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Attorneys for Complainant

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

In the Matter of the Accusation Against: HEIDI DORA MINSON 2092 Jeremy Lane Escondido, CA 92025 Pharmacy Technician No. TCH 46372 Respondent.	Case No. 3188 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 28, 2008, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3188 against Heidi Dora Minson (Respondent) before the Board of Pharmacy.

2. On or about August 4, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 46372 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

3. On or about September 3, 2008, Charlette Sheppard, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation

No. 3188, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was: P.O. Box 1046, Vista, California 92085.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about September 15, 2008, the aforementioned documents were returned by the U.S. Postal Service marked "Unable to Forward - No Forward Order on File."

6. On or about September 18, 2008, the Board notified the DOJ that Respondent filed a change of address with her license renewal application.

7. On or about September 19, 2008, Charlette Sheppard, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3188, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's new address of record with the Board, which was and is: 2092 Jeremy Lane, Escondido, California 92025. A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

8. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

9. On or about September 24, 2008, the DOJ received a U.S. Postal Service certified mail return receipt card indicating that "Barbara Stump" signed for the Accusation on or about September 20, 2008.

10. 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.

11. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3188.

12. 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.

13. 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 evidence on file herein, finds that the allegations in Accusation No. 3188 are true.

14. The total cost for investigation and enforcement in connection with the Accusation are $1,291.00 as of October 8, 2008.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Heidi Dora Minson has subjected her Pharmacy Technician Registration No. TCH 46372 to discipline.

2. A copy of the Accusation is attached.

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

4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation:

a. Respondent subjected her registration to discipline under sections 490 and 4301, subdivision (l) of the Code in that on or about July 18, 2007, in a criminal proceeding entitled *People v. Heidi Minson*, in San Diego County Superior Court (Central Division), case number CD207620, Respondent was convicted on her plea of guilty of violating Penal Code section 496d, receiving a stolen vehicle.

b. Respondent subjected her registration to discipline under section 4301, subdivision (f) of the Code in that on or about July 4, 2007, Respondent knowingly received a stolen vehicle in violation of the law, an act involving moral turpitude, fraud, deceit, or corruption.

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c. Respondent subjected her registration to discipline under section 4301, subdivision (j) of the Code in that on or about May 14, 2005, Respondent possessed narcotics paraphernalia, a violation of California's controlled substance statutes.

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 46372, heretofore issued to Respondent Heidi Dora Minson, 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 January 22, 2009.

It is so ORDERED December 23, 2008

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

KENNETH H. SCHELL
Board President

DOJ docket number: SD2008801690

Attachment: Exhibit A: Accusation No. 3188

Exhibit A
Accusation No. 3188

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

In the Matter of the Accusation Against: HEIDI DORA MINSON 2092 Jeremy Lane Escondido, CA 92025 Pharmacy Tech. Registration No. TCH 46372 Respondent.	Case No. 3188 **ACCUSATION**

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.

2. On or about August 4, 2003, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 46372 to Heidi Dora Minson (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 477 of the Code states:

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 490 of the Code states:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

7. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

. . . .

8. Section 4300 of the Code states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

. . . .

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.

. . . .

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

. . . .

(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.

. . . .

10. Section 125.3 of the Code provides, in pertinent part, 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.

10. 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.

11. 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.

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

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

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

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FIRST CAUSE FOR DISCIPLINE

(July 18, 2007 Criminal Conviction for Receiving a Stolen Vehicle on July 4, 2007)

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

a. On or about July 18, 2007, in a criminal proceeding entitled *People v. Heidi Minson*, in San Diego County Superior Court (Central Division), case number CD207620, Respondent was convicted on her plea of guilty of violating Penal Code section 496d, receiving a stolen vehicle. The felony charge was reduced to a misdemeanor pursuant to Penal Code section 17, subdivision (b).

b. As a result of the conviction, on or about July 18, 2007, Respondent was sentenced to three years summary probation, completion of 10 days public service, and payment of fees, fines, and restitution.

c. The facts that led to the conviction were that on or about the evening of July 4, 2007, a patrol officer from the San Diego Police Department ran the license plate of a possible stolen vehicle that was in a Clairemont parking lot. The dispatcher told the officer that the vehicle was reported stolen. As the officer ran the plate, a male occupant exited the stolen vehicle and got into a vehicle driven by Respondent. Respondent and the male companion departed the parking lot. The police conducted a hot stop on Respondent's vehicle wherein she and her passenger where removed from the vehicle at gun point. Respondent gave a voluntary statement to the officer that she knew the vehicle was stolen. She reported that a male (name unknown) had dropped off the vehicle at her Escondido apartment. Respondent's boyfriend, Brian, started the stolen vehicle and had Respondent follow him in her car to the parking lot in Clairemont. Brian told Respondent he was going to trade the stolen vehicle for methamphetamine. When the police arrived, the male companion jumped into Respondent's car and told her to drive. Both Respondent and Brian were arrested and booked for taking a vehicle without the owner's consent (Veh. Code, § 10851(a)); possession of a stolen vehicle (Pen. Code,

496d(a)); receiving stolen property (Pen. Code, § 496(a)), and conspiracy to commit a crime (Pen. Code, § 182(a)(1).)

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Commission of Act Involving Moral Turpitude, Fraud, Deceit, or Corruption)

13. Respondent subjected her license to discipline under section 4301, subdivision (f) of the Code in that on or about July 4, 2007, Respondent knowingly received a stolen vehicle in violation of the law, as detailed in paragraph 12, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Violation of California Controlled Substance Statutes)

14. Respondent subjected her license to discipline under section 4301, subdivision (j) and 492 of the Code in that on or about May 14, 2005, Respondent possessed narcotics paraphernalia, a violation of Health and Safety Code section 11364. The facts are that on or about May 14, 2005, officers from the Escondido Police Department were serving a warrant on Respondent's boyfriend, Brian, at the apartment they shared. Upon searching the residence, they found a glass-bulbed pipe with visible signs of use that is commonly used to smoke controlled substances. Respondent admitted to the officer that the pipe belonged to her.

15. On or about July 18, 2005, Respondent pled guilty to possession of narcotics paraphernalia in the matter of *People v. Heidi Sora Minson*, in San Diego Superior Court, case number CN195360. The court deferred entry of judgment for 18 months pursuant to Penal Code section 1000. At a review hearing on or about November 30, 2006, Respondent was found in violation of probation for not completing the Penal Code section 1000 diversion program. Respondent's probation was reinstated and is due to expire on or about November 29, 2009.

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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 46372, issued to Heidi Dora Minson;

2. Ordering Heidi Dora Minson 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: 8/28/08

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

SD2008801690

80260818.wpd

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE
1300 I Street, Sacramento, CA 95814
Billing Inquiries: (916) 324-5090

Cost-of-Suit Summary

As Of 10/08/2008

Matter ID: SD2008801690

Date Opened: 07/02/2008

Description Minson, Heidi Dora

Total Legal Costs:	**$1,291.00**
Cost-of-Suit:	**$0.00**
Grand Total:	**$1,291.00**

Matter Time Activity Summary

Rate	Hrs Wrkd	Amount
Professional Type: Attorney		
FY: 2008-2009		
$158.00	0.50	$79.00
FY 2008-2009 Total:		**$79.00**
Attorney Total:		**$79.00**
Professional Type: Paralegal		
FY: 2008-2009		
$101.00	12.00	$1,212.00
FY 2008-2009 Total:		**$1,212.00**
Paralegal Total:		**$1,212.00**
Total Legal Costs:		**$1,291.00**

Cost-of-Suit

Entry #	Journal Date	Vendor #	Vendor	Schedule	Reference	Amount
Client Agency:						
FY:						
Component Description:						
						$0.00
					Total:	**$0.00**
					FY Total:	**$0.00**
					Client Agency Total:	**$0.00**
					Cost-of-Suit:	**$0.00**

* Denotes soft costs which are not included in totals.

2. Article Number

7160 3901 9845 7121 5548

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

1. Article Addressed to:

Heidi Dora Minson
2092 Jeremy Lane
Escondido, CA 92025

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery 9/20/08

C. Signature

X Barbara J. Stump ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

ATTORNEY GENERAL
SAN DIEGO
2008 SEP 24 AM 9:26

SD2008801690
Amanda Dodds
2nd Acc. Packet

PS Form 3811, January 2005 Domestic Return Receipt