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

In the Matter of the Accusation Against:
**SAMANTHA C. TOOMER-FOSTER
7251 Brentwood Blvd. #115
Brentwood, CA 94513
Pharmacy Technician Registration No. TCH
90586**

Respondent.

Case No. 4480

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 1, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4480 against Samantha C. Toomer-Foster (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about April 27, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 90586 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4480 and will expire on August 31, 2014, unless renewed.

1 3. On or about March 18, 2013, Respondent was served by Certified and First Class
2 Mail copies of Accusation No. 4480, 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 7251 Brentwood Blvd. #115
8 Brentwood, CA 94513.

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. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4480.

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. 4480, finds that
the charges and allegations in Accusation No. 4480 are separately and severally found to be true
and correct by clear and convincing evidence.

1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$775.00 as of May 7, 2013.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Samantha C. Toomer-Foster has
6 subjected her Pharmacy Technician Registration No. TCH 90586 to discipline.

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

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

11 a. Business and Professions Code sections 490 and 4301, subdivision (l): conviction of a
12 crime substantially related to the qualifications, functions, and duties of a pharmacy technician.

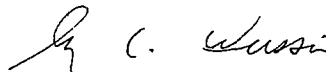
13 ORDER

14 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 90586, heretofore
15 issued to Respondent Samantha C. Toomer-Foster, is revoked.

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

20 This Decision shall become effective on September 16, 2013.

21 It is so ORDERED August 15, 2013.

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24 STANLEY C. WEISSER, BOARD PRESIDENT
25 FOR THE BOARD OF PHARMACY
26 DEPARTMENT OF CONSUMER AFFAIR

27 default decision_LIC.rtf
28 DOJ Matter ID:SF2012403280

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004 -
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4480

12 **SAMANTHA C. TOOMER-FOSTER**
13 **7251 Brentwood Blvd. #115**
Brentwood, CA 94513

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **90586**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 27, 2009, the Board issued Pharmacy Technician Registration
23 Number TCH 90586 to Samantha C. Toomer-Foster (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on August 31, 2014, unless renewed.

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1 are as follows:

2 a. On or about August 19, 2011, officers of the Sacramento Sheriff's Department
3 approached a vehicle in which Respondent was a passenger that was parked near a motel.
4 Respondent was a registered guest at the motel. The officers determined that the driver of the
5 vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their
6 vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a
7 plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription
8 bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill;
9 three (3) Clonazepam pills; and four (4) Diazepam pills.

10 b. After performing the vehicle search, the officers performed a search of Respondent's
11 motel room, during which they discovered a woman's purse containing the following items: one
12 (1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam
13 pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.

14 c. After discovering these items, the officers arrested Respondent.

15 d. Respondent did not have a valid prescription for any of the above-listed medication.

16 e. On or about October 20, 2011, in Sacramento County Superior Court (Case No.
17 11F05884), Respondent was convicted by her plea of nolo contendere of violating Health and
18 Safety Code section 11350 (possession of a controlled substance), a felony.

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PRAYER

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

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90586
24 issued to Samantha C. Toomer-Foster;

25 2. Ordering Samantha C. Toomer-Foster to pay the Board of Pharmacy the reasonable
26 costs of the investigation and enforcement of this case pursuant to Business and Professions Code
27 section 125.3;

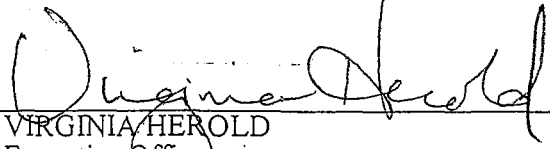
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3. Taking such other and further action as deemed necessary and proper.

DATED:

3/1/13



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

SF2012403280