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

In the Matter of the Accusation Against:  
**TAHMINA ZADRAN  
8389 Mayhews Landing Road  
Newark, CA 94560  
Pharmacy Technician License No. TCH 79450**  
  
Respondent.

Case No. 4753

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 6, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4753 against Tahmina Zadrán (Respondent) before the Board of Pharmacy. A copy of the Accusation is attached hereto as Exhibit A.

2. On or about December 3, 2007, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 79450 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4753 and will expire on October 31, 2013, unless renewed. Pursuant to Business and Professions Code section 4300.1, any lapse in licensure by expiration, cancellation, forfeiture, suspension, retirement, or voluntary surrender, does not deprive the Board of jurisdiction to render a disciplinary decision.

1           3.     On or about September 19, 2013, Respondent was served by Certified and First Class  
2 Mail with copies of: Accusation No. 4753; a Statement to Respondent; a Notice of Defense (2  
3 copies); a Request for Discovery; and the text of the Discovery Statutes (Gov. Code, §§ 11507.5,  
4 11507.6, and 11507.7), to Respondent's address of record which was and is: 8389 Mayhews  
5 Landing Road, Newark, CA 94560.

6           4.     Pursuant to Business and Professions Code section 136 and/or 4100, and/or California  
7 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes  
8 thereto, are required to be reported and maintained with the Board.

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

11           6.     On or about October 10, 2013, Respondent communicated by telephone with the  
12 Office of the Attorney General, and confirmed her intent not to respond to the Accusation.

13           7.     Government Code section 11506 states, in pertinent part:

14                   (c) The respondent shall be entitled to a hearing on the merits if the respondent  
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
16 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.

17           8.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4753.

19           9.     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  
respondent.

23           10.    Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
27 file at the Board's offices, finds that the charges and allegations in Accusation No. 4753 are,  
28 separately and severally, true and correct by clear and convincing evidence.

1 11. Taking official notice of its own internal records, pursuant to Business and  
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
3 and Enforcement is \$1,485.00 as of October 10, 2013.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Tahmina Zadran has subjected  
6 her Pharmacy Technician License No. TCH 79450 to discipline.

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

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

11 a. Respondent's License is subject to revocation pursuant to Business and Professions  
12 Code section 4301(f), for acts involving moral turpitude, dishonesty, fraud, deceit, or corruption,  
13 in that between in or about June 2012 and August 2012, Respondent, while functioning as a  
14 caretaker for an elderly client/patient (83 years old), stole money from the wallet or person of the  
15 client/patient, in an amount of at least \$300.00 and up to \$600.00;

16 b. Respondent's License is subject to revocation pursuant to Business and Professions  
17 Code section(s) 4301(l) and/or 490, by reference to California Code of Regulations, title 16,  
18 section 1770, for the conviction of substantially related crime(s), in that on or about January 25,  
19 2013, in *People v. Tahmina Zadran*, Case No. B1261976 in Santa Clara County Superior Court,  
20 Respondent was convicted, on the basis of the facts described above, of violating Penal Code  
21 section 368, subdivision (e) (Theft/Embezzlement of \$950.00 or Less By a Caretaker From an  
22 Elder/Dependent Adult), a misdemeanor.

23 c. Respondent's License is subject to revocation pursuant to Business and Professions  
24 Code section 4301, in that Respondent, as described above, engaged in unprofessional conduct.

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ORDER

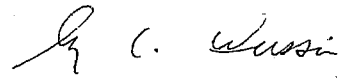
IT IS SO ORDERED that Pharmacy Technician License No. TCH 79450, heretofore issued to Respondent Tahmina Zadrán, is revoked.

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 January 17, 2014.

It is so ORDERED ON December 18, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STAN C. WEISSER  
Board President

40789666.DOC  
DOJ Matter ID:SF2013404915

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
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. 4753

11 **TAHMINA ZADRAN**  
12 **8389 Mayhews Landing Road**  
13 **Newark, CA 94560**

**ACCUSATION**

14 **Pharmacy Technician License No. TCH 79450**

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 3, 2007, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 79450 to Tahmina Zadrán (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 October 31, 2013, 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.     Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4           5.     Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6           6.     Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license; the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11   STATUTORY AND REGULATORY PROVISIONS

12           7.     Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
14 not be limited to, any of the following:

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

18           (i) The conviction of a crime substantially related to the qualifications, functions, and duties  
19 of a licensee under this chapter.

20           8.     Section 490 of the Code provides, in pertinent part, that the Board may suspend or  
21 revoke a license when it finds that the licensee has been convicted of a crime substantially related  
22 to the qualifications, functions or duties of the license.

23           9.     California Code of Regulations, title 16, section 1770, provides, in pertinent part, that  
24 a crime or act shall be considered substantially related to the qualifications, functions or duties of  
25 a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
26 licensee or registrant to perform the functions authorized by her license or registration in a  
27 manner consistent with the public health, safety, or welfare.

28           ///



1 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
2 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
3 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

4 FACTUAL BACKGROUND

5 11. Between in or about June 2012 and August 2012, Respondent, while functioning as a  
6 caretaker for an elderly client/patient (83 years old), stole money from the wallet or person of the  
7 client/patient. At least \$300.00 and up to \$600.00 was taken by Respondent.

8 FIRST CAUSE FOR DISCIPLINE

9 (Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

10 12. Respondent is subject to discipline under section 4301(f) of the Code in that  
11 Respondent, as described in paragraph 11 above, committed one or more acts involving moral  
12 turpitude, dishonesty, fraud, deceit, or corruption.

13 SECOND CAUSE FOR DISCIPLINE

14 (Conviction of Substantially Related Crime(s))

15 13. Respondent is subject to discipline under section 4301(l) and/or section 490 of the  
16 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
17 substantially related crime(s), in that on or about January 25, 2013, in *People v. Tahmina Zadrn,*  
18 Case No. B1261976 in Santa Clara County Superior Court, Respondent was convicted of  
19 violating Penal Code section 368, subdivision (e) (Theft/Embezzlement of \$950.00 or Less By a  
20 Caretaker From Elder/Dependent Adult), a misdemeanor. The conviction was entered as follows:

- 21 a. On or about August 27, 2012, on the basis of the conduct described in  
22 paragraph 11, Respondent was charged by Misdemeanor Complaint in Case No. B1261976 with  
23 one count of violating Penal Code section 368, subdivision (e) (Theft/Embezzlement of \$950.00  
24 or Less By a Caretaker From Elder/Dependent Adult), a misdemeanor;
- 25 b. On or about January 25, 2013, Respondent pleaded nolo contendere and was  
26 found guilty of violating Penal Code section 368, subdivision (e) (Theft/Embezzlement of  
27 \$950.00 or Less By a Caretaker From Elder/Dependent Adult), a misdemeanor;
- 28

1 c. On or about January 25, 2013, imposition of sentence was suspended in favor  
2 of a period of court probation of eighteen (18) months, with terms and conditions including a ban  
3 on engaging in any caretaking or fiduciary duties for elderly or dependent adults, eighty (80)  
4 hours of community service, and payment of fines, fees, and restitution.

5 THIRD CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

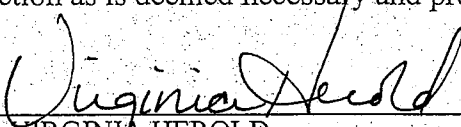
7 14. Respondent is subject to discipline under section 4301 of the Code in that  
8 Respondent, as described in paragraphs 11 to 13 above, engaged in unprofessional conduct.

9  
10 PRAYER

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

- 13 1. Revoking or suspending Pharmacy Technician License Number TCH 79450, issued  
14 to Tahmina Zadran (Respondent);
- 15 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
16 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 17 3. Taking such other and further action as is deemed necessary and proper.

18 DATED: 9/6/13

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

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