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

12 In the Matter of the Accusation Against:

Case No. 5357

13 **PAMELA SUE DOXEY DONALDSON**
14 **32698 Clearvail Drive**
Temecula, CA 92592

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **22260**

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 May 7, 1997, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 22260 to Pamela Sue DoxeY Donaldson (Respondent). The Pharmacy
25 Technician Registration expired on April 30, 2015, and has not been renewed.

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28 ///

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 of the Code states:

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

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

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

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

13 "(4) Revoking his or her license.

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

16 "...

17 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
21 Procedure."

22 5. Section 4300.1 of the Code states:

23 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
24 operation of law or by order or decision of the board or a court of law, the placement of a license
25 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
26 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
27 proceeding against, the licensee or to render a decision suspending or revoking the license."

28 ///

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of the crime in
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the
4 qualifications, functions, and duties of the licensee in question.

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

6 10. Section 4301 of the Code states:

7 "The board shall take action against any holder of a license who is guilty of unprofessional
8 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

9 Unprofessional conduct shall include, but is not limited to, any of the following:

10 "...

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

14 "...

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

20 "...

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

23 "...

24 "(l) The conviction of a crime substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
27 substances or of a violation of the statutes of this state regulating controlled substances or
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
2 The board may inquire into the circumstances surrounding the commission of the crime, in order
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
4 dangerous drugs, to determine if the conviction is of an offense substantially related to the
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
7 of this 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 probation is made
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
12 indictment.

13 "...

14 "(p) Actions or conduct that would have warranted denial of a license.

15 "...."

16 11. Section 4060 of the Code states:

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

28

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

4 REGULATORY PROVISIONS

5 12. California Code of Regulations, title 16, section 1769, states:

6 "...

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

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

12 "(2) Total criminal record.

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

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

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

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

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

24 COSTS

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

1 **DRUGS**

2 15. Soma is a brand name of Carisoprodol, a muscle relaxant. It is a Schedule IV
3 controlled substance and a dangerous drug pursuant to Code section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(September 25, 2015, Criminal Conviction for Grand Theft on November 4, 2014)**

6 16. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
7 (l) of the Code in that she was convicted of a crime substantially related to the qualifications,
8 functions, and duties of a licensee in the following respect:

9 17. On or about September 25, 2015, in a criminal proceeding entitled *People v.*
10 *Donaldson*, in California Superior Court, Riverside County, case number SWM1409634,
11 Respondent was convicted on her plea of guilty of violating Penal Code section 487, subdivision
12 (a), grand theft, a misdemeanor. As a result of a plea agreement, one count of violating Health
13 and Safety Code section 11350, unlawful possession of the controlled substance carisoprodol, a
14 misdemeanor, was dismissed.

15 18. As a result of the conviction, on or about September 25, 2015, Respondent was
16 sentenced to three years summary probation and ordered to pay restitution and to have no direct or
17 indirect contact with Rite Aid. By way of a December 29, 2014, order under Penal Code section
18 23, Respondent was further prohibited as a term of probation from engaging in any activity for
19 which a pharmacy technician registration is required.

20 19. The facts that led to the conviction are that on or about November 3, 2014, an officer
21 with the Murrieta Police Department responded to a radio call of theft at a Rite Aid pharmacy in
22 Murrieta. The officer arrived and spoke with the asset protection district manager of Rite Aid,
23 who advised that they had been investigating the mysterious shortage of Soma pills from their
24 store since the previous week. As a result, they had installed covert cameras in the pharmacy.
25 They reviewed the cameras on November 1, 2014, and saw Respondent, a pharmacy technician at
26 the Rite Aid, steal Soma pills. Further review of the surveillance showed Respondent stealing
27 over 100 Soma pills valued over \$1000.00.

1 cause for denial of a license to an applicant who committed an act of dishonesty with the intent to
2 substantially benefit herself or another.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Act of Moral Turpitude or Dishonesty)**

5 27. Complainant re-alleges and incorporates by reference the allegations set forth above
6 in paragraphs 16-26.

7 28. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
8 in that Respondent committed theft, an act of moral turpitude, dishonesty, fraud, deceit, or
9 corruption.

10 **PRAYER**

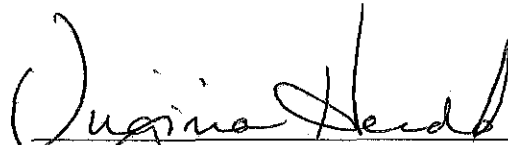
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 22260,
14 issued to Pamela Sue Doxey Donaldson;

15 2. Ordering Pamela Sue Doxey Donaldson to pay the Board of Pharmacy the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
17 section 125.3; and

18 3. Taking such other and further action as deemed necessary and proper.
19
20
21

22 DATED: 12/21/15



23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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