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

In the Matter of the Accusation Against:

Case No. 3326

**ARLITHA THOMPSON JAMES**

**DEFAULT DECISION AND ORDER**

Respondent.

[Gov. Code, §11520]

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FINDINGS OF FACT

1. On or about July 20, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3326 against Arlitha T. James, also known as Arlitha Thompson (Respondent), before the Board of Pharmacy (Board).

2. On or about November 1, 2000, the Board issued Pharmacy Technician Registration No. TCH 35116 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3326 and will expire on May 31, 2010, unless renewed.

3. On or about July 27, 2009, Anna A. Carpenter, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3326, 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: 3717 S. La Brea Ave., #250, Los Angeles, CA 90016.

A copy of the Accusation is attached as Exhibit A, and is 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).

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

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

6 Respondent failed to file a Notice of Defense within 15 days after service upon her of the  
7 Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3326.

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

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

12 7. Pursuant to its authority under Government Code section 11520, the Board finds  
13 Respondent is in default. The Board will take action without further hearing and, based on the  
14 evidence on file herein, finds that the allegations in Accusation No. 3326 are true.

15 8. The total cost for investigation and enforcement in connection with the Accusation  
16 are \$1,424.00 as of September 1, 2009.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondent Arlitha T. James, also known as  
19 Arlitha Thompson, has subjected her Pharmacy Technician Registration No. TCH 35116 to  
20 discipline.

21 2. A copy of the Accusation is attached.

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

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

25 a. Business and Professions Code (Code) section 4301, subdivision (f), on the grounds  
26 of unprofessional conduct, in that in or between July 2007 and April 2008, Respondent stole  
27 controlled substances and dangerous drugs from her place of employment as follows:

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- 1           1.    6000 dosage units of Norco 10mg/325 mg.
- 2           2.    1200 units of Cialis 20mg.
- 3           3.    300 dosage units of Levitra 20mg.
- 4           4.    500 dosage units of Viagra 100mg.
- 5           5.    On or about April 22, 2008, Respondent admitted to the stealing of controlled
- 6           substances and dangerous drugs from CVS Pharmacy No. 9766, and to selling the
- 7           controlled substances and dangerous drugs to pay personal bills.

8           b.    Code section 4301, subdivision (j), on the grounds of unprofessional conduct, in that

9 Respondent possessed controlled substances and dangerous drugs without a valid prescription in

10 violation of Health and Safety Code section 11350, subdivision (a), and Code sections 4059,

11 subdivision (a), and 4060, by possessing the controlled substances and dangerous drugs discussed

12 in subparagraph (a), above.

13           c.    Code section 4301, subdivision (j), in that Respondent furnished controlled

14 substances and dangerous drugs in violation of Health and Safety Code section 11352,

15 subdivision (a), and Code section 4059, subdivision (a), as more fully discussed in subparagraph

16 (a), above.

17           d.    Code section 4301, in that Respondent committed unprofessional conduct by stealing

18 and illegally selling controlled substances and dangerous drugs, as more fully discussed in

19 subparagraphs (a) through (c), above.

RECORD

21           The Record upon which this Default Decision and Order are based is located at the

22 Sacramento headquarters of the Board.

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1 ORDER

2 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 35116, heretofore  
3 issued to Respondent Arlitha T. James, also known as Arlitha Thompson, is revoked.

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

8 This Decision shall become effective on January 29, 2010.

9 It is so ORDERED December 30, 2009.

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

13 60454145.DOC  
14 DOJ docket number: LA2009602866

14 Attachment:

15 Exhibit A: Accusation No.3326  
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Exhibit A  
Accusation No. 3326

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 SCOTT J. HARRIS  
Deputy Attorney General  
4 State Bar No. 238437  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 3326

11 **ARLITHA T. JAMES**  
12 **a.k.a. ARLITA THOMPSON**  
13 3717 S. La Brea Ave., #250  
Los Angeles, CA 90016

**A C C U S A T I O N**

14 Pharmacy Technician Registration No.  
15 TCH 35116

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about November 1, 2000, the Board issued Pharmacy Technician Registration  
23 Number TCH 35116 to Arlitha T. James, also known as Arlitha Thompson (Respondent). The  
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on May 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board 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:

(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.

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 any other state, or of the United States regulating controlled substances and dangerous drugs.

6. Section 4059 of the Code states, in pertinent part, that 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. A person may not furnish any

1 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
2 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

3 7. Section 4060 of the Code states, in pertinent part that “no person shall possess any  
4 controlled substance, except that furnished to a person upon the prescription of a physician,  
5 dentist, podiatrist, optometrist, veterinarian...”

6 8. Health and Safety Code section 11350, subdivision (a) states:

7 Except as otherwise provided in this division, every  
8 person who possesses (1) any controlled substance specified in  
9 subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
10 Section 11054, specified in paragraph (14), (15), or (20) of  
11 subdivision (d) of Section 11054, or specified in subdivision (b) or  
12 (c) of Section 11055, or specified in subdivision (h) of Section  
13 11056, or (2) any controlled substance classified in Schedule III,  
14 IV, or V which is a narcotic drug, unless upon the written  
15 prescription of a physician, dentist, podiatrist, or veterinarian  
16 licensed to practice in this state, shall be punished by imprisonment  
17 in the state prison.

18 9. Health and Safety Code section 11352, subdivision (a) states:

19 Except as otherwise provided in this division, every  
20 person who transports, imports into this state, sells, furnishes,  
21 administers, or gives away, or offers to transport, import into this  
22 state, sell, furnish, administer, or give away, or attempts to import  
23 into this state or transport (1) any controlled substance specified  
24 in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)  
25 of Section 11054, specified in paragraph (14), (15), or (20) of  
26 subdivision (d) of Section 11054, or specified in subdivision (b) or  
27 (c) of Section 11055, or specified in subdivision (h) of Section  
28 11056, or (2) any controlled substance classified in Schedule III,  
IV, or V which is a narcotic drug, unless upon the written  
prescription of a physician, dentist, podiatrist, or veterinarian  
licensed to practice in this state, shall be punished by imprisonment  
in the state prison for three, four, or five years.

10. 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.

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CONTROLLED SUBSTANCES/DANGEROUS DRUGS

11. Hydrocodone/Acetaminophen (APAP) is the generic name for Norco, which is a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(4), and a dangerous drug pursuant to Code section 4022.

12. Sildenafil is the generic name for Viagra, which is a dangerous drug pursuant to Code section 4022.

13. Tadalafil is the generic name for Cialis, which is a dangerous drug pursuant to Code section 4022.

14. Vardenafil is the generic name for Levitra, which is a dangerous drug pursuant to Code section 4022.

BACKGROUND

15. In or between July 2007 and April 2008, while employed as a pharmacy technician at CVS Pharmacy No. 9766, it was determined through an internal investigation that Respondent stole controlled substances and dangerous drugs as follows:

- a. 6000 dosage units of Norco 10mg/325 mg.
- b. 1200 units of Cialis 20mg.
- c. 300 dosage units of Levitra 20mg.
- d. 500 dosage units of Viagra 100mg.
- e. On or about April 22, 2008, Respondent admitted to the stealing of controlled substances and dangerous drugs from CVS Pharmacy No. 9766, and to selling the controlled substances and dangerous drugs to pay personal bills.

FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

16. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that in or between July 2007 and April 2008, Respondent stole controlled substances and dangerous drugs, as more fully discussed in paragraph 15, above, which is herein incorporated by reference as set forth in whole.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substances and Dangerous Drugs)

3 17. Respondent is subject to disciplinary action pursuant to Code section 4301,  
4 subdivision (j), on the grounds of unprofessional conduct, in that Respondent possessed  
5 controlled substances and dangerous drugs without valid prescriptions in violation of Health and  
6 Safety Code section 11350, subdivision (a), and Code sections 4059, subdivision (a) and 4060, as  
7 more fully discussed in paragraph 15, above, which is herein incorporated by reference as set  
8 forth in whole.

9 THIRD CAUSE FOR DISCIPLINE

10 (Furnishing of Controlled Substances)

11 18. Respondent is subject to disciplinary action pursuant to Code section 4301,  
12 subdivision (j), on the grounds of unprofessional conduct, in that Respondent furnished controlled  
13 substances and dangerous drugs, in violation of Health and Safety Code section 11352,  
14 subdivision (a), and Code section 4059, subdivision (a), as more fully discussed in paragraph 15,  
15 above, which is herein incorporated by reference as set forth in whole.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 19. Respondent is subject to disciplinary action pursuant to Code section 4301, in that  
19 Respondent committed unprofessional conduct by stealing and illegally selling controlled  
20 substances and dangerous drugs, as more fully discussed in paragraph 15, above, which is herein  
21 incorporated by reference as set forth in whole.

22 PRAYER

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 35116,  
26 issued to Arlitha T. James, also known as Arlitha Thompson;

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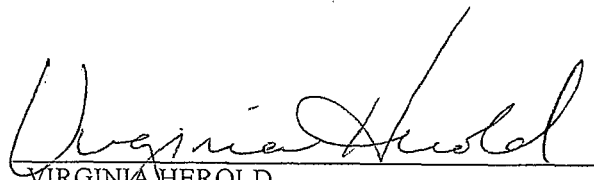
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2. Ordering Arlitha T. James, also known as Arlitha Thompson, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/20/09



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

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accusation.rtf