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8		RE THE
9	DEPARTMENT OF C	PHARMACY CONSUMER AFFAIRS CALIFORNIA
10	STAIL OF C	ALIFURNIA
11		
12	In the Matter of the Accusation Against:	Case No. 4717
13		
14	AMOND DELVON SANDERS 201 Maine Street, B2	DEFAULT DECISION AND ORDER
15	Vallejo, CA 94590 Pharmacy Technician Registration No. TCH	[Gov. Code, §11520]
16	41584	
17	Descentent	
18	Respondent.	
19	FINDING	S OF FACT
20	1. On or about March 7, 2014, Compla	inant Virginia Herold, in her official capacity as
21	the Executive Officer of the Board of Pharmacy,	Department of Consumer Affairs, filed
22	Accusation No. 4717 against Amond Delvon Sar	nders (Respondent) before the Board of
23	Pharmacy. (Accusation attached as Exhibit A.)	
24	2. On or about September 19, 2002, the	Board of Pharmacy (Board) issued Pharmacy
25	Technician Registration No. TCH 41584 to Resp	ondent. The Pharmacy Technician Registration
26	was in full force and effect at all times relevant t	o the charges brought in Accusation No. 4717
27	and will expire on May 31, 2014, unless renewed	1.
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1	3. On or about March 17, 2014, Respondent was served by Certified and First Class	
2	Mail copies of the Accusation No. 4717, Statement to Respondent, Notice of Defense, Request	
3	for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and	
4	11507.7) at Respondent's address of record which, pursuant to Business and Professions Code	
5	section 4100, is required to be reported and maintained with the Board. Respondent's address of	
6	record was and is: 201 Maine Street, B2, Vallejo, CA 94590.	
7	4. Service of the Accusation was effective as a matter of law under the provisions of	
8	Government Code section 11505, subdivision (c) and/or Business & Professions Code section	
9	124.	
10	5. On or about March 31, 2014 and April 21, 2014, the aforementioned documents were	
11	returned by the U.S. Postal Service marked "Return to Sender, Unable to Forward, Attempted-	
12	Not Known."	
13	6. Government Code section 11506 states, in pertinent part:	
14	(c) The respondent shall be entitled to a hearing on the merits if the respondent	
15 16	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.	
17	7. Respondent failed to file a Notice of Defense within 15 days after service upon him	
18	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.	
19	4717.	
20	8. 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 or upon other evidence and affidavits may be used as evidence without any notice to	
23	respondent.	
24	9. Pursuant to its authority under Government Code section 11520, the Board finds	
25	Respondent is in default. The Board will take action without further hearing and, based on the	
26	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as	
27	taking official notice of all the investigatory reports, exhibits and statements contained therein on	
28	file at the Board's offices regarding the allegations contained in Accusation No. 4717, finds that	
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1	the charge	es and allegations in Accusation No. 4717, are separately and severally, found to be true
2	and correct by clear and convincing evidence.	
3	10.	Taking official notice of its own internal records, pursuant to Business and
4	Profession	as Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5	and Enfor	cement are \$2,790.00 as of April 28, 2014.
6		DETERMINATION OF ISSUES
7	1.	Based on the foregoing findings of fact, Respondent Amond Delvon Sanders has
8	subjected his Pharmacy Technician Registration No. TCH 41584 to discipline.	
9	2.	The agency has jurisdiction to adjudicate this case by default.
10	3.	The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
11	Registratio	on based upon the following violations alleged in the Accusation which are supported
12	by the evi	dence contained in the Default Decision Evidence Packet in this case:
13	a.	Business and Professions Code (Code) section 4301, subdivision (1), Conviction of
14	Substantia	Illy Related Crime;
15	b.	Code section 4301, subdivision (h), Dangerous and/or Injurious Use of Alcohol;
16	с.	Code section 4301, subdivision (k), Conviction of Alcohol-Related Offense(s); and
17	d.	Code section 4301, Unprofessional Conduct.
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ł	1	DEFAULT DECISION AND ORDER

1	ORDER		
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 41584, heretofore		
3	issued to Respondent Amond Delvon Sanders, is revoked.		
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a		
5	written motion requesting that the Decision be vacated and stating the grounds relied on within		
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may		
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.		
8	This Decision shall become effective on June 20, 2014.		
9	It is so ORDERED May 21, 2014.		
10	BOARD OF PHARMACY		
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
12			
13	By <u>G. Wussi</u>		
14	STAN C. WEISSER Board President		
15	40954589.DOC DOJ Matter ID:SF2013405050		
16	Attachment: Exhibit A: Accusation		
17	Exhibit A. Accusation		
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	4 DEFAULT DECISION AND ORDER		

## Exhibit A

Accusation

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1 2 3 4 5 6 7 8 9	KAMALA D. HARRIS Attorney General of California JOSHUA A. ROOM Supervising Deputy Attorney General ROSAILDA PEREZ Deputy Attorney General State Bar No. 284646 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-1618 Facsimile: (415) 703-5480 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		
11	In the Matter of the Accusation Against: Case No. 4717	
12	AMOND DELVON SANDERS 201 Maine Street, B2	
13	Vallejo, CA 94590 A C C U S A T I O N	
14	Pharmacy Technician Registration No. TCH 41584	
15	Respondent.	
16		
:17	Complainant alleges:	
18	PARTIES	
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as	
20	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.	
21	2. On or about September 19, 2002, the Board of Pharmacy issued Pharmacy Technician	
22	Registration Number TCH 41584 to Amond Delvon Sanders (Respondent). The Pharmacy	
23	Technician Registration was in full force and effect at all times relevant to the charges brought	
24	herein and will expire on May 31, 2014, unless renewed.	
25	JURISDICTION	
26	3. This Accusation is brought before the Board under the authority of the following laws.	
27	All section references are to the Business and Professions Code (Code) unless otherwise	
28	indicated.	
	1	
	Accusation	

4. Code section 4011 provides that the Board shall administer and enforce both the 1 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act 2 [Health & Safety Code, § 11000 et seq.]. 3 5. Code section 4300(a) provides that every license issued by the Board may be 4 suspended or revoked. 5 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or 6 suspension of a Board-issued license, the placement of a license on a retired status, or the 7 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to 8 commence or proceed with any investigation of, or action or disciplinary proceeding against, the 9 licensee or to render a decision suspending or revoking the license. 10 STATUTORY AND REGULATORY PROVISIONS 11 7. Code section 4301 states: 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 11 16 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous 17 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to 18 oneself, to a person holding a license under this chapter, or to any other person or to the public, or 19 to the extent that the use impairs the ability of the person to conduct with safety to the public the 20 practice authorized by the license. 21 22 "(k) The conviction of more than one misdemeanor or any felony involving the use, 23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any 24 combination of those substances. 2526 "(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 28 2

substances or of a violation of the statutes of this state regulating controlled substances or 1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 3 The board may inquire into the circumstances surrounding the commission of the crime, in order to 4 fix the degree of discipline or, in the case of a conviction not involving controlled substances or 5 dangerous drugs, to determine if the conviction is of an offense substantially related to the 6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 8 of this provision. The board may take action when the time for appeal has elapsed, or the 9 judgment of conviction has been affirmed on appeal or when an order granting probation is made 10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 13indictment. 14

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

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9. 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."

26

COST RECOVERY

27 10. Code section 125.3 states, in pertinent part, that the Board may request the
28 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.

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## <u>FACTS</u>

On or about October 23, 2012, in the Superior Court of California, County of Contra 11. 4 Costa, State of California, Case No. 12002462-0, Respondent was convicted of violating Vehicle 5 Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or greater), with 6 priors, a felony. Respondent admitted to three (3) prior alcohol related convictions within ten 7 years. Imposition of sentence was suspended in favor of a four (4) year formal probation term. 8 Respondent was ordered to, among other things, spend 180 days in jail, submit to drug testing, 9 complete a Post Conviction Drinking Driver's Program, and pay fines and fees. The conviction 10 arose from an incident that occurred on or about May 23, 2012 when officers pulled Respondent .11 over during a routine traffic stop. Respondent admitted consuming two beers prior to driving and 12 officers found an open bottle of Hennessy in the center console that was <sup>3</sup>/<sub>4</sub> empty. The 13 Preliminary Alcohol Screening (PAS) device measured Respondent's blood alcohol level at .150% 14 and .160%. 15

16 12. On or about June 24, 2004, in the Superior Court of California, County of Alameda,
17 State of California, Case No. 494658, Respondent was convicted of violating Vehicle Code
18 section 23103.5 (alcohol related reckless driving), a misdemeanor. Imposition of sentence was
19 suspended in favor of a two (2) year probation term. Respondent was ordered to, among other
20 things, serve two (2) days in county jail, pay fines and fees, abstain from having or using drugs,
21 and submit to alcohol detection tests. The conviction arose from Respondent's arrest on or about
22 December 21, 2003.

13. On or about March 22, 2004, in the Superior Court of California, County of Solano,
Case No. FCR 208732, Respondent was convicted of violating Vehicle Code sections 23152,
subdivision (a) (driving under the influence), with two (2) priors, a misdemeanor; 23222,
subdivision (a) (possession of open container while driving), a misdemeanor; and 27315,
subdivision (d)(1) (failure to wear seatbelt), a misdemeanor. Imposition of sentence was
suspended in favor of a three (3) year formal probation term to be served consecutively with Case

No. VCR 171465. Respondent was ordered to, among other things, serve 365 days in jail, commit
 himself to CAT II, pay fines and fees, totally abstain from using drugs and alcohol, submit to
 alcohol and drug testing at any time, and submit his person and property to warrantless searches.
 The conviction arose from Respondent's arrest on or about June 19, 2003.

5 14. On or about March 10, 2004, in the Superior Court of California, County of Solano, 6 Case No. VCR 171465, Respondent was convicted of violating Vehicle Code section 23152, 7 subdivision (b) (driving with a blood alcohol level of .08 percent or greater), with one prior, a 8 misdemeanor. Imposition of sentence was suspended in favor of a three (3) year formal probation 9 term to be served consecutively with Case No. FCR 208732 (paragraph 13, above). The 10 conviction arose from Respondent's arrest on or about January 3, 2004.

11 15. On or about May 1, 2003, in the Superior Court of California, County of Solano, Case 12 No. VCR 163938, Respondent was convicted of violating Vehicle Code section 14601.1, 13 subdivision (a) (driving with suspended license), a misdemeanor. Imposition of sentence was 14 suspended in favor of a two (2) year probation term. Respondent was ordered to, among other 15 things, serve five (5) days in county jail, pay fines and fees, submit to alcohol and drug testing at 16 any time, attend counseling and therapy, and attend a parenting class. The conviction arose from 17 Respondent's arrest on or about October 12, 2002.

16. On or about May 3, 2002, in the Superior Court of California, County of Solano, Case
 No. VCR 156054, Respondent was convicted of violating Vehicle Code section 23152,
 subdivision (b) (driving with a blood alcohol level of .08 percent or greater), a misdemeanor.
 Imposition of sentence was suspended in favor of a three (3) year probation term. Respondent
 was ordered to, among other things, serve seven (7) days in county jail, pay fines and fees, submit
 to alcohol and drug testing at any time, and attend a first offender DUI program.

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## FIRST CAUSE FOR DISCIPLINE

25

(Conviction of Substantially Related Crime(s))

Respondent is subject to disciplinary action under Code sections 4301, subdivision (l),
and/or 490, by reference to California Code of Regulations, title 16, section 1770, for the
conviction of a substantially related crime(s) as described in paragraphs 11-16, above.

1	SECOND CAUSE FOR DISCIPLINE	
2	(Dangerous or Injurious Use of Alcohol)	
3	18. Respondent is subject to discipline under Code section 4301, subdivision (h), in that	
4	Respondent used alcohol in a dangerous or injurious manner as described in paragraphs 11-14, and	
5	16, above.	
6	THIRD CAUSE FOR DISCIPLINE	
7	(Conviction of Alcohol-Related Offense(s))	
8	19. Respondent is subject to discipline under Code section 4301, subdivision (k), in that	
9	Respondent was convicted of more than one misdemeanor and/or a felony, involving alcohol, as	
10	described in paragraphs 11-14, and 16, above.	
11	· FOURTH CAUSE FOR DISCIPLINE	
12	(Unprofessional Conduct)	
13	20. Respondent is subject to discipline under Code section 4301, in that Respondent	
14	engaged in unprofessional conduct as described in paragraphs 11-16, above.	
15	PRAYER	
16	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
17	and that following the hearing, the Board of Pharmacy issue a decision:	
18	1. Revoking or suspending Pharmacy Technician Registration Number TCH 41584,	
19	issued to Amond Delvon Sanders;	
20	2. Ordering Amond Delvon Sanders to pay the Board of Pharmacy the reasonable costs	
21	of the investigation and enforcement of this case, pursuant to Business and Professions Code	
22	section 125.3;	
23	3. Taking such other and further action as deemed necessary and proper.	
24	DATED: 3/7/14 () ingina Herde	
25	VIRGINIA HEROLD Executive Officer	
26	Board of Pharmacy Department of Consumer Affairs	
27	State of California	
28	<i>Complainant</i> SF2013405050/40895621.doc	
	6	
•	Accusation	