.	
1	
2	·
3	
4	
5	BEFORE THE
6	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
7	STATE OF CALIFORNIA
8	In the Matter of the Accusation Against: Case No. 3819
9	
10	FADI ZIAD KAMAL DEFAULT DECISION AND ORDER
11	12517 Eucalyptus Avenue, #A Hawthorne, CA 90250
12	Designated Representative Certificate No. [Gov. Code, §11520] EXC 17701
13	Respondent.
14	
15	FINDINGS OF FACT
16	1. On or about April 27, 2011, Complainant Virginia Herold, in her official capacity as
17	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed
18	Accusation No. 3819 against Fadi Ziad Kamal (Respondent) before the Board. (Accusation
19	attached as Exhibit A.)
20	2. On or about November 4, 2004, the Board issued Designated Representative
21	Certificate No. EXC 17701 to Respondent. The Designated Representative Certificate was in full
22	force and effect at all times relevant to the charges brought herein and will expire on November 1,
23	2011, unless renewed.
24	3. On or about May 13, 2011, Respondent was served by Certified and First Class Mail
25	copies of the Accusation No. 3819, Statement to Respondent, Notice of Defense, Request for
26	Discovery, and Discovery Statutes (Gov. Code, §§ 11507.5, 11507.6 and 11507.7) at
27	Respondent's address of record which, pursuant to Business and Professions Code section 4100,
28	
	1

1	is required to be reported and maintained with the Board, which was and is: 12517 Eucalyptus
2	Avenue, #A, Hawthorne, CA 90250.
3	4. Service of the Accusation was effective as a matter of law under the provisions of
4	Government Code section 11505, subdivision (c) and/or Business and Professions Code section
5	124.
6	5. On or about May 13, 2011, the aforementioned documents were returned by the U.S.
7	Postal Service marked "Not Delieverable as Addressed, Unable to Forward."
8	6. Government Code section 11506 states, in pertinent part:
9 10 11	"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts 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."
12	7. Respondent failed to file a Notice of Defense within 15 days after service upon him
13	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
14	3819.
15	8. California Government Code section 11520 states, in pertinent part:
16 17	"(a) If the respondent fails to file a notice of defense, 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."
 18 19 20 21 22 23 24 25 	9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 3819, finds that the charges and allegations in Accusation No. 3819, are separately and severally, found to be true and correct by clear and convincing evidence.
26 27 28	10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Enforcement are \$5,875.00 as of May 18, 2011.
	2

DEFAULT DECISION AND ORDER

۰.

[
1	DETERMINATION OF ISSUES
2	1. Based on the foregoing findings of fact, Respondent Fadi Ziad Kamal has subjected
3.	his Designated Representative Certificate No. EXC 17701 to discipline.
4	2. The agency has jurisdiction to adjudicate this case by default.
5	3. The Board of Pharmacy is authorized to revoke Respondent's Designated
6	Representative Certificate based upon the following violations alleged in the Accusation which
7	are supported by the evidence contained in the Default Decision Evidence Packet in this case:
8	a. First Cause for Discipline for Convictions for Substantially Related Crimes (Bus. &
9	Prof. Code, §§ 490 and 4301, subd. (1));
10	b. Second Cause for Discipline for Acts Involving Moral Turpitude, Dishonesty, Fraud
i1	or Deceit (Bus. & Prof. Code, § 4301, subd. (f)); and
12	c. Third Cause for Discipline for Knowingly Made False Statements of Fact to
13	Licensing Authority (Bus. & Prof. Code, § 4301, subd. (g)).
14	ORDER
15	IT IS SO ORDERED that Designated Representative Certificate No. EXC 17701,
16	heretofore issued to Respondent Fadi Ziad Kamal, is revoked.
17	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18	written motion requesting that the Decision be vacated and stating the grounds relied on within
19	seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
21	This Decision shall become effective on September 21, 2011.
22	It is so ORDERED August 22, 2011.
23	1 C. Euron
24	STANLEY C. WEISSER, BOARD PRESIDENT
25	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
26	60628883.DOC DOJ Matter ID:LA2010600639
27	Attachment: Exhibit A: Accusation
28	
	3
	DEFAULT DECISION AND ORDER

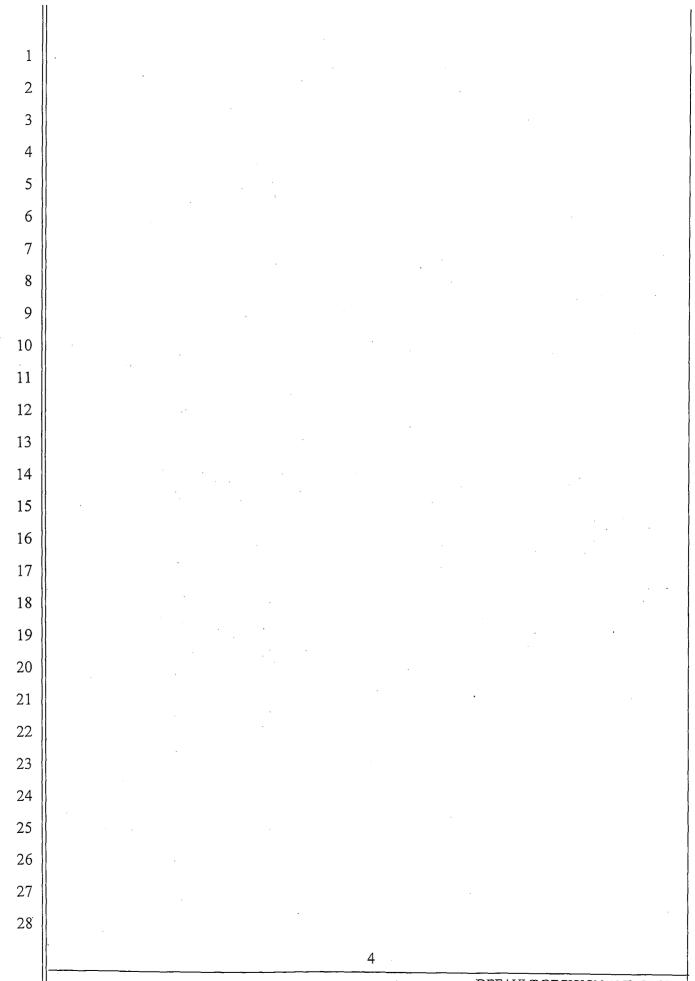


Exhibit A

Accusation

1	KAMALA D. HARRIS
2	Attorney General of California KAREN B. CHAPPELLE
3	Supervising Deputy Attorney General RENE JUDKIEWICZ
4	Deputy Attorney General State Bar No. 141773
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2537
6	Facsimile: (213) 897-2804
7	Attorneys for Complainant
8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 3819
12	FADI ZIAD KAMALA C C U S A T I O N12517 Eucalyptus Avenue, #A
13	Hawthorne, CA 90250
14	Designated Representative Certificate No. EXC 17701
15	Respondent.
16	
17	Complainant alleges:
18	PARTIES
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20	as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
21	2. On or about November 4, 2004, the Board issued Designated Representative
22	Certificate No. EXC 17701 to Fadi Ziad Kamal (Respondent). The Designated Representative
23	Certificate was in full force and effect at all times relevant to the charges brought herein and will
24	expire on November 1, 2011, unless renewed.
25	JURISDICTION
26	3. This Accusation is brought before the Board under the authority of the following
27	laws. All section references are to the Business and Professions Code unless otherwise indicated.
28	///
	1
	Accusation

STATUTORY PROVISIONS

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

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business 8 or profession for which the license was issued. 9

"(b) Notwithstanding any other provision of law, a board may exercise any authority to 10 discipline a licensee for conviction of a crime that is independent of the authority granted under 11 subdivision (a) only if the crime is substantially related to the gualifications, functions, or duties 12 of the business or profession for which the licensee's license was issued. 13

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a 14 conviction following a plea of nolo contendere. An action that a board is permitted to take 15 following the establishment of a conviction may be taken when the time for appeal has elapsed, or 16 the judgment of conviction has been affirmed on appeal, or when an order granting probation is 17 made suspending the imposition of sentence, irrespective of a subsequent order under the 18 provisions of Section 1203.4 of the Penal Code." 19

6. Section 4300 provides, in pertinent part, that every license issued by the Board is 20^{-1} subject to discipline, including suspension or revocation. 21

22

1

2

3

4

5

6

7

Section 4301 states, in pertinent part: 7.

"The board shall take action against any holder of a license who is guilty of unprofessional 23 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 24 Unprofessional conduct shall include, but is not limited to, any of the following: 25

26

111 27

111 28

2.

1 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or 2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and 3 whether the act is a felony or misdemeanor or not.

4 "(g) Knowingly making or signing any certificate or other document that falsely
5 represents the existence or nonexistence of a state of facts.

"(1) The conviction of a crime substantially related to the qualifications, functions, and 7 duties of a licensee under this chapter. ... The board may inquire into the circumstances 8 surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of 9 a conviction not involving controlled substances or dangerous drugs, to determine if the 10 conviction is of an offense substantially related to the qualifications, functions, and duties of a 11 licensee under this chapter. A... verdict of guilty or a conviction following a plea of nolo 12 contendere is deemed to be a conviction within the meaning of this provision. The board may 13 take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed 14 on appeal or when an order granting probation is made suspending the imposition of sentence, 15 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing ... setting 16 aside the verdict of guilty, or dismissing the accusation, information, or indictment." 17

18

6

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part; 19 "For the purpose of ... suspension, or revocation of a personal ... license pursuant to 20 21 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or 22 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or 23 registrant to perform the functions authorized by his license or registration in a manner consistent 24 25 with the public health, safety, or welfare." 111 26

- 27 111
- 28 ////

COST RECOVERY

9. Section 125.3 states 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.

FIRST CAUSE FOR DISCIPLINE

(Convictions for Substantially Related Crimes)

10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted of crimes substantially related to the qualifications, functions, or duties of a designated representative, as follows:

On or about July 10, 2008, after pleading nolo contendere, Respondent was convicted a. 11 of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) (driving a 12 vehicle without a valid driver's license) in the criminal proceeding entitled People v. Kamal 13 (Super. Ct. Los Angeles County, 2008, No. 8WA17529). The court ordered Respondent to pay 14 fines and restitution. The circumstances surrounding the conviction are that on or about March 15 12, 2008, Respondent drove a vehicle without a valid driver's license. He was cited for violating 16 Vehicle Code section 14601.1, subdivision (a) (driving a vehicle while driving privilege is 17 suspended or revoked with knowledge). 18

On or about September 1, 1998, after pleading nolo contendere, Respondent was 19 b. convicted of one misdemeanor count for violating Penal Code section 415, subdivision (1) 20 (fighting in a public place) in the criminal proceeding entitled *People v. Kamal* (Super. Ct. Los 21 Angeles County, 1998, No. 8CU01636). The court placed Respondent on one year of probation, 22 23 with terms and conditions. The circumstances surrounding the conviction are that on or about July 26, 1998, Respondent fought in a public place, and he was arrested for violating Health and 24 25 Safety Code section 11357, subdivision (b) (possession of not more than 28.5 grams of marijuana). 26

27 1///

1

2

3

4

5

6

7

8

9

10

28 1///

SECOND CAUSE FOR DISCIPLINE

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

11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud or deceit, as follows:

In or about April 2005, during an inventory of the warehouse supplies, Respondent's a. former employer, Darden Dental Supply (Darden), discovered that approximately \$9,000.00 worth of dental supplies were missing from the warehouse which Respondent was employed to manage as Darden's warehouse manager. On or about May 4, 2005, Respondent was terminated after Darden received information that he made unauthorized transactions with company clients 9 and kept the profits for himself. In People v. Kamal (Super. Ct. Los Angeles County, 2005, No. 10 TA081088), Respondent was charged with one count of violating Penal Code section 487, 11 subdivision (a) (grand theft of personal property over \$400.00). In or about February 2006, 12 Respondent was arrested for violating section 487, subdivision (a), and in an amended 13 information, he was additionally charged with a second count of violating Penal Code section 14 496, subdivision (a) (receiving known stolen property). On or about February 15, 2006, a jury 15 found Respondent guilty of both counts. The trial court's judgment on the jury verdict was 16 reversed, and the matter was remanded for retrial in People v. Kamal (Nov. 29, 2007, B190006) 17 [nonpub. opn.]). On or about May 30, 2008, the trial court dismissed the case after the 18 prosecution announced it was unable to proceed. 19

20

22

23

24

25

26

27

28

1

2

3

4

5

6

7

8

21

THIRD CAUSE FOR DISCIPLINE

(Knowingly Made False Statement of Fact to Licensing Authority)

12. Respondent is subject to disciplinary action under section 4301, subdivision (g), in that on or about July 13, 2004, Respondent knowingly made a false statement of fact to the Board of Pharmacy, by failing to disclose three convictions on his Application for an Exemption Certificate. Ouestion No. 5 of the exemptee application asked, "Have you ever been convicted of or pled no contest to a violation of ... any state laws ...? You must include all misdemeanor and felony convictions, regardless of the age of the conviciton, including those which have been set aside under Penal Code sections 1000 or 1203.4." Respondent signed the application and

certified, under penalty of perjury under California laws, the truth and accuracy of his exemptee application. However, Respondent failed to disclose the conviction alleged in paragraph 10, subparagraph (b). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, subparagraph (b), inclusive, as though set forth fully. Respondent also failed to disclose the following two convictions.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

22

a. On or about March 23, 2001, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 273.5, subdivision (a) (infliction of corporal injury: spouse/cohabitant abuse) and one misdemeanor count of Penal Code section 236 (false imprisonment) in the criminal proceeding entitled *People v. Kamal* (Super. Ct. Los Angeles County, 2001, No. 1WL01098). The court sentenced Respondent to 13 days in jail and placed him on 36 months of probation, with terms and conditions. The circumstances surrounding the conviction are that on or about March 15, 2001, Respondent and the victim, Respondent's domestic partner, engaged in a verbal argument that became physical. Respondent pushed the victim onto their bed, got on top of her and then choked her, telling her, "I'll show you psycho, I'll kill you."

b. On or about March 23, 2001, after pleading nolo contendere, Respondent was
convicted of one misdemeanor count of violating Penal Code section 12020, subdivision (a)(1)
(possession of metal knuckles) in the criminal proceeding entitled *People v. Kamal* (Super. Ct.
Los Angeles County, 2001, No. 1WL10984). The court placed Respondent on 36 months of
probation, with terms and conditions. The circumstances surrounding the conviction are that on
or about January 13, 2001, Respondent was found to be in possession of metal knuckles.

PRAYER

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

Revoking or suspending Designated Representative Certificate No. EXC 17701,
 issued to Respondent;

27 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
28 enforcement of this case, pursuant to section 125.3; and

Taking such other and further action as deemed necessary and proper. З. ſ DATED: VIRGINIA/HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant LA2010600639 60575951.doc Accusation