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

11 In the Matter of the Accusation Against:

Case No. 3683

12  
13 KAMAU DORSEY  
1227 Autumnwood Lane  
14 Perris, CA 92571

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

15 Pharmacy Technician Registration No. TCH  
16 64637

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 31, 2005, the Board of Pharmacy issued Original Pharmacy  
24 Technician Registration Number TCH 64637 to Kamau Dorsey (Respondent). The Original  
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on December 31, 2010, unless renewed.

1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be  
6 suspended or revoked."

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

11 **STATUTORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to  
14 evaluate the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

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

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a  
25 board within the department pursuant to law to deny an application for a license or  
26 to suspend or revoke a license or otherwise take disciplinary action against a  
27 person who holds a license, upon the ground that the applicant or the licensee has  
28 been convicted of a crime substantially related to the qualifications, functions, and  
duties of the licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of  
2 the crime in order to fix the degree of discipline or to determine if the conviction is  
3 substantially related to the qualifications, functions, and duties of the licensee in  
4 question.

5 As used in this section, "license" includes "certificate," "permit,"  
6 "authority," and "registration."

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17 9. Section 4060 of the Code states:

18 No person shall possess any controlled substance, except that furnished to a  
19 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
20 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
21 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
22 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
23 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
24 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
25 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
26 section shall not apply to the possession of any controlled substance by a  
27 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
28 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
practitioner, or physician assistant, when in stock in containers correctly labeled  
with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse  
practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
stock of dangerous drugs and devices.

17 10. Section 4301 of the Code states:

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

22 . . . .

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

25 . . . .

26 (l) The conviction of a crime substantially related to the qualifications,  
27 functions, and duties of a licensee under this chapter. The record of conviction of  
28 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

1 board may inquire into the circumstances surrounding the commission of the  
2 crime, in order to fix the degree of discipline or, in the case of a conviction not  
3 involving controlled substances or dangerous drugs, to determine if the conviction  
4 is of an offense substantially related to the qualifications, functions, and duties of a  
5 licensee under this chapter. A plea or verdict of guilty or a conviction following a  
6 plea of nolo contendere is deemed to be a conviction within the meaning of this  
7 provision. The board may take action when the time for appeal has elapsed, or the  
8 judgment of conviction has been affirmed on appeal or when an order granting  
9 probation is made suspending the imposition of sentence, irrespective of a  
10 subsequent order under Section 1203.4 of the Penal Code allowing the person to  
11 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
12 the verdict of guilty, or dismissing the accusation, information, or indictment.

11 11. Health and Safety Code section 11379(a) provides in pertinent part that every person  
12 who transports, offers to transport, or attempts to transport any controlled substance shall be  
13 punished by imprisonment in the state prison for a period of two to four years.

### 14 REGULATORY PROVISIONS

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

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

23 13. California Code of Regulations, title 16, section 1769, states:

24 . . . .

25 (b) When considering the suspension or revocation of a facility or a  
26 personal license on the ground that the licensee or the registrant has been  
27 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
28 his present eligibility for a license will consider the following criteria:

- 29 (1) Nature and severity of the act(s) or offense(s).
- 30 (2) Total criminal record.
- 31 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 32 (4) Whether the licensee has complied with all terms of parole, probation,  
33 restitution or any other sanctions lawfully imposed against the licensee.

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

2 **COST RECOVERY**

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4 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licentiate found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case.

8 **DRUG**

9 15. Methylenedioxymethamphetamine (Ecstasy), is an analog of Methamphetamine  
10 within the meaning of Health and Safety Code section 11401(a). Methamphetamine is a Schedule  
11 II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a  
12 dangerous drug pursuant to Business and Professions Code section 4022

13 **FIRST CAUSE FOR DISCIPLINE**

14 (September 29, 2009 Conviction for Transporting a Controlled Substance on November 13, 2006)

15 16. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the  
16 Code in that he was convicted of a crime that is substantially related to the qualifications, duties,  
17 and functions of a pharmacy technician. The circumstances are as follows:

18 a. On or about September 29, 2009, in a criminal proceeding entitled *People of the*  
19 *State of California v. Kamau Dorsey*, in Los Angeles Superior Court case number BA355883,  
20 Respondent was convicted on his no contest plea of violation of Health and Safety Code section  
21 11379(a), (transportation of a controlled substance, methylenedioxymethamphetamine (ecstasy)),  
22 a felony.

23 b. The circumstances which led to the conviction are that on or about November  
24 13, 2006, an officer from the San Bernardino Highway Patrol observed a black Saturn with paper  
25 license plates traveling at a high rate of speed on Interstate 10 at 4th Street in San Bernardino,  
26 California. The officer initiated a traffic stop, approached the vehicle and Respondent was  
27 identified as the driver. Another young male was in the vehicle in the front passenger seat. In  
28 conversing with the officer, Respondent provided inconsistent information and appeared nervous.

1 When the officer asked Respondent if there was anything illegal in the vehicle, Respondent was  
2 non-committal, at first stating that he was not aware of anything and then stating that there should  
3 not be anything.

4 c. Due to Respondent's nervous behavior, his non-committal statements regarding  
5 whether there was anything illegal inside the vehicle, and the conflicting stories given by  
6 Respondent and his passenger, the officer then searched the vehicle. During the search, the  
7 officer discovered a heat sealed plastic bag with approximately 1000 ecstasy pills inside of it  
8 located under the center console of the vehicle. Respondent and his passenger were placed in the  
9 backseat of the police vehicle where their conversation was recorded concerning the pills and the  
10 inconsistencies in their respective stories. Respondent was arrested and transported to Rancho  
11 Cucamonga Highway Patrol Office.

12 d. As a result of his conviction, Respondent was ordered to serve 4 years in  
13 prison. The execution of that sentence was suspended and the Court granted Respondent 5 years  
14 of formal probation, ordered Respondent to serve 38 days in jail with 26 days of actual custody  
15 and 12 days of work service, and required Respondent to pay all fines and restitution.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct – Violating State Laws Regulating Controlled Substances)

18 17. Respondent is subject to disciplinary action for unprofessional conduct under  
19 section 4301(j) of the Code in that on or about November 13, 2006, Respondent transported a  
20 controlled substance in violation of Code section 4060 and the California Uniform Controlled  
21 Substances Act (Health and Safety Code section 11379(a)), as detailed in paragraph 16, above,  
22 which is incorporated herein by reference.

23 **PRAYER**

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

26 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH  
27 64637, issued to Kamau Dorsey.

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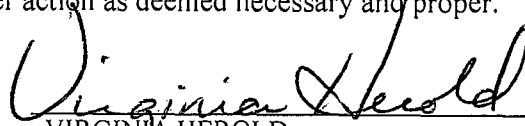
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2. Ordering Kamau Dorsey to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

7/11/10



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

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