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

In the Matter of the Accusation Against:

**CESAR MENDOZA  
5234 Strohm Avenue  
North Hollywood, CA 91601  
Pharmacy Technician Registration No. TCH  
62162**

Respondent.

Case No. 4336

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about October 7, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4336 against Cesar Mendoza (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

1           2.    On or about July 8, 2005, the Board of Pharmacy (Board) issued Pharmacy  
2 Technician Registration No. TCH 62162 to Respondent. The Pharmacy Technician Registration  
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 4336  
4 and expired on November 30, 2012, and was cancelled on August 4, 2013. This lapse in  
5 licensure, however, pursuant to Business and Professions Code section 118(b) and/or agency-  
6 specific statute does not deprive the [Board] of its authority to institute or continue this  
7 disciplinary proceeding.

8           3.    On or about October 7, 2013, Respondent was served by Certified Mail and First  
9 Class Mail with copies of the Accusation No. 4336, at Respondent's address of record which,  
10 pursuant to Business and Professions Code section 4100, is required to be reported and  
11 maintained with the Board. Respondent's address of record was and is:

12 5234 Strohm Avenue  
13 North Hollywood, CA 91601.

14           4.    Service of the Accusation was effective as a matter of law under the provisions of  
15 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
16 124.

17           5.    The Certified Mail Return Receipt No. 71969008911149289945 confirmed that  
18 Respondent was served with copies of the Accusation No. 4336, at Respondent's address of  
19 record, on or about October 9, 2013.

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

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

26           7.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
27 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
28 4336.

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

              (a) If the respondent either fails to file a notice of defense or to appear at the  
hearing, the agency may take action based upon the respondent's express admissions

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

3 9. Pursuant to its authority under Government Code section 11520, the Board finds  
4 Respondent is in default. The Board will take action without further hearing and, based on the  
5 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
6 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
7 file at the Board's offices regarding the allegations contained in Accusation No. 4336, finds that  
8 the charges and allegations in Accusation No. 4336, are separately and severally, found to be true  
9 and correct by clear and convincing evidence.

10 10. Taking official notice of its own internal records, pursuant to Business and  
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
12 and Enforcement is \$3,550.00 as of February 7, 2014.

### 13 DETERMINATION OF ISSUES

14 1. Based on the foregoing findings of fact, Respondent Cesar Mendoza has subjected his  
15 Pharmacy Technician Registration No. TCH 62162 to discipline.

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

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

20 a. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
22 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
23 duties of a pharmacy technician. On or about June 7, 2011, after pleading nolo contendere,  
24 Respondent was convicted of one misdemeanor count of violating Penal Code section 594,  
25 subdivision (a)(2) [vandalism] in the criminal proceeding entitled *The People of the State of*  
26 *California v. Cesar Mendoza* (Super. Ct. Los Angeles County, 2011, No. 1BR01233). The Court  
27 placed Respondent on 36 months probation, with terms and conditions. The circumstances  
28

1 surrounding the conviction are that on or about April 30, 2011, Respondent smashed the rear  
2 window of a vehicle, belonging to E.I., with a large metal “club” lock.

3 b. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
4 that Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit with the  
5 intent to substantially benefit himself, or substantially injure another. Complainant refers to, and  
6 by this reference incorporates, the allegations set forth above in paragraph 3, subdivision (a), as  
7 though set forth fully.

8 4. In order to determine the degree of discipline, if any to be imposed on Respondent,  
9 Complainant alleges, as follows:

10 a. On or about November 29, 2007, after pleading nolo contendere, Respondent was  
11 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
12 [driving while having 0.08% or more, by weight, of alcohol in his blood] *with enhancement of*  
13 *prior DUI conviction* in the criminal proceeding entitled *The People of the State of California v.*  
14 *Cesar Mendoza* (Super. Ct. Los Angeles, County, 2007, No. 7VY04391) The Court sentenced  
15 Respondent to served 180 days in Los Angeles County Jail and placed him on 60 months  
16 probation, with terms and conditions. The circumstances surrounding the conviction are that on  
17 or about September 30, 2007, California Highway Patrol (CHP) officer conducted a routine traffic  
18 stop on a vehicle that was traveling at high rate of speed. The CHP officer smelled the odor of an  
19 alcoholic beverage emitting from the Respondent’s vehicle. Respondent denied consuming any  
20 alcoholic beverages in the preceding 24 hours. The officer further observed that Respondent was  
21 unsteady on his feet, his speech was slurry and that his eyes were bloodshot and watery. The  
22 CHP officer administered a series of Standardized Field Sobriety Tests which Respondent failed  
23 to perform as explained and demonstrated. Respondent was arrested and transported to the LAPD  
24 Van Nuys Office where a breath alcohol test was administered. Respondent told the officer “*I*  
25 *don’t want to go to jail, this is going to be my third DUI.*” During the booking procedure,  
26 Respondent submitted to a breath test that resulted in breath-alcohol level of .14%, approximately  
27 twice the legal limit. Respondent drove a vehicle while having 0.08% or more, by weight, of  
28 alcohol in his blood.

1 b. On or about October 14, 2004, after pleading nolo contendere, Respondent was  
2 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
3 [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal  
4 proceeding entitled *The People of the State of California v. Cesar Mendoza* (Super. Ct. Los  
5 Angeles County, 2004, No. 4WL04261). The Court placed Respondent on 36 months probation,  
6 with terms and conditions. The circumstances surrounding the conviction are that on or about  
7 September 18, 2004, during a traffic stop by the Los Angeles Police Department, Respondent was  
8 contacted. While speaking to Respondent, the officer detected an odor of an alcoholic beverage  
9 on his breath. Respondent was given a Standardized Field Sobriety Test, which he failed to  
10 perform. During the booking procedure, Respondent submitted to a breath test that resulted in  
11 breath-alcohol level of 0.11% on the first reading and 0.12% on the second.

12 c. On or about February 4, 2010 the Board issued a Letter of Admonishment to  
13 Respondent for his prior convictions of 2004, 2005 and 2007. Complainant incorporates by  
14 reference as though set forth fully the allegations of Paragraphs 4(a) through 4(b), above.

15 ORDER

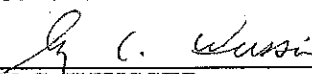
16 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 62162, heretofore  
17 issued to Respondent Cesar Mendoza, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
19 written motion requesting that the Decision be vacated and stating the grounds relied on within  
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
21 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on April 7, 2014.

23 It is so ORDERED ON March 6, 2014.

24 BOARD OF PHARMACY  
25 DEPARTMENT OF CONSUMER AFFAIRS  
26 STATE OF CALIFORNIA

27 By   
28 STAN C. WEISSER  
Board President

51450679.DOC/DOJ Matter ID: LA2012507136  
Attachment: Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 MORGAN MALEK  
Deputy Attorney General  
4 State Bar No. 223382  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-8944  
6 Facsimile: (213) 897-2804

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:  
12 **CESAR MENDOZA**  
5234 Strohm Avenue  
13 North Hollywood, CA 91601  
14 Pharmacy Technician License  
No. TCH 62162  
15  
16 Respondent.

Case No. 4336  
**ACCUSATION**

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 July 8, 2005, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 62162 to Cesar Mendoza (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on November 30, 2012, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 ///





1           8.    Section 4301 states, in pertinent part:

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

5           ....

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

9           ....

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

27        ///

28        ///

1 **REGULATORY PROVISIONS**

2 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
17 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
18 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
19 duties of a pharmacy technician. On or about June 7, 2011, after pleading nolo contendere,  
20 Respondent was convicted of one misdemeanor count of violating Penal Code section 594,  
21 subdivision (a)(2) [vandalism] in the criminal proceeding entitled *The People of the State of*  
22 *California v. Cesar Mendoza* (Super. Ct. Los Angeles County, 2011, No. 1BR01233). The Court  
23 placed Respondent on 36 months probation, with terms and conditions. Respondent was ordered  
24 to attend 30 Alcoholic Anonymous (AA) at the rate of one meeting per week and make restitution  
25 to the victim for the damages. The circumstances surrounding the conviction are that on or about  
26 April 30, 2011, Respondent smashed the rear window of a vehicle, belonging to E.I.<sup>1</sup>, with a large

27 <sup>1</sup> In order to protect the privacy of the victim, his first and last name initials are used for the purpose of  
28 identification.

(continued...)

1 metal "club" steering wheel lock. When questioned by Burbank Police Officers, Respondent  
2 appeared to be intoxicated as he staggered towards the officer. Burbank Police Officer observed  
3 Respondent to have blood on his hands and jeans. When questioned about the blood Respondent  
4 explained that his dog bit him. Respondent denied smashing the rear window of the vehicle  
5 belonging to E.I. Subsequently, the officers recovered the bloody "club" steering wheel lock.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

8 12. Respondent's application is subject to denial under section 4301, subdivision (f), in  
9 that Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit with the  
10 intent to substantially benefit himself, or substantially injure another. Complainant refers to, and  
11 by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth  
12 fully.

13 **DISCIPLINARY CONSIDERATION**

14 13. In order to determine the degree of discipline, if any to be imposed on Respondent,  
15 Complainant alleges, as follows:

16 a. On or about November 29, 2007, after pleading nolo contendere, Respondent was  
17 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
18 [driving while having 0.08% or more, by weight, of alcohol in his blood] *with enhancement of*  
19 *prior DUI conviction* in the criminal proceeding entitled *The People of the State of California v.*  
20 *Cesar Mendoza* (Super. Ct. Los Angeles, County, 2007, No. 7VY04391) The Court sentenced  
21 Respondent to served 180 days in Los Angeles County Jail and placed him on 60 months  
22 probation, with terms and conditions. The circumstances surrounding the conviction are that on  
23 or about September 30, 2007, California Highway Patrol (CHP) officer conducted a routine traffic  
24 stop on a vehicle that was traveling at high rate of speed. The CHP officer smelled the odor of an  
25 alcoholic beverage emitting from the Respondent's vehicle. Respondent denied consuming any  
26 alcoholic beverages in the preceding 24 hours. The officer further observed that Respondent was

1 unsteady on his feet, his speech was slurry and that his eyes were bloodshot and watery. The  
2 CHP officer administered a series of Standardized Field Sobriety Tests which Respondent failed  
3 to perform as explained and demonstrated. Respondent was arrested and transported to the LAPD  
4 Van Nuys Office where a breath alcohol test was administered. Respondent told the officer "*I*  
5 *don't want to go to jail, this is going to be my third DUI.*" During the booking procedure,  
6 Respondent submitted to a breath test that resulted in breath-alcohol level of .14%, approximately  
7 twice the legal limit. Respondent drove a vehicle while having 0.08% or more, by weight, of  
8 alcohol in his blood.

9 b. On or about May 16, 2005, after pleading, nolo contendere, Respondent was  
10 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a)  
11 [driving under the influence of alcohol or drugs] and one count of Vehicle Code section 14601.2  
12 [driving while driving privileges are suspended or revoked with knowledge] in the criminal  
13 proceeding entitled *The People of the State of California v. Cesar Mendoza* (Super. Ct. Los  
14 Angeles County, 2005, No. 5VN00188). The Court sentenced Respondent to serve one day in  
15 Los Angeles County Jail and placed him on 48 months probation, with terms and conditions. The  
16 circumstances surrounding the conviction are that on or about January 1, 2005, during a traffic  
17 stop by the Los Angeles Police Department, Respondent was contacted. While speaking to  
18 Respondent the officer detected a strong odor of an alcoholic beverage emitting from his breath.  
19 He was observed to have bloodshot eyes and slurred speech. During the booking procedure,  
20 Respondent submitted to a breath test that resulted in a breath-alcohol content level of 0.14% on  
21 the first and second reading.

22 c. On or about March 7, 2005, Respondent was convicted of one misdemeanor count of  
23 violating Vehicle Code Section 20002, subdivision (a) [hit and run: property damage] and one  
24 count of Vehicle Code section 14601.2, subdivision (a) [driving while driver's license is  
25 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*  
26 *Cesar Mendoza* (Super. Ct. Los Angeles County, 2005, No. 5VN00108). The Court sentenced  
27 Respondent to 30 days in Los Angeles County Jail and placed him on 36 months probation, with  
28 terms and conditions. The circumstances surrounding the convictions are that on or about

1 October 17, 2004, Respondent was arrested for hit and run: property damage, and driving while  
2 driver's license is suspended or revoked.

3 d. On or about October 14, 2004, after pleading nolo contendere, Respondent was  
4 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
5 [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal  
6 proceeding entitled *The People of the State of California v. Cesar Mendoza* (Super. Ct. Los  
7 Angeles County, 2004, No. 4WL04261). The Court placed Respondent on 36 months probation,  
8 with terms and conditions. The circumstances surrounding the conviction are that on or about  
9 September 18, 2004, during a traffic stop by the Los Angeles Police Department, Respondent was  
10 contacted. While speaking to Respondent, the officer detected an odor of an alcoholic beverage  
11 on his breath. Respondent was given a Standardized Field Sobriety Test, which he failed to  
12 perform. During the booking procedure, Respondent submitted to a breath test that resulted in  
13 breath-alcohol level of 0.11% on the first reading and 0.12% on the second.

14 e. On or about February 4, 2010 the Board issued a Letter of Admonishment to  
15 Respondent for his prior convictions of 2004, 2005 and 2007. Complainant incorporates by  
16 reference as though set forth fully the allegations of Paragraphs 12(a) through 12(d), above.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board issue a decision:

- 20 1. Revoking or suspending Pharmacy Technician License No. TCH 62162, issued to  
21 Cesar Mendoza;
- 22 2. Ordering Cesar Mendoza to pay the Board of Pharmacy the reasonable costs of the  
23 investigation and enforcement of this case, pursuant to section 125.3; and

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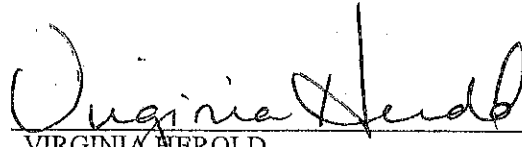
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/19/13

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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