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

In the Matter of the Accusation Against:	Case No. 4686
JAMES CHRISTOPHER MORRISON **6940 Grand Manan Drive** **Cypress, CA 90630** **Pharmacy Technician Registration** **No. TCH 93983** Respondent.	**DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 14, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4686 against James Christopher Morrison (Respondent) before the Board of Pharmacy. (The Accusation is attached as Exhibit A.)

2. On or about September 9, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 93983 to Respondent. The Pharmacy Technician Registration expired on January 31, 2011, and has not been renewed. Section 4300.1 of the Code provides, in pertinent part, that the expiration or cancellation of a Board-issued license shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

3. On or about August 23, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4686, 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 and California Code of Regulations, title 16, section 1704, is required to be reported and maintained with the Board. Respondent's address of record was and is:

6940 Grand Manan Drive
Cypress, CA 90630

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

5. On or about September 3, 2013, Respondent signed the Domestic Return Receipt indicating acceptance of service of the aforementioned documents served by Certified Mail.

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

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 4686.

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

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, 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. 4686, finds that the charges and allegations in Accusation No. 4686, are separately and severally, found to be true and correct by clear and convincing evidence.

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 $432.50 as of September 23, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent James Christopher Morrison has subjected his Pharmacy Technician Registration No. TCH 93983 to discipline.

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

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

4. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that on or about March 26, 2012, he violated Health and Safety Code section 11173, subdivision (a), possession of a controlled substance, to wit, heroin, a felony; and Business and Professions Code section 4060, possession of controlled substance paraphernalia, a misdemeanor, statutes regulating controlled substances.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 93983, heretofore issued to Respondent James Christopher Morrison, 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 December 6, 2013.

It is so ORDERED ON November 6, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STAN C. WEISSER
Board President

DOJ Matter ID: SD2013705275

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
State Bar No. 101336
AMANDA DODDS
Senior Legal Analyst
110 West "A" Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2141
Facsimile: (619) 645-2061
Attorneys for Complainant

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

In the Matter of the Accusation Against: **JAMES CHRISTOPHER MORRISON** **6940 Grand Manan Drive** **Cypress, CA 90630** **Pharmacy Technician Registration** **No. TCH 93983** Respondent.	Case No. 4686 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about September 9, 2009, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 93983 to James Christopher Morrison (Respondent). Respondent is also known as James Christophe Squadere. The Pharmacy Technician Registration expired on January 31, 2011, and has not been renewed.

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JURISDICTION

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

4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

> The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Section 492 of the Code states:

> Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.
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> This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

7. 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:
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> . . . .
>
> (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.
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> . . . .

8. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

9. Section 4060 of the Code states, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

COSTS

10. Section 125.3 of the Code provides, in pertinent part, that the Board 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUG

11. Heroin is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (c)(11), and is a dangerous drug pursuant to Business and Professions Code section 4022.

CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Controlled Substances)

12. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that on or about March 26, 2012, he violated Health and Safety Code section 11173, subdivision (a), and Business and Professions Code section 4060, statutes regulating controlled substances. The circumstances are as follows:

a. On or about the afternoon of March 26, 2012, a patrol deputy with the San Diego County Sheriff's Department observed Respondent fail to stop at a stop sign. After conducting a traffic stop, the deputy made contact with Respondent. During a search of Respondent, the deputy located a straw in Respondent's front pant pocket; it was cut in half and had a brown substance inside it. The deputy believed the straw was used to inhale smoke from drugs burned on aluminum foil. Respondent admitted to the deputy that he last smoked heroin that morning. The deputy learned that Respondent had an outstanding warrant for reckless driving. Respondent was placed under arrest. During a search of Respondent's vehicle, the deputy located a brown tar substance in the armrest pocket of the driver's door. The substance later tested positive for .20 grams of heroin. During further processing at the sheriff's substation, the deputy found an additional quantity of a brown tar substance inside Respondent's rear pants pocket which tested positive for heroin. On Respondent's cell phone there were numerous text messages related to the purchase of drugs.

b. As a result of the arrest, on or about May 15, 2012, in a criminal proceeding entitled *People of the State of California v. James Christophe Squadere, aka James Christopher Morrison,* in San Diego County Superior Court, case number CN303973, Respondent pled guilty to violating Health and Safety Code section 11173, subdivision (a), possession of a controlled substance, to wit, heroin, a felony. Pursuant to the plea agreement, the court dismissed additional counts of violating Health and Safety Code section 11350, subdivision (a), possession of a designated controlled substance; Vehicle Code section 14601.5, subdivision (a), driving on a suspended or revoked license; and Vehicle Code section 12500, subdivision (a), driving without a valid license.

c. As a result of the plea, on or about May 15, 2012, the court deferred entry of judgment for 18 months, and Respondent was ordered to enter a drug treatment program pursuant to Penal Code section 1000. Respondent was permitted to complete the program in Arizona.

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DISCIPLINARY CONSIDERATIONS

13. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant to California Code of Regulations, title 16, section 1769, Complainant alleges:

a. On or about March 16, 2010, in a criminal proceeding entitled *People of the State of California v. James Christophe Squadere, aka James Christopher Morrison,* in San Diego County Superior Court, case number CN271144, Respondent was convicted on his plea of guilty to violating Vehicle Code section 23103.5, alcohol-related reckless driving, a misdemeanor. Respondent was placed on probation for three years, and ordered to complete a three-month First Conviction Program.

b. In a letter to Respondent dated August 13, 2010, an Enforcement Analyst from the Board advised Respondent that the Board was not going to pursue disciplinary action against his license at that time. Respondent was warned that future substantiated reports of similar behavior, or other violations of the law or violations of regulations governing the practice of a pharmacy technician would result in disciplinary action against Respondent's license.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 93983, issued to James Christopher Morrison;

2. Ordering James Christopher Morrison to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 8/14/13

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

SD2013705275