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

11 In the Matter of the Accusation Against:

Case No. 3250

12 PRISCILLA PITTS
13 A.K.A. PRISCILLA SALESS PITTS
8412 Yorkshire Avenue
14 Anaheim, CA 92806

DEFAULT DECISION AND ORDER

15 Pharmacy Technician Registration No. TCH
77544

[Gov. Code, §11520]

16
17 Respondent.

18 FINDINGS OF FACT

19 1. On or about April 29, 2009, Complainant Virginia Herold, in her official capacity as
20 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
21 Accusation No. 3250 against Priscilla Pitts (Respondent) before the Board of Pharmacy.

22 2. On or about July 30, 2007, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 77544 to Respondent. The license will expire on February 28,
24 2009, unless renewed.

25 3. On or about May 7, 2009, Joanne S. Millot, an employee of the Department of
26 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3250, Statement to
27 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

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1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: 8412
2 Yorkshire Avenue, Anaheim, CA 92806. A copy of the Accusation is attached as Exhibit A, and
3 is incorporated herein by reference.

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

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

7 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
8 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
9 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
10 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.” Respondent
11 failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and
12 therefore waived her right to a hearing on the merits of Accusation No. 3250.

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

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

17 7. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 evidence on file herein, finds that the allegations in Accusation No. 3250 are true.

20 8. The total cost for investigation and enforcement in connection with the Accusation
21 are \$4,839.00 as of June 5, 2009.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Priscilla Pitts has subjected her
24 Pharmacy Technician Registration No. TCH 77544 to discipline.

25 2. A copy of the Accusation is attached.

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

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

1 subject to disciplinary action under Code sections 490, 493, and 4301(l) for criminal convictions
2 substantially related to the qualifications, functions, and duties of a pharmacy technician,
3 including:

4 a. On or about June 19, 2008, in the Superior Court for the County of Orange, in a case
5 entitled *People vs. Priscilla Saless Pitts* (Sup. Ct., Orange, Case No. 08WF0801 F A),
6 Respondent pled guilty to a violation of Penal Code 459-450(b), burglary, a felony;

7 b. On or about July 22, 2008, in the Superior Court for the County of Orange, in a case
8 entitled *People vs. Priscilla Saless Pitts* (Sup. Ct., Orange, Case No. 08NM07972 M A)
9 Respondent pled guilty to a violation of Health and Safety Code section 11550(a), use/under the
10 influence of a controlled substance (Methamphetamine); and

11 c. On or about July 22, 2008, in the Superior Court for the County of Orange, in a case
12 entitled *People vs. Pricilla Saless Pitts* (Sup. Ct., Orange, Case No. 08NF1967 M A), Respondent
13 pled guilty to a violation of Penal Code section 496(a), receiving known stolen property, a
14 misdemeanor, and Penal Code section 135 destroying/concealing evidence, a misdemeanor.

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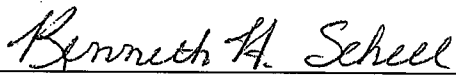
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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 77544, heretofore issued to Respondent Priscilla Pitts 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 February 18, 2010.

It is so ORDERED January 19, 2010.


KENNETH H. SCHELL, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A, Accusation No.3250



Exhibit A

Accusation No. 3250

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
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11 **STATE OF CALIFORNIA**

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Case No. 3250

13 PRISCILLA PITTS
A.K.A. PRISCILLA SALESS PITTS
14 8412 Yorkshire Avenue
Anaheim, CA 92806

ACCUSATION

15 Pharmacy Technician Registration No. TCH
16 77544

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about July 30, 2007, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 77544 to Priscilla Pitts, also known as Priscilla Saless
25 Pitts (Respondent). The license will expire on February 28, 2009, unless renewed.

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JURISDICTION AND STATUTORY PROVISIONS

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 ("Code") unless otherwise indicated.

4. Code section 118, subdivision (b), states in pertinent part, 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.

5. Section 4300 of the Code states:

"(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. Code section 482 states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime

1 substantially related to the qualifications, functions, or duties of the business or profession for
2 which the license was issued.

3 8. Section 493 of the Code states:

4 "Notwithstanding any other provision of law, in a proceeding conducted by a board
5 within the department pursuant to law to deny an application for a license or to suspend or revoke
6 a license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

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

15 I. Section 4301 of the Code states:

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

20 "....

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

24 "....

25 "(h) The administering to oneself, of any controlled substance, or the use of any
26 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
27 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
28 the public, or to the extent that the use impairs the ability of the person to conduct with safety to

1 the public the practice authorized by the license.

2 "

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

5 "

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

23 " "

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

25 "For the purpose of denial, suspension, or revocation of a personal or facility
26 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
27 Code, a crime or act shall be considered substantially related to the qualifications, functions or
28 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."

COST RECOVERY

11. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

DRUGS

12. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(June 19, 2008 Felony Criminal Conviction - Burglary on April 25, 2008)

13. Respondent is subject to disciplinary action under Code sections 490, 493, and 4301(l) for a criminal conviction that is substantially related to the qualifications, functions, and duties of a pharmacy technician. On or about June 19, 2008, in the Superior Court for the County of Orange, , in a case entitled *People vs. Priscilla Saless Pitts* (Sup. Ct., Orange, Case No. 08WF0801 F A), Respondent pled guilty to a violation of Penal Code 459-450(b), burglary, a felony. The circumstances are as follows:

14. On or about April 25, 2008, Respondent was arrested at a Wells Fargo Bank in Westminster after trying to cash a forged check. Respondent admitted to stealing the check from an open mailbox in Anaheim. She said that she was homeless and in need of money. Further investigation by the arresting officer found Respondent's personal property in a stolen vehicle in the bank parking lot. Two other individuals fled from the stolen vehicle after seeing the police.

15. Respondent was sentenced to formal probation, nine (9) days in the Orange County Jail, ordered to pay fines of \$420.00 and complete 30 days of Cal Trans service.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violation of Laws Relating to Controlled Substances and Dangerous Drugs)**

3 20. Respondent is subject to disciplinary action under Code section 4301(j)
4 and 4301(l) in that she violated statutes and regulations regulating controlled substances and
5 dangerous drugs. The circumstances are set forth in paragraphs 17 to 19 and are incorporated by
6 reference herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(July 22, 2008 Criminal Convictions - Receiving Known**

9 **Stolen Property/Concealing Evidence on June 15, 2008)**

10 21. Respondent is subject to disciplinary action under Code section 490 and
11 4301(l) for criminal convictions that are substantially related to the qualifications, functions, and
12 duties of a pharmacy technician. On or about July 22, 2008, in the Superior Court for the
13 County of Orange, in a case entitled *People vs. Pricilla Saless Pitts* (Sup. Ct., Orange, Case No.
14 08NF1967 M A), Respondent pled guilty to a violation of Penal Code section 496(a), receiving
15 known stolen property, a misdemeanor, and Penal Code section 135 destroying/concealing
16 evidence, a misdemeanor. The circumstances are as follows:

17 22. On or about June 15, 2008, Respondent was arrested in a hotel room
18 pursuant to a bench warrant that issued after she failed to appear in court for her April 26, 2008
19 arrest. Another individual in the room with Respondent was on parole for narcotic sales, so the
20 police officers searched the hotel room (because a parolee is subject to search and seizure).
21 When officers noted the screen missing from the window, they observed white residue,
22 consistent with Methamphetamine, on the window frame, but did not find any Methamphetamine
23 in the bushes outside the window. The search of the hotel room rented by Respondent also
24 revealed large amounts of cash (\$6,746.00), a constantly ringing cell phone with drug requesting
25 phone messages, sandwich baggies with white crystalline residue, a digital scale, a smashed used
26 Methamphetamine pipe on the bathroom floor and bathtub, as well as a stolen laptop computer.
27 The white residue found on the top of a table in the room later tested positive for Amphetamine.

28 ///

1 23. Respondent was placed on 3 years informal probation, ordered to pay fines
2 of \$495.00 and restitution to the victim, and serve 90 days in the Orange County Jail. As she had
3 already served 37 days in jail, with an additional 18 days for good conduct, she was remanded
4 back to the Orange County jail to serve her remaining 45 days in jail.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 24. Respondent is subject to disciplinary action under Code section 4301(f) in
8 that she committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. The
9 circumstances are set forth in paragraphs 21 to 23 and are incorporated by reference herein.

10 **PRAYER**

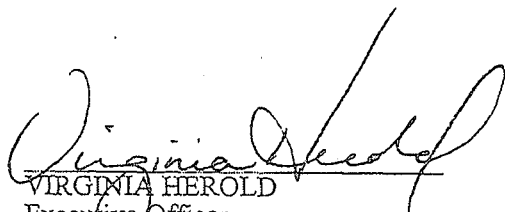
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein
12 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

13 A. Revoking or suspending Pharmacy Technician Registration Number TCH
14 77544, issued to Priscilla Pitts, a.k.a. Pricilla Saless Pitts;

15 B. Ordering Priscilla Pitts, a.k.a. Pricilla Saless Pitts to pay the Board of
16 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
17 Business and Professions Code section 125.3; and

18 C. Taking such other and further action as deemed necessary and proper.

19 DATED: 4/29/09

20
21 
22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

27 SD2008803198

28 80334206.wpd