1	EDMUND G. BROWN JR.	
2	Attorney General of California FRANK H. PACOE	
3	Supervising Deputy Attorney General JOSHUA A. ROOM	
4	Deputy Attorney General State Bar No. 214663	
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	
6	Telephone: (415) 703-1299 Facsimile: (415) 703-5480	
7	Attorneys for Complainant	
8	BEFORI BOARD OF P	HARMACY
9	DEPARTMENT OF CO STATE OF CA	
10		
11	In the Matter of the Petition to Revoke Probation Against:	Case No. 3870
12	CYNTHIA MARIE CRIST 1702 Ventura Street	
13	Suisun, CA 94585	PETITION TO REVOKE PROBATION
14	Pharmacy Technician License No. TCH 20695	
15	Respondent.	
16		
17	Complainant alleges:	
18	PART	IES
19	1. Virginia Herold (Complainant) brings	this Petition to Revoke Probation solely in her
20	official capacity as Executive Officer, Board of Ph	armacy, Department of Consumer Affairs.
21	2. On or about November 7, 1996, the Bo	oard of Pharmacy issued Pharmacy Technician
22	License No. TCH 20695 to Cynthia M. Crist (Resp	pondent). The License is in full force and effect
23	and will expire on December 31, 2010, unless rene	ewed
24	3. In a disciplinary action titled "In the M	latter of the Accusation against Cynthia Marie
25	Crist," Case No. 3304, the Board of Pharmacy issu	aed a decision, effective January 28, 2010, in
26	which Respondent's License was revoked. However	ver, revocation was stayed and Respondent was
27	placed on probation for a period of four (4) years v	with certain terms and conditions. A copy of
28	the Decision and Order in Case No. 3304 is attached	ed as exhibit A and incorporated by reference.
	1	
	l F	PETITION TO REVOKE PROBATION (Case No. 3870)

.....

1	JURISDICTION AND STATUTORY PROVISIONS	
2	4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),	
3	Department of Consumer Affairs, under the authority of the following laws. All section	
4	references are to the Business and Professions Code (Code) unless otherwise indicated.	
5	5. Section 4011 of the Code provides that the Board shall administer and enforce both	
6	the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances	
7	Act [Health & Safety Code, § 11000 et seq.].	
8	6. Section 4300(a) of the Code provides that every license issued by the Board may be	
9	suspended or revoked.	
10	7. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,	
11	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a	
12	disciplinary action during the period within which the license may be renewed, restored, reissued	
13	or reinstated. Section 4402(e) of the Code provides that any non-pharmacist license issued by the	
14	Board may be canceled if not renewed within 60 days after expiration, and any license canceled	
15	in this fashion may not be reissued but will instead require a new application to seek reissuance.	
16		
17		
18		
19	FIRST CAUSE TO REVOKE PROBATION	
20	(Failure to Timely Submit Quarterly Report(s))	
21	8. At all times after the effective date (January 28, 2010) of the Decision and Order	
22	imposing probation on Respondent's License, Term and Condition 3 of that Order required that	
23	Respondent report to the Board quarterly, on a schedule as directed by the Board or its designee,	
24	either in person or in writing, as directed. Respondent was directed to report quarterly, in writing,	
25	with reports made due on April 10, 2010, July 10, 2010, October 10, 2010, and thereafter. No	
26	report was submitted for the October 10, 2010 deadline. This failure to timely submit quarterly	
27	report(s) subjects Respondent's License to revocation.	
28		

 $\frown$ 

2

	· · · · · · · · · · · · · · · · · · ·	
1	SECOND CAUSE TO REVOKE PROBATION	
2	(Failure to Timely Submit Compliant Employer Acknowledgment(s))	
3	9. At all times after the effective date (January 28, 2010) of the Decision and Order	
4	imposing probation on Respondent's License, Term and Condition 6 of that Order required that	
5	Respondent notify her employer(s) of the decision in Case No. 3304 and that within 30 days she	
6	cause such employer(s) to submit a written acknowledgment of the decision in which her direct	
7	supervisor, pharmacist-in-charge, and owner each report that they have read the decision in Case	
8	No. 3304 and the terms and conditions imposed thereby. Respondent failed to timely submit an	
9	acknowledgment in writing from her pharmacist-in-charge. This failure to timely submit written	
10	acknowledgment(s) subjects Respondent's License to revocation.	
11		
12	THIRD CAUSE TO REVOKE PROBATION	
13	(Failure to Timely Submit to/Cooperate With Random Drug Screening)	
14	10. At all times after the effective date (January 28, 2010) of the Decision and Order	
15	imposing probation on Respondent's License, Term and Condition 8 of that Order required that	
16	Respondent participate at her own expense in random drug screening/testing, as directed by the	
17	Board or its designee, and that she fully cooperate with the Board or its designee in doing so.	
18	Respondent failed to timely submit to random drug screening/testing as directed by the Board or	
19	its designee, and/or to cooperate with the Board or its designee in doing so, as follows:	
20	a. On or about January 28, 2010, in preparation for commencement of probation,	
21	Board staff sent Respondent a letter with instructions for her compliance with the testing required	
22	by Term and Condition 8, including directions for enrollment with and testing by FirstLab;	
23	b. Respondent did not complete enrollment with FirstLab until on or about March	
24	3, 2010. Following enrollment with FirstLab, the testing protocol requires Respondent to call or	
25	login to the FirstLab management system every day, at which time she receives instructions	
26	regarding whether she is required to submit to testing on that day. Testing must be observed.	
27	c. On or about March 13 and March 16, 2010, Respondent failed to call or login to	
28	the FirstLab testing management system.	
	3	
	PETITION TO REVOKE PROBATION (Case No. 3870)	

 $\bigcirc$ 

		I
1	d On on about March 18, 2010. Pourd staff cant Degree dout a letter recording have	
1	d. On or about March 18, 2010, Board staff sent Respondent a letter regarding her	
2	non-compliant failure to contact the FirstLab system on or about March 13 and March 16, 2010.	
3	e. On or about May 24, 2010, Respondent had a non-observed drug test.	
4	f. On or about June 8, 2010, Board staff sent Respondent a letter regarding her	
5	non-compliant drug test on or about May 24, 2010.	
6	g. Respondent failed to contact FirstLab and/or missed scheduled testing on	
7	several additional dates in or around July, August, September, and October 2010.	
8	h. On or about October 28, 2010, Respondent appeared for an in-person meeting	
9	at the Board offices. When she was asked why she had failed to call in and/or missed testing on	
10	nine (9) occasions to that point, Respondent replied that she sometimes "just forgets."	
11	i. Respondent subsequently failed to contact FirstLab and/or missed scheduled	
12	testing on at least two more occasions in October and November 2010.	
13	j. These failures to timely submit to random drug testing and/or to cooperate with	
14	the Board or its designee with regard to same subjects Respondent's License to revocation.	
15		
16	FOURTH CAUSE TO REVOKE PROBATION	
17	(Failure to Notify Board of Change in Work Site Monitor)	
18	11. At all times after the effective date (January 28, 2010) of the Decision and Order	
19	imposing probation on Respondent's License, Term and Condition 9 of that Order required that	
20	within 10 days Respondent identify a work site monitor for approval by the Board, to supervise	
21	Respondent during working hours. Respondent is required to ensure that the work site monitor	
22	reports to the Board quarterly, and is required to nominate a new work site monitor within 10	
23	days in the event that Respondent changes employment or otherwise is no longer subject to the	
24	supervision of the approved work site monitor. Respondent failed to notify the Board when her	
25	approved work site monitor left her workplace, and failed to timely nominate a replacement. This	
26	failure to timely notify the Board of her work site monitor's departure, and/or failure to timely	
27	nominate a new work site monitor for approval, subject(s) Respondent's License to revocation.	
28		
		1

......

0

I		
1	FIFTH CAUSE TO REVOKE PROBATION	
2	(Failure to Timely Pay Cost Recovery)	
3	12. At all times after the effective date (January 28, 2010) of the Decision and Order	
4	imposing probation on Respondent's License, Term and Condition 12 of that Order required that	
5	Respondent pay to the Board its costs of investigation and prosecution totaling \$1,900.00, during	
6	the first 2 years of probation, in equal quarterly installments of \$237.50. Payments were due on	
7	April 10, 2010, July 10, 2010, October 10, 2010, and thereafter. No payment was timely made.	
8	The first payment was made on or about April 28, 2010. Respondent then failed to make the July	
9	10, 2010 payment. Board staff sent Respondent a non-compliance letter regarding this payment	
10	on or about August 6, 2010, and payment was finally received on or about September 2, 2010.	
11	Respondent failed to submit any payment by the October 10, 2010 deadline. This failure to make	
12	timely payment(s) toward cost recovery subjects Respondent's License to revocation.	
13		
14	SIXTH CAUSE TO REVOKE PROBATION	
15	(Failure to Cooperate with Board Staff)	
16	13. At all times after the effective date (January 28, 2010) of the Decision and Order	
17	imposing probation on Respondent's License, Term and Condition 5 of that Order required that	
18	Respondent cooperate with the Board's inspection program and with the Board's monitoring and	
19	investigation of Respondent's compliance with terms and conditions of his probation. As detailed	
20	in paragraphs 8-12 above, Respondent failed to timely cooperate on one or more occasions. Her	
21	failure(s) to timely cooperate as required subject Respondent's License to revocation.	
22		
23	•	
24		
25		
26	OTHER MATTERS – EXTENSION OF PROBATION	
27	14. At all times after the effective date (January 28, 2010) of the Decision and Order	
28	imposing probation on Respondent's License, Term and Condition 17 of that Order required:	
	5	
	PETITION TO REVOKE PROBATION (Case No. 3870)	

PETITION TO REVOKE PROBATION (Case No. 3870)

## 17. Violation of Probation.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

15. Pursuant to the operation of Term and Condition 17 of the probation order applicable

10 || to Respondent's License, probation is automatically extended by the filing hereof, and/or by

11 Respondent's failure to comply with the terms and conditions of probation, until such time as this

12 Petition to Revoke Probation is heard and decided, or until the Board has taken other action as

13 deemed appropriate to treat the failure to comply as a violation of probation.

14 15

1

2

3

4

5

6

7

8

9

## <u>PRAYER</u>

- 16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
  17 and that following the hearing, the Board of Pharmacy issue a decision:
- Revoking the probation that was granted by the Board of Pharmacy in Case No. 3304
   and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician
   License No. TCH 20695 issued to Cynthia Marie Crist;

2. Revoking or suspending Pharmacy Technician License No. TCH 20695, issued to
 22 Cynthia Marie Crist;

23

26

27

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

6

24 DATED: 25

28 SF2010202658;20367821.doc

VIRGINIA HEROLD

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

PETITION TO REVOKE PROBATION (Case No. 3870)