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

In the Matter of the Accusation Against	Case No. 3202
JEANA MARIE JOHNSON 915 Tuolumne Blvd, #6 Modesto, CA 95354	OAH No.
Pharmacy Technician License No. TCH	H 57609
I	Respondent.
DECIS	SION AND ORDER
The attached Stipulated Surrend	ler of License Order is hereby adopted by the Board of
Pharmacy, Department of Consumer Af	ffairs, as its Decision in this matter.
This decision shall become effective	ctive on April 10, 2009
It is so ORDERED on March	11 2009

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Ву

KENNETH H. SCHELL

**Board President** 

1	EDMUND G. BROWN JR., Attorney General	
2	of the State of California ARTHUR D. TAGGART	
3	Supervising Deputy Attorney General ELENA L. ALMANZO, State Bar No. 131058	
4	Deputy Attorney General 1300 I Street, Suite 125	
5	P.O. Box 944255 Sacramento, CA 94244-2550	
6	Telephone: (916) 322-5524 Facsimile: (916) 327-8643	
7	Attorneys for Complainant	
8	BEFORE THE	
9	BOARD OF PHARMACY STATE OF CALIFORNIA	
10	In the Matter of the Accusation Against: Case No. 3202	
11	JEANA MARIE JOHNSON	
12	915 Tuolumne blvd. #6 Modesto, CA 95354  STIPULATED SURRENDER OF	
13	Pharmacy Technician License No. TCH 57609  LICENSE AND ORDER	
14	Respondent.	
15		
16	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this	
17	proceeding that the following matters are true:	
18	<u>PARTIES</u>	
19	1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of	
20	Pharmacy. She brought this action solely in her official capacity and is represented in this matter	
21	by Edmund G. Brown Jr., Attorney General of the State of California, by Elena L. Almanzo,	
22	Deputy Attorney General.	
23	2. Jeana Marie Johnson (Respondent) is representing herself in this	
24	proceeding and has chosen not to exercise her right to be represented by counsel.	
25	3. On or about August 16, 2004, the Board of Pharmacy issued Pharmacist	
26	Technician License No. TCH 57609 to Jeana Marie Johnson (Respondent). The was in full	
27	force and effect at all times relevant to the charges brought in Accusation No. 3202 and will	
28	expire on March 31, 2010, unless renewed.	

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#### JURISDICTION

4. Accusation No. 3202 was filed before the Board of Pharmacy, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 10, 2008. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3202 is attached as exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 3202. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### **CULPABILITY**

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3202, agrees that cause exists for discipline and hereby surrenders her Pharmacist Technician License No. TCH 57609 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacist Technician License without further process.

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#### CONTINGENCY

- Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

#### ORDER

IT IS HEREBY ORDERED that Pharmacist Technician License No. TCH 57609, issued to Respondent Jeana Marie Johnson is surrendered and accepted by the Board of Pharmacy.

- 13. The surrender of Respondent's Pharmacist Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.
- 14. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.
  - 15. Respondent shall cause to be delivered to the Board both her wall license

certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

- 16. Respondent understands and agrees that if she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3202 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.
- 17. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 3202 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.
- 18. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$1,382.50 prior to issuance of a new or reinstated license.

#### ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: (2-26-09)

Jeana Marie Johnson (Respondent)

Respondent

## **ENDORSEMENT**

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: 1/8/09

EDMUND G. BROWN JR., Attorney General of the State of California

ARTHUR D. TAGGART Supervising Deputy Attorney General

Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2008304263 10462528.wpd

1	EDMUND G. BROWN JR., Attorney General
2 -	of the State of California ARTHUR D. TAGGART
3	Supervising Deputy Attorney General ELENA L. ALMANZO, State Bar No. 131058
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8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 3202
12	JEANA MARIE JOHNSON 1920 Encina Avenue ACCUSATION
13	Modesto, CA 95354
14	Pharmacy Technician License No. TCH 57609
15	Respondent.
16	
17	Complainant alleges:
18	PARTIES
19	Virginia 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 August 16, 2004, the Board of Pharmacy issued Pharmacy
22	Technician License Number TCH 57609 to Jeana Marie Johnson (Respondent). The Pharmacy
23	Technician License was in full force and effect at all times relevant to the charges brought herein
24	and will expire on March 31, 2010, unless renewed.
25	JURISDICTION
26	3. This Accusation is brought before the Board of Pharmacy (Board),
27	Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code unless otherwise indicated.

#### 4. Code section 492 states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 121 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (Commencing with section 500) of this Code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division

#### STATUTORY PROVISIONS

- 5. 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.
  - 6. Section 4301 of the Code states in pertinent 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,

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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 any other state, or of the United States regulating controlled substances and dangerous drugs.
- "(1) 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.
- 7. Code section 4060 states, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription by a physician, dentist, podiatrist, or veterinarian.

Health & Safety Code section 11377, subdivision (a), provides, in relevant part: 2 3 [E] very person who possesses any controlled substance which is... specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to 4 practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison. 5 14. DRUG: 6 "Methamphetamine" is a Schedule II controlled substance as designated by 7 Health and Safety ("H&S) Code section 11055, subdivision (d)(2), and a dangerous drug within the meaning of Code section 4022. 9 COST RECOVERY 10 15. Code section 125.3 provides, in pertinent part, that the Board may request 11 12 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 13 and enforcement of the case. 14 FIRST CAUSE FOR DISCIPLINE 15 (Conviction of a Crime) 16 8. 17 Respondent is subject to disciplinary action under section 4301 (f) and (l) in that on or about November 27, 2006, in People v. Jeana Marie Johnson, Stanislaus County 18 19 Superior Court, Case No. 1217794, respondent was convicted on her plea of nolo contendere to a violation of Penal Code section 487 (a) (grand theft), a crime substantially related to the practice 20 21 of a pharmacy technician. The circumstances are as follows: 9. 22 On or about October 28, 2006, respondent did wilfully, unlawfully and .23 feloniously take the property of another of a value exceeding Four Hundred Dollars (\$400.00) 24 SECOND CAUSE FOR DISCIPLINE 25 (Possession of a Controlled Substance) 26 10. Respondent is subject to disciplinary action under section 4301 (f) and (l) on the grounds of unprofessional conduct, in that on or about January 6, 2006, in the city of 27 Modesto, during a security check on a small child, Modesto Police Officer Arguelles found

Respondent in possession of a controlled substance, to wit: Methamphetamine. Such act of Respondent constitutes violations of Health & Safety Code section 11377, subdivision (a), Code 2 section 4060, subdivision (b), and constitutes unprofessional conduct within the meaning of 3 Code section 4301, subdivisions (f) and (l). 4 PRAYER 5 WHEREFORE, Complainant requests that a hearing be held on the matters herein 6 alleged, and that following the hearing, the Board of Pharmacy issue a decision: 7 Revoking or suspending Pharmacy Technician License Number TCH 1. 8 57609, issued to Jeana Marie Johnson. 9 Ordering Respondent Jeana Marie Johnson to pay the Board of Pharmacy 10 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and 11 12 Professions Code section 125.3; 13 Taking such other and further action as deemed necessary and proper. 14 15 16 17 18 Executive Officer Board of Pharmacy 19 Department of Consumer Affairs State of California 20 Complainant 21 22 23 SA2008304263 24 30568166.wpd 25 26 . 27