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

In the Matter of the Accusation Against:

TYREE MICHAEL MATTHIAS
3937 Hawley Ave.
Los Angeles, CA 90032
Pharmacy Technician Registration No. TCH
73611

Respondent.

Case No. 3861

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 27, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3861 against Tyree Michael Matthias (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about December 21, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 73611 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2012, unless renewed.

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1 3. On or about February 1, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 3861, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board, which was and is:

6 3937 Hawley Ave.
7 Los Angeles, CA 90032.

8 4. Service of the Accusation was effective as a matter of law under the provisions of
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
10 124.

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

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

17 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 3861.

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 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. 3861, finds that
the charges and allegations in Accusation No. 3861, are separately and severally, found to be true
and correct by clear and convincing evidence.

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0962
6 Facsimile: (213) 897-2804
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. 3861

11 **TYREE MICHAEL MATTHIAS**
12 **3937 Hawley Ave.**
Los Angeles, CA 90032
13 **Pharmacy Technician Registration No. TCH**
73611

A C C U S A T I O N

14 Respondent.
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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, Department of Consumer Affairs.
- 21 2. On or about December 21, 2006, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 73611 to Tyree Michael Matthias (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on November 30, 2012, unless renewed.

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

16 10. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
17 that Respondent committed burglary. The circumstances are as follows:

18 a. In or about 2008, while working as a Pharmacy Technician at CVS Pharmacy in
19 Pasadena California, Respondent stole at least 34 bottles of Cialis and 5 bottles of Viagra to resell
20 for profit. Respondent also placed orders for Cialis directly from the manufacturer at least two
21 times even though he was not authorized to do so.

22 SECOND CAUSE FOR DISCIPLINE

23 (Violation of Statute)

24 11. Respondent is subject to disciplinary action under section 4301, subdivision (j) in that
25 Respondent committed burglary. Complainant refers to and incorporates all the allegations
26 contained in paragraph 10, subparagraph a, as though set forth fully.

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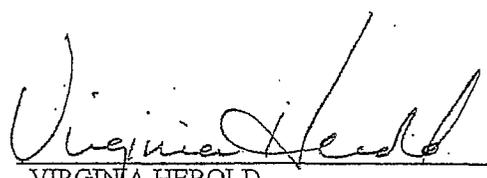
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PRAYER

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 73611, issued to Tyree Michael Matthias;
- 2. Ordering Tyree Michael Matthias 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; and
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 1/27/11



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

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STATE BAR ASSOCIATION FOR CALIFORNIA
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