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

In the Matter of the Accusation Against:

TUTANKHA NYAJU ALLEN
4571 Orchid Dr.
Los Angeles, CA 90043

Pharmacy Technician Registration
No. TCH 58569

Respondent.

Case No. 4869

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 4, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4869 against Tutankha Nyaju Allen (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 24, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 58569 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4869 and will expire on August 31, 2014, unless renewed.

3. On or about December 6, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4869, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 4571 Orchid Dr., Los Angeles, CA 90043.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about February 24, 2014, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Return to sender." The address on the documents was the same as
10 the address on file with the Board. Respondent failed to maintain an updated address with the
11 Board and the Board has made attempts to serve the Respondent at the address on file.
12 Respondent has not made himself available for service and therefore, has not availed himself of
13 his right to file a notice of defense and appear at 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. 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 4869.

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. 4869, finds that
2 the charges and allegations in Accusation No. 4869, 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 \$1,250.00 as of April 4, 2014.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Tutankha Nyaju Allen has
9 subjected his Pharmacy Technician Registration No. TCH 58569 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) Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction
15 with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of
16 a crime substantially related to the qualifications, functions or duties of a pharmacy technician as
17 follows:

18 (i) On or about March 21, 2013, after pleading guilty, Respondent was convicted
19 of one felony count of violating Penal Code section 530.5, subdivision (c)(3) [multiple identifying
20 information theft] and one felony count of Penal Code section 502, subdivision (c) [fraudulent
21 computer access] in the criminal proceeding entitled *The People of the State of California v.*
22 *Tutanka Nyaju Allen* (Super. Ct. Los Angeles County, 2013, No. BA408786.)

23 (b) Business and Professions Code sections 4301, subdivision (f), in that Respondent
24 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent
25 to substantially benefit himself, or substantially injure another.

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ORDER

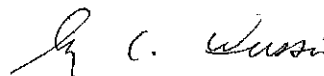
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 58569, heretofore issued to Respondent Tutankha Nyaju Allen, is revoked.

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 June 20, 2014.

It is so ORDERED ON May 21, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

51488208.DOC
LA2013509894

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
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5 Los Angeles, CA 90013
Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804

7 *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. 4869

13 **TUTANKHA NYAJU ALLEN**
4571 Orchid Dr.
14 Los Angeles, CA 90043

A C C U S A T I O N

15 Pharmacy Technician Registration
16 No. TCH 58569

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 March 24, 2005, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 58569 to Tutankha Nyaju Allen (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 August 31, 2014, unless renewed.

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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 unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 4300 provides in pertinent part, that every license issued by the Boards is
21 subject to discipline, including suspension or revocation.

22 6. Section 4300.1 states:

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

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1 7. Section 4301 states, in pertinent part:

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

5

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

9

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

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1 sentenced Respondent to serve 6 days in Los Angeles County Jail and placed him on 36 months
2 formal probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or between August 6, 2012
4 and October 27, 2012, Respondent used his mother's credit cards and bank card to make
5 unauthorized transactions and withdrawals. Respondent admitted to his mother that he had used
6 her credit cards and bank card. Respondent was subsequently arrested when she reported the
7 unauthorized use to police.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Acts Involving Moral turpitude, Dishonesty, Fraud, Deceit, or Corruption**

10 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
11 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption
12 with the intent to substantially benefit himself, or substantially injure another. Complainant refers
13 to, and by reference incorporates, the allegations set forth above in paragraph 10, subparagraph
14 (b), as though set forth fully.

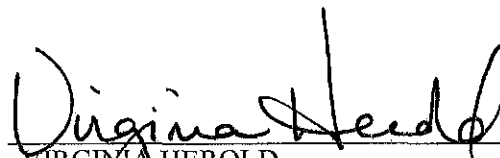
15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board issue a decision:

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 58569, issued to
19 Tutankha Nyaju Allen;
- 20 2. Ordering Tutankha Nyaju Allen to pay the Board the reasonable costs of the
21 investigation and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24
25 DATED: _____

11/4/13



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