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

In the Matter of the Accusation Against:

**HUNG BINH TRAN**  
P. O. Box 9201  
Redlands, CA 92375  
  
Pharmacy Technician Registration  
No. TCH 105489

Respondent.

Case No. 4325

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about June 14, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4325 against Hung Binh Tran (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 16, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 105489 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4325 and will expire on February 29, 2016, unless renewed.

3. On or about July 1, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4325, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
3 is required to be reported and maintained with the Board. Respondent's address of record was  
4 and is: P. O. Box 9201, Redlands, CA 92375.

5 4. On or about February 9, 2015, Respondent was also served by Certified and First  
6 Class Mail copies of the Accusation No. 4325, Statement to Respondent, Notice of Defense,  
7 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
8 and 11507.7) at 48 San Mateo St., #1, Redlands, CA 92373.

9 5. Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12 6. On or about September 18, 2014, the certified documents addressed to P. O. Box  
13 9201, Redlands, CA 92375 were returned by the U.S. Postal Service marked "Unclaimed, Unable  
14 to Forward."

15 7. Government Code section 11506 states, in pertinent part:

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

21 8. Respondent failed to file a Notice of Defense within 15 days after service upon him  
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
23 4325.

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

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

10 Pursuant to its authority under Government Code section 11520, the Board finds  
11 Respondent is in default. The Board will take action without further hearing and, based on the  
12 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
2 file at the Board's offices regarding the allegations contained in Accusation No. 4325, finds that  
3 the charges and allegations in Accusation No. 4325, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 11. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement is \$935.00 as of September 12, 2014.

### 8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Hung Binh Tran has subjected  
10 his Pharmacy Technician Registration No. TCH 105489 to discipline.

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

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

15 (a) Respondent is subject to disciplinary action pursuant to Business and Professions  
16 Code section 4301, subdivision (l) and 490, in conjunction with California Code of Regulations,  
17 title 16, section 1770, in that Respondent has been convicted of a crime substantially related to  
18 the qualifications, functions or duties of a pharmacy technician, as follows:

19 (i) On or about February 17, 2012, Respondent was convicted of one misdemeanor  
20 count of violating Penal Code section 484e, subdivision (d) [grand theft of access cards], one  
21 misdemeanor count of Penal Code section 484f, subdivision (a) [forging access cards], one  
22 misdemeanor count of Penal Code section 502, subdivision (c)(1) [alter/etc. computer  
23 system/etc.], one misdemeanor count of Penal Code section 530.5, subdivision (a) [using personal  
24 identification of another to obtain credit] and one misdemeanor count of Penal Code section 459  
25 [burglary] in the criminal case entitled *The People of the State of California v. Hung Binh Tran*  
26 (Super. Ct. Riverside County, 2012, No. BAF10000651  
27  
28

1 (b) Respondent is subject to disciplinary action pursuant to Business and Professions  
2 Code section 4301, subdivision (f), in that on or about July 14, 2010, Respondent committed acts  
3 involving dishonesty, fraud or deceit.

4 (c) Respondent is subject to disciplinary action pursuant to Business and Professions  
5 Code section 4301, subdivision (g), in that on or about July 14, 2010, Respondent knowingly  
6 made a false statement of fact, by making or signing any certificate or other document that falsely  
7 represented the existence or non existence of a state of facts.

8 **ORDER**

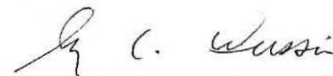
9 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 105489, heretofore  
10 issued to Respondent Hung Binh Tran, is revoked.

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

15 This decision shall become effective on May 1, 2015.

16 It is so ORDERED on April 1, 2015.

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

20 

21 By \_\_\_\_\_

22 STAN C. WEISSER  
23 Board President

24 51597313.DOC  
25 DOJ Matter ID:LA2012506952  
26 jz(9/12/14)

27 Attachment:  
28 Exhibit A: Accusation



# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 KIMBERLEE D. KING  
Deputy Attorney General  
4 State Bar No. 141813  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2581  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 4325

11 **HUNG BINH TRAN**  
P. O. Box 9201  
12 Redlands, CA 92375

**A C C U S A T I O N**

13 Pharmacy Technician Registration  
14 No. TCH 105489

Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

19 2. On or about August 16, 2010, the Board of Pharmacy (Board) issued Pharmacy  
20 Technician Registration No. TCH 105489 to Hung Binh Tran (Respondent). The Pharmacy  
21 Technician Registration was in full force and effect at all times relevant to the charges brought  
22 herein and will expire on February 28, 2014, unless renewed.

23 **JURISDICTION**

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

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1 qualifications, functions, and duties of the licensee in question. "As used in this section, 'license'  
2 includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

3 7. Section 4300 provides in pertinent part, that every license issued by the Board is  
4 subject to discipline, including suspension or revocation.

5 8. Section 4300.1 states:

6 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
7 operation of law or by order or decision of the board or a court of law, the placement of a license  
8 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
9 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
10 proceeding against, the licensee or to render a decision suspending or revoking the license."

11 9. Section 4301 states, in pertinent part:

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

15 . . . .

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

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

21 . . . .

22 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
25 substances or of a violation of the statutes of this state regulating controlled substances or  
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
28 The board may inquire into the circumstances surrounding the commission of the crime, in order

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
5 of this provision. The board may take action when the time for appeal has elapsed, or the  
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
10 indictment.

### 11 REGULATORY PROVISIONS

12 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

13 "For the purpose of denial, suspension, or revocation of a personal or facility license  
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
17 licensee or registrant to perform the functions authorized by his license or registration in a manner  
18 consistent with the public health, safety, or welfare."

### 19 COST RECOVERY

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

### 24 FIRST CAUSE FOR DISCIPLINE

#### 25 (Convictions of Substantially Related Crimes)

26 12. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
28

1 Respondent has been convicted of crimes substantially related to the qualifications, functions or  
2 duties of a pharmacy technician.

3 a. On or about February 17, 2012, after pleading guilty, Respondent was convicted of  
4 one misdemeanor count of violating Penal Code section 484e, subdivision (d) [grand theft of  
5 access cards], one misdemeanor count of Penal Code section 484f, subdivision (a) [forging access  
6 cards], one misdemeanor count of Penal Code section 502, subdivision (c)(1) [alter/etc. computer  
7 system/etc.], one misdemeanor count of Penal Code section 530.5, subdivision (a) [using personal  
8 identification of another to obtain credit] and one misdemeanor count of Penal Code section 459  
9 [burglary] in the criminal case entitled *The People of the State of California v. Hung Binh Tran*  
10 (Super. Ct. Riverside County, 2012, No. BAF10000651). The Court sentenced Respondent to  
11 serve 180 days in Riverside County Jail and placed him on 36 months probation, with terms and  
12 conditions.

13 b. The circumstances surrounding the conviction are that from about May 25, 2010 to  
14 about July 14, 2010, Respondent fraudulently converted \$21,975.00 in Free Play Credits that was  
15 stored on fraudulently obtained MCRS "Winners Club" cards for his own use to win a total of  
16 \$21,684.00 in cash at various slot machines over an eighteen day period at Morongo Casino.  
17 More specifically, Respondent fraudulently accessed Winner's Club accounts of guests at the  
18 casino, made duplicate Winner's Club cards, and acquired passwords from guest accounts, so that  
19 he could access and download the information at a later time.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Acts Involving Dishonesty, Fraud or Deceit)**

22 13. Respondent is subject to disciplinary action under sections 4301, subdivision (f) and  
23 in that from about May 25, 2010 to about July 14, 2010, Respondent committed acts involving  
24 dishonesty, fraud or deceit. Complainant refers to, and by this reference incorporates, the  
25 allegations set forth above in paragraph 12, as though set forth fully.

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