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

11 In the Matter of the Accusation Against:

Case No. 5836

12 **AARONAE RIANA SMITH**
13 **1505 Roosevelt Avenue, #3**
Richmond, CA 94801

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **TCH 140036,**

16 Respondent.

17
18 Complainant Virginia Herold alleges:

19 **PARTIES**

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

22 2. On or about June 17, 2014, the Board issued Pharmacy Technician Registration
23 No. TCH 140036 to respondent Aaronae Riana Smith. This pharmacy technician registration was
24 in full force and effect at all times relevant to the charges brought in this accusation and will
25 expire on February 28, 2018, unless renewed.

26 **JURISDICTION**

27 3 This accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 4011 states:

“The board shall administer and enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).”

5. Section 4300 states in part:

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

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

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

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

“(4) Revoking his or her license.

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

6. Section 4300.1 states:

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

STATUTORY AND REGULATORY PROVISIONS

7. Section 4301 states in part:

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

...

“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or

1 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
2 whether the act is a felony or misdemeanor or not.

3 . . .

4 “(l) The conviction of a crime substantially related to the qualifications, functions, and
5 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
6 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
7 substances or of a violation of the statutes of this state regulating controlled substances or
8 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
9 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
10 The board may inquire into the circumstances surrounding the commission of the crime, in order
11 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
12 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
13 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
14 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
15 of this provision. The board may take action when the time for appeal has elapsed, or the
16 judgment of conviction has been affirmed on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
18 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
19 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
20 indictment.”

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

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

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1 **COST RECOVERY**

2 9. Section 125.3, subdivision (a) states:

3 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary
4 proceeding before any board within the department or before the Osteopathic Medical Board,
5 upon request of the entity bringing the proceedings, the administrative law judge may direct a
6 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
7 to exceed the reasonable costs of the investigation and enforcement of the case.”

8 **FACTUAL ALLEGATIONS**

9 10. Respondent’s family member worked at the United States Postal Service. From
10 approximately December 2012 to December 2013, this family member targeted mail that
11 contained valuables, such as credit cards, debit cards, check cards, and gift cards. This family
12 member would steal the mail herself and give the contents to respondent, or tell respondent where
13 the mail had been delivered so respondent could steal it. Respondent used the valuables to make
14 at least approximately 126 fraudulent purchases and fraudulent cash withdrawals totaling over
15 \$12,000, and attempted approximately 3 other fraudulent purchases.

16 11. On August 19, 2015, in *United States v. Aaronae Riana Smith*, Northern District of
17 California Case No. 15-CR-033 DMR, respondent pled guilty to obstruction of mails (18 U.S.C.
18 § 1701), a misdemeanor. Her sentence included two years’ probation, 60 days’ intermittent
19 confinement, 150 hours’ community service, and \$12,615.96 restitution.

20 **CAUSES FOR DISCIPLINE**

21 **First Cause for Discipline**
22 **Unprofessional Conduct – Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or**
23 **Corruption**
24 **Section 4301, subdivision (f)**

25 12. The allegations of paragraphs 10-11 are realleged and incorporated by reference as
26 if fully set forth.

27 13. Respondent has subjected her pharmacy technician registration to discipline for the
28 unprofessional conduct of committing an act involving moral turpitude, dishonesty, fraud, deceit,
or corruption (Bus. & Prof. Code, § 4301, subd. (f)). Respondent received stolen mail and stole

1 mail herself, and used the valuables in the mail to make at least approximately 126 fraudulent
2 purchases and fraudulent cash withdrawals totaling over \$12,000, and attempted approximately 3
3 other fraudulent purchases.

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**Second Cause for Discipline
Unprofessional Conduct – Conviction
Section 4301, subdivision (l)**

14. The allegations of paragraphs 10-11 are realleged and incorporated by reference as if fully set forth.

15. Respondent has subjected her pharmacy technician registration to discipline for the unprofessional conduct of being convicted (Bus. & Prof. Code, § 4301, subd. (l)). On August 19, 2015, in *United States v. Aaronae Riana Smith*, Northern District of California Case No. 15-CR-033 DMR, respondent pled guilty to obstruction of mails (18 U.S.C. § 1701), a misdemeanor.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing, the Board issues a decision:

1. Revoking or suspending Pharmacist Technician Registration No. TCH 140036 issued to respondent;
2. Ordering respondent under to Business and Professions Code section 125.3 to pay the Board the reasonable costs of the investigation and enforcement of this case; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/10/16

Virginia Herold

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

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