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

In the Matter of the Accusation Against:
JOHN JUERGEN PANFIL
965 Echo Drive
Los Altos, CA 94024
Pharmacy Technician Registration No. TCH
128920

Respondent.

Case No. 5345
OAH No. 2015040180
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 13, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5345 against John Juergen Panfil (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about December 20, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 128920 to Respondent. The Pharmacy Technician Registration expired on June 30, 2014, and has not been renewed.

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1 3. On or about March 19, 2015, Respondent was served by Certified and First Class
2 Mail copies of Accusation No. 5345, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 965 Echo Drive
8 Los Altos, CA 94024.

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. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 6. Respondent initially filed a Notice of Defense on March 31, 2015. On June 22, 2015,
19 however, Respondent withdrew his Notice of Defense and therefore waived his right to a hearing
20 on the merits of Accusation No. 5345.

21 7. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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
file at the Board's offices regarding the allegations contained in Accusation No. 5345, finds that

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1 the charges and allegations in Accusation No. 5345 are separately and severally found to be true
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records pursuant to Business and Professions
4 Code section 125.3, it is hereby determined that the reasonable costs for Investigation and
5 Enforcement in this matter is \$2,207.50 as of June 23, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent John Juergen Panfil has
8 subjected his Pharmacy Technician Registration No. TCH 128920 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 Registration based upon the following violation alleged in the Accusation which is supported by
12 the evidence contained in the Default Decision Evidence Packet in this case.:

13 a. Illegal possession of controlled substances – Business and Professions Code sections
14 4301, subdivisions (j) and/or (o) and/or section 4060, and/or Health and Safety Code section
15 11350.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 128920, heretofore issued to Respondent John Juergen Panfil, 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 August 14, 2015.

It is so ORDERED on July 15, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amarylis Gutierrez
Board President

41316179.DOC
DOJ Matter ID:SF2014410324

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(JOHN JUERGEN PANFIL)

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5345

12 **JOHN JUERGEN PANFIL**
13 **965 Echo Drive**
Los Altos, CA 94024

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **128920**

Respondent.

16
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 December 20, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 128920 to John Juergen Panfil (Respondent). The Pharmacy
24 Technician Registration expired on June 30, 2014, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300.1 of the Code states:

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

10 **STATUTORY PROVISIONS**

11 6. Section 4060 of the Code states:

12 “No person shall possess any controlled substance, except that furnished to a person upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
15 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
16 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
17 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
18 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
19 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
20 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
21 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
22 labeled with the name and address of the supplier or producer.

23 ...”

24 7. Section 4301 of the Code provides, in relevant part:

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

28 ...

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

3 ...

4 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
5 violation of or conspiring to violate any provision or term of this chapter or of the applicable
6 federal and state laws and regulations governing pharmacy, including regulations established by
7 the board or by any other state or federal regulatory agency.

8 ...”

9 8. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
10 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
11 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

12 9. Clonazepam is a Schedule IV controlled substance as designated by Health and
13 Safety Code section 11057, subdivision (d)(7) and a dangerous drug as designated by Business
14 and Professions Code section 4022.

15 10. Methamphetamine is a Schedule II controlled substance as designated by Health and
16 Safety Code section 11055, subdivision (d)(2) and a dangerous drug as designated by Business
17 and Professions Code section 4022. It is a stimulant drug.

18 **COSTS**

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

25 **CAUSE FOR DISCIPLINE**

26 **(Possession of Controlled Substances)**

27 12. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
28 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that

1 Respondent possessed, conspired to possess, and/or assisted in or abetted possession of
2 controlled substances without a prescription. The circumstances of Respondent's conduct are as
3 follows:

4 a. On or about July 3, 2013, a police officer with the Mountain View Police Department
5 approached Respondent as he was sitting in a vehicle that was parked in a parking lot in Mountain
6 View, California. Pursuant to a search of the vehicle, the officer discovered several clonazepam
7 pills in a pill bottle located in the vehicle's glove box. Respondent told the officer that the
8 clonazepam pills belonged to Respondent's friend and that Respondent had taken one of the pills.
9 The officer also discovered methamphetamine in a plastic zip lock bag, a portion of a straw that
10 appeared to have methamphetamine residue on it, and a digital scale that appeared to have
11 methamphetamine residue on it. Respondent was then arrested and transported to the police
12 station.

13 b. While at the police station, an officer asked Respondent if he had "[a] pill problem,"
14 to which Respondent replied, "[i]t appears that way."

15 c. While at the police station, Respondent submitted to a blood test, the results of which
16 showed that Respondent tested positive for methamphetamine and hydrocodone.

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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:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 128920 issued to John Juergen Panfil;

2. Ordering John Juergen Panfil 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.

DATED: 3/13/15 

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

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