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8	1	RE THE PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF CALIFORNIA		
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12	In the Matter of the Accusation Against:	Case No. 4480	
13	SAMANTHA C. TOOMER-FOSTER 7251 Brentwood Blvd, #115		
14	Brentwood, CA 94513 Pharmacy Technician Registration No. TCH	DEFAULT DECISION AND ORDER	
15	90586	[Gov. Code, §11520]	
16			
17 18	Respondent.		
18			
20	FINDINGS OF FACT		
21	1. On or about March 1, 2013, Complainant Virginia K. Herold, in her official capacity		
22	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed		
23	Accusation No. 4480 against Samantha C. Toomer-Foster (Respondent) before the Board of		
24	Pharmacy. (Accusation attached as Exhibit A.)		
25	2. On or about April 27, 2009, the Board of Pharmacy (Board) issued Pharmacy		
26	Technician Registration No. TCH 90586 to Respondent. The Pharmacy Technician Registration		
27	was in full force and effect at all times relevant to the charges brought in Accusation No. 4480		
28	and will expire on August 31, 2014, unless renewed.		
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		DEFAULT DECISION AND ORDER	

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 Brentwood, CA 94513.		
8	4. Service of the Accusation was effective as a matter of law under the provisions of		
9	Government Code section 11505, subdivision (c) and/or Business & Professions Code section		
10	124.		
11	5. Government Code section 11506 states, in pertinent part:		
12 13 14	(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.		
15	6. 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. 4480.		
17	7. California Government Code section 11520 states, in pertinent part:		
18 19	(a) If the respondent either fails to file a notice of defense or to appear at the 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 respondent.		
21	8. Pursuant to its authority under Government Code section 11520, the Board finds		
22	Respondent is in default. The Board will take action without further hearing and, based on the		
23	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as		
24	taking official notice of all the investigatory reports, exhibits and statements contained therein on		
25	file at the Board's offices regarding the allegations contained in Accusation No. 4480, finds that		
26	the charges and allegations in Accusation No. 4480 are separately and severally found to be true		
27 28	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 FOR THE BOARD OF PHARMACY	
25	default decision LIC.rtf	
26	DOJ Matter ID:SF2012403280	
27	Attachment: Exhibit A: Accusation	
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1	3	
	DEFAULT DECISION AND ORDER	

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Exhibit A

Accusation

1 2 3 4 5 6 7 8 9 10	BOARD OF DEPARTMENT OF O	RE THE PHARMACY CONSUMER AFFAIRS CALIFORNIA	
11	Le the Matter of the Assuration Assist	Core No. 1490	
12	In the Matter of the Accusation Against: SAMANTHA C. TOOMER-FOSTER	Case No. 4480	
12	7251 Brentwood Blvd. #115 Brentwood, CA 94513	ACCUSATION	
14	Pharmacy Technician Registration No. TCH	ACCUSATION	
15	90586		
16	Respondent.		
17	nga an]	
18	Complainant alleges:		
19	PAR	TIES	
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-Fc	ster (Respondent). The Pharmacy Technician	
24	Registration was in full force and effect at all tin	nes relevant to the charges brought herein and	
25	will expire on August 31, 2014, unless renewed.		
26	111		
27	///		
28	111		
		1	
		ACCUSATION	

	UDISDICTION	
1	JURISDICTION	
2	3. This Accusation is brought before the Board under the authority of the following	
3	laws. All section references are to the Business and Professions Code (Code) unless otherwise	
4	indicated.	
5	STATUTORY AND REGULATORY PROVISIONS	
6	4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,	
7		
8	disciplinary action during the period within which the license may be renewed, restored, reissued	
9	or reinstated.	
10	5. Section 490 of the Code provides, in pertinent part, that a board may suspend or	
11	revoke a license on the ground that the licensee has been convicted of a crime substantially	
12	related to the qualifications, functions, or duties of the business or profession for which the	
13	license was issued.	
14	6. Section 4300 of the Code states in pertinent part:	
15	"(a) Every license issued may be suspended or revoked.	
16	5) 	
17	7. Section 4300.1 of the Code states:	
18	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by	
19	operation of law or by order or decision of the board or a court of law, the placement of a license	
20	on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board	
21	of jurisdiction to commence or proceed with any investigation of, or action or disciplinary	
22	proceeding against, the licensee or to render a decision suspending or revoking the license."	
23	8. Section 4301 of the Code states in pertinent part:	
24	"The board shall take action against any holder of a license who is guilty of unprofessional	
25	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
26	Unprofessional conduct shall include, but is not limited to, any of the following:	
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"(1) The conviction of a crime substantially related to the qualifications, functions, and 1 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 2 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 3 substances or of a violation of the statutes of this state regulating controlled substances or 4 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 5 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. б The board may inquire into the circumstances surrounding the commission of the crime, in order 7 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 8 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 9 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 10 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 11 of this provision. The board may take action when the time for appeal has elapsed, or the 12 judgment of conviction has been affirmed on appeal or when an order granting probation is made 13 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 14 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 15 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 16 indictment. 17

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COSTS

9. 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.

CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

26 10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
27 (1) of the Code in that she was convicted of a crime substantially related to the qualifications.

28 || functions, and duties of a pharmacy technician. The circumstances of Respondent's conviction

are as follows:

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a. On or about August 19, 2011, officers of the Sacramento Sheriff's Department 2 approached a vehicle in which Respondent was a passenger that was parked near a motel. 3 Respondent was a registered guest at the motel. The officers determined that the driver of the 4 vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their 5 vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a 6 plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription 7 bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill; 8 three (3) Clonazepam pills; and four (4) Diazepam pills. 9 h. After performing the vehicle search, the officers performed a search of Respondent's 10 motel room, during which they discovered a woman's purse containing the following items: one 11 (1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam 12

13 pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.

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

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

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:

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

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

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Taking such other and further action as deemed necessary and proper. 3. DATED: VIRGINIA/HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California *Complainant* SF2012403280 ACCUSATION