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

In the Matter of the Accusation Against:  
**TROY DEAN LOPEZ**  
**2139 Meadowlark Ranch Circle**  
**San Marcos, CA 92078**  
**Pharmacy Technician Registration**  
**No. TCH 79058**  
  
Respondent.

Case No. 5457  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about September 9, 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. 5457 against Troy Dean Lopez (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as Exhibit A.)
2. On or about November 27, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 79058 to Respondent. The Pharmacy Technician Registration expired on December 31, 2014, and has not been renewed.
3. Section 4300.1 of the Code provides, in pertinent part, that the expiration of a board-issued license by operation of law or by order or decision of the board or a court of law, shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or

1 disciplinary proceeding against, the licensee or to render a decision suspending or revoking the  
2 license.

3 4. On or about September 18, 2015, Respondent was served by Certified and First Class  
4 Mail copies of the Accusation No. 5457, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
7 section 4100 and California Code of Regulations, title 16, section 1704, is required to be reported  
8 and maintained with the Board. Respondent's address of record was and is:

9 2139 Meadowlark Ranch Circle  
10 San Marcos, CA 92078

11 5. Service of the Accusation was effective as a matter of law under the provisions of  
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
13 124.

14 6. On or about October 20, 2015, the aforementioned documents were returned by the  
15 U.S. Postal Service marked "Unclaimed."

16 7. Government Code section 11506 states, in pertinent part:

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

22 8. Respondent failed to file a Notice of Defense within 15 days after service upon him  
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
24 5457.

25 9. California Government Code section 11520 states, in pertinent part:

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

10 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

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
3 file at the Board's offices regarding the allegations contained in Accusation No. 5457, finds that  
4 the charges and allegations in Accusation No. 5457, are separately and severally, found to be true  
5 and correct by clear and convincing evidence.

6 11. Taking official notice of its own internal records, pursuant to Business and  
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
8 and Enforcement is \$615.00 as of October 19, 2015.

9 **DETERMINATION OF ISSUES**

10 1. Based on the foregoing findings of fact, Respondent Troy Dean Lopez has subjected  
11 his Pharmacy Technician Registration No. TCH 79058 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
14 Registration based upon the following violations alleged in the Accusation which are supported  
15 by the Default Decision Investigatory Evidence Packet in this case.

16 4. Respondent has subjected his registration to discipline under section 4301(o) of the  
17 Code, in that he failed to comply with California Code of Regulations, title 16, section 1775.1(d),  
18 which required that he comply with a Board-issued citation and fine within 30 days of the date of  
19 assessment. Citation No. CI 2008 40444 alleged that on September 22, 2009, Respondent was  
20 convicted on his plea of guilty to driving under the influence of alcohol and/or drugs (Veh. Code,  
21 § 23152(a) on July 5, 2009. On May 8, 2008, he was convicted on his plea of guilty to petty theft  
22 (Pen. Code, § 484(a)) on March 8, 2009. The Citation alleged unprofessional conduct under  
23 Code section 4301(l), for two convictions substantially related to the qualifications, functions, or  
24 duties of a licensee. The Citation assessed an administrative fine of \$5,000, which Respondent  
25 was required to pay on or before September 8, 2013. Respondent did not appeal the citation, and  
26 has not paid the fine.

27 ///

28 ///

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 79058, heretofore issued to Respondent Troy Dean Lopez, 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 December 18, 2015.

It is so ORDERED November 18, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

DOJ Matter ID: SD2015700902

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(TROY DEAN LOPEZ)

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2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5457

13 **TROY DEAN LOPEZ**  
2139 Meadowlark Ranch Circle  
14 San Marcos, CA 92078

**A C C U S A T I O N**

15 **Pharmacy Technician Registration**  
16 **No. TCH 79058**

17 Respondent.

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, Department of Consumer Affairs.

22 2. On or about November 27, 2007, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 79058 to Troy Dean Lopez (Respondent). The Pharmacy Technician  
24 Registration expired on December 31, 2014, and was cancelled on April 5, 2015.

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 (Code) unless otherwise indicated.

1 4. Section 4300, subdivision (a) of the Code states: "Every license issued may be  
2 suspended or revoked."

3 5. Section 4300.1 of the Code states:

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

### 8 STATUTORY PROVISIONS

9 6. Section 4301 of the Code states:

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

14 . . . .

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

### 16 REGULATORY PROVISIONS

17 7. California Code of Regulations, title 16, section 1775.1(d) states:

18 . . . .

19 Failure of a person or entity cited to pay a fine within 30 days of the date of  
20 assessment, unless the citation is being appealed, may result in disciplinary action by the  
21 board. When a citation is not contested and a fine is not paid, the full amount of the fine  
22 shall be added to the fee for renewal of the license and the license shall not be renewed  
23 without payment of the renewal fee and fine.

### 22 COSTS

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

1 CAUSE FOR DISCIPLINE

2 (Violation of Regulation Established by the Board)

3 9. Respondent has subjected his registration to discipline under section 4301(o) of the  
4 Code, in that he failed to comply with California Code of Regulations, title 16, section 1775.1(d),  
5 which required that he pay a fine within 30 days of the date of assessment. The circumstances are  
6 as follows:

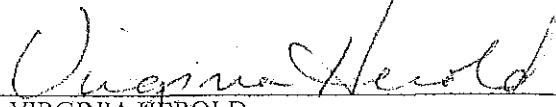
7 10. On September 8, 2013, the Board issued Citation No. CI 2008 40444 to Respondent.  
8 The Citation alleged that on September 22, 2009, Respondent was convicted on his plea of guilty  
9 to driving under the influence of alcohol and/or drugs (Veh. Code, § 23152(a) on July 5, 2009.  
10 On May 8, 2008, he was convicted on his plea of guilty to petty theft (Pen. Code, § 484(a)) on  
11 March 8, 2009. The Citation alleged unprofessional conduct under Code section 4301(l), for two  
12 convictions substantially related to the qualifications, functions, or duties of a licensee. The  
13 Citation assessed an administrative fine of \$5,000, which Respondent was required to pay on or  
14 before September 8, 2013. Respondent did not appeal the citation, and has not paid the fine.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 79058,  
19 issued to Troy Dean Lopez;
- 20 2. Ordering Troy Dean Lopez to pay the Board of Pharmacy the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Business and Professions Code section  
22 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 9/9/15

  
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

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