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

In the Matter of the Accusation Against:

**PABLO ESPINOZA
1211 Schick Ave.
Los Angeles, CA 90063
Pharmacy Technician Registration No. TCH
71053**

Respondent.

Case No. 3696

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 28, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3696 against Pablo Espinoza (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about August 9, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 71053 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3696 and will expire on July 31, 2012, unless renewed.
3. On or about November 8, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3696, Statement to Respondent, Notice of Defense, Government Code sections 11507.5 through 11507.7, Request for Discovery and proof of service

1 at Respondent's address of record which, pursuant to Business and Professions Code section
2 4100, is required to be reported and maintained with the Board, which was and is:

3 1211 Schick Ave.
4 Los Angeles, CA 90063.

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

8 5. On or about November 11, 2011, the aforementioned documents were served as
9 confirmed by the signed receipt for certified mail from the Respondent's address of record.

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 3696.

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. 3696, finds that
the charges and allegations in Accusation No. 3696, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

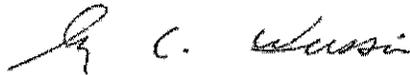
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 71053, heretofore issued to Respondent Pablo Espinoza, is revoked.

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 14, 2012.

It is so ORDERED on August 15, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

DOJ Matter ID: LA2010502345

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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3 LESLIE A. WALDEN
Deputy Attorney General
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:	Case No. 3696
12 PABLO ESPINOZA 1211 Schick Ave. 13 Los Angeles, CA 90063	ACCUSATION
14 Pharmacy Technician License No. TCH 71053	
15 Respondent.	

16
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, Department of Consumer Affairs (Board).
22 2. On or about August 9, 2006, the Board issued Pharmacy Technician License No.
23 TCH 71053 to Pablo Espinoza (Respondent). The Pharmacy Technician Registration was in full
24 force and effect at all times relevant to the charges brought herein and will expire on July 31,
25 2012, 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 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770, states:

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

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of Substantially Related Crime)**

16 10. Respondent is subject to disciplinary action under sections 490, 4300, 4301,
17 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
18 grounds of unprofessional conduct, in that on or about January 27, 2010, Respondent was
19 convicted of a crime substantially related to the qualifications, functions or duties of a registered
20 pharmacy technician, as follows:

21 a. On or about January 27, 2010, after pleading nolo contendere and admitting to
22 violating Vehicle Code section 23578 [refusal to take chemical test], Respondent was convicted
23 of one felony count of violating Vehicle Code section 23153(a) [driving under the influence and
24 causing bodily injury to another] in the criminal proceeding entitled *The People of the State of*
25 *California v. Pablo Espinoza* (Super. Ct. Los Angeles County, 2009, No. KA087786). The
26 Court sentenced Respondent to 365 days in jail, placed him on five (5) years probation, ordered
27 him to complete a six (6) month alcohol program, ordered him to complete the Hospital and

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1 Morgue Program, ordered him to complete the Mothers Against Drug Drivers (MADD) program,
2 and ordered him to submit electronic monitoring.

3 b. The circumstances underlying the conviction are that on or about June 13, 2009,
4 Respondent drove his vehicle while intoxicated with a 0.20% blood alcohol and rear ended
5 another vehicle causing physical injuries to three passengers. Further, Respondent fled the scene
6 after the vehicle collision.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Alcohol Related Conviction)**

9 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
10 subdivision (k), on the grounds of unprofessional conduct, in that on or about January 27, 2010,
11 Respondent sustained a felony conviction involving the use, consumption, or self-administration
12 of alcoholic beverages. Complainant refers to and by this reference incorporates the allegations
13 set forth above in paragraph 10, subparagraphs a and b, inclusive, as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Dangerous Use of Alcohol)**

16 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
17 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to
18 himself and / or used alcoholic beverages to the extent or in a manner as to be dangerous or
19 injurious to himself or others. Complainant refers to and by this reference incorporates the
20 allegations set forth above in paragraphs 10 and 11, inclusive, as though set forth fully.

21 **PRAAYER**

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

24 1. Revoking or suspending Pharmacy Technician License No. TCH 71053, issued to
25 Pablo Espinoza;

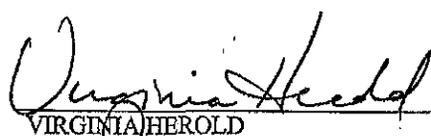
26 2. Ordering Pablo Espinoza to pay the Board of Pharmacy the reasonable costs of the
27 investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: 10/28/11



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

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