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

In the Matter of the Accusation Against:  
**KHOA LE PHAN**  
1566 Coventry Avenue  
Clovis, CA 93611  
  
Pharmacy Technician Registration No. TCH 100624  
  
Respondent.

Case No. 4076

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 9, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4076 against Khoa Le Phan (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about April 14, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 100624, to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4076 and will expire on December 31, 2011, unless renewed.
3. On or about November 29, 2011, Respondent was served by certified and first class mail copies of the Accusation No. 4076, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
2 is required to be reported and maintained with the Board. Respondent's address of record was  
3 and is 1566 Coventry Avenue, Clovis, CA 93611.

4 4. On December 20, 2011, Respondent was served by certified and first class mail  
5 copies of the document specified above at 3016 Canyon Way, Pittsburgh, CA 94565-6835.  
6 Service of the Accusation was effective as a matter of law under the provisions of Government  
7 Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

8 5. On or about December 12, 2011, the aforementioned documents were returned by the  
9 U.S. Postal Service marked "Moved." On January 25, 2012, the certified mail served on  
10 December 20, 2011 was returned as, "Unclaimed."

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
19 4076.

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

21 (a) If the respondent either fails to file a notice of defense or to appear at the  
22 hearing, the agency may take action based upon the respondent's express admissions  
23 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 Investigatory Evidence Packet in this matter,  
28 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
therein on file at the Board's offices regarding the allegations contained in Accusation No. 4076,  
finds that the charges and allegations in Accusation No. 4076, are true and correct.

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ORDER

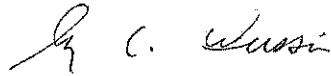
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 100624, heretofore issued to Respondent Khoa Le Phan, is revoked.

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 14, 2012.

It is so ORDERED ON August 15, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

Attachment:  
Exhibit A: Accusation

10874622.DOC  
SA2011101463

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 PATRICK M. KENADY  
Deputy Attorney General  
4 State Bar No. 050882  
1300 I Street, Suite 125  
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**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4076

13 **KHOA LE PHAN**  
1566 Coventry Avenue  
Clovis, CA 93611

**ACCUSATION**

14 Pharmacy Technician Registration No. TCH 100624

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 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 April 14, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 100624 to Khoa Le Phan (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 December 31, 2011, 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 unless otherwise indicated.

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4. Section 4300 of the Code states:

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

...

5. 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:

...

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

...

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





1 11. On or about May 30, 2010, Respondent did willfully and unlawfully possess for  
2 purpose of sale a controlled substance, to wit: methylenedioxymethamphetamin, an analog of  
3 methamphetamine.

4 **SECOND CAUSE FOR DISCIPLINE**  
5 **(CONTROLLED SUBSTANCE VIOLATION)**

6 12. Respondent is subject to disciplinary action under section 4301(j), by possessing for  
7 sale a controlled substance as specified in paragraph 10 above.

8 PRAYER

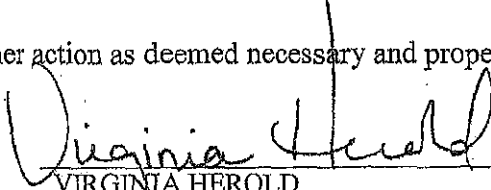
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 100624,  
12 issued to Khoa Le Phan.;

13 2. Ordering Khoa Le Phan to pay the Board of Pharmacy the reasonable costs of the  
14 investigation and enforcement of this case, pursuant to Business and Professions Code section  
15 125.3;

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

17 DATED: 11/9/11

  
18 VIRGINIA HEROLD  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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