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3 **BEFORE THE**
4 **BOARD OF PHARMACY**
5 **DEPARTMENT OF CONSUMER AFFAIRS**
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 4236

8 **MICHAEL STUART CAMPBELL**
9 **3025 West Christoffersen Pkwy Apt. J205B**
10 **Turlock, CA 95382**

OAH No. 20120

DEFAULT DECISION AND ORDER

11 **Pharmacist License No. RPH 65141**

[Gov. Code, §11520]

Respondent.

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13 **FINDINGS OF FACT**

14 1. On or about May 30, 2012, Complainant Virginia K. Herold, in her official capacity
15 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
16 Accusation No. 4236 against Michael Stuart Campbell (Respondent) before the Board of
17 Pharmacy. (Accusation attached as Exhibit A.)

18 2. On or about December 30, 2010, the Board of Pharmacy (Board) issued Pharmacist
19 License No. RPH 65141 to Respondent. The Pharmacist License was in full force and effect at
20 all times relevant to the charges brought in Accusation No. 4236 and will expire on March 31,
21 2014, unless renewed.

22 3. On or about June 26, 2012, Respondent was served by Certified and First Class Mail
23 copies of the Accusation No. 4236, Statement to Respondent, Notice of Defense, Request for
24 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
25 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
26 is required to be reported and maintained with the Board. Respondent's address of record was
27 and is: 3025 West Christoffersen Pkwy Apt. J205B Turlock, CA 95382.
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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 section
3 124.

4 5. On or about July 10, 2012, Respondent signed and returned a Notice of Defense,
5 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
6 address of record and it informed him that an administrative hearing in this matter was scheduled
7 for February 11, 2013. Respondent failed to appear at that hearing.

8 6. Government Code section 11506 states, in 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. California Government Code section 11520 states, in part:

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

19 8. Pursuant to its authority under Government Code section 11520, the Board finds
20 Respondent is in default. The Board will take action without further hearing and, based on the
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
22 taking official notice of all the investigatory reports, exhibits and statements on file at the Board's
23 offices regarding the allegations contained in Accusation No. 4236, finds that the charges and
24 allegations in Accusation No. 4236, are separately and severally, found to be true and correct by
25 clear and convincing evidence.

26 9. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement is \$3,810.00 as of January 25, 2013.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Michael Stuart Campbell has
3 subjected his Pharmacist License No. RPH 65141 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 Pharmacist License
6 based upon the following violations alleged in the Accusation that are supported by the evidence
7 contained in the Default Decision Evidence Packet in this case:

8 a. Code section 4301, subdivision (f), (Unprofessional Conduct: Commission of Act of
9 Moral Turpitude);

10 b. Code section 4301, subdivision (l), (Unprofessional Conduct: Substantially Related
11 Convictions);

12 c. Code section 490 (Substantially Related Convictions); and

13 d. Code section 4301, subdivision (h), (Unprofessional Conduct: Use of Alcohol to a
14 Dangerous Extent).

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ORDER

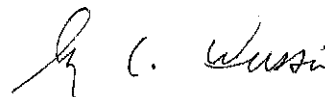
IT IS SO ORDERED that Pharmacist License No. RPH 65141, issued to Respondent Michael Stuart Campbell, is revoked.

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 May 23, 2013.

It is so ORDERED ON April 23, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

Attachment: Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
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. 4236

12 **MICHAEL STUART CAMPBELL**
3025 West Christoffersen Pkwy Apt. J205B
13 Turlock, CA 95382.

A C C U S A T I O N

14 **Pharmacist License No. 65141**

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 December 30, 2010, the Board of Pharmacy issued Pharmacist License
22 Number 65141 to Michael Stuart Campbell (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought in this Accusation and will expire on
24 March 31, 2012, 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 (Code) unless otherwise indicated.

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

5 **STATUTORY PROVISIONS**

6 5. Code section 490 states, in part:

7 (a) In addition to any other action that a board is permitted to take against a
 8 licensee, a board may suspend or revoke a license on the ground that the licensee has
 9 been convicted of a crime, if the crime is substantially related to the qualifications,
 functions, or duties of the business or profession for which the license was issued.

10 (b) Notwithstanding any other provision of law, a board may exercise any
 11 authority to discipline a licensee for conviction of a crime that is independent of the
 12 authority granted under subdivision (a) only if the crime is substantially related to the
 13 qualifications, functions, or duties of the business or profession for which the
 licensee's license was issued.

14 (c) A conviction within the meaning of this section means a plea or verdict of
 15 guilty or a conviction following a plea of nolo contendere. Any action that a board is
 16 permitted to take following the establishment of a conviction may be taken when the
 17 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 the provisions of Section 1203.4 of
 the Penal Code.

18 6. Code section 4300 states, in part:

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

20 (b) The board shall discipline the holder of any license issued by the board,
 21 whose default has been entered or whose case has been heard by the board and found
 22 guilty, by any of the following methods:

23 (1) Suspending judgment.

24 (2) Placing him or her upon probation.

25 (3) Suspending his or her right to practice for a period not exceeding one year.

26 (4) Revoking his or her license.

27 (5) Taking any other action in relation to disciplining him or her as the board in
 28 its discretion may deem proper . . .

1 7. Code section 4301 states, in part:

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

6 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
7 deceit, or corruption, whether the act is committed in the course of relations as a
8 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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

18 (l) The conviction of a crime substantially related to the qualifications,
19 functions, and duties of a licensee under this chapter. . . . [T]he record of conviction
20 shall be conclusive evidence only of the fact that the conviction occurred. The board
21 may inquire into the circumstances surrounding the commission of the crime, in order
22 to fix the degree of discipline . . . A plea or verdict of guilty or a conviction
23 following a plea of nolo contendere is deemed to be a conviction within the meaning
24 of this provision.

25 REGULATORY PROVISION

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

27 For the purpose of denial, suspension, or revocation of a personal or facility
28 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.

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1 COST RECOVERY

2 9. Code section 125.3 states, in part, that the Board may request the administrative law
3 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
4 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 FIRST CAUSE FOR DISCIPLINE

6 (Substantially Related Convictions)

7 10. Respondent's license is subject to disciplinary action under Code section 490, as
8 defined by California Code of Regulations, title 16, section 1770, in that he was convicted of
9 crimes substantially related to the qualifications, functions, and duties of a pharmacist. The
10 circumstances are as follows:

11 11. On or about September 20, 2011, in a criminal matter entitled *The People of the State*
12 *of California v. Michael Stuart Campbell*, Case No. 155167-0, in Contra Costa Superior Court,
13 Respondent was convicted by plea of no contest for violating Penal Code section 69 (Resisting
14 Executive Officer), a felony. The court sentenced Respondent to serve 120 days in jail and 2
15 years of court probation, banned him from possessing firearms for life, and ordered him to
16 comply with other terms and conditions.

17 12. The factual circumstances of the 2011 conviction are that on or about August 2, 2011,
18 the Walnut Creek Police Department was dispatched to provide medical attention to a woman at
19 Respondent's address. Respondent was agitated, aggressive, screamed at the attending police
20 officers and ambulance medical staff and obstructed their access to the injured woman.
21 Respondent pushed one of the attending police officers to the ground and attempted to bite the
22 arm of another police officer. Respondent was restrained by taser and handcuffs. On the same
23 date, at the Martinez Detention Facility during his arrest intake, Respondent wrestled with Contra
24 Costa County Sherriff's Office deputies and threw one of them to the ground.

25 13. On or about September 20, 2011, in a criminal matter entitled *The People of the State*
26 *of California v. Michael Stuart Campbell*, Case No. 151091-6, in Contra Costa Superior Court,
27 Respondent was convicted by plea of no contest for violating Vehicle Code section 23152,
28 subdivision (a), (Driving Under the Influence of Alcohol), a misdemeanor. Respondent admitted

1 to a prior conviction for violating Vehicle Code section 23152, subdivision (a) on April 17, 2008.
2 The court sentenced Respondent to serve 120 days in jail and 2 years of court probation and
3 ordered him to complete a drinking driver program and to comply with other terms and
4 conditions.

5 14. The factual circumstances of the 2011 conviction are that on or about August 21,
6 2010, a citizen called the Pleasant Hill Police Department to report a suspected drunk driver. The
7 arresting officer observed Respondent swerving and hit a median traffic barrier and that
8 Respondent's breath had a strong odor of alcohol. Respondent denied drinking alcohol and then
9 admitted to drinking one shot of gin.

10 15. On or about April 17, 2008, in a criminal matter entitled *The People of the State of*
11 *California v. Michael Stuart Campbell*, Case No. VCR195116, in the Solano County Superior
12 Court, Respondent was convicted by plea of no contest for violating Vehicle Code section 23152,
13 subdivision (a), (Driving Under the Influence of Alcohol), a misdemeanor.

14 16. The factual circumstances of the 2008 conviction are that on or about March 25;
15 2007, a citizen called the Solano County Sheriff's Department to report a hit and run collision.
16 The arresting officer observed Respondent driving slowly away from the scene of the accident
17 while the airbags were still deployed and that the front end of Respondent's vehicle suffered
18 major damage. The officer also observed an open bottle of vodka in the vehicle, that
19 Respondent's breath had a strong odor of alcohol and that his eyes were red and watery.
20 Respondent's blood alcohol level was .20%.

21 SECOND CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct: Commission of Act of Moral Turpitude)

23 17. Respondent's license is subject to disciplinary action under Code section 4301,
24 subdivision (f), in that he committed an act involving moral turpitude, dishonesty, fraud, deceit,
25 or corruption. The circumstances are more particularly set forth in Paragraphs 11 and 12, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Use of Alcohol to a Dangerous Extent)**

3 18. Respondent's license is subject to disciplinary action under Code section 4301,
4 subdivision (h), in that he used alcoholic beverages to the extent or in a manner as to be
5 dangerous or injurious to himself and/or to the public, as more particularly set forth in Paragraphs
6 13 through 16, above.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Convictions Involving Alcohol)**

9 19. Respondent's license is subject to disciplinary action under Code section 4301,
10 subdivision (k), in that he was convicted of more than one misdemeanor involving the use,
11 consumption, or self-administration of an alcoholic beverage, as more particularly set forth in
12 Paragraphs 13 through 16, above.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct: Substantially Related Convictions)**

15 20. Respondent's license is subject to disciplinary action under Code section 4301,
16 subdivision (l), as defined by California Code of Regulations, title 16, section 1770, in that he
17 was convicted of crimes substantially related to the qualifications, functions, and duties of a
18 pharmacist. The circumstances are more particularly set forth in Paragraphs 11 through 16,
19 above.

20 **DISCIPLINARY CONSIDERATIONS**

21 21. To determine the degree of discipline, if any, to be imposed on Respondent,
22 Complainant alleges that on or about September 28, 2009, in a prior action, the Board of
23 Pharmacy issued Citation Number 07-37084 and ordered Respondent to pay a fine of \$500.00.
24 That Citation is now final and is incorporated by reference as if fully set forth.

25 22. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges that on or about March 13, 2011, Respondent was arrested for violating
27 Health and Safety Code section 11550 (Under the Influence of a Controlled Substance) for
28 ingesting two bottles of cough syrup and acting erratically. No criminal charges were filed.

1 23. To determine the degree of discipline, if any, to be imposed on Respondent,
2 Complainant alleges that on or about May 1, 2011, Respondent was arrested for violating Penal
3 Code section 240 (Assault) for being involved in a physical altercation with his girlfriend. No
4 criminal charges were filed.

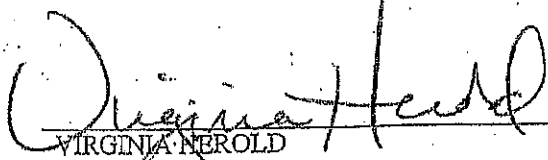
5 24. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges that on or about June 11, 2011, Respondent was arrested for violating
7 Vehicle Code section 14601 (Driving with a Suspended License).

8 PRAYER

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

- 11 1. Revoking or suspending Pharmacist License Number 65141, issued to Michael Stuart
12 Campbell;
- 13 2. Ordering Michael Stuart Campbell to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 5/30/12


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

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