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

In the Matter of the Accusation Against:

Case No. 3703

**AI QUOC TRAN
17385 Santa Suzanne Street
Fountain Valley, CA 92708**

DEFAULT DECISION AND ORDER

**Original Pharmacy Technician Registration
No. TCH 76153**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 17, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3703 against Ai Quoc Tran (Respondent) before the Board of Pharmacy.

2. On or about May 24, 2007, the Board of Pharmacy (Board) issued Original Pharmacy Technician Registration No. TCH 76153 to Respondent. The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

3. On or about July 23, 2010, Juana Mejia, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3703, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

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1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: 17385
2 Santa Suzanne Street, Fountain Valley, CA 92708.

3 A copy of the Accusation is attached as exhibit A, and is incorporated herein by 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. On or about June 28, 2010, the Office of the Attorney General received the returned
7 certified mail tag indicating that the aforementioned documents were received at Respondent's
8 address of record via certified mail on June 25, 2010.

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

10 (c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts
12 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.

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
15 3703.

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

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

19 9. Pursuant to its authority under Government Code section 11520, the Board finds
20 Respondent is in default. The Board will take action without further hearing and, based on the
21 evidence on file herein, finds that the allegations in Accusation No. 3703 are true.

22 10. The total cost for investigation and enforcement in connection with the Accusation
23 are \$ 1,292.50 as of July 19, 2010.

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Ai Quoc Tran has subjected his
26 Original Pharmacy Technician Registration No. TCH 76153 to discipline.

27 2. A copy of the Accusation is attached.

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

Exhibit A
Accusation No. 3703

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3703

12 **AI QUOC TRAN**
13 **17385 Santa Suzanne Street**
14 **Fountain Valley, CA 92708**

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **76153**

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, Department of Consumer Affairs, State of
22 California.

23 2. On or about May 24, 2007, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 76153 to Ai Quoc Tran (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on December 31, 2010, unless renewed.

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JURISDICTION

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

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper. Section 4300(a) of the Code provides that every license may be suspended or revoked.

....

STATUTORY PROVISIONS

6. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self use in humans or animals, 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.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(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.

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7. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2.

....

8. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

(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.

...

9. Section 4313 of the Code states:

In determining whether to . . . discipline or reinstate a license, the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.

COST RECOVERY

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

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1 16. Respondent told the officers that a friend had dropped off the tablets in his sweatshirt
2 at his home earlier in the evening and told Respondent he would be paid \$100.00 to deliver the
3 tablets to someone in a white Toyota Camry in the Winchell's parking lot. Respondent said he
4 had done this for his friend three times. At this time, Respondent was placed under arrest for
5 violating Health and Safety Code sections 11378 and 11379, sales and transport of illegal
6 narcotics.

7 17. Respondent was placed in handcuffs in the patrol car and driven to his home where he
8 lived with his family. The Officers contacted the family who directed the officer to Respondent's
9 bedroom (Respondent had lied to the officers about which bedroom was his bedroom.)
10 Respondent stated there were drugs in a T-mobile box on the floor of his closet and that was the
11 extent of the drugs in his room. The Officers and a K-9 Service Dog (a trained narcotics-sniffing
12 dog) entered the home to search Respondent's bedroom. Inside of Respondent's room, the
13 officers located a piece of mail on a desk addressed to Respondent. The dog alerted and
14 scratched in three areas of the room where drugs were located. The officers checked the closet
15 floor and located the T-mobile box. Inside the box were two zip-lock baggies of blue tablets and
16 one smaller baggie of yellow tablets. In one baggie containing blue tablets, the tablets were
17 packaged inside of smaller baggies and the smaller baggies were all inside of the larger zip lock
18 baggie. The closet also contained a black hanging shoe organizer that contained three smaller
19 baggies with smaller amounts of tablets, one with blue, one with pink and one with blue and
20 yellow tablets. Under the bed was a clear plastic bindle of an unknown white powder substance.
21 A drawer in the bed frame contained two plastic bindles containing a white powder substance.
22 Also on the floor near the dresser was a digital scale, a small bag containing brown colored
23 plastic vials, a zip lock bag containing a plastic bowl, a plastic spoon with residue and two
24 prescription bottles containing unknown prescription medication. All the items and drugs were
25 collected and booked as evidence. A Detective from the Fountain Valley Police Department
26 conducted a preliminary examination of the tablets which tested positive for
27 Methylenedioxymethamphetamine, or MDMA, also known as "Ecstasy." The officers recovered
28 1,924.5 tablets of Ecstasy.

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SECOND CAUSE FOR DISCIPLINE

(Violation of Laws Regulating Controlled Substances)

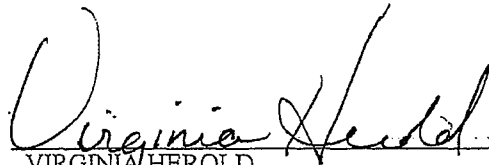
18. Respondent is subject to disciplinary action under section 4301(f) in that he has committed acts involving moral turpitude, or corruption involving controlled substances and dangerous drugs as set forth above in paragraphs 12 through 17.

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 Original Pharmacy Technician Registration Number TCH 76153, issued to Ai Quoc Tran.
2. Ordering Ai Quoc Tran 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: 6/17/10


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

SD2010800688