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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF CAL	IFORNIA	
11] G N 5400	
12	In the Matter of the Accusation Against:	Case No. 5400	
13	RUDELL WALKER 9720 Flower Street, #102	DEFAULT DECISION AND ORDER	
14	Bellflower, CA 90706 Pharmacy Technician Registration No. TCH 34486	[Gov. Code, §11520]	
15	Respondent.		
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17	FINDINGS OF FACT		
18	1. On or about September 4, 2015, Complainant Virginia K. Herold, in her official		
19	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,		
20	filed Accusation No. 5400 against Rudell Walker (Respondent) before the Board of Pharmacy.		
21	(Accusation attached as Exhibit A.)		
22	2. On or about September 8, 2000, the Boar	rd of Pharmacy (Board) issued Pharmacy	
23	Technician Registration No. TCH 34486 to Respondent. The Pharmacy Technician Registration		
24	was in full force and effect at all times relevant to the charges brought in Accusation No. 5400		
25	and will expire on December 31, 2015, unless renewed.		
26	3. On or about September 24, 2015, Respondent was served by Certified and First Class		
27	Mail copies of the Accusation No. 5400, Statement to Respondent, Notice of Defense, Request		
28	for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and		
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11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is: 9720 Flower Street, #102, Bellflower, CA 90706.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
- 5. On or about October 5, 2015, the aforementioned documents were returned by the U.S. Postal Service marked "Unable to Forward."
 - 6. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent 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.
- 7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 5400.
 - 8. California Government Code section 11520 states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense or to appear at 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 any notice to respondent.
- 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 file at the Board's offices regarding the allegations contained in Accusation No. 5400, finds that the charges and allegations in Accusation No. 5400, are separately and severally, found to be true and correct by clear and convincing evidence.

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Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement are \$950.00 as of November 13, 2015.

DETERMINATION OF ISSUES

- Based on the foregoing findings of fact, Respondent Rudell Walker has subjected his Pharmacy Technician Registration No. TCH 34486 to discipline.
 - The agency has jurisdiction to adjudicate this case by default.
- The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:
- Business and Professions Code sections, 4301, subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a licensee or registrant which to a substantial degree evidence his present or potential unfitness to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare. Specifically, on or about November 19, 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 496, subdivision (a) [receiving stolen property], in the criminal proceeding entitled *The People of the* State of California v. Rudell Walker (Super. Ct. L.A. County, 2014, No. NA099132). The Court sentenced Respondent to serve two days in jail and placed him on 3 years probation, with terms
- Business and Professions Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty,

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ORDER 1 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 34486, heretofore 2 issued to Respondent Rudell Walker, is revoked. 3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a 4 written motion requesting that the Decision be vacated and stating the grounds relied on within 5 seven (7) days after service of the Decision on Respondent. The agency in its discretion may 6 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute. 7 This Decision shall become effective on January 8, 2016. 8 It is so ORDERED December 9, 2015. 9 10 BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS 11 STATE OF CALIFORNIA 12 13 14 By 15 Amy Gutierrez, Pharm.D. **Board President** 16 17 61751455.DOC DOJ Matter ID:LA2015500467 18 Attachment: 19 Exhibit A: Accusation 20 21 22 23 24 25 26 27 28

Exhibit A

Accusation

1 2 3 4 5 6 7 8	BOARD OF DEPARTMENT OF O	RE THE PHARMACY CONSUMER AFFAIRS CALIFORNIA
10	In the Matter of the Accusation Against:	Case No. 5400
12		
13	RUDELL WALKER 9720 Flower Street, #102 Bellflower, CA 90706	ACCUSATION
14	Pharmacy Technician Registration	
15	No. TCH 34486	
16	. Respondent.	·
17		
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as	
21	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.	
22	2. On or about September 8, 2000, the Board issued Pharmacy Technician Registration	
23	No. TCH 34486 to Rudell Walker (Respondent). The Pharmacy Technician Registration was in	
24	full force and effect at all times relevant to the charges brought herein and will expire on December	
25	31, 2015, unless renewed.	
26	JURISD	<u>ICTION</u>
27	3. This Accusation is brought before the Board under the authority of the following laws.	
28	All section references are to the Business and Professions Code unless otherwise indicated.	
	·	1 .
		Accusation

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

5. Section 4300.1 states:

"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 AND REGULATORY PROVISIONS

6. Section 4301 states, in pertinent part:

"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:

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

"(I) 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."

7. 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."

COST RECOVERY

8. Section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

9. CONTROLLED SUBSTANCES / DANGEROUS DRUGS

a. "Motrin 800 mg," is the brand name for the generic drug ibuprofen and is classified as a nonsteroidal anti-inflammatory drug (NSAID). This formulation is a prescription drug and is considered a dangerous drug within the meaning of section 4022.

- b. "Tramadol¹," is used for treating moderate to moderately severe pain, restless leg syndrome, acid reflux, and fibermyosis. It is categorized as a dangerous drug within the meaning of section 4022.
- c. "Triamterene," is used to treat fluid retention (edema). It is categorized as a dangerous drug within the meaning of section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

- 10. Respondent is subject to disciplinary action under sections 4301, subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician as follows:
- a. On or about November 19, 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of Penal Code section 496, subdivision (a) [receiving stolen property] in the criminal proceeding entitled *The People of the State of California v. Rudell Walker* (Super. Ct. L.A. County, 2014, No. NA099132). The Court sentenced Respondent to serve two days in Los Angeles County jail and placed him on 3 years probation, with terms and conditions.
- b. The circumstances surrounding the conviction are that in or between at least 2013 and 2014, while working as a pharmacy technician at the Veterans Affairs Hospital in Long Beach, Respondent diverted various medications, including tramadol, motrin 800mg, and triamterene for his personal use. Respondent obtained the medications by taking them from the mail returns, asking his co-worker to get them for him, or making manual fill entries into ScriptPro.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, Deceit, or Corruption

11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that in or between at least 2013 and 2014, Respondent committed acts involving dishonesty, fraud,

Effective August 18, 2014 Tramadol became a Schedule IV controlled substances pursuant to United States Code tile 21, section 812.

1	deceit, or corruption with the intent to substantially benefit himself, or substantially injure another.		
2	Complainant refers to, and by reference incorporates, the allegations set forth above in paragraph		
3	10, as though set forth fully.		
4	PRAYER		
5	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
6	and that following the hearing, the Board issue a decision:		
7	1. Revoking or suspending Pharmacy Technician Registration No. TCH 34486, issued to		
8	Rudell Walker;		
9	2. Ordering Rudell Walker to pay the Board the reasonable costs of the investigation and		
10	enforcement of this case, pursuant to section 125.3; and		
11	3. Taking such other and further action as deemed necessary and proper.		
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14	DATED: 9/4/15 Jugina Vield		
15	Executive Officer Board of Pharmacy		
16	Department of Consumer Affairs State of California		
17	Complainant		
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