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

In the Matter of the Accusation Against:	Case No. 5362
COLIN TRENT WILBUR **PO Box 291** **Loma Linda, CA 92354** **and** **201 S Pennsylvania** **San Bernardino, CA 92410** **Pharmacy Technician Registration License No. TCH 51216** Respondent.	**DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 11, 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. 5362 against Colin Trent Wilbur (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 2, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration License No. TCH 51216 to Respondent. The Pharmacy Technician Registration License was in full force and effect at all times relevant to the charges brought in Accusation No. 5362 and will expire on February 28, 2015, unless renewed.

3. On or about June 1, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5362, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is:

PO Box 291
Loma Linda, CA 92354

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

5. On or about June 23, 2015, the aforementioned Certified documents were returned by the U.S. Postal Service marked "Refused." The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

6. On or about August 10, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5362, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is:

201 S Pennsylvania
San Bernardino, CA 92410.

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

8. On or about August 27, 2015, and September 11, 2015, the aforementioned First Class and Certified Mail documents were returned by the U.S. Postal Service marked "Insufficient Address." The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

9. Government Code section 11506 states, in pertinent part:

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

10. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 5362.

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

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

12. 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 file at the Board's offices regarding the allegations contained in Accusation No. 5362, finds that the charges and allegations in Accusation No. 5362, are separately and severally, found to be true and correct by clear and convincing evidence.

13. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is $942.50 as of September 28, 2015.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Colin Trent Wilbur has subjected his Pharmacy Technician Registration License No. TCH 51216 to discipline.

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

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

a. Business and Professions Code sections 4300 and 4301, subdivision (l), and California Coe of Regulations, title 16, section 1770, for conviction of a substantially related crime, unprofessional conduct.

b. Business and Professions Code sections 4300 and 4301, subdivision (f), for acts involving moral turpitude, dishonesty, fraud, deceit or corruption, unprofessional conduct.

c. Business and Professions Code sections 4300 and 4301, for unprofessional conduct.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration License No. TCH 51216, heretofore issued to Respondent Colin Trent Wilbur, 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 December 18, 2015.

It is so ORDERED November 18, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:LA2015500008

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(COLIN TRENT WILBUR)

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

In the Matter of the Accusation Against: **COLIN TRENT WILBUR** PO Box 291 Loma Linda, CA 92354 Pharmacy Technician Registration License No. TCH 51216 Respondent.	Case No. 5362 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about January 2, 2004, the Board issued Pharmacy Technician Registration License No. TCH 51216 to Colin Trent Wilbur (Respondent). The Pharmacy Technician Registration License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2015, unless renewed.

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.

4. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."

5. 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."

STATUTORY PROVISIONS

6. 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:

. . . .

"(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. . . ."

REGULATORY PROVISION

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

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

COST RECOVERY

8. Section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

9. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed a crime substantially related to the qualifications, functions or duties of a pharmacy technician. The circumstances are as follows:

a. On or about October 31, 2014, after pleading nolo contendere, Respondent was convicted of one lesser misdemeanor count of violating Penal Code section 245(a)(4) [assault likely to produce great bodily injury] in the criminal proceeding entitled *The People of the State of California v. Colin Tent Wilbur* (Super. Ct. San Bernardino County, 2014, No. FSB1402247). The Court sentenced Respondent to 178 days in jail, placed him on 36 months probation, and ordered him to stay away from his brothers, M.W. and T.W.

b. The circumstances underlying the conviction are that on or about May 7, 2014, Respondent was homeless and living in his car outside of his two brothers' home. Although Respondent's brothers knew Respondent to be physically abusive to them in the past, they allowed him to park his car outside their home, and in their house, allowed Respondent to watch TV and shower. On this day, Respondent tried to stab one of his brothers with a pocket knife. In fear of their safety, while one of his brothers armed himself with a machete that he held close near his bed, Respondent's other brother telephoned 911. Respondent retreated to the restroom and waited for law enforcement to arrive.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

10. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts involving moral

turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 9, subparagraphs a and b, inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

11. Respondent is subject to disciplinary action under sections 4300 and 4301, in that Respondent committed acts of unprofessional conduct. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 9, subparagraphs a and b, inclusive, as though set forth fully.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration License No. TCH 51216, issued to Colin Trent Wilbur;

2. Ordering Colin Trent Wilbur to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

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

DATED: 5/11/15

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

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