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

In the Matter of the Accusation Against:
CHONG LEE
5479 E. Washington Avenue
Fresno, CA 93727
Pharmacy Technician Registration No. TCH
111957

Respondent.

Case No. 4825
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1
2 1. On or about September 19, 2013, Complainant Virginia Herold, in her official
3 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
4 filed Accusation No. 4825 against Chong Lee (Respondent) before the Board of Pharmacy.
5 (Accusation attached as Exhibit A.)

6 2. On or about April 4, 2011, the Board of Pharmacy (Board) issued Pharmacy
7 Technician Registration No. TCH 111957 to Respondent. The Pharmacy Technician Registration
8 expired on January 31, 2013, and has not been renewed.

9 3. On or about October 21, 2013, Respondent was served by Certified and First Class
10 Mail copies of the Accusation No. 4825, Statement to Respondent, Notice of Defense, Request
11 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
12 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
13 section 4100, is required to be reported and maintained with the Board. Respondent's address of
14 record was and is:

15 5479 E. Washington Avenue .
16 Fresno, CA 93727.

17 4. Service of the Accusation was effective as a matter of law under the provisions of
18 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
19 124.

20 5. On or about October 23, 2013, the aforementioned documents were received and the
21 certified mail receipt was signed at Respondent's residence.

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

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

28 7. Respondent failed to file a Notice of Defense within 15 days after service of the
Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 4825.

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 4825, finds that
11 the charges and allegations in Accusation No. 4825, are separately and severally, found to be true
12 and correct by clear and convincing evidence.

13 10. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$922.50 as of November 14, 2013.

16 **DETERMINATION OF ISSUES**

17 1. Based on the foregoing findings of fact, Respondent Chong Lee has subjected his
18 Pharmacy Technician Registration No. TCH 111957 to discipline.

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

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

23 a. Code section 4301, subdivision (l), substantially related criminal conviction, in that
24 Respondent was convicted of possession of methamphetamine, a felony.

25 b. Code section 4301, subdivision (j), violation of statutes regulating controlled
26 substances, in that Respondent possessed methamphetamine in violation of Health and Safety
27 Code section 11377, subdivision (a), and also possessed paraphernalia for smoking
28 methamphetamine in violation of Health and Safety Code section 11364.1, subdivision (a).

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ORDER

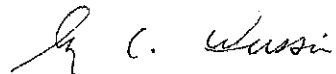
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 111957, heretofore issued to Respondent Chong Lee, is revoked.

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 February 18, 2014.

It is so ORDERED ON January 17, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

11216169.DOC
DOJ Matter ID:SA2013111944

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
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:

Case No. 4825

12 **CHONG LEE**
13 **5479 E. Washington Avenue**
Eresno, CA 93727

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **111957**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 4, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 111957 to Chong Lee (Respondent). The Pharmacy Technician
24 Registration expired on January 31, 2013, and has not been renewed.

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1 JURISDICTION

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

5 4. Section 4300 of the Code states in pertinent part:

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 5. Section 4300.1 of the Code states:

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

22 6. Section 4301 of the Code states in pertinent part:

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

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

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1 (f) The conviction of a crime substantially related to the qualifications, functions, and duties
2 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. The board may inquire
6 into the circumstances surrounding the commission of the crime, in order to fix the degree of
7 discipline. A plea or verdict of guilty or a conviction following a plea of nolo contendere is
8 deemed to be a conviction within the meaning of this provision.

9 7. Health and Safety Code section 11377 states in pertinent part:

10 (a) Every person who unlawfully possesses any controlled substance which is specified in
11 subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist,
12 or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county
13 jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the
14 Penal Code.

15 8. Health and Safety Code section 11364.1 states in pertinent part:

16 (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or
17 paraphernalia used for unlawfully injecting or smoking a controlled substance specified in
18 paragraph (2) of subdivision (d) of Section 11055.

19 **DRUGS**

20 9. Methamphetamine is a Schedule II controlled substance pursuant to Health and
21 Safety Code section 11055, subdivision (d), paragraph (2).

22 **COST RECOVERY**

23 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

11. Respondent is subject to disciplinary action under Code section 4300, subdivision (I) in that on or about January 30, 2013, in a case entitled *People v. Chong Lee*, Fresno County Superior Court case number F12910035, Respondent was convicted after his plea of guilty to a violation of Health and Safety Code section 11377, subdivision (a), a felony, possession of Methamphetamine, a controlled substance. The circumstances are as follows:

12. On or about November 16, 2012, Respondent was observed by Fresno Police Officers speeding in a residential area. Respondent stopped and exited the vehicle before the officers activated their lights in order to effectuate a stop. After exiting the vehicle, officers contacted Respondent and informed him they observed him speeding, and requested his driver's license. Respondent told the officers his license was inside his vehicle in the center console. With Respondent's permission, one of the officers entered his vehicle in order to obtain the driver's license. On top of Respondent's driver's license in the center console was a pipe for smoking methamphetamine with methamphetamine residue visible. The officer asked Respondent if there were any other illegal items within the vehicle, and Respondent told him there was a baggie of methamphetamine near or under the driver's seat. The officer located the methamphetamine and placed Respondent under arrest.

SECOND CAUSE FOR DISCIPLINE

(Violations of Statutes Regulating Controlled Substances)

13. Respondent is subject to disciplinary action under Code section 4301, subdivision (j), in that on or about November 16, 2012, Respondent violated provisions of the Health and Safety Code regulating controlled substances. The circumstances are as follows:

a. On or about November 16, 2012, Respondent was in possession of methamphetamine, a violation of Health and Safety Code section 11377, subdivision (a). The circumstances are as set forth in paragraph 12, above.

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1 b. On or about November 16, 2012, Respondent was in possession of
2 paraphernalia for the purposes of using a controlled substance, a violation of Health and Safety
3 Code section 11364.1, subdivision (a). The circumstances are as set forth in paragraph 12, above.

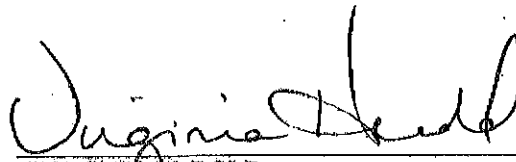
4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 111957,
8 issued to Chong Lee
9 2. Ordering Chong Lee to pay the Board of Pharmacy the reasonable costs of the
10 investigation and enforcement of this case, pursuant to Business and Professions Code section
11 125.3;
12 3. Taking such other and further action as deemed necessary and proper.

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14
15 DATED:

9/19/13



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

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