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

In the Matter of the Accusation Against:

**CRYSTAL MARSEILLES
P.O. Box 1772
Idyllwild, CA 92549

Pharmacy Technician Registration No. TCH
48067

Respondent.**

Case No. 3474

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 27, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3474 against Crystal Marseilles (Respondent) before the Board of Pharmacy. (Accusation No. 3474 attached hereto as Exhibit A; Exhibit 1 to Default Decision Evidence Packet).

2. On or about April 3, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 48067 to Respondent. The Pharmacy Technician Registration expired on August 31, 2010, and has not been renewed. The lapse in licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

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1 3. On or about June 4, 2010, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 3474, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code sections 136
5 and 4100, and title 16, California Code of Regulations section 1704, is required to be reported and
6 maintained with the Board, which was and is: P.O. Box 1772, Idyllwild, CA 92549.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. The aforementioned documents were not returned by the U.S. Postal Service.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3474.

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

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 as well as taking official notice of all the investigatory reports, exhibits and statements contained
28 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3474,
finds that the charges and allegations in Accusation No. 3474, are separately and severally, found
to be true and correct by clear and convincing evidence.

1 acts which, if she committed prior to the issuance of her Pharmacy Technician Registration,
2 would have warranted the denial of her application for licensure.

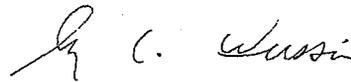
3 ORDER

4 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 48067, heretofore
5 issued to Respondent Crystal Marseilles, is revoked.

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

10 This Decision shall become effective on March 28, 2011.

11 It is so ORDERED February 25, 2011.

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STANLEY C. WEISSER, BOARD PRESIDENT
15 FOR THE BOARD OF PHARMACY
16 DEPARTMENT OF CONSUMER AFFAIRS

17 70346897.DOC
18 DOJ Matter ID:SD2009804747
Attachment; Exhibit A Accusation No. 3474

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
4 State Bar No. 207031
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **CRYSTAL MARSEILLES**
13 P.O. Box 1772
14 Idyllwild, CA. 92549
15 Pharmacy Technician Registration No. TCH
16 48067
17 Respondent.

Case No. 3474

ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about April 14, 2003, the Board of Pharmacy issued Pharmacy Technician
24 Registration No. TCH 48067 to Crystal Marseilles (Respondent). The Pharmacy Technician
25 Registration will expire on August 31, 2010, unless renewed.

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(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.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter....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.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or 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.

....

(p) Actions or conduct that would have warranted denial of a license.

7. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

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(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

8. Section 482 of the Code 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."

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

10. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
3 and the board may inquire into the circumstances surrounding the commission of the crime in
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the
5 qualifications, functions, and duties of the licensee in question.

6 As used in this section, "license" includes "certificate," "permit," "authority," and
7 "registration."

8 11. Section 4313 of the Code states:

9 In determining whether to grant an application for licensure or whether to discipline or
10 reinstate a license, the board shall give consideration to evidence of rehabilitation. However,
11 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
12 public protection are in conflict, public protection shall take precedence.

13 REGULATIONS

14 12. California Code of Regulations, title 16, section 1769(b) states:

15 When considering the suspension or revocation of a facility or personal license on the
16 ground that the licensee or the registrant has been convicted of a crime, the board in evaluating
17 the rehabilitation of such person and her present eligibility for a license will consider the
18 following:

- 19 (1) The nature and severity of the act(s) or offense(s).
- 20 (2) Total criminal record.
- 21 (3) Time that has elapsed since the commission of the act(s) or offense(s).
- 22 (4) Whether the licensee has complied with all terms of parole, probation, restitution, or
23 any other sanctions lawfully imposed against the licensee.
- 24 (5) Evidence, if any, of rehabilitation submitted by the licensee.

25 13. California Code of Regulations, title 16, section 1770, states:

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

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare.

4 COST RECOVERY

5 14. Section 125.3 of the Code provides, in pertinent part, that the
6 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
7 have committed a violation or violations of the licensing act to pay a sum not to exceed the
8 reasonable costs of the investigation and enforcement of the case.

9 FACTS

10 15. On or about May 22, 2009, in a criminal proceeding entitled *People v. Marseilles,*
11 *Crystal Marie*, in the Superior Court of the State of California, County of Ventura, Case No.
12 2009013108 MA, Respondent was convicted by her plea of guilty to violation of Code section
13 11173(a) (obtaining a controlled substance by fraud).

14 16. Respondent was sentenced to three years of probation, three days in county jail,
15 ordered not to possess any medical prescription unless issued to her by a licensed physician and
16 only in her true name, ordered to disclose to any physician her past history of addiction to
17 controlled substances prior to receiving any prescription medication, ordered to stay away from
18 Rite Aid in Moorpark, California, and payment of fines in the amount of \$220.00,

19 17. The circumstances of the crime are that on or about April 7, 2009, while licensed as a
20 pharmacy technician, Respondent was arrested on charges of violating Penal Code sections
21 182(a) (1) (conspiracy to commit a crime), 459 (commercial burglary), 530.5(a) (identity theft;
22 obtain credit with other's identification), and Business and Professions Code section 4323 (false
23 representation as authorized prescriber). The police report states that "a known suspect phoned in
24 a false prescription to Rite-Aid. The suspect was arrested when she went to Rite-Aid to illegally
25 obtain the prescription."

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FIRST CAUSE FOR DISCIPLINE

(May 22, 2009 Criminal Conviction for Obtaining a
Controlled Substance by Fraud on April 7, 2009)

18. Respondent is subject to disciplinary action under Code sections 490 and 4301(I), in that she was convicted of a crime substantially related to the duties, functions, and qualifications of a pharmacy technician, as described in paragraphs 15-17, above.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Dishonest Act)

19. Respondent is subject to disciplinary action under Code section 4301(f) in that she committed acts involving moral turpitude, dishonesty, deceit or corruption when she obtained a controlled substance by fraud, as described in paragraphs 15-17, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Conduct Warranting Denial of Licensure)

20. Respondent is subject to disciplinary action under Code section 4301(o) in that she violated a provision or 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, as described in paragraphs 15-17, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Conduct Warranting Denial of Licensure)

21. Respondent is subject to disciplinary action under Code section 4301(p) in that she committed acts which, if she had committed before she was issued her Pharmacy Technician Registration, would have warranted the denial of her application for licensure in that she obtained a controlled substance by fraud, as described in paragraphs 15-17, above.

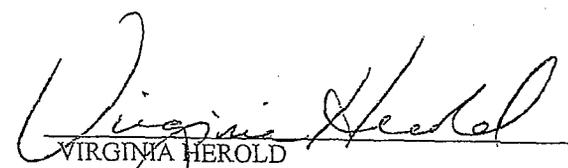
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 48067, issued to Respondent Crystal Marseilles.
2. Ordering Respondent Crystal Marseilles 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: 5/27/10 

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

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