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

In the Matter of the Accusation Against:

GEOVANNA DE LA FUENTE
14314 Los Angeles St.
Baldwin Park, CA 91706
Pharmacy Technician License No. TCH
78752

Respondent.

Case No. 3959

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 19, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3959 against Geovanna de la Fuente (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about October 10, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 78752 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 3959 and will expire on June 30, 2013, unless renewed.
3. On or about April 30, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3959, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
2 is required to be reported and maintained with the Board. Respondent's address of record was
3 and is: 14314 Los Angeles St., Baldwin Park, CA 91706.

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

7 5. On or about May 2, 2012, the aforementioned documents were signed for as indicated
8 on the U.S. Postal Service marked "Certified Mail Return Receipt."

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
13 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
14 may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3959.

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

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

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 3959, finds that
27 the charges and allegations in Accusation No. 3959, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

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 Investigation
and Enforcement is \$3,190.00 as of May 31, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Geovanna de la Fuente has subjected her Pharmacy Technician License No. TCH 78752 to discipline.
2. The agency has jurisdiction to adjudicate this case by default.
3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:
 - a. Respondent is subject to disciplinary action under section 490, 4300 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a registered pharmacy technician.
 - b. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (k), in that on or about July 1, 2010, Respondent sustained convictions involving the use, consumption, or self-administration of dangerous drugs, to wit, methamphetamine.
 - c. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct, in that on or about September 30, 2009, Respondent was in possession of methamphetamine, a controlled substance and dangerous drug, without a valid prescription.
 - d. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (h), on the grounds of unprofessional conduct, in that Respondent admitted to using methamphetamine, which use is it to the extent or in a manner as to be dangerous or injurious to herself or others.
 - e. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (j), on the grounds of unprofessional conduct, for violating Health and Safety Code sections 11173, subdivision (a), and 11364, subdivision (a), in that Respondent obtained/possessed a controlled substance without a valid prescription.

1 f. Respondent is subject to disciplinary action under sections 4300 and 4301,
2 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
3 involving moral turpitude, dishonesty, fraud, deceit and / or corruption.
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7 ORDER

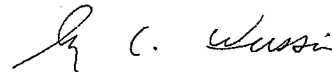
8 IT IS SO ORDERED that Pharmacy Technician License No. TCH 78752, heretofore issued
9 to Respondent Geovanna de la Fuente, is revoked.

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

14 This decision shall become effective on August 15, 2012.

15 It is so ORDERED on July 16, 2012.

16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA



19 By

20 STANLEY C. WEISSER
21 Board President

22 default decision_LIC.rtf
23 DOJ Matter ID:LA2011600226

24 Attachment:
25 Exhibit A: Accusation
26
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Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MARC D. GREENBAUM
Supervising Deputy Attorney General
4 State Bar No. 138213
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2579
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. 3959

11 **GEOVANNA DE LA FUENTE**
12 14314 Los Angeles St.
13 Baldwin Park, CA 91706

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 78752

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, Department of Consumer Affairs (Board).
21 2. On or about October 10, 2007, the Board issued Pharmacy Technician License No.
22 TCH 78752 to Geovanna de la Fuente (Respondent). The Pharmacy Technician License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
24 2013, 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.

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STATUTORY PROVISIONS

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4. Section 118, subdivision (b), 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. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued..

6. Section 4060 states that “[n]o 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 . . .”

7. Section 4300, subdivision (a), states that “[e]very license issued may be suspended or revoked.”

8. Section 4301 states, in pertinent part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 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.

.....

“(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

.....

1 "(j) The violation of any of the statutes of this state, or any other state, or of the United
2 States regulating controlled substances and dangerous drugs.

3 "(k) The conviction of more than one misdemeanor or any felony involving the use,
4 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
5 combination of those substances.

6 "(l) The conviction of a crime substantially related to the qualifications, functions, and
7 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
9 substances or of a violation of the statutes of this state regulating controlled substances or
10 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
11 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
12 The board may inquire into the circumstances surrounding the commission of the crime, in order
13 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
14 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
15 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
16 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
17 of this provision. The board may take action when the time for appeal has elapsed, or the
18 judgment of conviction has been affirmed on appeal or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
20 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
21 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
22 indictment. . . ."

REGULATORY PROVISION

23
24 9. California Code of Regulations, title 16, section 1770 states:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

8 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

9 11. Methamphetamine is a Schedule II controlled substance as designated by Health and
10 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
11 section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Convictions of Substantially Related Crimes)**

14 12. Respondent is subject to disciplinary action under section 490, 4300 and 4301,
15 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
16 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
17 related to the qualifications, functions or duties of a registered pharmacy technician which to a
18 substantial degree evidence her present or potential unfitness to perform the functions authorized
19 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

20 a. On or about July 1, 2010, after pleading guilty and having deferred entry of judgment
21 terminated, Respondent was convicted of two (2) misdemeanor counts, Count 1, violating Health
22 and Safety Code section 11377(a) [possession of controlled substance, to wit, methamphetamine],
23 and Count 2, violating Health and Safety Code section 11364(a) [possession of controlled
24 substance smoking device] in the criminal proceeding entitled *The People of the State of*
25 *California v. Geovanna delaFuente* (Super. Ct. Los Angeles County, 2009, No. 9JB08635). An
26 arrest warrant was issued.

27 b. The circumstances underlying the conviction are that on or about September 30,
28 2009, after a routine traffic stop and arresting Respondent on an outstanding arrest warrant, she

1 was found in possession of methamphetamine and its smoking device. Respondent admitted to
2 smoking methamphetamine about two times a week to help get her chores done, and obtains her
3 methamphetamine from her cousin.

4 c. On or about October 2, 2009, after pleading guilty, Respondent was convicted of one
5 misdemeanor count of violating Vehicle Code section 14601.1(a) [drive when privilege
6 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*
7 *Geovanna de la Fuente* (Super. Ct. Los Angeles County, 2009, No. 9JB06718). The Court
8 sentenced Respondent to three (3) years probation, and ordered her to complete seven (7) days of
9 community labor.

10 d. The circumstances underlying the conviction occurred on or about June 23, 2009, and
11 Respondent was arrested.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Convictions Involving Dangerous Drugs)**

14 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
15 subdivision (k), in that on or about July 1, 2010, Respondent sustained convictions involving the
16 use, consumption, or self-administration of dangerous drugs, to wit, methamphetamine.
17 Complainant refers to and by this reference incorporates the allegations set forth above in
18 paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Illegal Possession of a Controlled Substance)**

21 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
22 subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct, in
23 that on or about September 30, 2009, Respondent was in possession of methamphetamine, a
24 controlled substance and dangerous drug, without a valid prescription. Complainant refers to and
25 by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a
26 and b, inclusive, as though set forth fully.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Controlled Substances)**

3 15. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that Respondent admitted to using
5 methamphetamine, which use is it to the extent or in a manner as to be dangerous or injurious to
6 herself or others. Complainant refers to and by this reference incorporates the allegations set
7 forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Violating Drug Statutes)**

10 16. Respondent is subject to disciplinary action under sections 4300 and 4301,
11 subdivision (j), on the grounds of unprofessional conduct, for violating Health and Safety Code
12 sections 11173, subdivision (a), and 11364, subdivision (a), in that Respondent
13 obtained/possessed a controlled substance without a valid prescription. Complainant refers to and
14 by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a
15 and b, as though set forth fully.

16 **SIXTH CAUSE FOR DISCIPLINE**

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

18 17. Respondent is subject to disciplinary action under sections 4300 and 4301,
19 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
20 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to
21 and by this reference incorporates the allegations set forth above in paragraphs 12 - 16, inclusive,
22 as though set forth fully.

23 **DISCIPLINE CONSIDERATIONS**

24 18. To determine the degree of discipline, Complainant alleges that:

25 a. On or about August 13, 2007, after pleading guilty, Respondent was convicted of one
26 misdemeanor count of violating Vehicle Code section 12500(a) [drive without a valid driver's
27 license] in the criminal proceeding entitled *The People of the State of California v. Geovanna de*
28 *la Fuente* (Super. Ct. Los Angeles County, 2006, No. 6PK09957). The Court sentenced

1 Respondent to two (2) years probation, and ordered her to complete five (5) days of Tree Farm
2 Service. The circumstances underlying the conviction occurred on or about December 13, 2006,
3 and Respondent was arrested.

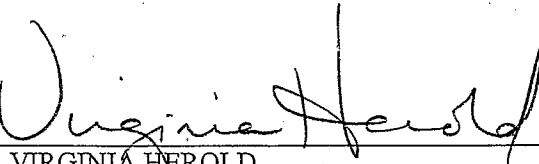
4 b. On or about July 30, 2003, after pleading guilty, Respondent was convicted of one
5 interlineated misdemeanor count of violating Penal Code section 415(3) [offensive word in
6 public] in the criminal proceeding entitled *The People of the State of California v. Geovanna*
7 *de la Fuente* (Super. Ct. Los Angeles County, 2003, No. 3RH03916). The Court sentenced
8 Respondent to 24 months probation, ordered her to complete 160 hours of community service,
9 ordered her to stay away from the victim and ordered her to pay restitution to the victim. The
10 circumstances occurred on or about July 4, 2003, when Respondent in concert with five (5)
11 others, two males and three females, attacked victim Y.M. in the street after throwing bricks at
12 her broken down vehicle and chasing her down.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician License No. TCH 78752, issued to
17 Geovanna de la Fuente;
- 18 2. Ordering Geovanna de la Fuente to pay the Board the reasonable costs of the
19 investigation and enforcement of this case, pursuant to section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 3/19/12



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

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