1	
1	
2	
3	
4	
5	BEFORE THE
6	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
7	STATE OF CALIFORNIA
8	
9	In the Matter of the Accusation Against: Case No. 4898
10	KHAMMEE VANG 5704 E. Beck Ave., #1
11	Fresno, CA 93727 DEFAULT DECISION AND ORDER
12	Pharmacy Technician Registration No. TCH108621[Gov. Code, §11520]
13	Respondent.
14	
15	
16	FINDINGS OF FACT
17	1. On or about April 18, 2016, Complainant Virginia K. Herold, in her official capacity
18	as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs,
19	filed Accusation No. 4898 against Khammee Vang ("Respondent") before the Board.
20	_(Accusation attached as Exhibit A.)
21	2. On or about December 27, 2010, the Board issued Pharmacy Technician Registration
22	No. TCH 108621 to Respondent. The Pharmacy Technician Registration expired on January 31,
23	2014, and was cancelled on May 4, 2014.
24	3. On or about April 26, 2016, Respondent was served by Certified and First Class Mail
25	copies of the Accusation No. 4898, Statement to Respondent, Notice of Defense, Request for
26	Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) a
27	Respondent's address of record which, pursuant to California Code of Regulations, title 16,
28	1
	(KHAMMEE VANG) DEFAULT DECISION & ORDER Case No. 4898
l	l l l l l l l l l l l l l l l l l l l

1	section 1409.1, is required to be reported and maintained with the Board. Respondent's address
2	of record was and is: 5704 E. Beck Ave., #1, Fresno, CA 93727.
3	4. Service of the Accusation was effective as a matter of law under the provisions of
4	Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5	124.
6	5. No documents were returned by the U.S. Postal Service marked as undeliverable.
7	6. Government Code section 11506(c) states, in pertinent part:
8	(c) The respondent shall be entitled to a hearing on the merits if the respondent
9 10	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.
10	7. Respondent failed to file a Notice of Defense within 15 days after service upon him
.12	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
13	4898.
14	8. California Government Code section 11520(a) states, in pertinent part:
15	(a) If the respondent either fails to file a notice of defense or to appear at
16	the 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
17	any notice to respondent
18	9. Pursuant to its authority under Government Code section 11520, the Board finds
19	Respondent is in default. The Board will take action without further hearing and, based on the
20	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
21	taking official notice of all the investigatory reports, exhibits and statements contained therein on
22	file at the Board's offices regarding the allegations contained in Accusation No. 4898, finds that
23	the charges and allegations in Accusation No. 4898, are separately and severally, found to be true
24	and correct by clear and convincing evidence.
25	10. Taking official notice of its own internal records, pursuant to Business and
26	Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
27	and Enforcement is \$1529.00 as of May 31, 2016.
28	
	2 (KHAMMEE VANG) DEFAULT DECISION & ORDER Case No. 4898

1	DETERMINATION OF ISSUES
2	1. Based on the foregoing findings of fact, Respondent Khammee Vang has subjected
3	his Pharmacy Technician Registration No. TCH 108621 to discipline.
4	2. The agency has jurisdiction to adjudicate this case by default.
5	3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6	Registration based upon the following violations alleged in the Accusation which are supported
7	by the evidence contained in the Default Decision Evidence Packet in this case.:
8	a. Respondent is subject to disciplinary action under Code section 4301, subdivision $(l)$ ,
9	on the grounds of unprofessional conduct, in that on or about November 4, 2013, in the case of
10	People v. Khammee Vang (Sacramento Superior Court Case No. 13F03767), Respondent was
11	convicted by the Court on his pleas of nolo contendere of violating Penal Code section 261.5,
12	subdivision (c) (unlawful sexual intercourse with a minor who is more than three years younger
13	than defendant), a felony, and Penal Code section 288a, subdivision (b)(1) (oral copulation with a
14	minor), a felony. The facts and circumstances are that on or about and between January 15, 2012
15	and May 15, 2012, Respondent engaged in an act of unlawful sexual intercourse and did
16	unlawfully participate in an act of oral copulation with Jane Doe, age 16 years, not the spouse of
17	Respondent, the minor being more than three years younger than Respondent. The crimes are
18	substantially related to the qualifications, functions and duties of a licensed pharmacy technician.
19	///
20	
21	///
22	
23	
24	
25	
26	
27	
28	///
	3 (KHAMMEE VANG) DEFAULT DECISION & ORDER Case No. 4898

1	ORDER
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 108621, heretofore
3	issued to Respondent Khammee Vang, 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 at 5:00 p.m. on August 12, 2016.
9	It is so ORDERED on July 13, 2016.
10	BOARD OF PHARMACY
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
12	
13	Aghcfoitig
14	
15	By Amy Gutierrez, Pharm.D.
16	Board President
17	12285787.DOC
18	DOJ Matter ID;SA2016100864
19	Attachment: Exhibit A: Accusation No. 4898
21	
22	
23	
24	
25	
26	
27	
28	4
	(KHAMMEE VANG) DEFAULT DECISION & ORDER Case No. 4898

# Exhibit A

Accusation No. 4898

KAMALA D. HARRIS Attorney General of California KENT D. HARRIS Supervising Deputy Attorney General STEPHANE ALAMO-LATIF Deputy Attorney General State Bar No. 283580 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 327-6819 Facsimile: (916) 327-8643 E-mail: Stephanie.AlamoLatif@doj.ca.gov Attorneys for Complainant

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

. 16

17

.18

19

20

21

22

23

24

25

26

27

28

W

///

III.

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

In the Matter of the Accusation Against:

KHAMMEE VANG 5704 W. Beck Ave., #1 Fresno, CA 93727 Case No. 4898

# ACCUSATION

Pharmacy Technician Registration No. TCH 108621

Respondent.

Virginia Herold ("Complainant") alleges:

### PARTIES

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

2. On or about December 27, 2010, the Board issued Pharmacy Technician Registration Number TCH 108621 to Khammee Vang ("Respondent"). The Pharmacy Technician Registration expired on January 31, 2014, and was cancelled on May 4, 2015.

1

(KHAMMEE VANG) ACCUSATION

# JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Code section 4300.1 states:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

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

# STATUTORY PROVISIONS

5. Code section 4301 states:

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

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

...

#### COST RECOVERY

6. Code section 125.3 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 Crime)

7. Respondent is subject to disciplinary action under Code section 4301, subdivision (*l*), on the grounds of unprofessional conduct, in that on or about November 4, 2013, in the case of *People v. Khammee Vang* (Sacramento Superior Court Case No. 13F03767), Respondent was convicted by the Court on his pleas of nolo contendere of violating Penal Code section 261.5, subdivision (c) (unlawful sexual intercourse with a minor who is more than three years younger than defendant), a felony, and Penal Code section 288a, subdivision (b)(1) (oral copulation with a minor), a felony. The facts and circumstances are that on or about and between January 15, 2012 and May 15, 2012, Respondent engaged in an act of unlawful sexual intercourse and did unlawfully participate in an act of oral copulation with Jane Doe, age 16 years, not the spouse of Respondent, the minor being more than three years younger than Respondent. The crimes are substantially related to the qualifications, functions and duties of a licensed pharmacy technician.

# PRAYER

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

(KHAMMEE VANG) ACCUSATION

1. Revoking or suspending Pharmacy Technician Registration Number TCH 108621, issued to Khammee Vang;

2. Ordering Khammee Vang 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;

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

2/16 DATED:

VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs

State of California

Complainant

SA2016100864 12218931.doc

-1

-18

(KHAMMEE VANG) ACCUSATION