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

10 In the Matter of the Accusation Against:

Case No. 3354

11 **CLAUDIA ALDANA**
12 **1157 Newton Street**
13 **San Fernando, CA 91340**
14 **Pharmacy Technician License No. TCH**
15 **75109**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about February 22, 2010, Complainant Virginia K. Herold, in her official
19 capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No.
20 3354 against Claudia Aldana (Respondent) before the Board of Pharmacy. (Accusation attached
21 as Exhibit A.)

22 2. On or about April 2, 2007, the Board of Pharmacy (Board) issued Pharmacy
23 Technician License No: TCH 75109 to Respondent. The Pharmacy Technician License was in
24 full force and effect at all times relevant to the charges brought herein and expired on March 31,
25 2011, and has not been renewed.

26 3. On or about November 24, 2010, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. 3354, Statement to Respondent, Notice of Defense, Request
28

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board, which was and is:

4 1157 Newton Street
5 San Fernando, CA 91340.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 5. On or about December 2, 2010, a return mail receipt signed by Respondent was
10 delivered to the Department of Justice.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3354.

19 8. California Government Code section 11520 states, in pertinent part:

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

24 9. 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. 3354, finds that
the charges and allegations in Accusation No. 3354, are separately and severally, found to be true
and correct by clear and convincing evidence.

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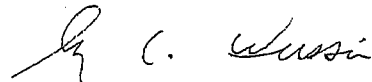
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 75109, heretofore issued to Respondent Claudia Aldana, is revoked.

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

This Decision shall become effective on September 15, 2011.

It is so ORDERED August 16, 2011.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:LA2009604430

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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7 *Attorneys for Complainant*

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. 3354

13 **CLAUDIA ALDANA**
1157 Newton Street
14 San Fernando, CA 91340

ACCUSATION

15 Pharmacy Technician License No. TC75109

16 Respondent.

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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 April 2, 2007, the Board of Pharmacy (Board) issued Pharmacy
23 Technician License No. TCH 75109 to Claudia Aldana (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2011, unless renewed.

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JURISDICTION

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

STATUTORY PROVISION

4. Section 4300 permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

5. 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:

"(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 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 States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
3 of this provision. The board may take action when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
8 indictment.”

9 **REGULATORY PROVISIONS**

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

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

17 **COST RECOVERY**

18 7. Section 125.3 states, in pertinent part, that the Board may request the administrative
19 law judge to direct a licentiate found to have committed a violation or violations of the licensing
20 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
21 case.

22 **CONTROLLED SUBSTANCE – DANGEROUS DRUG**

23 8. Methamphetamine is a Schedule II controlled substance as designated by Health and
24 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
25 Business and Professions Code section 4022.

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2 **FIRST CAUSE FOR DISCIPLINE**

3 (Conviction of Substantially-Related Crimes)

4 9. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
5 conjunction with California Code of Regulations, title 16, section 1770, as a result of her
6 conviction of a crime that is substantially related to the qualifications, functions, and duties of
7 licensed pharmacy technician, as follows:

8 a. On or about May 26, 2008, after displaying objective signs of being under the
9 influence of methamphetamine, Respondent was arrested and charged with violating Health and
10 Safety Code section 11550, subdivision (a) [being under the influence of a controlled substance].
11 In speaking with officers of the Los Angeles Police Department, Respondent admitted smoking
12 methamphetamine earlier that day and "using off and on since I was sixteen." Respondent was
13 twenty years old at the time of her arrest.

14 b. On or about June 4, 2008, a complaint was filed in the Superior Court of
15 California, County of Los Angeles, officially charging Respondent with one misdemeanor count
16 of violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a
17 controlled substance] in the criminal proceeding entitled *The People of the State of California v.*
18 *Claudia Aldana* (Super. Ct. Los Angeles County, 2008, No. 8SR02791).

19 c. On or about June 16, 2008, the Court granted Respondent Deferred Entry of
20 Judgment for a period of three years, with certain terms and conditions, including abstinence from
21 illegal drug use and participation in a court-approved drug education program.

22 d. On or about October 13, 2009, after failing to appear in court without sufficient
23 excuse, Respondent was terminated from the Deferred Entry of Judgment and convicted of one
24 misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [being
25 under the influence of a controlled substance].

26 **SECOND CAUSE FOR DISCIPLINE**

27 (Violating State Laws Regulating Controlled Substances)

28 10. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
violating Health and Safety Code section 11550, subdivision (a) [being under the influence of a

1 controlled substance]. Complainant refers to and incorporates all the allegations contained in
2 paragraph 9, including its subparagraphs, as though set forth fully.

3 THIRD CAUSE FOR DISCIPLINE

4 (Dangerous Use of a Controlled Substance)

5 11. Respondent is subject to disciplinary action under section 4301, subdivision (h),
6 for using the controlled substance methamphetamine in a manner that was dangerous to herself
7 and others. Complainant refers to and incorporates all the allegations contained in paragraph 9,
8 including its subparagraphs, as though set forth fully.

9 PRAYER

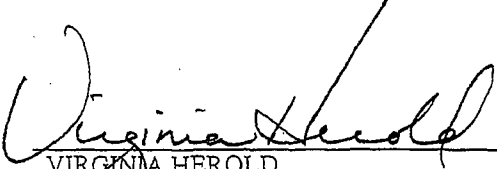
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Pharmacy Technician License No. TCH 75109, issued to
13 Respondent;

14 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

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19 DATED: 2/22/10


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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