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

In the Matter of the Accusation Against:
DANNY SOUSA AZEVEDO
8711 W. Doe Ave.
Visalia, CA 93291

**Designated Representative Certificate No.
EXV 21320**

Respondent.

Case No. 4705
OAH No. 2013120232
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 21, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer Affairs, filed Accusation No. 4705 against Danny Sousa Azevedo (“Respondent”) before the Board. (Accusation attached as Exhibit A.)
2. On or about November 3, 2011, the Board issued Designated Representative Certificate No. EXV 21320 to Respondent. The Designated Representative Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 4705 and will expire on November 1, 2014, unless renewed.
3. On or about November 7, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4705, 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 Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is:

4 8711 W. Doe Ave.
5 Visalia, CA 93291.

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.

9 5. On or about November 20, 2013, Respondent signed and returned a Notice of
10 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at
11 Respondent's address of record, and also at the address listed on the Notice of Defense, which
12 was 940 Randle Court, Tulare, CA 93274, and it informed him that an administrative hearing in
13 this matter was scheduled for August 11, 2014. Respondent failed to appear at that hearing.

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. 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. 4705, finds that
the charges and allegations in Accusation No. 4705, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 consumption of alcohol in a manner dangerous or injurious to himself or others, as more fully set
2 forth above in subparagraphs a.

3 c. Respondent is subject to discipline under Code section 4301, subdivision (o), in
4 that Respondent violated the laws and regulations governing pharmacy, as set forth above in
5 subparagraphs a and b.

6 **ORDER**

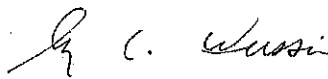
7 IT IS SO ORDERED that Designated Representative Certificate No. EXV 21320,
8 heretofore issued to Respondent Danny Sousa Azevedo, is revoked.

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

13 This Decision shall become effective on October 20, 2014.

14 It is so ORDERED September 18, 2014.

15
16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 By 
20 STAN C. WEISSER
21 Board President

22 11435166.DOC
23 DOJ Matter ID:SA2013111628

24 Attachment:
25 Exhibit A: Accusation No. 4705
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Exhibit A

Accusation No. 4705

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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4705

13 **DANNY SOUSA AZEVEDO**
8030 W. Doe Avenue
14 Visalia, CA 93291

A C C U S A T I O N

15 **Designated Representative Certificate No.**
EXV 21320

16 Respondent.
17

18
19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

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

23 2. On or about November 3, 2011, the Board of Pharmacy issued Designated
24 Representative Certificate Number EXV 21320 to Danny Sousa Azevedo ("Respondent"). The
25 Designated Representative Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on November 1, 2013, 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 unless otherwise indicated.

5 4. Code section 4300 states, in pertinent part, that every license issued may be suspended
6 or revoked.

7 5. Code section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 6. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty of unprofessional
16 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

17 ...

18 (h) The use of alcoholic beverages to the extent or in a manner as to be dangerous or
19 injurious to oneself, or to any other person or to the public, or to the extent that the use impairs
20 the ability of the person to conduct with safety to the public the practice authorized by the license.

21 ...

22 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
23 of a licensee under this chapter.

24 ...

25 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by the
28 board or by any other state or federal regulatory agency."

1 **COST RECOVERY**

2 7. Code Section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of Crime)**

9 8. Respondent is subject to discipline under Code section 4301, subdivision (I), in that on
10 or about January 7, 2013, in the case entitled *People v. Danny Sousa Jr Azevedo* (Tulare County
11 Superior Court No. VCM 276487), Respondent was convicted after his plea of nolo contendere to
12 a violation of Vehicle Code section 23152, subdivision (b) (driving while having a 0.08% BAC or
13 higher), a misdemeanor, with enhancement for violation of Vehicle Code section 23578
14 (concentration of 0.15% BAC or higher). The circumstances are as follows:

15 9. On or about December 1, 2012, Respondent was observed by a police officer driving
16 erratically and the officer conducted an enforcement stop as a result. When asked by the officer,
17 Respondent admitted to consuming three beers at this home earlier that evening. The Officer
18 conducted a series of Field Sobriety Tests, which Respondent failed to perform as explained and
19 demonstrated. The Officer concluded that Respondent was driving while under the influence of an
20 alcoholic beverage and arrested Respondent for violating Vehicle Code section 23152, subdivision
21 (a) (DUI Alcohol/Drugs). Respondent was transported to the Tulare Police Station where he
22 submitted a breath test, which resulted in Blood Alcohol Content (BAC) readings of 0.28% at
23 1:22 a.m., 0.26% at 1:46 a.m., and 0.26% at 1:49 a.m.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Use of Alcohol in a Manner Dangerous or Injurious to Self or Others)**

26 10. Respondent is subject to discipline under Code section 4301, subdivision (h), in that
27 on our about January 7, 2013, Respondent was convicted of a crime involving the consumption of
28

1 alcohol in a manner dangerous or injurious to himself or others, as more fully set forth above in
2 paragraphs 8 and 9.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violating Laws and Regulations Governing Pharmacy)**

5 11. Respondent is subject to discipline under Code section 4301, subdivision (o), in that
6 Respondent violated the laws and regulations governing pharmacy, as set forth above in
7 paragraphs 8 through 10.

8 **PRAYER**

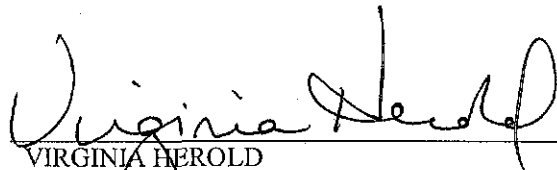
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Designated Representative Certificate Number EXV 21320,
12 issued to Danny Sousa Azevedo.;

13 2. Ordering Danny Sousa Azevedo to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;

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

17
18
19 DATED: 10/21/13



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

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