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

11 In the Matter of the Accusation Against:

Case No. 3805

12 **JESSICA ANN BLACKMON**  
13 **31689 Canyon Estates Drive**  
14 **Lake Elsinore, CA 92532**

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

15 **Pharmacy Technician Registration No. TCH**  
16 **63102**

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 June 13, 2005, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 63102 to Jessica Ann Blackmon (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on May 31, 2011, unless renewed.  
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pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has 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, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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

10. Section 4059 of the Code provides, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

11. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, 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.

1 12. Section 4301 of the Code states:

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

6 ....

7 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
8 deceit, or corruption, whether the act is committed in the course of relations as a  
9 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

10 ....

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

16 ....

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

19 ....

20 (l) The conviction of a crime substantially related to the qualifications,  
21 functions, and duties of a licensee under this chapter. The record of conviction of a  
22 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
23 States Code regulating controlled substances or of a violation of the statutes of this  
24 state regulating controlled substances or dangerous drugs shall be conclusive  
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
26 be conclusive evidence only of the fact that the conviction occurred. The board may  
27 inquire into the circumstances surrounding the commission of the crime, in order to  
28 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.

...

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

1 13. Title 16, California Code of Regulations, section 1769, states:

2 ....

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

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

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

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

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

13 14. Title 16, California Code of Regulations, section 1770, states:

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

### 21 COST RECOVERY

22 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
23 administrative law judge to direct a licentiate found to have committed a violation or violations of  
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
25 enforcement of the case.

### 26 DRUGS

27 16. Methamphetamine is a schedule II controlled substance as designated by Health and  
28 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions  
Code section 4022.

17 17. Carisoprodol, also known as Soma, is a dangerous drug pursuant to Business and  
18 Professions Code section 4022 and is used as a muscle relaxant.

19 18. Citalopram, also known as Celexa, is a dangerous drug pursuant to Business and  
20 Professions Code section 4022 and is an anti-depressant.

1 19. Trazodone, also known as Deseryl, is a dangerous drug pursuant to Business and  
2 Professions Code section 4022 and is an anti-depressant.

3 20. Guaifenesin, also known as Mucinex, is a dangerous drug pursuant to Business and  
4 Professions Code section 2022 and is an expectorant.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct-Use of a Controlled Substance)**

7 21. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
8 she used a controlled substance, methamphetamine. The circumstances are as follows:

9 a. On or about April 22, 2010, police officers investigated a report of a family  
10 disturbance at a residence located in Lake Elsinore, California. When the police officers arrived  
11 at the residence where Respondent and her husband lived, they obtained permission to search the  
12 residence and searched the garage of the residence and located a small black container with a  
13 small ziplock baggy inside of it. The baggy contained 2.9 grams of a white crystal like substance.  
14 The white crystal like substance field tested positive for methamphetamine. When the police  
15 officer questioned Respondent about the methamphetamine he had located, she said, "you found  
16 it huh." A Police officer interviewed Respondent who admitted to using methamphetamine daily  
17 for the last four days and specifically to injecting methamphetamine. Respondent further told the  
18 police officer that the methamphetamine that he located in the garage tasted like aspirin and  
19 commented that "they don't make meth like they used to." A police officer evaluated Respondent  
20 and found that she displayed the objective signs of being under the influence of a central nervous  
21 system stimulant, methamphetamine. She also underwent a drug screen of her urine on April 22,  
22 2010 and her urine tested positive for the presence of amphetamines. Further, in a written  
23 statement to the Board investigator, Respondent admitted to her drug use, writing that she  
24 "decided to try methamphetamine one weekend." After her arrest, she also tested positive for the  
25 presence of amphetamines/methamphetamines on April 27, 2010.

26 b. The police officer also asked Respondent's husband if there were any other illicit  
27 drugs in the household besides methamphetamine and he answered in the affirmative.  
28 Respondent's husband then escorted the officer to the kitchen and opened a cabinet. He removed

1 eight 350 mg tablets of carisoprodol, fifty-four 350 mg tablets of citalopram, ten 150 mg tablets  
2 of trazodone and 5 tablets of guaifenesin from the cabinet and gave them to the officer.  
3 Respondent told the officer that his wife, Respondent, "stole these pills from her work." The  
4 police officer interviewed Respondent and she admitted that she had stolen the pills from her  
5 employer, UCSD Medical Center, and given the pills to her husband to sell to his friend.

6 c. Respondent was arrested for violating Health and Safety Code section 11377(a),  
7 Health and Safety Code section 11550 and Penal Code section 273a(a). As a result of the arrest,  
8 on or about July 16, 2010, in a criminal proceeding entitled *The People of the State of California*  
9 *v. Jessica Ann Stitt, aka Jessica Ann Blackmon*, in Riverside County Superior Court, case number  
10 SWF10000848, Respondent pled guilty to a charge of violating Health and Safety Code section  
11 11377(a), unlawful possession of a controlled substance, a misdemeanor, and was granted  
12 deferred entry of judgment. On or about August 23, 2010, Respondent filed proof of enrollment  
13 in a drug diversion program pursuant to Penal Code section 1000 with the Court.

#### 14 SECOND CAUSE FOR DISCIPLINE

##### 15 (Unprofessional Conduct-Dishonesty and Dishonest)

16 22. Respondent is subject to disciplinary action for unprofessional conduct under section  
17 4301(f) of the Code in that Respondent's theft from her employer constitutes dishonesty and  
18 deceit, as is more fully described in paragraph 21 above.

#### 19 THIRD CAUSE FOR DISCIPLINE

##### 20 (Unprofessional Conduct-Violations of the Chapter)

21 23. Respondent is subject to disciplinary action under section 4301(o) of the Code for  
22 violation of the Pharmacy Act in that on or about April 22, 2010, Respondent furnished to herself  
23 and possessed a controlled substance, methamphetamine, and possessed dangerous drugs,  
24 carisoprodol, citalopram, guaifenesin and trazodone, in violation of Code sections 4059 and 4060  
25 as is more fully described in paragraph 21, above.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Violating Laws Regulating Controlled Substances)**

3 24. Respondent is subject to disciplinary action under section 4301(j) of the Code in that  
4 on or about April 22, 2010, Respondent violated the California Uniform Controlled Substances  
5 Act (Health and Safety Code 11000, et seq.) by possessing and furnishing controlled substances  
6 and dangerous drugs as is more fully described in paragraph 21, above.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(July 16, 2010 Criminal Conviction for Child Endangerment on April 18, 2010)**

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

12 a. On or about July 16, 2010, in a criminal proceeding entitled *The People of the*  
13 *State of California v. Jessica Ann Stitt aka Jessica Ann Blackmon*, in Riverside County Superior  
14 Court, case no. SWF10000848, Respondent was convicted on her plea of guilty for violating  
15 Penal Code section 273a(a), a misdemeanor, child endangerment.

16 b. As a result of the conviction, on or about July 16, 2010, Respondent was  
17 sentenced to 48 months summary probation, ordered to file proof of enrollment in Child Abuse  
18 Classes by August 2, 2010 and to be completed by September 2, 2011, and to pay all applicable  
19 fees and fines. Respondent filed proof of enrollment in the court-ordered Child Abuse Class on  
20 September 29, 2010.

21 c. The facts that led to the conviction are that while under the influence of  
22 methamphetamine, Respondent allowed her nineteen month old child to stand on an  
23 approximately four and a half foot tall work bench in the garage. The child fell off the bench  
24 from an approximate height of fifty four inches, hit her head on the bumper of Respondent's car  
25 and then hit her head on the garage floor. Respondent and her husband took their daughter to the  
26 hospital while driving in excess of 100 miles per hour. When her daughter could not be seen in a  
27 timely manner, she removed her daughter from the hospital against the recommendation of  
28 medical staff that her daughter should remain under medical care.

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 Number TCH 63102, issued to Jessica Ann Blackmon;

2. Ordering Jessica Ann Blackmon 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: 12/17/10



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

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