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5 **BEFORE THE**
6 **BOARD OF PHARMACY**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 3366

10 **TOMMARI BRYANT**
11 **43022 Carpenter Drive**
12 **Lancaster, CA 93535**

(erroneously labeled Case No. 36593 in
Accusation)

13 **Pharmacy Technician Registration No. TCH**
14 **72272**

DEFAULT DECISION AND ORDER

Respondent.

[Gov. Code, §11520]

15
16 FINDINGS OF FACT

17 1. On or about February 24, 2010, Complainant Virginia Herold, in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
19 Accusation No. 3366 (erroneously labeled as Case No. 36593 on the face of the Accusation)
20 against Tommari Bryant (Respondent) before the Board of Pharmacy.

21 2. On or about October 3, 2006, the Board of Pharmacy (Board) issued Pharmacy
22 Technician License No. TCH 72272 (license) to Respondent. The license was in full force and
23 effect at all times relevant to the charges brought herein, and will expire on August 31, 2010, if
24 not renewed.

25 3. On or about March 5, 2010, Thurman Peden, an employee of the Department of
26 Justice, served by Certified and First Class Mail a copy of Accusation No. 3366, a Statement to
27 Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of
28 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with

1 the Board: 43022 Carpenter Drive, Lancaster, CA 93535. Copies of the Accusation and the
2 related proof of service are attached as exhibit A and incorporated herein by reference.

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

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

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

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
11 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
12 3366.

13 7. 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 8. 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. 3366 are true.

20 9. The total costs for investigation and enforcement in connection with the Accusation
21 are \$3,158.75 as of April 27, 2010.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Tommari Bryant has subjected
24 his Pharmacy Technician License No. TCH 72272 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 License based upon the following violations alleged in the Accusation:

1 a. In violation of Business and Professions Code sections 4301(i) and (l) and 490,
2 Respondent was convicted of a crime substantially related to the qualifications, functions or
3 duties of a pharmacy technician. On or about April 4, 2008, after pleading guilty, Respondent
4 was convicted of one felony county of violating Health and Safety Code section 11360
5 [possession of marijuana for sale] in the criminal proceeding titled *The People of the State of*
6 *California v. Tommari Reshad Bryant aka T-Mac* in a Los Angeles County Superior Court.;

7 b. In violation of Business and Professions Code sections 4300, 4060; 4301 (h) and (j)
8 and 490, on the grounds of unprofessional conduct in that Respondent was found to be in
9 possession of drug paraphernalia and marijuana.

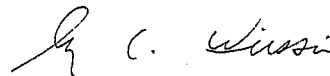
10 ORDER

11 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 72272, heretofore
12 issued to Respondent Tommari Bryant, is revoked.

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

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18 This Decision shall become effective on August 5, 2010.

19 It is so ORDERED July 6, 2010.

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21 _____
22 STANLEY C. WEISSER, BOARD PRESIDENT
23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS

25
26 Attachment: Exhibit A: Accusation No. 3366

Exhibit A
Accusation No. 3366

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2 GREGORY J. SALUTE
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Deputy Attorney General
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7

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

11 In the Matter of the Accusation Against:
12 **TOMMARI RESHAD BRYANT**
43022 Carpenter Drive
13 Lancaster, CA 93535
14
15 Pharmacy Technician License
No. TCH 72272
16
17 Respondent.

Case No. 3366

ACCUSATION

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, Department of Consumer Affairs.
22 2. On or about October 3, 2006, the Board of Pharmacy (Board) issued Pharmacy
23 Technician License No. TCH 72272 to Tommari Reshad Bryant (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on August 31, 2010, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 STATUTORY PROVISIONS

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

8 5. Section 490 states, in pertinent part:

9 “(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee’s license was issued.

17 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under the
22 provisions of Section 1203.4 of the Penal Code.”

23 6. Section 4060 of the Code states:

24 "No person shall possess any controlled substance, except that furnished to a person upon
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
28 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,

1 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
2 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
3 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
4 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
5 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
6 labeled with the name and address of the supplier or producer.”

7 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
8 subject to discipline, including suspension or revocation.

9 8. Section 4301 states:

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

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14 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
15 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
16 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
17 to the extent that the use impairs the ability of the person to conduct with safety to the public the
18 practice authorized by the license.

19 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
20 administering or offering to sell, furnish, give away, or administer any controlled substance to an
21 addict.

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

24

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.”

14 **REGULATORY PROVISIONS**

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

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

22 **DANGEROUS DRUGS/CONTROLLED SUBSTANCES**

23 10. "Marijuana," is a hallucinogenic Schedule I controlled substance as defined in Health
24 and Safety Code section 11054(d)(13) and a dangerous drug according to Business and
25 Professions Code section 4022.

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1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Conviction of a Crime)

8 12. Respondent is subject to disciplinary action under sections 4301, subdivisions (i) and
9 (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
10 Respondent was convicted of a crime substantially related to the qualifications, functions or
11 duties of a pharmacy technician. On or about April 4, 2008, after pleading guilty, Respondent
12 was convicted of one felony count of violating Health and Safety Code section 11360 [possession
13 of marijuana for sale] in the criminal proceeding titled *The People of the State of California v.*
14 *Tommari Reshad Bryant aka T-Mac* (Super. Ct. Los Angeles County, 2008, No. MA041533).
15 The court placed Respondent on 3 years formal probation with terms and conditions. The
16 circumstances surrounding the conviction are that on or about March 11, 2008, during a routine
17 stop of a vehicle being driven by Respondent, Respondent was arrested for possession of
18 marijuana for sale after Lancaster Sheriff deputies found a digital gram scale containing
19 marijuana residue and seventeen individual bags of high grade marijuana in Respondent's
20 vehicle.

21 SECOND CAUSE FOR DISCIPLINE

22 (Possession of Drug Paraphernalia and a Controlled Substance)

23 10. Respondent is subject to disciplinary action under section 4300, section 4060, and
24 section 4301, subdivisions (h) and (j), on the grounds of unprofessional conduct in that
25 Respondent was found to be in possession of drug paraphernalia and marijuana. The
26 circumstances are as follows:

27 a. On or about March 11, 2008, Respondent was arrested for possession of marijuana for
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1 sale after Lancaster Sheriff deputies found a digital gram scale containing marijuana residue and
2 seventeen individual bags of high grade marijuana.

3 PRAYER

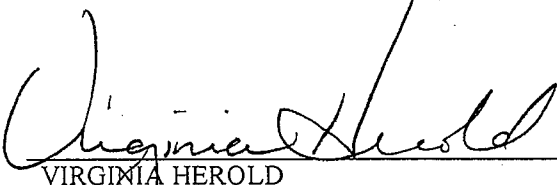
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board issue a decision:

6 1. Revoking or suspending Pharmacy Technician License No. TCH 72272, issued to
7 Respondent;

8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

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13 DATED: 2/24/10


14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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