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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. 3221

11 RIHAAD ALI
12 843 Viceroy Way
San Jose, California 95133

A C C U S A T I O N

13 Pharmacy Technician License No. TCH 38102

14 Respondent.

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17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about February 21, 2002, the Board of Pharmacy issued Pharmacy
22 Technician License No. TCH 38102 to Rihaad Ali (Respondent). The License was in full force
23 and effect at all times relevant to these charges and will expire on May 31, 2009, unless renewed.

24 JURISDICTION

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

28 ///

1 (l) The conviction of a crime substantially related to the qualifications, functions,
2 and duties of a licensee under this chapter.

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

7 8. Section 490 of the Code provides, in pertinent part, that the Board may
8 suspend or revoke a license when it finds that the licensee has been convicted of a crime
9 substantially related to the qualifications, functions or duties of the license.

10 9. California Code of Regulations, title 16, section 1770, states:

11 "For the purpose of denial, suspension, or revocation of a personal or facility
12 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
13 Code, a crime or act shall be considered substantially related to the qualifications, functions or
14 duties of a licensee or registrant if to a substantial degree it evidences present or potential
15 unfitness of a licensee or registrant to perform the functions authorized by his license or
16 registration in a manner consistent with the public health, safety, or welfare."

17 10. Section 4060 of the Code provides, in pertinent part, that no person shall
18 possess any controlled substance, except that furnished upon a valid prescription/drug order.

19 11. Health and Safety Code section 11170 provides that no person shall
20 prescribe, administer, or furnish a controlled substance for himself or herself.

21 12. Health and Safety Code section 11364, in pertinent part, makes it unlawful
22 to possess an opium pipe or other paraphernalia used to inject or smoke controlled substances.

23 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful
24 to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful
26 for any person to use or be under the influence of any controlled substance in Schedule II (Health
27 and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules
28 III-V, except when administered by or under the direction of an authorized licensee.

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

4 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

5 16. Section 4021 of the Code states:

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

8 17. Section 4022 of the Code states, in pertinent part:

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

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

13 ...
14 “(c) Any other drug or device that by federal or state law can be lawfully
15 dispensed only on prescription or furnished pursuant to Section 4006.”

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

19 FACTUAL BACKGROUND

20 19. On or about September 10, 2006, San Jose Police responded to a report of
21 suspicious activity, and encountered Respondent in an apparently intoxicated/drug-altered state.
22 A search of Respondent’s person uncovered a baggie with a white crystal substance, confirmed
23 by testing as **methamphetamine**. A search of Respondent’s vehicle uncovered a glass smoking
24 pipe with white powder residue, and a wild catfish. Respondent was unable to produce a fishing
25 license. Respondent was arrested on suspicion of violating Health and Safety Code sections
26 11377 (Possession of Controlled Substance), 11550 (Under Influence of Controlled Substance),
27 and 11364 (Possession of Drug Paraphernalia), Penal Code section 647(f) (Disorderly Conduct -
28 Public Intoxication), and Fish and Game Code section 2002 (Unlawful Possession of Animal).

1 FOURTH CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substance)

3 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or
4 section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as
5 described in paragraph 19 above, possessed, conspired to possess, and/or assisted in or abetted
6 possession of, a controlled substance, without a prescription.

7 FIFTH CAUSE FOR DISCIPLINE

8 (Self-Administration/Use of Controlled Substance)

9 25. Respondent is subject to discipline under section 4301(j) and/or (o) of the
10 Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as
11 described in paragraph 19 above, self-administered/used, conspired to self-administer/use, and/or
12 assisted in/abetted self-administration/use, of a controlled substance, without prescription.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct)

15 26. Respondent is subject to discipline under section 4301 of the Code in that
16 Respondent, as described in paragraphs 19-25 above, engaged in unprofessional conduct.

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22 PRAYER

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

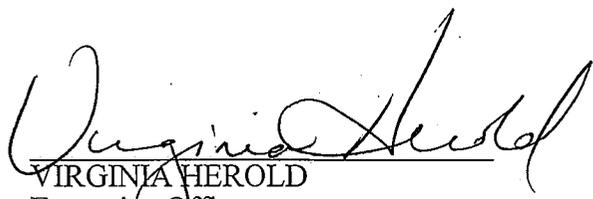
25 A. Revoking or suspending Pharmacy Technician License No. TCH 38102,
26 issued to Rihaad Ali (Respondent);

27 B. Ordering Respondent to pay the Board reasonable costs of investigation
28 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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C. Taking such other and further action as is deemed necessary and proper.

DATED: 4/10/09



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

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