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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Accusation Against: Case No. 5523	
13	ADRIAN ALFONSO DEFAULT DECISION AND ORDER 617 Tamarack Lane	
14	South San Francisco, CA 94080 [Gov. Code, §11520]	
15	Pharmacy Technician Registration No. TCH 122838	
16		
17	Respondent.	
18		
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20	<u>FINDINGS OF FACT</u>	-
21	1. On or about October 20, 2015, Complainant Virginia K. Herold, in her official	
22	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,	
23	filed Accusation No. 5523 against Adrian Alfonso (Respondent) before the Board of Pharmacy.	
24	(Accusation attached as Exhibit A.)	
25	2. On or about September 6, 2012, the Board of Pharmacy (Board) issued Pharmacy	
26	Technician Registration No. TCH 122838 to Respondent. The Pharmacy Technician Registration	
27	was in full force and effect at all times relevant to the charges brought in Accusation No. 5523	
28	and will expire on September 30, 2016, unless renewed.	
	1 (ADRIAN ALFONSO) DEFAULT DECISION & ORDER Case No. 5523	ł
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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 South San Francisco, CA 94080.
8	4. Service of the Accusation was effective as a matter of law under the provisions of
9	
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 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 17	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.
18	7. Respondent failed to file a Notice of Defense within 15 days after service upon him
19	of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
20	5523.
21	8. 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 or upon other evidence and affidavits may be used as evidence without any notice to
24	respondent.
25	9. Pursuant to its authority under Government Code section 11520, the Board finds
26	Respondent is in default. The Board will take action without further hearing and, based on the
27	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28	taking official notice of all the investigatory reports, exhibits and statements contained therein on 2
	(ADRIAN ALFONSO) DEFAULT DECISION & ORDER Case No. 5523

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	L
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	3
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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	3 (ADRIAN ALFONSO) DEFAULT DECISION & ORDER Case No. 552	3
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1	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
2	written motion requesting that the Decision be vacated and stating the grounds relied on within
3	seven (7) days after service of the Decision on Respondent. The agency in its discretion may
4	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
5	This Decision shall become effective at 5:00 p.m. on June 6, 2016.
6	It is so ORDERED on May 6, 2016.
7	BOARD OF PHARMACY
8	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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10	Aghchoty
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12	By Amy Gutierrez, Pharm.D.
13	Board President
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25	41490878.DOC DOJ Matter ID:SF2015402096
26	Attachment: Exhibit A: Accusation
27	Exhibit A. Avousation
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	(ADRIAN ALFONSO) DEFAULT DECISION & ORDER Case No. 5523

Exhibit A

Accusation

1	KAMALA D. HARRIS
2	Attorney General of California FRANK H. PACOE
3	Supervising Deputy Attorney General CHAR SACHSON
4	Deputy Attorney General State Bar No. 161032
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephones (415) 702 5552
6	Telephone: (415) 703-5558 Facsimile: (415) 703-5480 Attorneys for Complainant
7	BEFORE THE
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 5523
11	ADRIAN ALFONSO
12	617 Tamarack Lane South San Francisco, CA 94080 ACCUSATION
13	Pharmacy Technician Registration No. TCH
14	122838
15	Respondent,
16 17	
18	Complainant alleges: PARTIES
10	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.
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	(ADRIAN ALFONSO) ACCUSATION

4. Section 4011 of the Code provides that the Board shall administer and enforce both 1 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances 2 Act [Health & Safety Code, § 11000 et seq.]. 3 5. Section 4300(a) of the Code provides that every license issued by the Board may be 4 suspended or revoked. 5 Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or 6 6. suspension of a Board-issued license, the placement of a license on a retired status, or the 7 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to 8 commence or proceed with any investigation of, or action or disciplinary proceeding against, the 9 licensee or to render a decision suspending or revoking the license. 10 STATUTORY AND REGULATORY PROVISIONS 11 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action 12 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but 13 not be limited to, any of the following: 14 (j) The violation of any of the statutes of this state, of any other state, or of the United 15 States regulating controlled substances and dangerous drugs. 16 8. Section 4060 of the Code provides, in pertinent part, that no person shall possess any 17 controlled substance, except that furnished upon a valid prescription/drug order. 18 19 9. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess a controlled substance in Schedule I, subdivision(s) (b), (c), or (f)(1), Schedule II, subdivision(s) 20 (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription. 21 10. California Code of Regulations, title 16, section 1770, states: 22"For the purpose of denial, suspension, or revocation of a personal or facility license 23 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 24 crime or act shall be considered substantially related to the qualifications, functions or duties of a 25 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 26 licensee or registrant to perform the functions authorized by her license or registration in a manner 27 consistent with the public health, safety, or welfare." 28 2

(ADRIAN ALFONSO) ACCUSATION

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
	3
[]	(ADRIAN ALFONSO) ACCUSATION

:	
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 Universited
20	Executive Officer Board of Pharmacy
21	Department of Consumer Affairs State of California
22	Complainant
23	SF2015402096
24	41381917.doc
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	4 (ADRIAN ALFONSO) ACCUSATION

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