed, or the
28 judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
2 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
3 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
4 indictment.”

5 7. California Code of Regulations, title 16, section 1770, states:

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

12 **COST RECOVERY PROVISION**

13 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

19 9. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
20 in that he committed an act involving moral turpitude, dishonesty, fraud, deceit and/or corruption.
21 The circumstances are as follows:

22 a. On or about April 7, 2008, in the Superior Court of California, County of Los
23 Angeles, in the case entitled *People of the State of California v. Mohamed Elreda* (Sup. Ct., Cty.
24 of Los Angeles, 2008, Case No. BA323948), Respondent was convicted on his plea of guilty to
25 one count of violating Penal Code section 350(A)(2) (sale of counterfeit mark > \$1000), a
26 misdemeanor. The court placed Respondent on formal probation for 3 years, and ordered him to
27 serve 1 day in jail.

28

1 b. The circumstances of the crime are that on or about January 26, 2007, pursuant to a
2 search warrant, Los Angeles County Deputy Sheriffs seized counterfeit items from Respondent's
3 place of business, valued over \$100,000. Respondent admitted that he was selling counterfeit
4 merchandise.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Substantially Related Crime)**

7 10. Respondent is subject to disciplinary action under Code section 4301, subdivision (I)
8 in that he was convicted of a crime substantially related to the qualifications, functions, and duties
9 of a pharmacy technician. Complainant refers to and incorporates the allegations contained in
10 paragraph 9, as though set forth fully.

11 **PRAYER**

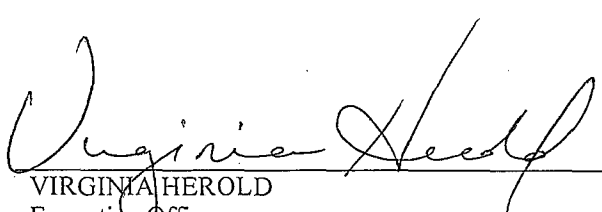
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 68570,
15 issued to Mohamad Khalil Elreda.

16 2. Ordering Mohamad Khalil Elreda to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3;

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

20
21
22 DATED: 7/20/09


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

LA2009602916
accusation.rtf