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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. 4313

**THOMAS ANTHONY DELMORE
2062 Pacific Avenue
Alameda, CA 94501
Pharmacy Technician Registration No. TCH
90953**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about July 19, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4313 against Thomas Anthony Delmore (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about May 12, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 90953 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4313 and will expire on July 31, 2014, unless renewed.

3. On or about July 24, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4313, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3 is required to be reported and maintained with the Board. Respondent's address of record was
4 and is:

5 2062 Pacific Avenue
6 Alameda, CA 94501.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. 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
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 4313.

19 7. California Government Code section 11520 states, in pertinent part:

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

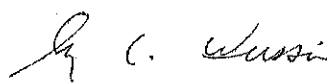
24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 4313, finds that
the charges and allegations in Accusation No. 4313, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

3 This Decision shall become effective on November 26, 2012.

4 It is so ORDERED ON October 25, 2012

5 BOARD OF PHARMACY
6 DEPARTMENT OF CONSUMER AFFAIRS
7 STATE OF CALIFORNIA

8 

9 By _____
10 STANLEY C. WEISSER
11 Board President

12
13 default decision_LIC.rtf
14 DOJ Matter ID:SF2012401672

15 Attachment:
16 Exhibit A: Accusation
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Exhibit A

Accusation

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2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
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6 Facsimile: (415) 703-5480
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. 4313

11 **THOMAS ANTHONY DELMORE**
12 2062 Pacific Avenue
13 Alameda, CA 94501

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
90953

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 May 12, 2009, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 90953 to Thomas Anthony Delmore (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on July 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 unless otherwise indicated.

1 4. Section 4300 of the Code states:

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

3 5. Section 4301 of the Code states:

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

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

7

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

13

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

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

20

FIRST CAUSE FOR DISCIPLINE

21

(Dangerous Use of Drugs)

22 7. Respondent is subject to disciplinary action under section 4301(h) of the code in that
23 Respondent used drugs in a manner that was dangerous or injurious to himself and/or others. On
24 or about July 7, 2011, Respondent used methamphetamine.

25

SECOND CAUSE FOR DISCIPLINE

26

(Violation of Drug Laws)

27

28 8. Respondent is subject to disciplinary action under section 4301(j) of the code in that
Respondent violated the statutes of California that regulate controlled substances and dangerous

1 drugs. The circumstances are as follows:

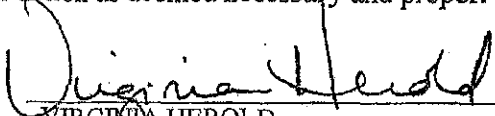
- 2 a. On or about July 7, 2011, Respondent was under the influence of methamphetamine
3 in violation of California Health and Safety Code § 11550.
4 b. On or about July 7, 2011, Respondent possessed drug paraphernalia (a
5 methamphetamine pipe) in violation of California Health and Safety Code §
6 11364.

7 PRAYER

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

- 10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90953,
11 issued to Thomas Anthony Delmore;
12 2. Ordering Thomas Anthony Delmore to pay the Board of Pharmacy the reasonable
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions
14 Code section 125.3;
15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 7/19/12


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

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