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

In the Matter of the Accusation Against:

COLIN KELLY ROCK
3207 W. 3rd Street, #12
Los Angeles, CA 90020
Pharmacy Technician Registration No. TCH
51857

Respondent.

Case No. 3582

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 17, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3582 against Colin Kelly Rock ("Respondent") before the Board of Pharmacy.

2. On or about October 21, 2003, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 51857 to Respondent. The Pharmacy Technician Registration Number was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

3. On or about December 6, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3582, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 136, is required to be reported and maintained with the Board. Respondent's address
2 maintained with the Board was and is:

3 **3207 W. 3rd Street, #12**
4 **Los Angeles, CA 90621.**

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

7 5. On or about December 7, 2010, the aforementioned served via Certified Mail
8 documents were returned by the U.S. Postal Service marked "Unclaimed."

9 6. Government Code section 11506 states, in pertinent part:

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 3582.

18 8. California Government Code section 11520 states, in pertinent part:

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

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3582,
28 finds that the charges and allegations in Accusation No. 3582, are separately and severally true
and correct by clear and convincing evidence.

1 himself and others. The conduct is more particularly described in paragraph 3, subdivisions (a)(i)
2 through (a)(ii) inclusive, above, and herein incorporated by reference.

3 **c. Violated a Statue Regulating Controlled Substances.** Respondent is subject to
4 disciplinary action under sections 4301, subdivision (j) in that Respondent possessed a controlled
5 substance, to wit cocaine, in violation of the California Health and Safety Code as follows:

6 i. On or about January 30, 2009, Respondent was arrested by officers with the
7 Los Angeles Police Department after officers observed Respondent engage in a
8 hand-to-hand drug sale transaction. Upon arrest, officers located in Respondent's
9 possession, .34 grams of cocaine.

10 ii. On or about February 18, 2009, in the criminal proceeding entitled *The People*
11 *of the State of California vs. Colin Kelly Rock* (Super. Ct. County of Los Angeles,
12 2009, No. BA352252) Respondent entered a plea of guilty to violating Health and
13 Safety Code section 11350, possession of a controlled substance. Pursuant to
14 Penal Code section 1000, entry of judgment was deferred.

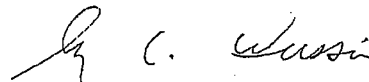
15 **ORDER**

16 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 51857, heretofore
17 issued to Respondent Colin Kelly Rock, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
21 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on July 27, 2011.

23 It is so ORDERED June 27, 2011.

24 

25

STANLEY C. WEISSER, BOARD PRESIDENT
26 FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

27 DOJ Matter ID:LA2010500703
28 60606228.DOC

Exhibit A
Accusation No. 3582

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2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
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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. 3582

11 **COLIN KELLY ROCK**
12 **3207 W. 3rd Street, #12**
13 **Los Angeles, CA 90621**
Pharmacy Technician Registration No. TCH
14 **51857**

ACCUSATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about October 21, 2003, the Board of Pharmacy issued Pharmacy Technician
21 Registration Number TCH 51857 to Colin Kelly Rock ("Respondent"). The Pharmacy
22 Technician Registration was in full force and effect at all times relevant to the charges brought
23 herein and will expire on June 30, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy ("Board"), under the
26 authority of the following laws. All section references are to the Business and Professions Code
27 ("Code") unless otherwise indicated.
28

STATUTORY PROVISIONS

1
2 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
3 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
4 disciplinary action during the period within which the license may be renewed, restored, reissued
5 or reinstated.

6 5. Section 4300 permits the Board to take disciplinary action to suspend or revoke a
7 license issued by the Board.

8 6. Section 4301 states:

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

12 ...

13 (k) The conviction of more than one misdemeanor or any felony involving the use,
14 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
15 combination of those substances.

16 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
17 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
19 substances or of a violation of the statutes of this state regulating controlled substances or
20 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
21 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
22 The board may inquire into the circumstances surrounding the commission of the crime, in order
23 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
24 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
26 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
27 of this provision. The board may take action when the time for appeal has elapsed, or the
28 judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
2 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
3 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
4 indictment.”

5 **COST RECOVERY**

6 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **CONTROLLED SUBSTANCE-DANGEROUS DRUGS**

11 8. “Cocaine” is designated as a Schedule I controlled substance by Health and Safety
12 Code section 11054(f)(1) and is a dangerous drug pursuant to Business and Professions Code
13 section 4022.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(More Than One Alcohol Related Conviction)**

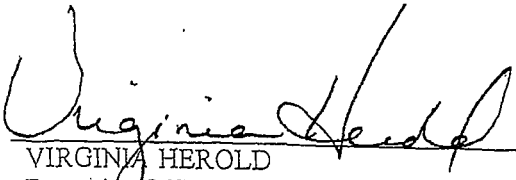
16 9. Respondent is subject to disciplinary action under sections 4301, subdivision (k) of
17 the Code in that Respondent was convicted of more than one alcohol related offense as follows:

18 10. On or about March 5, 2004 in the criminal proceeding entitled *The People of the State*
19 *of California vs. Colin Kelly Rock* (Super. Ct. County of Los Angeles, 2004, No. 4MT02152)
20 Respondent was convicted of driving under the influence with a blood alcohol level of .08% or
21 above. Respondent was placed on probation for a period of thirty-six month, ordered to serve
22 thirteen days in jail, and ordered to attend a drug and alcohol education and counseling program.

23 11. On or about July 25, 2008, in the criminal proceeding entitled *The People of the State*
24 *of California vs. Colin Kelly Rock* (Super. Ct. County of Los Angeles, 2008, No. 8MP08650)
25 Respondent was convicted of driving under the influence with a blood alcohol level of .08% or
26 above. Respondent was placed on probation for a period of thirty-six month, ordered to serve
27 thirty days in jail, and ordered to pay fines.

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DATED: 11/17/10



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

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