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

In the Matter of the Accusation Against:

HOAI NAM NGUYEN
6753 Meriwether Ct.
Rancho Cucamonga, CA 91701

Pharmacy Technician Registration No. TCH
64936

Respondent.

Case No. 3590

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 1, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3590 against Hoai Nam Nguyen (Respondent) before the Board of Pharmacy.
2. On or about September 1, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 64936 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and expired on October 31, 2010, if not renewed.
3. On or about April 13, 2010, Anna A. Carpenter, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3590, 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 the Board: 6753 Meriwether Ct. Rancho Cucamonga, CA 91701. Copies of the Accusation are attached as Exhibit A, and are incorporated herein by reference.

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

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

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

8 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
9 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3590.

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

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

14 8. Pursuant to its authority under Government Code section 11520, the Board finds
15 Respondent is in default. The Board will take action without further hearing and, based on the
16 evidence on file herein, finds that the allegations in Accusation No. 3590 are true.

17 9. The total costs for investigation and enforcement in connection with the Accusation
18 are \$842.50 as of May 7, 2010.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Hoai Nam Nguyen has subjected
21 her Pharmacy Technician License No. TCH 64936 to discipline.

22 2. A copy of the Accusation is attached.

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

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

26 a. In violation of Business and Professions Code sections 490, 4300, and 4301(1), while
27 employed at Signs and Lucites Products, Respondent altered checks from her employer's
28 vendors, originally made payable to her employer, to include her name, and cashed the checks for

1 her own benefit. As a result, on or about June 10, 2008, in the case entitled *The People of the*
2 *State of California vs. Hoai Nam Nguyen*, Los Angeles County Superior Court Case No.
3 KA081793, Respondent was convicted by her plea of nolo contendere to one count of violating
4 Penal Code section 487(a), (grand theft by embezzlement), a felony.

5 b. In violation of Business and Professions Code sections 4300 and 4301 (f), based upon
6 the conduct described in paragraph 4(a) above, Respondent committed acts of dishonesty, fraud
7 or deceit by embezzling money, an/or, personal property from her employer in or between
8 December 5, 2005 and November 20, 2007.

9 RECORD

10 The record upon which this Default Decision and Order are based is located at the
11 Sacramento headquarters of the Board.

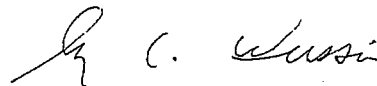
12 ORDER

13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 64936, heretofore
14 issued to Respondent Hoai Nam Nguyen, 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 August 25, 2010.

20 It is so ORDERED July 26, 2010.

21 

22 _____
23 STANLEY C. WEISSER, BOARD PRESIDENT
24 FOR THE BOARD OF PHARMACY
25 DEPARTMENT OF CONSUMER AFFAIRS

26 Attachment: Exhibit A: Accusation No. 3590
27
28

Exhibit A
Accusation No. 3590

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2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 SCOTT J. HARRIS
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300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3590

11 **HOAI NAM NGUYEN**
12 **6753 Meriwether Ct.**
13 **Rancho Cucamonga, CA 91701**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **64936**

16 Respondent.

17
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 (Board), Department of Consumer Affairs.

22 2. On or about September 1, 2005, the Board issued Pharmacy Technician Registration
23 Number TCH 64936 to Hoai Nam Nguyen (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2010, unless renewed.

26 **JURISDICTION**

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

1 4. Section 4300 of the Code states:

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

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

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

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

9 "(4) Revoking his or her license.

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

12 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
13 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
14 shall have all the powers granted therein. The action shall be final, except that the propriety of
15 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
16 Civil Procedure."

17 5. Section 4301 of the Code states:

18 "The board shall take action against any holder of a license who is guilty of unprofessional
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
20 Unprofessional conduct shall include, but is not limited to, any of the following:

21

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

25

26 "(l) The conviction of a crime substantially related to the qualifications, functions, and
27 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
28 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

1 substances or of a violation of the statutes of this state regulating controlled substances or
2 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
3 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
4 The board may inquire into the circumstances surrounding the commission of the crime, in order
5 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
6 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
7 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
8 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
9 of this provision. The board may take action when the time for appeal has elapsed, or the
10 judgment of conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
12 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
13 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
14 indictment.”

15 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

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

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

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

5 FIRST CAUSE FOR DISCIPLINE

6 (Conviction of Substantially Related Crime)

7 9. Respondent is subject to discipline pursuant to Code sections 490, 4300, and 4301,
8 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
9 Respondent was convicted of a crime substantially related to the qualifications, functions and
10 duties of a licensed Pharmacy Technician. Specifically, on or about June 10, 2008, in the case
11 entitled *The People of the State of California vs. Hoai Nam Nguyen*, Superior Court of California,
12 County of Los Angeles, Case No, KA081793, Respondent was convicted by her plea of nolo
13 contendere to one count of violating Penal Code section 487, subdivision (a), (grand theft by
14 embezzlement), a felony. In addition to being placed on three (3) years probation, and having to
15 serve 270 days of day labor, Respondent was ordered to pay restitution in the amount of
16 \$19,040.10.

17 10. The circumstances of the conviction are that in or between December 5, 2006 and
18 November 20, 2007, while an employee of Signs and Lucites Products, Respondent altered
19 checks from her employer's vendors, originally made payable to her employer, to include her
20 name, and cashed the checks for her own benefit.

21 SECOND CAUSE FOR DISCIPLINE

22 (Dishonesty, Fraud or Deceit)

23 11. Respondent is subject to discipline pursuant to Code sections 4300 and 4301,
24 subdivision (f), in that Respondent committed acts of dishonesty, fraud or deceit by embezzling
25 money, and/or, personal property from her employer in or between December 5, 2005 and
26 November 20, 2007, as more fully discussed in paragraphs 9 and 10, above, which are herein
27 incorporated by reference as set forth in whole.

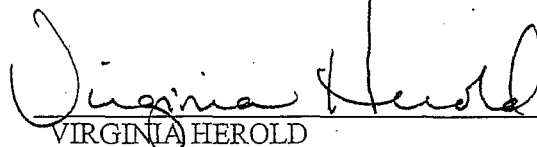
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PRAYER

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 64936, issued to Hoai Nam Nguyen;
2. Ordering Hoai Nam Nguyen 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: 4/1/10



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

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