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2	of the State of California LINDA K. SCHNEIDER	
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8	Attorneys for Complainant	
9	BEFORE THE	
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
11	STATE OF CAL	IFORNIA
12	In the Matter of the Accusation Against:	Case No. 3069
13	TAMI LYN EVANS, TCH 725 South Walnut Avenue	DEFAULT DECISION AND ORDER
14	Brea, CA 92281	[Gov. Code, § 11520]
15	Pharmacy Technician Registration No. 53016	
16	Respondent.	
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18	<u>FINDINGS OF</u>	FACT
19	1. On or about October 26, 2007	, Complainant Virginia Herold, in her
20	official capacity as the Executive Officer of the Boar	d of Pharmacy, Department of Consumer
21	Affairs, filed Accusation No. 3069 against Tami Lyr	nn Evans, TCH (Respondent) before the
22	Board of Pharmacy.	
23	2. On or about November 3, 200	3, the Board of Pharmacy (Board) issued
24	Registered Pharmacy Technician No. 53016 to Resp	ondent. The Registered Pharmacy
25	Technician expired on March 31, 2007, and has not	been renewed.
26	3. On or about November 5, 200	7, Jennifer Familo, an employee of the
27	Department of Justice, served by Certified and First	Class Mail a copy of the Accusation No.
28	3069 to Respondent's address of record with the Boa	rd, which was and is 725 South Walnut

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1	Avenue, Brea, CA 92281. A copy of the Accusation is attached as Exhibit A, and is incorporated			
2	herein by reference.			
3	4. Service of the Accusation was effective as a matter of law under the			
4	provisions of Government Code section 11505, subdivision (c).			
5	5. On or about December 12, 2007, the aforementioned documents were			
6	returned by the U.S. Postal Service marked "Attempted Not Known."			
7	6. Business and Professions Code section 118 states, in pertinent part:			
8	••••			
9	(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department or its suspension, forfeiture, or			
10				
11	without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee			
12	upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such			
13	ground.			
14	7. Government Code section 11506 states, in pertinent part:			
15				
1,6	(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			
17	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			
18	agency in its discretion may nevertheless grant a hearing.			
19	8. Respondent failed to file a Notice of Defense within 15 days after service			
20	upon her of the Accusation, and therefore waived her right to a hearing on the merits of			
21	Accusation No. 3069.			
22	9. California Government Code section 11520 states, in pertinent part:			
23	(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			
24	admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.			
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1	10. Pursuant to its authority under Government Code section 11520, the Board	
2	finds Respondent is in default. The Board will take action without further hearing and, based on	
3	Respondent's express admissions by way of default and the evidence before it finds that the	
4	allegations in Accusation No. 3069 are true.	
5	11. The total costs for investigation and enforcement are \$1,596.00 as of	
6	December 17, 2007.	
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8	DETERMINATION OF ISSUES	
9	1. Based on the foregoing findings of fact, Respondent Tami Lynn Evans,	
10	TCH has subjected her Registered Pharmacy Technician No. 53016 to discipline.	
11	2. A copy of the Accusation is attached.	
12	3. The agency has jurisdiction to adjudicate this case by default.	
13	4. The Board of Pharmacy is authorized to revoke Respondent's Registered	
14	Pharmacy Technician number based upon the following violations alleged in the Accusation:	
15	a. Respondent has subjected her license to dilscipline under Code	
16	sections 4301(f),(j) and (o) for committing acts of moral turpitude, dishonesty, fraud, deceit or	
17	corruption. On or about May 8, 2006, in a criminal proceeding entitled People v. Tami Lynn	
18	Evans, Orange County Superior Court case number 06NF0857, Respondent pled guilty to	
19	violating Health and Safety Code section 11350, possession of a controlled substance, a felony;	
20	Business and Professions Code section 4060, possession of a controlled substance without a	
21	prescription, a misdemeanor; and Penal Code section 484(a)-488, petty theft, a misdemeanor.	
22	b. Respondent subjected her license to discipline under sections 4301,	
23	subdivisions (f), (j), and (o), and 4059, subdivision (a) of the Code in that on or about January	
24	20, 2006, she admitted furnishing to herself, without authorization, hydrocodone-ibuprofen and	
25	hydrocodone-APAP, Schedule III controlled substances pursuant to Health and Safety Code	
26	section 11056, subdivision (e)(4).	
27	c. Respondent subjected her license to discipline under sections 4301,	
28	subdivisions (f), (j), and (o), and 4060 of the Code in that on or about January 20, 2006, she	
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1	possessed non-prescribed Schedule III controlled substances, Butalbital/APAP/Caffeine Plus and
2	hydrocodone-APAP, in violation of Health and Safety Code sections 11350, and 11056,
3	subdivisions (e)(2) and (e)(4).
4	d. Respondent subjected her license to discipline under sections 4301,
5	subdivisions (f), (j), and (o), in that on or about January 20, 2006, she admitted to stealing and
6	concealing Schedule III controlled substances, in violation of Penal Code sections 484(a)-488,
7	and Health and Safety Code section 11173, subdivision (a)
8	ORDER
9	IT IS SO ORDERED that Registered Pharmacy Technician Registration No.
10	53016, heretofore issued to Respondent Tami Lynn Evans, TCH, is revoked.
11	Pursuant to Government Code section 11520, subdivision (c), Respondent may
12	serve a written motion requesting that the Decision be vacated and stating the grounds relied on
13	within seven (7) days after service of the Decision on Respondent. The agency in its discretion
14	may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
15	statute.
16	This Decision shall become effective on <u>March 20, 2008</u> .
17	
18	It is so ORDERED <u>February 19, 2008</u>
19	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
20	STATE OF CALIFORNIA
21	
22	By Willion Face
23	DOJ docket number:SD2007800931 WILLIAM POWERS Board President
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25	Attachment: Ex. A Accusation No. 3069
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Exhibit A Accusation No. 3069

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1 2	EDMUND G. BROWN JR., Attorney General of the State of California LINDA K. SCHNEIDER	
3	Supervising Deputy Attorney General SHERRY L. LEDAKIS, State Bar No. 131767 Deputy Attorney General	
4	California Department of Justice 110 West "A" Street, Suite 1100 San Diego, CA 92101	
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8 9	P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 645-2078 Facsimile: (619) 645-2061	
10	Attorneys for Complainant	
12	BEFORE T BOARD OF PHA DEPARTMENT OF CON	ARMACY
13	STATE OF CAL	IFORNIA
14	In the Matter of the Accusation Against:	Case No. 3069
15 16	TAMI LYNN EVANS 725 South Walnut Avenue Brea, CA 92281	ACCUSATION
17	Pharmacy Technician Registration No. 53016	
18	Respondent.	
19		
20	Complainant alleges:	
21	PARTIE	<u>S</u>
22	1. Virginia Herold (Complainant) brings this Accusation solely in her official
23	capacity as the Executive Officer of the Board of Pha	
24		03, the Board of Pharmacy issued Registered
25	Technician Number 53016 to Tami Lynn Evans (Res	spondent). The registration expired on
26	March 31, 2007, and has not been renewed.	
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1	JURISDICTION	
2	3. This Accusation 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 unless otherwise indicated.	
5	4. Section 477 of the Code states:	
6	As used in this division:	
7	(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."	
8 9	(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.	
10	5. Section 118, subdivision (b), of the Code provides that the suspension,	
11	expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to	
12	proceed with a disciplinary action during the period within which the license may be renewed,	
13	restored, reissued or reinstated.	
14	6. Section 4301 of the Code states:	
15 16	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	
17	is not limited to, any of the following:	
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19	(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course	
20	of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.	
21		
22	(j) The violation of any of the statutes of this state, or any other	
23	state, or of the United States regulating controlled substances and dangerous drugs.	
24	$(-) X_{i-1}^{i} + \dots + (i-1)^{i} + \dots + \dots$	
25	(o) Violating or attempting to violate, directly or indirectly, or assisting 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 regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency	
27	other state or federal regulatory agency.	
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7. Section 4022 of the Code states 1 "Dangerous drug" or "dangerous device" means any drug or device 2 unsafe for self-use in humans or animals, and includes the following: 3 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import. 4 5 6 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006. 7 Section 4059(a) of the Code states, in pertinent part: 8. 8 9 A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. 10 9. Section 4060 of the Code states: 11 12 No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified 13 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to 14 Section 2836.1, or a physician assistant pursuant to Section 3502.1.... 15 10. Section 125.3 of the Code states, in pertinent part, that the Board may 16 request the administrative law judge to direct a licentiate found to have committed a violation or 17 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation 18 and enforcement of the case. 19 ALLEGED FACTS On or about May 8, 2006, in a criminal proceeding entitled People v. Tami 20 11. 21 Lynn Evans, Orange County Superior Court case number 06NF0857, Respondent pled guilty to 22 violating Health and Safety Code section 11350, possession of a controlled substance, a felony 23 (count one); Business and Professions Code section 4060, possession of a controlled substance 24 without a prescription, a misdemeanor (count two); and Penal Code section 484(a)-488, petty 25 theft, a misdemeanor (count three). 26 12. As a result of the guilty plea, on or about May 8, 2006, the court ordered 27 judgment deferred on counts one and two, and Respondent was ordered to enroll in a Drug 28 Diversion Program and pay fines and restitution pursuant to Penal Code section 1000. The court

suspended the sentence on count three and Respondent was granted three years informal
 probation with standard terms, 40 hours community service, and payment of fines and fees.

3 13. The facts that lead to the plea were that on or about January 20, 2006,
4 Respondent was arrested at her place of employment, Walgreens Pharmacy in Placentia,
5 California, after an investigation revealed she had stolen controlled and uncontrolled drugs. The
6 circumstances of the investigation follow:

Following an "on hand" count of controlled drugs in November 11, 2005, a
Walgreen's Loss Prevention Officer (LPO) discovered that a significant number of pills were
missing from inventory. On December 30, 2005, the LPO installed a video surveillance system
directly above a specific counter area which contained "prescribed only" pills, namely
hydrocodone. After allowing the video surveillance to run a couple of weeks, the LPO reviewed
the video and observed that Respondent was stealing drugs.

13 15. The first videotaped theft occurred on January 13, 2006. The videotape
14 showed Respondent picking up a bottle, opening it, stepping partially off screen, and then
15 immediately stepping back into camera range. She closed the bottle cap and returned the bottle
16 to the shelf. A store computer later showed that there was a shortage of drugs on the shelf not
17 equivalent to the amount that had been dispensed.

18 16. The second theft incident took place on January 16, 2006. The videotape
19 showed Respondent removing a bottle later determined to contain Hydrocodone, which had been
20 placed there by the LPO. Respondent was videotaped removing the bottle from the shelf,
21 opening the lid, pouring an unknown amount of pills into her hand, and then placing the pills into
22 a pocket of her smock. She then closed the bottle and returned it to its original location on the
23 shelf.

24 17. On January 20, 2006, the LPO and a Walgreen's district manager met with
25 Respondent. Respondent verbally admitted and signed her name verifying the theft of
26 approximately 250 hydrocodone-APAP and hydrocodone-ibuprofen pills in varying strengths
27 with a total retail value of \$277.02.

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1 18. The LPO notified the Placentia Police Department and Respondent was
 2 taken into custody. When searched by the arresting officers, it was discovered that Respondent
 3 had in her possession hydrocodone-ibuprofen, Butalbital/APAP/Caffeine Plus, and Metronidazole;
 4 for a total of 14 pills with a retail value of \$34.98. The combined value of the loss was estimated
 5 at approximately \$312.00.

During booking at the Placentia City Jail, Respondent made the following
spontaneous statement: "I have been having problems with my back. At home, I would think on
how I would feel better if I had just taken pills from work."

SECOND CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without Authorization)

20. Respondent has subjected her license to discipline under sections 4301,
subdivisions (f), (j), and (o), and 4059(a) of the Code in that on or about January 20, 2006, she
admitted furnishing to herself, without authorization, hydrocodone-ibuprofen and hydrocodoneAPAP, Schedule III controlled substances pursuant to Health and Safety Code section
11056(e)(4), as outlined in paragraphs 11-19, above. These drugs are considered "dangerous"
within the meaning of section 4022 of the Code.

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THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substances Without a Prescription)

21. Respondent has subjected her license to discipline under sections 4301, 19 subdivisions (f), (j), and (o), and 4060 of the Code in that on or about January 20, 2006, she 20 possessed non-prescribed Schedule III controlled substances, Butalbital/APAP/Caffeine Plus and 21 hydrocodone-APAP, in violation of Health and Safety Code sections 11350, and 11056, 22 subdivisions (e)(2) and (e)(4), as outlined in paragraphs 11-19, above. These drugs are 23 considered "dangerous" within the meaning of section 4022 of the Code. 24 25 111 26 111 27 111

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1	FOURTH CAUSE FOR DISCIPLINE	
2	(Obtaining Controlled Substances by Fraud and Deceit)	
3	22. Respondent has subjected her license to discipline under sections 4301,	
4	subdivisions (f), (j), and (o), in that on or about January 20, 2006, she admitted to stealing and	
5	concealing Schedule III controlled substances, in violation of Penal Code sections 484(a)-488,	
6	and Health and Safety Code section 11173(a), as outlined in paragraphs 11-19, above.	
7	PRAYER	
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein	
9	alleged, and that following the hearing, the Board of Pharmacy issue a decision:	
10	1. Revoking or suspending Pharmacy Technician Registration	
11	Number TCH 53016 issued to TAMI LYNN EVANS;	
12	2. Ordering TAMI LYNN EVANS to pay the Board of Pharmacy the	
13	reasonable costs of the investigation and enforcement of this case, pursuant to Business and	
14	Professions Code section 125.3; and,	
15	3. Taking such other and further action as deemed necessary and proper.	
16	*	
17	DATED: 10/26/07	
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20	VIRGINIA HEROLD Executive Officer	
21	Board of Pharmacy Department of Consumer Affairs	
22	State of California Complainant	
23	Complanant	
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