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

In the Matter of the Accusation Against:

**ADRIAN ALFONSO
617 Tamarack Lane
South San Francisco, CA 94080**

**Pharmacy Technician Registration No. TCH
122838**

Respondent.

Case No. 5523

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 20, 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. 5523 against Adrian Alfonso (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 6, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 122838 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5523 and will expire on September 30, 2016, unless renewed.

1 3. On or about November 2, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5523, 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:

7 617 Tamarack Lane
8 South San Francisco, CA 94080.

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 December 3, 2015, 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 5523.

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. 5523, finds that
2 the charges and allegations in Accusation No. 5523 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 are \$1,187.50 as of March 22, 2016.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Adrian Alfonso has subjected his
9 Pharmacy Technician Registration No. TCH 122838 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 Pharmacy Technician
12 Registration based upon the following violations alleged in the Accusation which are supported
13 by the evidence contained in the Default Decision Evidence Packet in this case.:

14 a. Business and Professions Code section 4301(j) (violation of any of the statutes of this
15 state regulating controlled substances and dangerous drugs) and section 4060 (illegal possession
16 of controlled substance).

17 ORDER

18 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 122838, heretofore
19 issued to Respondent Adrian Alfonso, is revoked.

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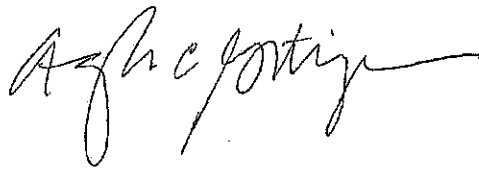
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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency 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 at 5:00 p.m. on June 6, 2016.

It is so ORDERED on May 6, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Amy Gutierrez, Pharm.D.
Board President

41490878.DOC
DOJ Matter ID:SF2015402096

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ADRIAN ALFONSO)

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2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5523

11 **ADRIAN ALFONSO**
12 **617 Tamarack Lane**
13 **South San Francisco, CA 94080**

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
122838

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 6, 2012, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 122838 to Adrian Alfonso (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on September 30, 2016, unless 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 (Code) unless otherwise indicated.

1 COST RECOVERY

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

5 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

6 12. Section 4021 of the Code states:

7 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
8 11053) of Division 10 of the Health and Safety Code.”

9 13. Section 4022 of the Code states, in pertinent part:

10 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
11 except veterinary drugs that are labeled as such, and includes the following:

12 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
13 prescription,’ ‘Rx only,’ or words of similar import.

14 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
15 prescription or furnished pursuant to Section 4006.”

16 14. Cocaine is a Schedule I (in base/rock/crack form) or Schedule II controlled substance
17 as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous
18 drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

19 FACTUAL BACKGROUND

20 15. On or about November 8, 2014, San Diego Harbor Police responded to a report of a
21 vehicle driving erratically. Responding officers witnessed the vehicle make an illegal U-turn and
22 initiated a traffic stop. The vehicle smelled of marijuana. The vehicle was searched, and police
23 found cocaine under the passenger seat, where Respondent had been sitting. Respondent admitted
24 that it was cocaine and stated that it was for “personal use.”

25 FIRST CAUSE FOR DISCIPLINE

26 (Possession of Controlled Substance(s))

27 16. Respondent is subject to discipline under section 4301(j) and/or section 4060 of the
28 Code, and/or Health and Safety Code section(s) 11350, in that Respondent, as described in

1 paragraph 15 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a
2 controlled substance, without a prescription.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct)

5 17. Respondent is subject to discipline under section 4301 of the Code in that, as
6 described in paragraphs 15 and 16 above, Respondent engaged in unprofessional conduct.

7 PRAYER

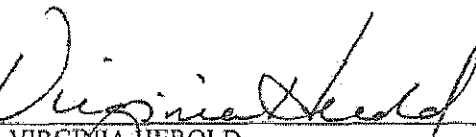
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 122838,
11 issued to Adrian Alfonso;

12 2. Ordering Adrian Alfonso to pay the Board of Pharmacy the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3;

15 3. Taking such other and further action as deemed necessary and proper.
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19 DATED: 10/20/15



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

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