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

In the Matter of the Accusation Against:  
  
**VAHE TAHMASIAN**  
1521 Raymond Ave.  
Glendale, CA 91201  
  
**Intern Pharmacist Registration No. INT  
26491**  
  
Respondent.

Case No. 5202

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about November 14, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5202 against Vahe Tahmasian (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 7, 2010, the Board of Pharmacy (Board) issued Intern Pharmacist Registration No. INT 26491 to Respondent. The Intern Pharmacist Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5202 and will expire on September 30, 2015, unless renewed.

3. On or about December 1, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5202, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
4 record was and is:

5 1521 Raymond Ave.  
6 Glendale, CA 91201.

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

10 5. On or about December 14, 2014, the aforementioned documents were received by  
11 certified mail at Respondent's address on file with the Board. It was confirmed by the United  
12 States Postal Service tracking system. Furthermore, a signed receipt of service of certified mail  
13 was returned.

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

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
22 5202.

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

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

28 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

1 file at the Board's offices regarding the allegations contained in Accusation No. 5202, finds that  
2 the charges and allegations in Accusation No. 5202, are separately and severally, found to be true  
3 and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$2,660.00 as of December 29, 2014.

#### 7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Vahe Tahmasian has subjected  
9 his Intern Pharmacist Registration No. INT 26491 to discipline.

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

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

14 a. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
15 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in  
16 that, Respondent was convicted of a crime substantially related to the qualifications, functions or  
17 duties of an intern pharmacist. On or about March 21, 2014, after being found guilty by a jury,  
18 Respondent was convicted of one felony count of violating Title 18 U.S.C. section 1349  
19 [conspiracy to commit health care fraud], six felony count of 18 U.S.C. section 1347 [health care  
20 fraud], and six felony counts of U.S.C. section 1028A [aggravated identity theft] in the criminal  
21 proceeding entitled *United States of America v. Vahe Tahmasian* (U.S. Dist. Ct. C.D. Cal., 2014,  
22 No. CR 13-313PA.) On or about July 7, 2014 the Court sentenced Respondent to serve 121  
23 months in prison and placed him on supervised probation for a term of three years upon his  
24 release. The Respondent was also ordered to pay restitution to Medicare in the total amount of  
25 \$994,036.

26 b. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
27 Code, in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to  
28

1 substantially benefit himself, or substantially injure another when he co-conspired with others to  
2 defraud the Medicare Program.

3 c. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the  
4 Code, in that Respondent submitted fraudulent claims to Medicare.

5 d. Respondent is subject to disciplinary action under section 4301, subdivision (p) of the  
6 Code, in that Respondent committed acts that would have warranted denial of his license.

7 e. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
8 Code, in that Respondent committed acts of unprofessional conduct and/ or violated provisions of  
9 the licensing chapter.

10 **ORDER**

11 IT IS SO ORDERED that Intern Pharmacist Registration No. INT 26491, heretofore issued  
12 to Respondent Vahe Tahmasian, is revoked.

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

17 This Decision shall become effective on March 27, 2015.

18 It is so ORDERED February 25, 2015.

19 BOARD OF PHARMACY  
20 DEPARTMENT OF CONSUMER AFFAIRS  
21 STATE OF CALIFORNIA

22 By   
STAN C. WEISSER

23 Board President

24 51667041.DOC  
25 DOJ Matter ID:LA2014511773

26 Attachment:  
27 Exhibit A: Accusation

# Exhibit A

Accusation No. 5202

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 CHRISTINE J. LEE  
Deputy Attorney General  
4 State Bar No. 282502  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2539  
6 Facsimile: (213) 897-2809

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5202

12 **VAHE TAHMASIAN**  
1521 Raymond Ave.  
13 Glendale, CA 91201

**A C C U S A T I O N**

14 Intern Pharmacist Registration No. INT 26491

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 7, 2010, the Board issued Intern Pharmacist Registration No.  
22 INT 26491 to Vahe Tahmasian (Respondent). The Intern Pharmacist Registration was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on September  
24 30, 2015, unless renewed.

25 3. On or about August 12, 2014, the Board of Pharmacy issued a "Notice of Automatic  
26 Suspension of License" pursuant to Business and Professions Code section 4311, subdivision (a),  
27 due to Respondent's incarceration on or about July 7, 2014 for his conviction in violation of 18  
28 U.S.C. 1349 [conspiracy to commit health care fraud] and 18 U.S.C. 1349, 2(B) [health care

1 fraud; causing an act to be done]; and 18 U.S.C. 1028A 2(B) [aggravated identity theft; causing an  
2 act to be done] in case number CR 13-313(A) in the criminal proceeding entitled *United States of*  
3 *America v. Vahe Tahmasian* (U.S. Dist. Ct. C.D. Cal., 2014, No. CR 13-313PA). The suspension  
4 will remain in effect for the duration of Respondent's incarceration for a period of one hundred  
5 twenty-one (121) months. The license will be suspended until at least January 1, 2023. A copy of  
6 that decision is attached as exhibit A and is incorporated herein by reference.

#### 7 JURISDICTION

8 4. This Accusation is brought before the Board under the authority of the following laws.  
9 All section references are to the Business and Professions Code (Code) unless otherwise  
10 indicated.

#### 11 STATUTORY PROVISIONS

12 5. Section 490 of the Code states, in pertinent part:

13 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
14 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
15 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
16 or profession for which the license was issued.

17 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
18 discipline a licensee for conviction of a crime that is independent of the authority granted under  
19 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of  
20 the business or profession for which the licensee's license was issued.

21 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
22 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
23 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
24 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
25 made suspending the imposition of sentence, irrespective of a subsequent order under the  
26 provisions of Section 1203.4 of the Penal Code."

27 6. Section 4300 of the Code provides in pertinent part, that every license issued by the  
28 Boards is subject to discipline, including suspension or revocation.

1           7.       Section 4300.1 of the Code states:

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

7           8.       Section 4301 of the Code states, in pertinent part:

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

11           .....

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

15           "(g) Knowingly making or signing any certificate or other document that falsely represents  
16 the existence or nonexistence of a state of facts.

17           .....

18           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order to  
25 fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
26 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning



1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment.

7 . . . .

8 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
9 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
10 federal and state laws and regulations governing pharmacy, including regulations established by the  
11 board or by any other state or federal regulatory agency.

12 "(p) Actions or conduct that would have warranted denial of a license."

13 **REGULATORY PROVISIONS**

14 9. California Code of Regulations, title 16, section 1770, states:

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

21 **COST RECOVERY**

22 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licentiate found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
27 included in a stipulated settlement.

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
4 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in  
5 that, Respondent was convicted of a crime substantially related to the qualifications, functions or  
6 duties of an intern pharmacist.

7 a. On or about March 21, 2014, after being found guilty by a jury, Respondent was  
8 convicted of one felony count of violating Title 18 U.S.C. section 1349 [conspiracy to commit  
9 health care fraud], six felony count of 18 U.S.C. section 1347 [health care fraud], and six felony  
10 counts of U.S.C. section 1028A [aggravated identity theft] in the criminal proceeding entitled  
11 *United States of America v. Vahe Tahmasian* (U.S. Dist. Ct. C.D. Cal., 2014, No. CR 13-313PA.)

12 On or about July 7, 2014 the Court sentenced Respondent to serve 121 months in prison and  
13 placed him on supervised probation for a term of three years upon his release. The Respondent  
14 was also ordered to pay restitution to Medicare in the total amount of \$994,036.

15 b. The circumstances surrounding the conviction are that on or between April 10, 2009  
16 and February 15, 2011, the Respondent and his co-conspirators operated a business and fraud  
17 scheme. Respondent and his co-conspirators purchased a company named Orthomed and put the  
18 company in the name of a straw owner. Respondent, and his co-conspirators submitted a total of  
19 \$1,584,640 in false claims to Medicare. Respondent would submit, and cause to be submitted,  
20 false and fraudulent claims to Medicare for DME (durable medical equipment) and related services  
21 that were neither medically necessary, or not actually provided by Orthomed. Medicare paid  
22 Orthomed approximately \$994,039 for the false and fraudulent claims. Over a six-week period in  
23 2011, Respondent and his co-conspirator took out approximately \$622,228.38 in checks drawn  
24 from the Orthomed bank account.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Acts Involving Dishonesty, Fraud, or Deceit)**

27 12. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
28 Code, in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to

1 substantially benefit himself, or substantially injure another when he co-conspired with others to  
2 defraud the Medicare Program. Complainant refers to, and by this reference incorporates, the  
3 allegations set forth above in paragraph 11, as though set forth fully

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Submit Fraudulent Claims)**

6 13. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the  
7 Code, in that Respondent submitted fraudulent claims to Medicare. Complainant refers to, and by  
8 this reference incorporates, the allegations set forth above in paragraph 11, as though set forth  
9 fully.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Acts Warranting Denial of Licensure)**

12 14. Respondent is subject to disciplinary action under section 4301, subdivision (p) of the  
13 Code, in that Respondent committed acts that would have warranted denial of his license.  
14 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
15 paragraphs 11 through 13, inclusive, as though set forth fully.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

18 15. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
19 Code, in that Respondent committed acts of unprofessional conduct and/ or violated provisions of  
20 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set  
21 forth above in paragraphs 11 through 14, inclusive, as though set forth fully.

22 **PRAAYER**

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

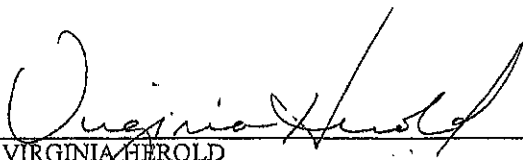
25 1. Revoking or suspending Intern Pharmacist Registration No. INT 26491, issued to  
26 Vahe Tahmasian;

27 2. Ordering Vahe Tahmasian to pay the Board the reasonable costs of the investigation  
28 and enforcement of this case, pursuant to section 125.3; and

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

DATED: 11/14/14

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

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51535034.doc  
11/12/14