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

In the Matter of the Accusation Against:

Case No. 3908

**JOHN HANS LOEH
P.O. Box 557
Hurst, IL 62949**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Pharmacy Technician License No. TCH 92661

Respondent.

FINDINGS OF FACT

1. On or about January 27, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3908 against John Hans Loeh (Respondent) before the Board of Pharmacy. (Accusation attached hereto as Exhibit A.)

2. On or about October 8, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 92661 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 3908 and will expire on April 30, 2011, unless renewed.

3. On or about March 7, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3908, 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 section 4100, is required to be reported and maintained with the Board, which was and is:

P.O. Box 557
Hurst, IL 62949

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

4 5. On or about February 22, 2011, the aforementioned documents were returned by the
5 U.S. Postal Service marked "*Return to Sender." On or about March 7, 2011, the aforementioned
6 documents were served on Respondent at P.O. Box 302, Royalton, IL 62983-0302 by Certified
7 and First Class Mail.

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

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 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
16 No. 3908.

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
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
25 as well as taking official notice of all the investigatory reports, exhibits and statements contained
26 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3908,
27 finds that the charges and allegations in Accusation No. 3908 are found to be true.

28 10. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$1,105.00 as of August 25, 2011.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent John Hans Loeh has subjected
3 his Pharmacy Technician License No. TCH 92661 to discipline.

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

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 License based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Investigatory Evidence Packet in this case:

8 a. Respondent is subject to disciplinary action under section 4301(1) in that on or about
9 June 16, 2010, in a criminal proceeding entitled *People v. John H. Loeh*, in San Diego Superior
10 Court, Case Number SCN274706, Respondent was convicted by a plea of guilty to violating
11 Health and Safety Code section 11379(a) (unlawful transport and offer to transport controlled
12 substance), a felony, which is substantially related to the qualifications, functions or duties as a
13 registrant. The circumstances are as follows:

14 b. On or about March 25, 2010, Respondent did unlawfully transport and offer to
15 transport a controlled substance, to wit: psilocybin/psilocin mushrooms.

16 c. Respondent is subject to disciplinary action under section 4301(j) b violating status
17 regulating controlled substances as described above.

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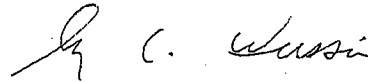
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 92661, heretofore issued to Respondent John Hans Loeh, 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 January 11, 2012.

It is so ORDERED December 12, 2011.



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

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Attachment: Exhibit A - Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY
Deputy Attorney General
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3908

12 **JOHN HANS LOEH**
13 **P.O. Box 557**
Hurst, IL 62949
14 **Pharmacy Technician Registration No. TCH 92661**

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 8, 2009, the Board of Pharmacy issued Original Pharmacy
21 Technician Registration Number TCH 92661 to John Hans Loeh (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 April 30, 2011, unless renewed.

24 **JURISDICTION**

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

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1 4. Section 4300 of the Code states:

2 "(a) Every license issued may be suspended or revoked.

3 ...

4 5. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

9 "(j) The violation of any of the statutes of this state, or any other state, or of the United
10 States regulating controlled substances and dangerous drugs.

11 ...

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment.

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

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

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

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

FIRST CAUSE FOR DISCIPLINE
(CRIMINAL CONVICTION)

9. Respondent is subject to disciplinary action under section 4301 (1) in that on or about June 16, 2010, in a criminal proceeding entitled *People v. John H. Loeh*, in San Diego Superior Court, Case Number SCN274706, Respondent was convicted by a plea of guilty to violating Health and Safety Code section 11379(a)(Unlawfully transport and offer to transport controlled substance), a felony, which is substantially related to the qualifications, functions or duties as a registrant. The circumstances are as follows:

10. On or about March 25, 2010, Respondent did unlawfully transport and offer to transport a controlled substance, to wit: psilocybin/psilocin mushrooms.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Controlled Substances)

3 11. Respondent is subject to disciplinary action under section 4301(j) by violating status
4 regulating controlled substances as described in paragraph 9 above:

5 PRAYER

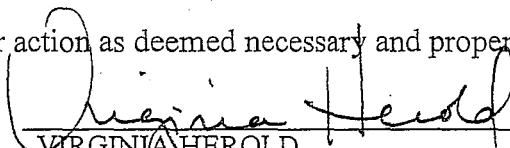
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Original Pharmacy Technician Registration License Number
9 TCH 92661, issued to John Hans Loeh

10 2. Ordering JOHN HANS LOEH to pay the Board of Pharmacy the reasonable costs of
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;

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

14 DATED: 1/27/11


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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