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

In the Matter of the Accusation Against:
BRANDON TALBOT ALEXANDER
445 Almond Drive, Apt. No. 12
Lodi, CA 95240

Original Pharmacy Technician Registration
No. TCH 15045

Respondent.

Case No. 3765

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 23, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3765 against Brandon Talbot Alexander (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about February 6, 1995, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 15045 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3765 and will expire on March 31, 2014, unless renewed.

3. On or about July 7, 2010, Respondent was served by First Class Mail copies of the Accusation No. 3765, 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

1 address of record which, pursuant to Business and Professions Code section 4100, is required to
2 be reported and maintained with the Board, which was and is:

3 Brandon Talbot Alexander
4 445 Almond Drive, Apt. No. 12
Lodi, CA 95240

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/or Business & Professions Code section
7 124.

8 5. On or about June 30, 2011, the aforementioned documents were returned by the U.S.
9 Postal Service marked "Unclaimed."

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

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 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.

14 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 3765.

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

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 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
20 respondent.

21 9. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 3765, finds that
26 the charges and allegations in Accusation No. 3765, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 ///

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$1,997.50 as of April 10, 2012.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Brandon Talbot Alexander has
6 subjected his Pharmacy Technician Registration No. TCH 15045 to discipline.

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

8 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9 Registration based upon the following violations alleged in the Accusation which are supported
10 by the evidence contained in the Default Decision Evidence Packet in this case:

11 a. Respondent is subject to disciplinary action pursuant to Code section 4301,
12 subdivision (l), in that he was convicted of the following crimes that are substantially related to
13 the qualifications, functions, and duties of a pharmacy technician:

14 i. On or about April 30, 2008, in the Superior Court, County of San Joaquin, California,
15 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No.

16 LM038972A, Respondent was convicted by the court of a violation of Vehicle Code
17 section 23152, subdivision (b) (driving with a blood alcohol content of .08% or
18 above), a misdemeanor. The circumstances of the crime are that on or about
19 February 11, 2008, Respondent was arrested by the Lodi Police when an officer
20 observed Respondent crash his car into a parked truck. Respondent agreed to a
21 breath test for alcohol and was found to have a blood alcohol content level of .22%
22 and .23%.

23 ii. On or about May 12, 2006, in the Superior Court, County of San Joaquin, California,
24 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No.

25 LM034777A, Respondent was convicted by the court of a violation of Vehicle Code
26 section 23152, subdivision (b) (driving with a blood alcohol content of .08% or
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26, 2006, Respondent was arrested by the Lodi Police for drunk driving.

Respondent was found to have a blood alcohol content level of .17% and .16%.

b. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (h), for unprofessional conduct in that he consumed alcohol to the extent or in a manner as to be dangerous or injurious to himself and the public as described in Paragraph 3 subdivision (a), above.

c. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (k), for unprofessional conduct in that he was convicted of two misdemeanors involving the use, consumption, or self administration of alcoholic beverages as described in Paragraph 3 subdivision (a), above.

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 15045, heretofore issued to Respondent Brandon Talbot Alexander, 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 September 26, 2012.

It is so ORDERED ON August 27, 2012

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

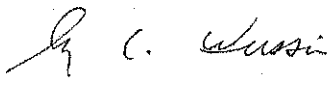
By 
STANLEY C. WEISSNER
Board President

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3765

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13 445 Almond Drive, Apt. No. 12
14 Lodi, CA 95240

A C C U S A T I O N

15 Original Pharmacy Technician Registration
16 No. TCH 15045

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 6, 1995, the Board of Pharmacy issued Original Pharmacy
23 Technician Registration Number TCH 15045 to Brandon Talbot Alexander (Respondent). The
24 pharmacy technician registration was in full force and effect at all times relevant to the charges
25 brought herein and will expire on March 31, 2012, unless renewed.

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JURISDICTION

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

4. Section 4301 of the Code states:

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

.....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

.....

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

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

8

9 5. Section 118, subdivision (b), of the Code provides that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
11 within which the license may be renewed, restored, reissued or reinstated.

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

16 FIRST CAUSE FOR DISCIPLINE

17 (Conviction of a Substantially Related Crime)

18 7. Respondent is subject to disciplinary action pursuant to Code section 4301,
19 subdivision (l), in that Respondent has been convicted of the following crimes that are
20 substantially related to the qualifications, functions, and duties of a pharmacy technician:

21 a. On or about April 30, 2008, in the Superior Court, County of San Joaquin, California,
22 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No. LM038972A,
23 Respondent was convicted by the court of a violation of Vehicle Code section 23152, subdivision
24 (b) (driving with a blood alcohol content of .08% or above), a misdemeanor. The circumstances
25 of the crime are that on or about February 11, 2008, Respondent was arrested by the Lodi Police
26 when an officer observed Respondent crash his car into a parked truck. Respondent agreed to a
27 breath test for alcohol and was found to have a blood alcohol content level of .22% and .23%.

28 b. On or about May 12, 2006, in the Superior Court, County of San Joaquin, California,

1 in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, Case No. LM034777A,
2 Respondent was convicted by the court of a violation of Vehicle Code section 23152, subdivision
3 (b) (driving with a blood alcohol content of .08% or above), a misdemeanor. The circumstances
4 of the crime are that on or about April 26, 2006, Respondent was arrested by the Lodi Police for
5 drunk driving. Respondent was found to have a blood alcohol content level of .17% and .16%.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct – Consuming Alcohol to a Dangerous Extent)

8 8. Respondent is subject to disciplinary action pursuant to Code section 4301,
9 subdivision (h), for unprofessional conduct in that he consumed alcohol to the extent or in a
10 manner as to be dangerous or injurious to himself and the public as described in Paragraph 7,
11 above.

12 THIRD CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct – Multiple Convictions Involving Alcohol)

14 9. Respondent is subject to disciplinary action pursuant to Code section 4301,
15 subdivision (k), for unprofessional conduct in that he was convicted of two misdemeanors
16 involving the use, consumption, or self administration of alcoholic beverages as described in
17 Paragraph 7, above.

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1 PRAYER

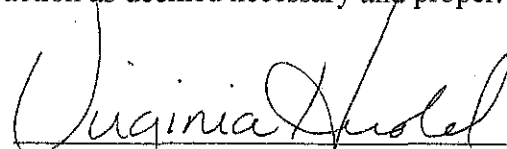
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
5 15045, issued to Brandon Talbot Alexander

6 2. Ordering Brandon Talbot Alexander to pay the Board of Pharmacy the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 5/19/11



12 VIRGINIA HEROLD
13 Executive Officer
14 Board of Pharmacy
15 Department of Consumer Affairs
16 State of California
17 Complainant

18 SA2010101767
19 10682367.doc

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Case No. 3765

**DEFAULT DECISION INVESTIGATORY
EVIDENCE PACKET**

[Gov. Code §11520]

The Default Decision Investigatory Evidence Packet in support of the Default Decision and Order in the above entitled matter consists of the following.

Exhibit 1: Pleadings offered for jurisdictional purposes: Accusation No. 3765 Statement to Respondent, Notice of Defense (two blank copies), Request for Discovery and Discovery Statutes (Government Code sections 11507.5, 11507.6 and 11507.7), proof of service; and copy of returned mail envelope;

Exhibit 2: License History Certification for Brandon Talbot Alexander Pharmacy Technician Registration No. TCH 15045;

Exhibit 3: Certification of Costs by Board for Investigation and Enforcement in Case No. 3765;

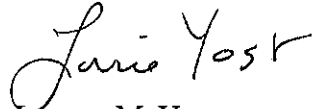
Exhibit 4: Criminal Conviction Records in the matter entitled *People vs. Alexander Brandon Talbot*, 2008, in the Superior Court, County of San Joaquin, California, Case No. LM038972A

Exhibit 5: Criminal Conviction Records in the matter entitled *People vs. Alexander Brandon Talbot*, 2006, in the Superior Court, County of San Joaquin, California, Case No. LM034777A

Dated: April 27, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

A handwritten signature in cursive script that reads "Lorrie Yost". The signature is written in black ink and is positioned above the printed name of the signatory.

LORRIE M. YOST
Deputy Attorney General
Attorneys for Complainant

Exhibit 1

Accusation No. 3765
Statement to Respondent, Notice of Defense, Request for
Discovery and Discovery Statutes, proof of service; and copy of
returned mail envelope

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Supervising Deputy Attorney General
3 LORRIE M. YOST
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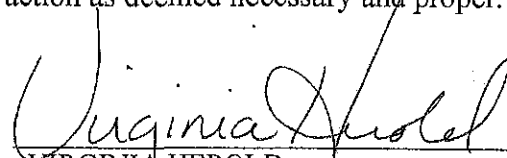
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11 DATED: 5/19/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
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State of California
Complainant

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