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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. 4012

13 **MELODY CROCKETT**  
6205 8th Avenue, #7  
Los Angeles, CA 90043

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

14 **Pharmacy Technician Registration**  
15 **No. TCH 68836**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about May 3, 2006, the Board of Pharmacy ("Board") issued Original  
22 Pharmacy Technician Registration No. TCH 68836 to Melody Crockett ("Respondent"). The  
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
24 and allegations brought herein, and will expire on April 30, 2012, 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 ("Code") unless otherwise  
28 indicated.

1 4. Section 4011 of the Code provides:

2 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and  
3 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10  
4 (commencing with Section 11000) of the Health and Safety Code)."

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or  
6 revoke a license issued by the Board.

7 6. Section 118(b) of the Code provides:

8 "The suspension, expiration, or forfeiture by operation of law of a license  
9 issued by a board in the department, or its suspension, forfeiture, or  
10 cancellation by order of the board or by order of a court of law, or its  
11 surrender without the written consent of the board, shall not, during any  
12 period in which it may be renewed, restored, reissued, or reinstated,  
13 deprive the board of its authority to institute or continue a disciplinary  
14 proceeding against the licensee upon any ground provided by law or to  
15 enter an order suspending or revoking the license or otherwise taking  
16 disciplinary action against the licensee on any such ground."

### 13 STATUTORY PROVISIONS

14 7. Section 4301 of the Code provides in pertinent part:

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

19 ...

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

23 ...

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

8. Section 4060 of the Code provides in pertinent part:

24 "No person shall possess any controlled substance, except that furnished  
25 to a person upon the prescription of a physician, dentist, podiatrist,  
26 optometrist, veterinarian, or naturopathic doctor pursuant to Section  
27 3640.7, or furnished pursuant to a drug order issued by a certified  
28 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..."

1 9. Section 4021 of the Code provides:

2 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section  
3 11053) of Division 10 of the Health and Safety Code.

4 10. Section 4022 of the Code provides:

5 "Dangerous drug" or "dangerous device" means any drug or device  
6 unsafe for self-use in humans or animals, and includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits  
8 dispensing without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law restricts  
10 this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of  
11 similar import, the blank to be filled in with the designation of the  
12 practitioner licensed to use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully  
14 dispensed only on prescription or furnished pursuant to Section 4006.

### 15 REGULATORY PROVISION

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

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

### 25 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

26 12. Health and Safety Code Section 11350 provides in pertinent part, that it unlawful to  
27 possess any controlled substance specified in subdivision (b) or (c) of Health and Safety Code  
28 Section 11055.

13 13. Health and Safety Code Section 11364.1(a) provides:

14 "It is unlawful to possess an opium pipe or any device, contrivance,  
15 instrument, or paraphernalia used for unlawfully injecting or smoking (1)  
16 a controlled substance specified in subdivision (b), (c), or (e), or  
17 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph  
18 (14), (15), or (20) of subdivision (d) of Section 11054, specified in  
19 subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of  
20 subdivision (d) of Section 11055, or (2) a controlled substance which is a  
21 narcotic drug classified in Schedule III, IV, or V."

1 14. Cocaine is designated as a Schedule II controlled substance pursuant to Health and  
2 Safety Code section 11055(b)(6) and a dangerous drug per Business and Professions Code section  
3 4022.

4 **COST RECOVERY**

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

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Possession of Controlled Substance Paraphernalia)**

11 16. Respondent's Pharmacy Technician Registration is subject to discipline under  
12 Business and Professions Code Sections 4301(j) and 4301(o), in accordance with California Code  
13 of Regulations, title 16, section 1770 and Health and Safety Code section 11364.1, because the  
14 Respondent committed an act that violates a statute of this state, or of the United States regulating  
15 controlled substances and dangerous drugs, when she possessed an opium pipe or any device,  
16 contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking a controlled  
17 substance, as follows:

18 a. On or about February 16, 2010, Los Angeles Police Department narcotic officers were  
19 conducting night surveillance on a suspected drug trafficking residence. The police observed the  
20 Respondent walk up to the residence. The Respondent quickly returned to her vehicle and was  
21 then stopped for a traffic violation. During the traffic stop, a male passenger exited the vehicle,  
22 dropped an off-white substance on the pavement, and immediately stepped on it. A subsequent  
23 search of the Respondent's purse, revealed a small, cylindrical pipe that contained an off-white  
24 residue, resembling rock cocaine. The Respondent was arrested for possession of drug  
25 paraphernalia in violation of Health and Safety Code Section 11364. While being booked, the  
26 Respondent was searched again. The police found a second small, cylindrical pipe containing an  
27 off-white residue, resembling rock cocaine. This second pipe was hidden inside the Respondent's  
28 underwear.

1 DISCIPLINE CONSIDERATIONS

2 17. To determine the degree of discipline, if any, to be imposed on the Respondent,  
3 Complainant alleges the following:

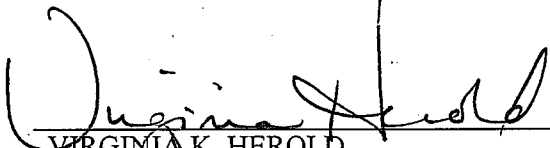
4 a. On or about March 7, 1991, in the Superior Court of California, County of Los  
5 Angeles, the Respondent entered a guilty plea and was convicted of the crime of possession of  
6 controlled substance paraphernalia, in violation of Health and Safety Code section 11364. The  
7 court suspended 180 days of jail and sentenced the Respondent to nine (9) actual days in jail, and  
8 probation for three (3) years. (People of the State of California v. Melody Crockett (Superior  
9 Court of California, County of Los Angeles, 03/07/1991, Case No. 91M02106).

10 PRAYER

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

- 13 1. Revoking or suspending Original Pharmacy Technician Registration No. 68836,  
14 issued to Respondent Melody Crockett;
- 15 2. Ordering Respondent Melody Crockett to pay the Board of Pharmacy the reasonable  
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
17 Code section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: 2/22/12

  
21 VIRGINIA K. HEROLD  
22 Executive Officer  
23 Board of Pharmacy  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

27  
28 LA2011501399/51077054.docx/1.12.2012