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

In the Matter of the Accusation Against:

ABRAHAM CHRISTO J. DU PLESSIS
4787 Patricia Drive
Eureka, CA 95503
Pharmacist License No. RPH 62535

Respondent.

Case No. 5147

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 16, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5147 against Abraham Christo J. Du Plessis (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about July 23, 2009, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 62535 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5147 and expired on February 28, 2015.

1 3. On or about September 25, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5147, 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:

7 4787 Patricia Drive
8 Eureka, CA 95503.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about October 22, 2014, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Unclaimed."

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 5147.

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. 5147, finds that
2 the charges and allegations in Accusation No. 5147, 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 \$5,562.50 as of April 23, 2015.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Abraham Christo J. Du Plessis
9 has subjected his Pharmacist License No. RPH 62535 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 Pharmacist License
12 based upon the following violations alleged in the Accusation which are supported by the
13 evidence contained in the Default Decision Evidence Packet in this case.:

14 a. Dangerous Use of Alcohol (Bus. & Prof. Code, § 4301, subd. (h));

15 b. Conviction of a Crime (Bus. & Prof. Code, § 4301, subd. (l));

16 c. Dangerous Use of Alcohol (Bus. & Prof. Code, § 4301, subd. (h));

17 d. Violation of Controlled Substance Statute (Bus. & Prof. Code, § 4301, subd. (j)).

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ORDER

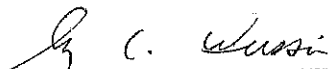
IT IS SO ORDERED that Pharmacist License No. RPH 62535, issued to Respondent Abraham Christo J. Du Plessis, is revoked.

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 29, 2015.

It is so ORDERED May 28, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER

Board President
90486432.DOC
DOJ Matter ID:SF2014902249

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 TIMOTHY J. McDONOUGH
Deputy Attorney General
4 State Bar No. 235850
1515 Clay Street, 20th Floor
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6 Telephone: (510) 622-2134
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7 E-mail: Tim.McDonough@doj.ca.gov
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5147

12 **ABRAHAM CHRISTO J. DU PLESSIS**
13 **4787 Patricia Drive**
14 **Eureka, CA 95503**

ACCUSATION

15 **Pharmacist License No. RPH 62535**

16 **Respondent.**

17
18 **Complainant alleges:**

19 **PARTIES**

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

22 2. On or about July 23, 2009, the Board of Pharmacy issued Pharmacist License
23 Number RPH 62535 to Abraham Christo J. Du Plessis (Respondent). The Pharmacist License
24 was in full force and effect at all times relevant to the charges brought in this Accusation and will
25 expire on February 28, 2015, 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. Section 4300 of the Code, states:

6 "(a) Every license issued may be suspended or revoked.

7 "(b) The board shall discipline the holder of any license issued by the board, whose default
8 has been entered or whose case has been heard by the board and found guilty, by any of the
9 following methods:

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

12 "(3) Suspending his or her right to practice for a period not exceeding one year.

13 "(4) Revoking his or her license.

14 "(5) Taking any other action in relation to disciplining him or her as the board in its
15 discretion may deem proper."

16 5. Section 4300.1 of the Code, states:

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

22 STATUTORY AND REGULATORY AUTHORITY

23 6. Section 4301 of the Code states, in relevant 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:

27 ...

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1 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
2 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
3 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
4 to the extent that the use impairs the ability of the person to conduct with safety to the public the
5 practice authorized by the license.

6 . . .

7 “(j) The violation of any of the statutes of this state, of any other state, or of the United
8 States regulating controlled substances and dangerous drugs.

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
18 or 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.”

27 7. Section 11170 of the Health and Safety Code, states:

28 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

1 **DRUG STATUTES**

2 8. Hydrocodone/acetaminophen is designated as a schedule III controlled substance by
3 Health and Safety Code section 11056, subdivision (e)(4).

4 9. Testosterone is designated as a schedule III controlled substance by Health and Safety
5 Code section 11056, subdivision (f)(30).

6 10. Alprazolam is designated as a schedule IV controlled substance by Health and Safety
7 Code section 11057, subdivision (d)(1).

8 11. Zolpidem is designated as a schedule IV controlled substance by Health and Safety
9 Code section 11057, subdivision (d)(32).

10 **COST RECOVERY**

11 12. Section 125.3 of the Code provides, in relevant part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
16 included in a stipulated settlement.

17 **FACTUAL BACKGROUND**

18 13. On or about May 27, 2010, in a criminal proceeding entitled *The People of the State*
19 *of California v. Abraham Christoffel Duplessis*, in the Humboldt County Superior Court, Case
20 Number CR1000500, Respondent was convicted, upon his plea of no lo contendre, to driving
21 under the influence of alcohol (Cal. Veh. Code, § 23152, subd. (a)), a misdemeanor. The court
22 sentenced Respondent to three years probation. Additionally, Respondent was required to attend
23 and complete a first time DUI offenders program and pay various fines and fees.

24 14. On or about October 7, 2013, at 8:45 p.m., Eureka Police Department officers
25 (officers) responded to the scene of down power lines at an intersection in Eureka, California.
26 Police found Respondent's crashed car in a ravine next to downed power lines. Respondent had
27 already been transported to the hospital from the scene before officers had arrived. At about
28 10:00 p.m., officers interviewed Respondent at St. Joseph Hospital. Respondent told the officer

1 he had consumed a couple glasses of wine earlier that night, and then decided to drive to dinner.
2 Respondent informed the officer he had taken Norco (a pain medication) at the time he began
3 drinking. Respondent affirmed he was alone and driving the vehicle involved in the accident.
4 The officer observed that Respondent's speech was slow and deliberate, and his eyes were red
5 and glassy. As a result, the officer arrested Respondent for driving under the influence of alcohol.
6 At about 10:25 p.m., Respondent voluntarily submitted to a blood sample draw. That blood
7 sample from Respondent indicated a blood alcohol concentration of .19%.

8 15. On or about November 18, 2013, an inspector from the Board conducted an
9 inspection at Rite-Aid in Eureka, California, where Respondent worked as a pharmacist. As part
10 of the inspection, the inspector reviewed pharmacy records and discovered that between the dates
11 of January 16, 2012, and March 7, 2013, Respondent dispensed controlled substances to himself.
12 The records indicated that during this time period, eighty-one controlled substances were
13 dispensed at the pharmacy for Respondent's use. According to the records, Respondent
14 personally dispensed thirty-seven of the eighty-one prescriptions for controlled substances to
15 himself. Respondent self-furnished the following controlled substances: Hydrocodone,
16 Testosterone, Alprazolam, and Zolpidem.

17 **FIRST CAUSE FOR DISCIPLINE**
18 **(Unprofessional Conduct: Dangerous Use of Alcohol)**
19 **(Bus. & Prof. Code, § 4301, subd. (h))**

20 16. Respondent has subjected his pharmacist license to disciplinary action under section
21 4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to a
22 dangerous extent. Specifically, on or about October 25, 2010, California Highway Patrol officers
23 arrested Respondent for driving under the influence of alcohol. Respondent's blood alcohol
24 concentration was alleged to be .13% at time of arrest.

25 **SECOND CAUSE FOR DISCIPLINE**
26 **(Unprofessional Conduct: Conviction)**
27 **(Bus. & Prof. Code, § 4301, subd. (l))**

28 17. Respondent has subjected his pharmacist license to disciplinary action under section
4301, subdivision (l), for engaging in unprofessional conduct in that he was convicted of a crime
substantially related to the qualifications, functions, or duties of a pharmacist. Specifically, on or

1 about May 27, 2010, Respondent was convicted of driving under the influence (Veh. Code, §
2 23152, subd. (a)). The circumstances are more fully explained in paragraph 13, above.

3 **THIRD CAUSE FOR DISCIPLINE**
4 **(Unprofessional Conduct: Dangerous Use of Alcohol)**
5 **(Bus. & Prof. Code, § 4301, subd. (h))**

6 18. Respondent has subjected his pharmacist license to disciplinary action under section
7 4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to a
8 dangerous extent. Specifically, on or about October 7, 2013, Respondent drove a car while
9 intoxicated. The circumstances are more fully explained in paragraph 14, above.

10 **FOURTH CAUSE FOR DISCIPLINE**
11 **(Unprofessional Conduct: Violation of Controlled Substance Statute)**
12 **(Bus. & Prof. Code, § 4301, subd. (j))**

13 19. Respondent has subjected his pharmacist license to disciplinary action under section
14 4301, subdivision (j), for engaging in unprofessional conduct in that Respondent furnished
15 controlled substances to himself, in violation of Health and Safety Code, section 11170.
16 Specifically, a pharmacy audit revealed Respondent furnished thirty-seven controlled substances
17 to himself. The circumstances are more fully explained in paragraph 15, above.

18 **OTHER DISCIPLINARY CONSIDERATIONS**

19 20. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges that on or about March 28, 2013, in a prior action, the Board of Pharmacy
21 issued Citation Number CI 2012 55938. The Citation was based on a violation of title 16 of the
22 California Code of Regulations section 1714, subdivision (d), relating to operational standards
23 and security. That Citation is now final and is incorporated by reference as if fully set forth.

24 **PRAYER**

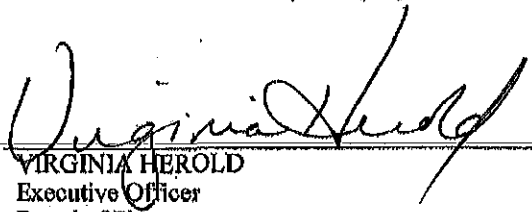
25 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
26 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

27 1. Revoking or suspending Pharmacist License Number RPH 62535, issued to Abraham
28 Christo J. Du Plessis;

1 2. Ordering Abraham Christo J. Du Plessis to pay the Board of Pharmacy the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

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

5
6 DATED: 9/16/14



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

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