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

8 In the Matter of the Accusation Against:

Case No. 3395

9
10 **SHREEN NAAZ HUSSEIN**

DEFAULT DECISION AND ORDER

11 [Gov. Code, §11520]

12
13 Respondent.

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15 FINDINGS OF FACT

16 1. On or about September 24, 2009, Complainant Virginia Herold, in her official
17 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
18 filed Accusation No. 3395 against Shreen N. Hussein (Respondent) before the Board of
19 Pharmacy.

20 2. On or about August 12, 2003, the Board of Pharmacy (Board) issued Pharmacy
21 Technician License No. TCH 50453 to Respondent. The License was in full force and effect at
22 all times relevant to the charges brought herein, and will expire on October 31, 2010, if not
23 renewed.

24 3. On or about September 29, 2009, Rowena Manalastas, an employee of the
25 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
26 3395, a Statement to Respondent, two copies of a form Notice of Defense, a Request for
27 Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to
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1 Respondent's address of record with the Board: P.O. Box 59, Mt. Eden, CA 94557. Copies of the
2 Accusation and service materials are attached as exhibit A, and are incorporated herein by
3 reference.

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

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

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

11 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
12 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3395.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 evidence on file herein, finds that the allegations in Accusation No. 3395 are true.

20 9. The total costs for investigation and enforcement in connection with the Accusation
21 are \$2,620.50 as of November 4, 2009.

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23 DETERMINATION OF ISSUES

24 1. Based on the foregoing findings of fact, Respondent Shreen Hussein has subjected
25 her Pharmacy Technician License No. TCH 50453 to discipline.

26 2. A copy of the Accusation is attached.

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

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

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

5 b. In violation of Business and Professions Code sections 4301(h) Respondent
6 administered a controlled substance to herself in a manner dangerous or injurious to herself or
7 another.

8 c. In violation of Business and Professions Code section 4301 (l) and/or section 490 of
9 the Code, by reference to California Code of Regulations, title 16, section 1770, for the
10 conviction of substantially related crime(s), in that on or about July 24, 2007, in a criminal case
11 titled People v. Shreen Naaz Hussein, Case No. 401949 in Alameda County Superior Court,
12 Respondent was convicted, by her plea of no contest, of violation Vehicle 23152 (a) (Driving
13 under the Influence), a misdemeanor. Imposition of sentence was suspended in favor of a period
14 of formal probation of 36 months, with terms and conditions, 6 days in jail and a fine of
15 \$1,760.00.

16 d. In violation of Business and Professions Code section 4301 (j) and/or (o) and/or
17 section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent
18 possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled
19 substance, without a prescription.

20 e. In violation of Business and Professions Code section 4301 (j) and/or (o) of the Code,
21 and/or Health and Safety Code section(s) 11170 and/or 11550, Respondent self-
22 administered/used, conspired to self-administer/use, and/or assisted in/abetted self-
23 administration/use, of a controlled substance, without prescription.

24 f. In violation of Business and Professions Code section 4301 of the Code, by way of
25 the actions described in paragraph(s) 4(a) through 4(e) above, Respondent engaged in
26 unprofessional conduct.

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Exhibit A
Accusation Packet No. 3395

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2 FRANK H. PACOE
Supervising Deputy Attorney General
3 MICHAEL B. FRANKLIN
Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3395

12 SHREEN NAAZ HUSSEIN
13 P.O. Box 59
14 Mt. Eden, CA 94557

ACCUSATION

15 Pharmacy Technician Registration No. TCH
16 50453.

17 Respondent.

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 August 12, 2003, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 50453 to Shreen Naaz Hussein (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2010, unless renewed.

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1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

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

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

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

11 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
12 revoke a license on the ground that the licensee has been convicted of a crime substantially
13 related to the qualifications, functions, or duties of the business or profession for which the
14 license was issued.

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

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

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

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

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

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

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

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

11 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

12 16. Section 4021 of the Code states:

13 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
14 11053) of Division 10 of the Health and Safety Code.”

15 17. Section 4022 of the Code states, in pertinent part:

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

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

20 ...

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

23 18. Methamphetamine is a Schedule II controlled substance as designated by Health and
24 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
25 Code section 4022. It is a stimulant drug.

26 FACTUAL BACKGROUND

27 19. On or about April 21, 2007, at approximately 3:50 p.m., Respondent drove her car
28 into the Hayward Police Station parking lot and called the station. Respondent told the dispatcher

1 that four cars had followed her to the station and one of the four cars was in the police station
2 parking lot. Respondent gave the dispatcher the license plate number of the car Respondent said
3 was following her. The dispatcher recognized the license plate as her [the dispatcher's] own car
4 that had been parked in the lot all day. Police officers met Respondent in the police parking lot.

5 The responding officers encountered Respondent and observed several objective signs and
6 symptoms of being under the influence of a stimulant; pupils dilated 7.5 mm in good light, hands
7 trembling, burn marks on her lips, fingertips discolored brown, speech rapid and confusing, pulse
8 rate to 128 BPM and Respondent was paranoid and warm to the touch despite the cold wet
9 weather. Respondent consented to a search of her purse, which uncovered a baggie with a white
10 crystal substance, confirmed by testing as **methamphetamine**, and a glass smoking pipe with
11 white powder residue in the stem and a burnt bulbed tip.

12 Respondent admitted that she smoked ,”six” puffs of **methamphetamine** that morning.
13 Respondent also admitted to the officer that she had been using **methamphetamine** for a month.

14 Respondent was placed under arrest on suspicion of violating Vehicle Code section
15 23152(a), (Driving Under the Influence), Health and Safety Code section 11550 (Use/Being
16 Under Influence of Controlled Substance), Health and Safety Code section 11377(a) (Possession
17 of a Controlled Substance), and Health and Safety Code section 11364 (Possession of Drug
18 Paraphernalia)

19 FIRST CAUSE FOR DISCIPLINE

20 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

21 20. Respondent is subject to discipline under section 4301 (f) of the Code in that
22 Respondent, as described in paragraph 19 above, committed acts involving moral turpitude,
23 dishonesty, fraud, deceit, or corruption.

24 SECOND CAUSE FOR DISCIPLINE

25 (Self-Administration of Controlled Substance)

26 21. Respondent is subject to discipline under section 4301 (h) of the Code, in that
27 Respondent, as described in paragraph 19 above, administered a controlled substance to herself in
28 a manner dangerous or injurious to herself or another.

1 THIRD CAUSE FOR DISCIPLINE

2 (Conviction of Substantially Related Crime)

3 22. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
4 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
5 substantially related crime(s), in that on or about July 24, 2007, in a criminal case titled *People v.*
6 *Shreen Naaz Hussein*, Case No. 401949 in Alameda County Superior Court, based on the conduct
7 alleged in paragraph 19 above, Respondent was convicted, by her plea of no contest, of violating
8 Vehicle 23152(a) (Driving Under the Influence), a misdemeanor. Imposition of sentence was
9 suspended in favor of a period of formal probation of 36 months, with terms and conditions, 6
10 days in jail and a fine of \$1760.00.

11 FOURTH CAUSE FOR DISCIPLINE

12 (Possession of Controlled Substance)

13 23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
14 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
15 in paragraph 19 above, possessed, conspired to possess, and/or assisted in or abetted possession
16 of, a controlled substance, without a prescription.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Possession of Controlled Substance)

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

23 SIXTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 25. Respondent is subject to discipline under section 4301 of the Code in that
26 Respondent, as described in paragraphs 19-24 above, engaged in unprofessional conduct.

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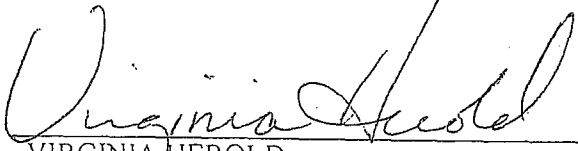
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 50453, issued to Shreen Naaz Hussein.
2. Ordering Shreen Naaz Hussein to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/24/09



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

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