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

In the Matter of the Accusation Against:
GREGORY JULIAN ROBINSON II
1601 Broadway Street, 418
Concord, CA 94520
Pharmacy Technician License No. TCH 75222

Respondent.

Case No. 3649
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 4, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3649 against Gregory Julian Robinson II (Respondent) before the Board of Pharmacy. The Accusation is attached as Exhibit A and incorporated herein by reference.

2. On or about April 6, 2007, the Board of Pharmacy issued Pharmacy Technician License No. TCH 75222 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2010, unless renewed.

3. On or about August 12, 2010, Respondent was served by Certified and First Class Mail with copies of: Accusation No. 3649; a Statement to Respondent, a Notice of Defense (2 copies); a Request for Discovery; and the Discovery Statutes (Gov.Code, §§ 11507.5, 11507.6, 11507.7) at Respondent's address of record, which was and is: 1601 Broadway Street, # 418, Concord, CA 94520. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes thereto, are required to be reported and maintained with the Board of Pharmacy (Board).

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

3 5. On or about August 16, 2010, the copies of the aforementioned documents sent by
4 Certified Mail were returned by the U.S. Postal Service marked "ANK" (Addressee Not Known).

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

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

9 7. Respondent failed to file a Notice of Defense within 15 days after service on him of
10 the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 3649.

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

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

15 9. Pursuant to its authority under Government Code section 11520, the Board finds
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on
19 file at the Board's offices regarding the allegations contained in Accusation No. 3649, finds that
20 the charges and allegations in Accusation No. 3649, are separately and severally, found to be true
21 and correct by clear and convincing evidence.

22 10. Taking official notice of its own internal records, pursuant to Business and
23 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
24 and Enforcement are \$2,500.00 as of September 13, 2010.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Gregory Julian Robinson II has
27 subjected his Pharmacy Technician License No. TCH 75222 to discipline.

28 2. The agency has jurisdiction to adjudicate this case by default.

1 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
2 License based upon the following violations alleged in the Accusation which are supported by the
3 evidence contained in the Default Decision Investigatory Evidence Packet in this case:

4 a. In violation of Business and Professions Code section 4301(f), Respondent did acts
5 involving moral turpitude, dishonesty, fraud, deceit, or corruption, including: After being pulled
6 over for excessive driving speed on July 1, 2009, Respondent was found to be in possession of
7 326 tablets of **Hydrocodone with APAP (Norco, Vicodin, and/or generic equivalent(s))**, 2.1
8 grams of **marijuana**, and **marijuana** paraphernalia. Respondent admitted that the **Hydrocodone**
9 and the **marijuana** were his, and admitted he did not have a medical **marijuana** authorization.
10 He told the officer(s) that he had a prescription for the **Hydrocodone**, but subsequently admitted
11 to Board Inspector(s) he did not have a prescription, and had purchased them "from a friend." An
12 audit of the Safeway Pharmacy by which Respondent was employed for the period May 2009 to
13 May 2010 discovered shortages of 16,329 tablets of **Hydrocodone** drug products.

14 b. In violation of Business and Professions Code section 4301(h), as described above, on
15 one or more occasions Respondent administered controlled substances to himself;

16 c. In violation of Business and Professions Code section(s) 4301(j), (o) and/or 4059,
17 and/or Health and Safety Code section 11170, Respondent, as described above, furnished to
18 himself or another without valid prescription, and/or conspired to furnish, and/or assisted or
19 abetted furnishing of, controlled substance(s);

20 e. In violation of Business and Professions Code section(s) 4301(j), (o) and/or 4060,
21 and/or Health and Safety Code section(s) 11350 and/or 11357, Respondent, as described above,
22 possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled
23 substance, without a valid prescription;

24 f. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
25 Health and Safety Code section 11173(a), Respondent, as described above, obtained, conspired to
26 obtain, and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit,
27 subterfuge, or concealment of material fact;

28 ///

1 g. In violation of Business and Professions Code section 4301, Respondent, as described
2 above, engaged in unprofessional conduct.

3

4

ORDER

5

IT IS SO ORDERED that Pharmacy Technician License No. TCH 75222, heretofore issued
6 to Respondent Gregory Julian Robinson II, is revoked.

7

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

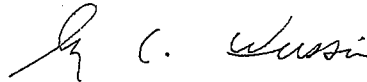
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This Decision shall become effective on February 17, 2011.

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It is so ORDERED January 18, 2011.

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

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20340700.DOC
DOJ Matter ID:SF2010200576

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Attachment:
Exhibit A: Accusation

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Exhibit A

Accusation No. 3649

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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. 3649

11 **GREGORY JULIAN ROBINSON II**
12 1601 Broadway Street, # 418
13 Concord, CA 94520

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 75222**

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about April 6, 2007, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 75222 to Gregory Julian Robinson II (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on November 30, 2010, unless renewed.

24
25 JURISDICTION

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

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

5 8. California Code of Regulations, title 16, section 1770, provides that a crime or act is
6 substantially related to the qualifications, functions or duties of a licensee if to a substantial
7 degree it evidences present or potential unfitness to perform the functions authorized by the
8 license or registration in a manner consistent with the public health, safety, or welfare.

9 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
10 drug or dangerous device except upon the prescription of an authorized prescriber.

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

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

15 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
16 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
17 administration of or prescription for controlled substances; (1) by fraud, deceit, misrepresentation,
18 or subterfuge; or (2) by the concealment of a material fact.

19 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
20 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
21 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

22 14. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any
23 person to possess marijuana or concentrated cannabis.

24
25 COST RECOVERY

26 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation of the licensing
28 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

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

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

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

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

...

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

18. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. The varying compounds are also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

19. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.

FACTUAL BACKGROUND

20. For the time period including between on or about July 1, 2009 and on or about June 8, 2010, Respondent was employed as a pharmacy technician at a Safeway Pharmacy in Dublin, CA (# 1932; PHY 45718), where he had access to controlled substances and dangerous drugs.

21. On or about July 1, 2009, an automobile driven by Respondent was pulled over by the California Highway Patrol after Respondent was observed driving recklessly and at an excessive rate of speed. Respondent was detained and his vehicle was impounded.

1 SECOND CAUSE FOR DISCIPLINE

2 (Self-Administration of Controlled Substance(s))

3 26. Respondent is subject to discipline under section 4301(h) of the Code, in that
4 Respondent, as described in paragraphs 20 to 24 above, administered one or more controlled
5 substances to himself, including marijuana and/or Hydrocodone with APAP products.
6

7 THIRD CAUSE FOR DISCIPLINE

8 (Furnishing of Controlled Substance(s))

9 27. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
10 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described
11 in paragraphs 20 to 24 above, furnished to himself or another without a valid prescription, and/or
12 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.
13

14 FOURTH CAUSE FOR DISCIPLINE

15 (Possession of Controlled Substance(s))

16 28. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
17 4060 of the Code, and/or Health and Safety Code section(s) 11350 and/or 11357, in that
18 Respondent, as described in paragraphs 20 to 24 above, possessed, conspired to possess, and/or
19 assisted in or abetted possession of, a controlled substance, without a prescription or unlawfully.
20

21 FIFTH CAUSE FOR DISCIPLINE

22 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

23 29. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
24 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
25 20 to 24 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
26 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.
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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

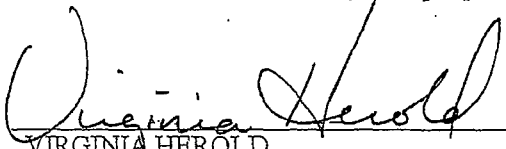
30. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 20 to 29 above, engaged in unprofessional conduct.

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 License Number TCH 75222, issued to Gregory Julian Robinson II (Respondent);
2. Ordering Respondent to pay the Board 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 is deemed necessary and proper.

DATED: 8/4/10


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

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