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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. 4184

NAZELI HEROIAN
1818 N. Kenneth Rd.
Burbank, CA 91504

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Pharmacy Technician Registration No.
68388

Respondent.

FINDINGS OF FACT

1. On or about November 9, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4184 against Nazeli Heroian ("Respondent") before the Board of Pharmacy. (Accusation attached as **Exhibit A.**)

2. On or about April 17, 2006, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 68388 to Respondent. The Pharmacy Technician Registration will expire on October 31, 2011, unless renewed.

3. On or about November 22, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4184, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations,
2 title 16, section 1409.1, is required to be reported and maintained with the Board, which was and
3 is:

4 1818 N. Kenneth Rd.
5 Burbank, CA 91504.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124. Respondent never filed a Notice of Defense.

9 5. California Government Code section 11520 states, in pertinent part:

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

14 6. Pursuant to its authority under Government Code section 11520, the Board finds
15 Respondent is in default. The Board will take action without further hearing and, based on the
16 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
17 taking official notice of all the investigatory reports, exhibits and statements contained therein on
18 file at the Board's offices regarding the allegations contained in Accusation No. 4184, finds that
19 the charges and allegations in Accusation No. 4184, are separately and severally, found to be true
20 and correct by clear and convincing evidence.

21 7. Taking official notice of its own internal records, pursuant to Business and
22 Professions Code ("Code") section 125.3, it is hereby determined that the reasonable costs for
23 Investigation and Enforcement is \$1,207.50 as of May 14, 2012.

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Nazeli Heroian has subjected her
26 Technician Registration No. TCH 68388 to discipline.

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

1 3. The Board of Pharmacy is authorized to revoke Respondent's Technician Registration
2 based upon the following violations alleged in the Accusation which are supported by the
3 evidence contained in the Default Decision Evidence Packet in this case.

4 a. Respondent is subject to disciplinary action under Business and Professions Code
5 (the Code) section 4059, (furnishing drugs), when she stole drugs from a pharmacy and sold
6 them to a third party. The conduct is described in more particularity in Accusation No. 4184,
7 inclusive and herein incorporated by reference.

8 b. Respondent is subject to disciplinary action under section 4301, subdivisions (f) of
9 the Code on grounds of dishonesty. The conduct is described in more particularity in Accusation
10 No. 4184, inclusive and herein incorporated by reference.

11 c. Respondent is subject to disciplinary action under section 4301, subdivisions (q) of
12 the Code on grounds of failing to cooperate with the Board's investigation. The conduct is
13 described in more particularity in Accusation No. 4184, inclusive and herein incorporated by
14 reference.

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ORDER

IT IS SO ORDERED that Technician Registration No.TCH 68388, heretofore issued to Respondent Nazeli Heroian, 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

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DOJ Matter ID:LA2011601501

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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5 Telephone: (213) 897-2540
Facsimile: (213) 897-2804
6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4184

ACCUSATION

12 **NAZELLI HEROIAN**
1818 N. Kenneth Rd.
Burbank, CA 91504

13 Pharmacy Technician Registration No. TCH
14 68388

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in
20 her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

22 2. On or about April 17, 2006, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 68388 to Nazelli Heroian (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2011, unless renewed.

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27 ///

1 JURISDICTION

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

5 STATUTORY PROVISIONS

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

9 5. Section 4059 of the Code states, in pertinent part:

10 "(a) A person may not furnish any dangerous drug, except upon the
11 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
12 pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon
13 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7.

15 6. Section 4300 of the Code provides, in pertinent part, that every license issued
16 by the Board is subject to discipline including suspension or revocation.

17 7. Section 4301 of the Code states, in pertinent part:

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

22

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

26

27 "(q) Engaging in any conduct that subverts or attempts to subvert an
28 investigation of the Board."

1 **DANGEROUS DRUGS**

2 8. Atripla is a brand name for Emtricitabine and is categorized as a dangerous
3 drug pursuant to Business and Professions Code section 4022. Atripla is used in the treatment for
4 persons with HIV.

5 9. Truvada is a trade name for Emtricitabine and is categorized as a dangerous
6 drug pursuant to Business and Professions Code section 4022. Truvada is used in the treatment
7 for persons with HIV.

8 10. Vireada is a trade name for Tenofovir and is categorized as a dangerous drug
9 pursuant to Business and Professions Code section 4022. Vireada is used in the treatment for
10 persons with HIV.

11 11. Sustiva is a trade name for Efavirenz and is categorized as a dangerous drug
12 pursuant to Business and Professions Code section 4022. Sustiva is used in the treatment for
13 persons with HIV.

14 **COST RECOVERY**

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

19 **BACKGROUND FACTS**

20 13. Respondent worked as a Staff Pharmacy Technician at USC Medical Plaza
21 Pharmacy located in Los Angeles, CA. On or about October 13, 2010, Respondent admitted that
22 she stole drugs from the pharmacy and sold them to a third party. The drugs include the
23 following;

- 24 a). Atripla (2 bottles) cost- \$2,956.68;
25 b). Truvada (2 bottles) cost-\$1,928.18;
26 c). Viread (2 bottles) cost-\$622.38;
27 d). Sustiva (2 bottles) cost-\$514.00; and
28 e). Total cost to the pharmacy-\$6,643.87.

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FIRST CAUSE FOR DISCIPLINE

(Furnishing Drugs)

14. Respondent is subject to disciplinary action under Code sections 4059, as a result of Respondent furnishing drugs to a third party. Complainant refers to and incorporates all the allegations in paragraph 13 as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Dishonesty)

15. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), as a result of Respondent's dishonesty. Complainant now refers to and incorporates all the allegations in paragraph 13 as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Subverting an Investigation)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (q), as a result of Respondent failing to cooperate with the Board's investigation of the instant allegations when she failed to respond to the Board's letter.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 68388 issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

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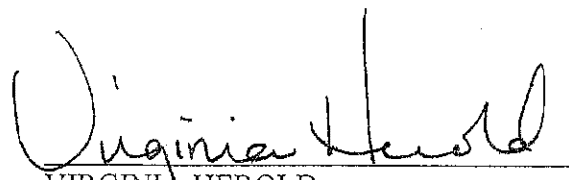
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3. Taking such other and further action as is deemed necessary and proper.

DATED: 11/9/11



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

LA2007601286