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

12 In the Matter of the Accusation Against:

Case No. 7360

13 **DAVID BABIT**  
14 4391 Copperstone Lane  
15 Simi Valley, CA 93065

**DEFAULT DECISION AND ORDER**

16 Pharmacy Technician License No. TCH 23769

[Gov. Code, §11520]

17 Respondent.

18  
19 **FINDINGS OF FACT**

20 1. On or about November 15, 2022, Complainant Anne Sodergren, in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
22 filed Accusation No. 7360 against David Babit (Respondent) before the Board of Pharmacy.  
23 (Accusation attached as Exhibit A.)

24 2. On or about September 18, 1997, the Board of Pharmacy (Board) issued Pharmacy  
25 Technician License No. TCH 23769 to Respondent. The Pharmacy Technician License was in  
26 full force and effect at all times relevant to the charges brought in Accusation No. 7360 and will  
27 expire on March 31, 2023, unless renewed.

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1           3.     On or about November 21, 2022, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 7360, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
6 record was and is: 4391 Copperstone Lane, Simi Valley, CA 93065.

7           4.     On or about December 1, 2022, Respondent was served all of the same documents  
8 outlined in the preceding paragraph at the forwarded address for Respondent which was: 11160  
9 Emory Oak Drive, Las Vegas, NV 89138.

10          5.     Service of the Accusation was effective as a matter of law under the provisions of  
11 Government Code section 11505(c) and/or Business and Professions Code section 124.

12          6.     Government Code section 11506(c) states, in pertinent part:

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

18          7.     The Board takes official notice of its records and the fact that Respondent failed to  
19 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore  
20 waived his right to a hearing on the merits of Accusation No. 7360.

21          8.     California Government Code section 11520(a) states, in pertinent part:

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

26          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
finds that the charges and allegations in Accusation No. 7360, are separately and severally, found  
to be true and correct by clear and convincing evidence.

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10. The Board finds that the actual costs for Investigation and Enforcement are \$1,245.00 as of January 19, 2023.

### **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent David Babit has subjected his Pharmacy Technician License No. TCH 23769 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 License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered pharmacy technician. Specifically, on or about September 21, 2020, after pleading guilty, Respondent was convicted of two felony counts of violating Title 21 United States Code section 2442, subdivision (b) [coercion and enticement of a minor to engage in sexual activity] in the criminal proceeding entitled *The United States of America v. David Howard Babit (U.S. Dist. Ct. Nev., 2020, No. 2:20-cr-00276-GMN-EJY)*.

b. Business and Professions Code section 4301, subdivision (n), in that on or about October 13, 2021, Respondent was disciplined by the Board of Pharmacy for the State of Nevada, in a case entitled *Nevada State Board of Pharmacy v. David Howard Babit, PT, Certificate of Registration No. PT10272, Case No. 21-08-PT-S*.

### **ORDER**

IT IS SO ORDERED that Pharmacy Technician Registrtaion No. TCH 23769, issued to Respondent David Babit, 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.

1 This Decision shall become effective at 5 p.m. on April 19, 2023.

2 It is so ORDERED on March 20, 2023.

3  
4 FOR THE BOARD OF PHARMACY  
5 DEPARTMENT OF CONSUMER AFFAIRS  
6 STATE OF CALIFORNIA

7 65743043.DOCX  
8 DOJ Matter ID:LA2022603160

By



9 Attachment:  
10 Exhibit A: Accusation

Seung W. Oh, Pharm.D.  
Board President

# Exhibit A

Accusation

1 ROB BONTA  
Attorney General of California  
2 KIM KASRELIOVICH  
Supervising Deputy Attorney General  
3 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
4 State Bar No. 206911  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6310  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

Case No. 7360

13 **DAVID BABIT**  
4391 Copperstone Lane  
Simi Valley, CA 93065

**ACCUSATION**

14 Pharmacy Technician Registration  
15 No. TCH 23769

16 Respondent.

17  
18 **PARTIES**

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

21 2. On or about September 18, 1997, the Board issued Pharmacy Technician Registration  
22 Number TCH 23769 to David Babit (Respondent). The Pharmacy Technician Registration was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on March  
24 31, 2023, unless renewed.

25 **JURISDICTION**

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

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

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 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.

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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

• • • •

(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.

• • • •

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other

discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

### **REGULATORY PROVISIONS**

8. 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.

### **FIRST CAUSE FOR DISCIPLINE**

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

9. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered pharmacy technician. Specifically, on or about September 21, 2020, after pleading guilty, Respondent was convicted of two felony counts of violating Title 21 United States Code section 2442, subdivision (b) [coercion and enticement of a minor to engage in sexual activity] in the criminal proceeding entitled *The United States of America v. David Howard Babit* (U.S. Dist. Ct. Nev., 2020, No. 2:20-cr-00276-GMN-EJY). The court sentenced Respondent to serve 188 months in prison and placed him on 35 years of supervised probation, with terms and conditions. The circumstances surrounding the conviction are that on or about April 24, 2017, Respondent did knowingly, and attempted to, persuade, induce, and coerce, Victim 1 and 2, who had not attained the age of 18 years, to engage, in prostitution or any sexual activity for which any person could be charged with a criminal offense, to wit: Sexual Exploitation of Children.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Out of State Discipline)**

3 10. Respondent is subject to disciplinary action on the grounds of unprofessional conduct  
4 pursuant to Code section 4301, subdivision (n), in that he was disciplined by the Board of  
5 Pharmacy for the State of Nevada (Nevada Board ), as follows: On or about October 13, 2021, in  
6 a case entitled *Nevada State Board of Pharmacy v. David Howard Babit, PT, Certificate of*  
7 *Registration No. PT10272, Case No. 21-08-PT-S*, the Nevada Board issued a Findings of Fact,  
8 Conclusion of Law, and Order that revoked his Respondent's registration for sustaining a  
9 conviction involving moral turpitude and prohibited him from petitioning for reinstatement of  
10 registration for a period of ten years from the date of the order. The causes for the discipline  
11 underlying the order are as alleged above in paragraph 9, as though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 23769,  
16 issued to David Babit;
- 17 2. Ordering David Babit to pay the Board of Pharmacy the reasonable costs of the  
18 investigation and enforcement of this case, pursuant to Business and Professions Code section  
19 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21

22  
23 DATED: 11/15/2022

Sodergren,  
Anne@DCA

Digitally signed by Sodergren,  
Anne@DCA  
Date: 2022.11.15 20:51:58  
-08'00'

24 ANNE SODERGREN  
25 Executive Officer  
26 Board of Pharmacy  
27 Department of Consumer Affairs  
28 State of California  
*Complainant*

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