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

In the Matter of the Accusation Against:
MATTHEW DARLING MONROE
16455 Zarco Luna Pl.
Moreno Valley, CA 92551
Pharmacy Technician Registration
No. TCH 109571

Respondent.

Case No. 4344
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 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. 4344 against Matthew Darling Monroe (Respondent) before the Board of Pharmacy. (The Accusation is attached as Exhibit A.)

2. On or about April 4, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 109571 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4344 and will expire on October 31, 2012, unless renewed. Section 118, subdivision (b) of the Code 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.

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1 3. On or about July 25, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4344, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 16455 Zarco Luna Pl.
8 Moreno Valley, CA 92551

9 4. 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 5. On or about August 28, 2012, Respondent signed the U.S. Postal Service Domestic
13 Return Receipt indicating he received the aforementioned documents served by certified mail.

14 6. Government Code section 11506 states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 4344.

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

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

28 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

1 file at the Board's offices regarding the allegations contained in Accusation No. 4344, finds that
2 the charges and allegations in Accusation No. 4344, are separately and severally, found to be true
3 and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$612.50 as of August 20, 2012.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Matthew Darling Monroe has
9 subjected his Pharmacy Technician Registration No. TCH 109571 to discipline.

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

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

14 a. Respondent has subjected his registration to discipline under sections 490 and
15 4301, subdivision (l) of the Code in that on or about January 25, 2012, in a criminal proceeding
16 entitled *People of the State of California v. Matthew Darling Monroe*, in Riverside County
17 Superior Court, case number RIF1105582, Respondent was convicted on his plea of guilty to
18 violating Penal Code section 211, robbery, a felony, a crime that is substantially related to the
19 qualifications, duties, and functions of a pharmacy technician.

20 b. Respondent has subjected his registration to discipline under section 4301,
21 subdivision (f) of the Code in that on or about October 31, 2011, he committed an act of moral
22 turpitude and corruption when he robbed a female victim using force, fear, and violence.

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ORDER

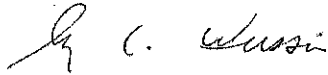
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 109571, heretofore issued to Respondent Matthew Darling Monroe, is revoked.

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 November 19, 2012.

It is so ORDERED ON October 19, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

DOJ Matter ID: SD2011801852

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4344

13 **MATTHEW DARLING MONROE**
14 **16455 Zarco Luna Pl.**
Moreno Valley, CA 92551

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 109571**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 109571 to Matthew Darling Monroe (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on October 31, 2012, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states: "Every license issued may be
6 suspended or revoked."

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

11 **STATUTORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 the rehabilitation of a person when:

- 15 (a) Considering the denial of a license by the board under Section 480; or
- 16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or to
26 suspend or revoke a license or otherwise take disciplinary action against a person who
27 holds a license, upon the ground that the applicant or the licensee has been convicted
28 of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, "license" includes "certificate," "permit," "authority,"
2 and "registration."

3 9. Section 4301 of the Code states:

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

8

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

12

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

. . . .

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal
license on the ground that the licensee or the registrant has been convicted of a crime,
the board, in evaluating the rehabilitation of such person and his present eligibility for
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

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(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

11. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to 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 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

COSTS

12. Section 125.3 of the Code states, in pertinent part, 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

(January 25, 2012 Criminal Conviction for Robbery on October 31, 2011)

13. Respondent has subjected his registration to discipline under sections 490 and 4301, subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about January 25, 2012, in a criminal proceeding entitled *People of the State of California v. Matthew Darling Monroe*, in Riverside County Superior Court, case number RIF1105582, Respondent was convicted on his plea of guilty to violating Penal Code section 211, robbery, a felony. The court found the conviction qualified as a strike offense.

b. As a result of the conviction, on or about January 25, 2012, the court sentenced Respondent to serve 240 days in the custody of the Riverside County Sheriff, with credit for 20 days, and ordered him to pay \$1,782.10 in fees and fines. Respondent was further ordered to pay victim restitution, submit to a Fourth Amendment waiver, provide a DNA sample, participate and

1 complete any counseling or rehabilitation/treatment program deemed appropriate by probation
2 officer, and seek and maintain gainful employment or attend a full-time school or vocational
3 program. Respondent was prohibited from contact with his victim, associating with any unrelated
4 person on probation or parole, leaving the State of California without written permission of the
5 probation department, and from owning or possessing any firearm, deadly weapon, ammunition
6 or weapon related paraphernalia.

7 c. The facts that led to the conviction are that on or about the morning of October
8 31, 2011, the Riverside Police Department responded to a report of a strong arm robbery outside
9 of a Bank of America. The victim, a 44-year-old female, told officers that she had just cashed a
10 check for \$540 at the Bank of America and placed the money in her purse. The officer observed
11 that the victim had fresh scratches on her face and she was bleeding and trembling. The victim
12 stated she exited the bank with her purse on her right shoulder and walked to her vehicle. As she
13 was attempting to open the driver's door, Respondent came up from behind and grabbed the
14 victim's purse. A struggle ensued; the victim fell to the ground, but continued to hold onto her
15 purse. Several witnesses told police officers that they heard the victim scream. As the victim lay
16 on the ground, Respondent repeatedly punched the victim until he was able to pull the purse away
17 from her. Several people chased Respondent as he ran away with the victim's purse, including an
18 off-duty Riverside County Sheriff's Deputy. Respondent was apprehended several blocks away.
19 The victim's purse, cash, and personal identification were recovered. A witness positively
20 identified Respondent as the person who committed the robbery. During questioning,
21 Respondent told the officers that rent was due and that he did not have any money or a job. When
22 he saw the victim leaving the bank, he took the opportunity to steal her purse.

23 SECOND CAUSE FOR DISCIPLINE

24 **(Commission of an Act Involving Moral Turpitude or Corruption)**

25 14. Respondent has subjected his registration to discipline under section 4301,
26 subdivision (f) of the Code in that he committed an act of moral turpitude and corruption when he
27 robbed a female victim, using force, fear, and violence, as described in paragraph 13, above.

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1 **DISCIPLINARY CONSIDERATIONS**

2 15. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
3 to California Code of Regulations, title 16, section 1769, Complainant alleges:

4 a. On or about May 18, 2006, in a prior criminal proceeding entitled *The State of*
5 *Texas vs. Matthew D. Monroe*, in Dallas County Criminal Court No. 5, case number MB0527314,
6 the court found Respondent guilty of committing the offense of criminal trespassing on May 10,
7 2005.

8 b. On or about September 12, 2005, in a prior criminal proceeding entitled *The*
9 *State of Texas vs. Matthew D. Monroe*, in Dallas County Criminal Court No. 5, case number
10 MB0528641, Respondent was charged with the offense of possessing marijuana on August 21,
11 2005. On or about May 18, 2006, the court convicted Respondent of a reduced charge of
12 disorderly conduct.

13 **PRAYER**

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

16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 109571,
17 issued to Matthew Darling Monroe;

18 2. Ordering Matthew Darling Monroe to pay the Board of Pharmacy the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
20 Code section 125.3;

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

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24 DATED: 7/19/12



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

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF PHARMACY