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

In the Matter of the Accusation Against:

**SUKHWANT SINGH
43136 62nd Street West
Lancaster, CA 93536
Pharmacy Technician Registration No. TCH
108520**

Respondent.

Case No. 5330

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 28, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5330 against Sukhwant Singh (Respondent) before the Board of Pharmacy. (Accusation attached as **Exhibit A.**)

2. On or about December 27, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 108520 to Respondent. The Pharmacy Technician Registration

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 5330
2 and will expire on January 31, 2016, unless renewed.

3 3. On or about June 29, 2015, Respondent was served by Certified and First Class Mail
4 copies of the Statement to Respondent, Accusation No. 5330, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
7 is required to be reported and maintained with the Board. Respondent's address of record was
8 and is:

9 43136 62nd Street West
10 Lancaster, CA 93536

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about July 16, 2015, the aforementioned documents were returned by the U.S.
15 Postal Service marked "Return to Sender, UTF (unable to forward), Attempted Address Not
16 Known" after three delivery attempts were made on July 1, July 8 and July 16, 2015, respectively.
17

18 6. On or about July 13, 2015, the aforementioned documents were returned by U.S.
19 Postal Service marked "Forward Time Exp, Return to Sender" and "doesn't live here for 3 years"
20 after a delivery was attempted at Respondent's previous address at 729 S. Union Ave. Apt. 315,
21 Los Angeles, CA 90017.

22 7. 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
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

26 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
27 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
28 5330.

1 9. 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 10. 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. 5330, finds that
11 the charges and allegations in Accusation No. 5330, are separately and severally, found to be true
12 and correct by clear and convincing evidence.

13 11. 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 \$1,280.00 as of August 27, 2015.

16 **DETERMINATION OF ISSUES**

17 1. Based on the foregoing findings of fact, Respondent Sukhwant Singh has subjected
18 his Pharmacy Technician Registration No. TCH 108520 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. Unprofessional conduct for dangerous use of alcohol in violation of §4301
24 subdivision (h);

25 b. Unprofessional conduct for violating provisions of the relevant licensing chapter;

26 c. The Board offered Respondent's conviction for one misdemeanor count of domestic
27 violence [Pen. Code §243(e)(1)] on November 6, 2012 for disciplinary consideration purposes in
28 this matter.

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 108520, heretofore issued to Respondent Sukhwant Singh, 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 October 16, 2015.

It is so ORDERED September 16, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

51893863.DOCX
DOJ Matter ID:LA201550005

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(SUKHWANT SINGH)

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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:
12 **SUKHWANT SINGH**
43136 62nd Street West
13 Lancaster, CA 93536
14 Pharmacy Technician Registration
No. TCH 108520
15
16 Respondent.

Case No. 5330
ACCUSATION

17
18 Complainant alleges:

19
20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
22
23 2. On or about December 27, 2010, the Board issued Pharmacy Technician Registration
24 No. TCH 108520 to Sukhwant Singh (Respondent). The Pharmacy Technician Registration was
25 in full force and effect at all times relevant to the charges brought herein and will expire on
26 January 31, 2016, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.

6. Section 4300.1 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."

7. Section 4301 states, in pertinent part:

"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:

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.”

5
6 **REGULATORY PROVISIONS**

7 8. California Code of Regulations, title 16, section 1770, states:

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

14
15 **COST RECOVERY**

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

22
23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Dangerous Use of Alcohol)**

25 10. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
26 the grounds of unprofessional conduct, in that, Respondent used alcoholic beverages to an extent
27 or in a manner dangerous or injurious to himself, any person, or the public, as follows:
28

1 a. On or about May 30, 2014, the Los Angeles County Sheriff's Department responded
2 to a report of a vehicle being driven in a reckless manner. Deputies found the reported vehicle
3 parked in a shopping center. When they approached the vehicle, Respondent was found sitting in
4 the rear seat drinking Bacardi Rum. While speaking to Respondent, the deputy smelled a strong
5 odor of alcohol beverage emitting from his breath and person. Respondent was observed to have
6 "watery eyes" and his speech was "slightly slurred." When asked if he drove himself to the
7 current location, Respondent replied, "Yes to do some shopping." Respondent admitted to
8 drinking Bacardi Rum while sitting in the back seat of his vehicle in the parking lot. Respondent
9 was asked to complete a series of standard field sobriety tests which he was unable to successfully
10 perform. While at the scene, Respondent submitted to a Preliminary Alcohol Screening Test that
11 resulted in a breath-alcohol content level of 0.25% on the first reading and 0.27% on the second.
12 Respondent was subsequently arrested for violating Vehicle Code section 23152, subdivision (b)
13 [driving while having 0.08% or more, by weight, of alcohol in his blood].

14 b. On or around July 8, 2014, criminal charges were filed against Respondent in the in
15 the criminal proceeding entitled *The People of the State of California v. Sukhwant Singh* (Super.
16 Ct. L.A. County, 2014, No. 4AY03785). On or about July 31, 2014, Respondent failed to appear
17 at Lancaster Superior Court for arraignment. The Court issued a bench warrant in the amount of
18 \$50,000.

19
20 **SECOND CAUSE FOR DISCIPLINE**

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

22 11. Respondent is subject to disciplinary action under section 4301, (o), in that
23 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing
24 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above
25 in paragraphs 10, as though set forth fully.

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1 DISCIPLINE CONSIDERATIONS

2 12. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges, as follows:

4 a. On or about November 6, 2012, after pleading nolo contendere, Respondent was
5 convicted of one misdemeanor count of violating Penal Code section 243, subdivision (e)(1)
6 [battery on spouse or cohabitant] in the criminal proceeding entitled *The People of the State of*
7 *California v. Sukhwant Nnm Singh* (Super. Ct. L.A. County, 2012, No. 2AV06582). The Court
8 ordered Respondent to enroll in a 52-week domestic violence treatment program and placed him
9 on probation for 3 years, with terms and conditions.

10 b. The circumstances surrounding the conviction are that on or about September 2, 2012,
11 Respondent was involved in an argument with his spouse, R.B. The argument escalated and
12 Respondent broke a large dowel in three pieces with sharp ends and threatened to kill the whole
13 family. R.B. and her children locked themselves in the bedroom.

14
15 PRAYER

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 108520, issued
19 to Sukhwant Singh;
- 20 2. Ordering Sukhwant Singh to pay the Board the reasonable costs of the investigation
21 and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 5/28/15

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