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

In the Matter of the Accusation Against:
CINDY DO
5800 Hamnes Avenue, #604
Mira Loma, CA 91752
Pharmacy Technician Registration No. TCH 113347
Respondent.

Case No. 4888
**DEFAULT DECISION
AND ORDER**
[Gov. Code, §11520]

FINDINGS OF FACT

1. On February 19, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4888 against Cindy Do (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On July 13, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 113347 to Respondent. The Pharmacy Technician Registration expired on June 30, 2013, and was cancelled on October 8, 2013. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.
3. On March 10, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4888, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)
2 at Respondent's address of record which, pursuant to Business and Professions Code section
3 4100, is required to be reported and maintained with the Board. Respondent's address of record
4 was and is 5800 Hammes Avenue, #604, Mira Loma, CA 91752.

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

7 5. On March 20, 2014, the aforementioned documents were returned by the U.S.
8 Postal Service marked "Moved, Left No Address. Unable to Forward." The address on the
9 documents was the same as the address on file with the Board. Respondent failed to maintain an
10 updated address with the Board and the Board has made attempts to serve the Respondent at the
11 address on file. Respondent has not made herself available for service and therefore, has not
12 availed herself of her right to file a notice of defense and appear at hearing.

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

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

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon
20 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
21 No. 4888.

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

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 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. 4888, finds that

1 the charges and allegations in Accusation No. 4888, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for
5 Investigation and Enforcement is \$492.50 as of April 28, 2014.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Cindy Do has subjected her
8 Pharmacy Technician Registration No. TCH 113347 to discipline.

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

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

13 a. Respondent subjected her pharmacy technician registration to discipline
14 under Code sections 490 and 4301, subdivision (l) in that on October 3, 2012, in a criminal
15 proceeding entitled *The People of the State of California vs. Cindy Do*, in Los Angeles County
16 Superior Court, Case Number 2LG02740, Respondent was convicted on her plea of *nolo*
17 *contendere* to violating Penal Code (PC) section 470 (d), forgery, a misdemeanor substantially
18 related to the qualifications, functions, and duties of a registered pharmacy technician.

19 b. Respondent subjected her pharmacy technician registration to discipline
20 under Code sections 490 and 4301, subdivision (l) in that on May 8, 2013, in a criminal
21 proceeding entitled *The People of the State of California vs. Cindy Do*, in Los Angeles County
22 Superior Court, Case Number NA095433, Respondent was convicted on her plea of *nolo*
23 *contendere* to violating PC section 487 (a), grand theft, a felony substantially related to the
24 qualifications, functions, and duties of a registered pharmacy technician.

25 c. Respondent has subjected her pharmacy technician registration to
26 discipline under Code section 4301(f), in that she committed acts involving moral turpitude,
27 dishonesty, fraud, deceit, and corruption when she attempted to pass, as true and genuine, a
28 counterfeit check, and obtained identifying information to commit credit card fraud.

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ORDER

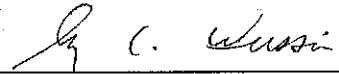
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 113347, heretofore issued to Respondent Cindy Do, is revoked.

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 June 20, 2014.

It is so ORDERED May 21, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

70863821.DOC
DOJ Matter ID:SD2013705691

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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10 **BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. 4888

13 **CINDY DO**
5800 Hamnes Avenue, #604
14 Mira Loma, CA 91752

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 113347**

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 July 13, 2011, the Board of Pharmacy issued Pharmacy Technician Registration
23 Number TCH 113347 to Cindy Do (Respondent). The Pharmacy Technician Registration expired
24 on June 30, 2013, and has not been 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.

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9. 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:

....

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

....

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

....

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.

///

1 (3) The time that has elapsed since commission of the act(s) or
2 offense(s).

3 (4) Whether the licensee has complied with all terms of parole,
4 probation, restitution or any other sanctions lawfully imposed against the licensee.

5 (5) Evidence, if any, of rehabilitation submitted by the licensee.

6 11. California Code of Regulations, title 16, section 1770, states:

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

14 **COST RECOVERY**

15 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
16 the administrative law judge to direct a licentiate found to have committed a violation or
17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
18 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
19 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
20 may be included in a stipulated settlement.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(October 3, 2012 Criminal Conviction for Forgery on September 24, 2012)**

23 13. Respondent subjected her pharmacy technician registration to discipline under
24 Code sections 490 and 4301, subdivision (l) in that she was convicted of a crime that is
25 substantially related to the qualifications, functions, and duties of a registered pharmacy
26 technician. The circumstances are as follows:

27 a. On October 3, 2012, in a criminal proceeding entitled *The People of the*
28 *State of California vs. Cindy Do*, in Los Angeles County Superior Court, South District, Long
Beach Courthouse, Case Number 2LG02740, Respondent was convicted on her plea of *nolo*
contendere to violating Penal Code (PC) section 470, subdivision (d), forgery, a misdemeanor.

///

1 Charges for violation of PC sections 459, burglary, and 475, subdivision (c), forgery,
2 misdemeanors, were dismissed pursuant to a plea bargain.

3 b. As a result of the conviction, on October 3, 2012, Respondent was
4 sentenced to three days in the Los Angeles County Jail, with credit for three days actually served,
5 and granted summary probation for three years. Respondent was also ordered to pay penalty
6 assessments, fines, fees, and restitution and render 30 days of community service.

7 c. The facts that led to the conviction are that on September 24, 2012,
8 Respondent attempted to cash a fraudulent check at a bank in Long Beach, California. As the
9 teller ran the check through the bank computer system, he was alerted to verify the account. The
10 verification confirmed that the check was forged. The teller informed his manager, who called
11 the Long Beach Police Department (LBPD). Respondent was arrested and transported to the
12 women's facility of the LBPD Jail Division.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(May 8, 2013 Criminal Conviction for Grand Theft on September 15, 2012)**

15 14. Respondent subjected her pharmacy technician registration to discipline under
16 Code sections 490 and 4301, subdivision (l) in that she was convicted of a crime that is
17 substantially related to the qualifications, functions, and duties of a registered pharmacy
18 technician. The circumstances are as follows:

19 a. On May 8, 2013, in a criminal proceeding entitled *The People of the State*
20 *of California vs. Cindy Do*, in Los Angeles County Superior Court, South District, Long Beach
21 Courthouse, Case Number NA095433, Respondent was convicted on her plea of *nolo contendere*
22 to violating PC section 487, subdivision (a), grand theft, a felony. A charge for violation of PC
23 section 530.5, subdivision (a), identity theft, a felony, was dismissed pursuant to a plea bargain.

24 b. As a result of the conviction, on May 8, 2013, Respondent was sentenced
25 to 16 days in the Los Angeles County Jail, with credit for 16 days actually served, and granted
26 formal probation for three years. Respondent was also ordered to pay penalty assessments, fines,
27 fees, and restitution and render 60 days of service with the California Department of
28 Transportation.

1 c. The facts that led to the conviction are that on September 15, 2012,
2 Respondent used the credit card of another person to purchase a \$500.00 gift card at a Home
3 Depot store in Signal Hill, California. On September 16, 2012, Respondent used another credit
4 card to purchase \$887.32 worth of goods at a Home Depot store in Garden Grove, California.
5 The owner of the two credit cards filed a complaint with the issuing bank, which reimbursed her
6 for the fraudulent transactions. The owner also filed a complaint with the Irvine Police
7 Department. On September 29, 2012, Respondent used a third credit card belonging to a
8 different person to purchase \$2,071.55 worth of goods at the Home Depot store in Westminster,
9 California. The owner stated that he did not know Respondent, did not authorize Respondent to
10 use his card, had been reimbursed by his issuing bank, and desired prosecution. The Home Depot
11 stores' video footage of the September 15, 2012, and the September 29, 2012, transactions
12 showed Respondent completing and signing for the transactions.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,
15 Fraud, Deceit, or Corruption)**

16 15. Respondent has subjected her pharmacy technician registration to discipline under
17 Code section 4301, subdivision (f), in that she committed acts involving moral turpitude,
18 dishonesty, fraud, deceit, and corruption when she attempted to pass, as true and genuine, a
19 check, knowing the same to be counterfeited, and obtained identifying information of two
20 persons to complete fraudulent credit card transactions, as described in paragraphs 13 and 14,
21 above.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH
26 113347, issued to Cindy Do;

27 ///

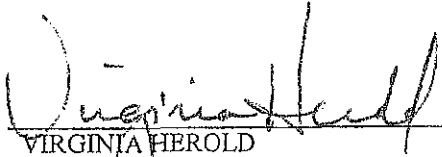
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2. Ordering Cindy Do to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 2/19/14



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

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