BILL LOCKYER, Attorney General
of the State of California
KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2091
Facsimile: (619) 645-2061

Attorneys for Complainant

RECEIVED BY BOARD OF PHARMACY
2005 NOV 23 PM 3: 13

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LA RONDA A. BATY 5257 Monterey Road Riverside, CA 92506 Pharmacy Technician Registration No. TCH 29519 Respondent.	Case No. 2866 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 15, 2005, Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 2866 against LA RONDA A. BATY ("Respondent") before the Board of Pharmacy ("Board").

2. On or about June 7, 1999, the Board issued Pharmacy Technician Registration No. TCH 29519 to Respondent. The Pharmacy Technician Registration expired on January 31, 2005, and has not been renewed.

3. On or about August 23, 2005, Mona Sebastian, an employee of the Department of Justice, served by Certified Mail a copy of the Accusation No. 2866, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is

La Ronda A. Baty, 5257 Monterey Road, Riverside, CA 92506. A copy of the Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about August 29, 2005, the Domestic Return Receipt was returned by the U.S. Postal Service, indicating receipt of the Accusation packet sent by Certified Mail was signed and received by "Jerry Tally" on August 25, 2005. A copy of the Domestic Return Receipt is attached hereto as Exhibit "B," and are incorporated herein by reference. The Accusation packet sent to Respondent by regular mail has not been returned.

6. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2866.

8. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board of Pharmacy finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A and B, finds that the allegations in Accusation No. 2866 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent LA RONDA A. BATY has subjected her Pharmacy Technician Registration No. TCH 29519 to discipline.

2. A copy of the Accusation and the related documents, Declaration of Service and Domestic Return Receipt are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation:

a. Business and Professions Code sections 490 and 4301(l) - convictions of crimes substantially related to the qualifications, functions, and duties of a licensee;

b. Business and Professions Code section 4301(f) - commission of any act involving moral turpitude; and

c. Business and Professions Code section 4301(j) - violation of statutes regulating controlled substances.

///

///

///

///

///

///

///

///

///

///

///

///

///

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 29519, heretofore issued to Respondent LA RONDA A. BATY, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 27, 2006.

It is so ORDERED December 28, 2005

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

70045030.wpd

By

STANLEY W. GOLDENBERG
Board President

Attachments:

Exhibit A: Accusation No.2866, Related Documents, and Declaration of Service
Exhibit B: Domestic Return Receipt

Exhibit A

Accusation No. 2866,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2091
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LA RONDA A. BATY 5257 Monterey Road Riverside, California 92506 Original Pharmacy Technician Registration No. TCH 29519 Respondent.	Case No. 2866 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about June 7, 1999, the Board of Pharmacy issued Original Pharmacy Technician Registration No. TCH 29519 to LA RONDA A. BATY ("Respondent"). The license expired on January 31, 2005, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section

references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code states in pertinent 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.

". . . ."

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

5. Section 4301 of the Code states:

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

". . . ."

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

" . . ."

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

" . . ."

6. Section 4022 of the Code states in pertinent part:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, . . ."

7. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction

within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."

8. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

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

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crime)

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

a. In *People of the State of California* v. *La Ronda Baty*, Riverside County Superior Court Case No. RIM438308, Respondent was charged with violation of Penal Code section 490.5 (shoplifting).

b. On September 3, 2003, Respondent pled guilty to the charge and was immediately sentenced and placed on summary probation for two (2) years. In addition, Respondent was committed to the custody of the Riverside Sheriff's Office for 1 day for purposes of being booked and released. Other conditions of probation included the payment of fines, and submitting to immediate search of her person, auto, home, garage, storage, personal and leased property without reasonable cause for the detection of stolen property by law enforcement officials. On September 10, 2004, Respondent admitted to a violation of probation, and was continued on probation. Respondent's probation is scheduled to end September 2, 2005.

c. The circumstances of the crime are as follows: On July 30, 2003, Respondent stole merchandise from a Target store.

SECOND CAUSE FOR DISCIPLINE

(Conviction of Crime)

12. Respondent is subject to disciplinary action under section 4301(l) and 490 in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. In *People of the State of California* v. *LaRonda Ann Baty, et al*, Riverside County Superior Court Case No. RIF115183, Respondent was charged with violation of Health and Safety Code section 11377(a) (unlawful possession of methamphetamine).

b. Respondent pled guilty to the charge on February 18, 2004. Judgment was deferred and she was placed on diversion pursuant to Penal Code section 1000, *et seq.* Subsequently, on July 7, 2004, Respondent's diversion was terminated and criminal proceedings reinstated. She was placed on three (3) years formal probation and ordered to attend Narcotics Anonymous or an alternative program. She was also ordered to not possess, use or have in her control any controlled substances or drug related paraphernalia. She was ordered to submit to immediate search of her person, auto, home, garage, storage, personal and leased property without reasonable cause for the detection of stolen property by law enforcement officials, and ordered to reside at a Probation-approved residence. She was also ordered to participate in drug counseling, rehabilitation or treatment program.

c. The circumstances of the crime are as follows: On or about February 16, 2004, Respondent was stopped by the Riverside Police Department while driving her vehicle. The passenger in the car was observed shoving something into her shirt. Subsequently, a baggie containing 0.03 grams of methamphetamine was discovered on Respondent's person.

THIRD CAUSE FOR DISCIPLINE

(Conviction of Crime)

13. Respondent is subject to disciplinary action under section 4301(l) and 490 in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. The circumstances are as follows:

a. In *People of the State of California* v. *LaRonda Ann Baty*, Riverside County Superior Court Case No. RIF117883, Respondent was charged with violations of Health and Safety Code section 11379 (Count 1 - unlawfully transporting or selling a controlled substance (methamphetamine), a felony) and Health and Safety Code section 11364 (Count 2 - unlawful possession of paraphernalia, a misdemeanor). Respondent was also alleged to have violated the terms of her probation in Case No. RIF 115183.

b. Respondent pled guilty to Count 1 on July 7, 2004. On July 7, 2004, she was placed on formal probation for 3 years. Conditions of probation included participating in and completing a substance abuse program pursuant to Penal Code section 1210.1. She was also ordered to not possess, use or have in her control any controlled substances or drug related paraphernalia. She was ordered to submit to immediate search of her person, auto, home, garage, storage, personal and leased property without reasonable cause for the detection of stolen property by law enforcement officials, and ordered to reside at a Probation-approved residence. She could not associate with any unrelated person known to be a possessor, user, or trafficker of controlled substances or an unrelated person on probation or parole or a gang member. On September 8, 2004, Respondent admitted violating her probation in Case No. RIF 115183. She was continued on probation in that case.

c. The circumstances of the crime are as follows: On July 4, 2004, Respondent was stopped by a Riverside Police Department for driving her vehicle without using

a seat belt. She was asked is she was on probation or parole, but stated she did not know if she was on probation. When the officer asked Respondent for permission to search her vehicle, she consented. The officer discovered a white plastic bindle later determined to be methamphetamine in the center console. The officer also found a glass smoking pipe containing a white burnt substance later determined to be methamphetamine inside the rubber boot of the gear shift. Respondent denied that the substance belonged to either her or her passenger.

FOURTH CAUSE FOR DISCIPLINE

(Commission of Any Act Involving Moral Turpitude)

14. Respondent is subject to disciplinary action under section 4301(f) in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as more particularly described in paragraphs 11, 12, and 13, above.

FIFTH CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Controlled Substances)

15. Respondent is subject to disciplinary action under section 4301(j) in that she committed acts which violated statutes of California and the United States regulating controlled substances and dangerous drugs, as more particularly described in paragraphs 11, 12, and 13, above.

///

///

///

///

///

///

///

///

///

///

///

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 Original Pharmacy Technician Registration No. Number TCH 29519, issued to LA RONDA A. BATY.

2. Ordering LA RONDA A. BATY 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: 8/15/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant

SD2005700474
7/26/2005
70031670.wpd

Exhibit B

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LA RONDA A BATY
5257 MONTEREY ROAD
RIVERSIDE CA 92506

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☒ Agent
☐ Addressee

B. Received by (Printed Name) Jerry Tally
C. Date of Delivery 8/25

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service lab) 7000 0520 0025 1948 9732

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0520 0025 1948 9732

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

Postmark Here

Recipient's Name (Please Print Clearly) (To be completed by mailer)
LA RONDA A BATY
Street, Apt. No.; or PO Box 5257 MONTEREY ROAD
City, State, ZIP+ 4 RIVERSIDE CA 92506

PS Form 3800, February 2000 See Reverse for Instructions