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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. 3511

AMY MARIE CETRONE
3775 Villa Terrace
San Diego, CA 92104

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Pharmacy Technician Registration
No. TCH 54565

Respondent.

FINDINGS OF FACT

1. On or about July 6, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3511 against Amy Marie Cetrone (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 27, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 54565 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3511 and will expire on November 30, 2011, unless renewed.

3. On or about July 20, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3511, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code sections 136

1 and 4100, as well as California Code of Regulations, title 16, section 1704, is required to be
2 reported and maintained with the Board, which was and is: 3775 Villa Terrace, San Diego, CA
3 92104.

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

7 5. On or about July 26, 2010, the aforementioned documents sent Certified Mail to
8 Respondent were returned by the U.S. Postal Service marked "Refused."

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

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

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
14 the Accusation, and therefore, waived her right to a hearing on the merits of Accusation
15 No. 3511.

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

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

20 9. Pursuant to its authority under Government Code section 11520, the Board finds
21 Respondent is in default. The Board will take action without further hearing and, based on the
22 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
23 taking official notice of all the investigatory reports, exhibits and statements contained therein on
24 file at the Board's offices regarding the allegations contained in Accusation No. 3511, finds that
25 the charges and allegations in Accusation No. 3511, are separately and severally, found to be true
26 and correct by clear and convincing evidence.

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1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement of this matter is \$4,312.50 as of August 19, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Amy Marie Cetrone has
6 subjected her Pharmacy Technician Registration No. TCH 54565 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9 Registration based upon the following violations alleged in the Accusation, which are supported
10 by the evidence contained in the Default Decision Evidence Packet in this case:

11 a. Conviction of Crimes Substantially Related to the Qualifications, Functions and Duties
12 of a Pharmacy Technician (Bus. & Prof. Code, § 4301, subd. (1) and § 490).

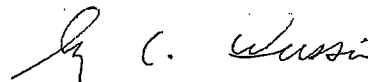
13
14 ORDER

15 **IT IS SO ORDERED** that Pharmacy Technician Registration No. TCH 54565, heretofore
16 issued to Respondent Amy Marie Cetrone, is revoked.

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

21 This Decision shall become effective on December 21, 2011.

22 It is so ORDERED November 21, 2011.

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26 STANLEY C. WEISSER, BOARD PRESIDENT
27 FOR THE BOARD OF PHARMACY
28 DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID:SD2009804873
Attachment: Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
Deputy Attorney General
4 State Bar No. 176908
110 West "A" Street, Suite 1100
5 San Diego, CA 92101--
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3511

12 AMY MARIE CETRONE
13 3775 Villa Terrace
14 San Diego, CA 92104

A C C U S A T I O N

15 Pharmacy Technician Registration
16 No. TCH 54565

17 Respondent.

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 January 27, 2004, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 54565 to Amy Marie Cetrone (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein, and will expire on November 30, 2011, unless renewed.

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JURISDICTION

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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. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation 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.

". . . .

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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1 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
2 public protection are in conflict, public protection shall take precedence.”

3 8. Section 482 of the Code states:

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

6 “. . . .

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

8 “Each board shall take into account all competent evidence of rehabilitation furnished by
9 the applicant or licensee.”

10 9. Section 490 of the Code provides that a board may suspend or revoke a license on the
11 ground that the licensee has been convicted of a crime substantially related to the qualifications,
12 functions, or duties of the business or profession for which the license was issued.

13 10. Section 493 of the Code states:

14 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
15 the department pursuant to law to deny an application for a license or to suspend or revoke a
16 license or otherwise take disciplinary action against a person who holds a license, upon the
17 ground that the applicant or the licensee has been convicted of a crime substantially related to the
18 qualifications, functions, and duties of the licensee in question, the record of conviction of the
19 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
20 and the board may inquire into the circumstances surrounding the commission of the crime in
21 order to fix the degree of discipline or to determine if the conviction is substantially related to the
22 qualifications, functions, and duties of the licensee in question.

23 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and
24 ‘registration.’”

25 REGULATIONS

26 11. California Code of Regulations, title 16, section 1769, subdivision (b) states:

27 “When considering the suspension or revocation of a facility or personal license on the
28 ground that the licensee or the registrant has been convicted of a crime, the board in evaluating

1 the rehabilitation of such person and her present eligibility for a license will consider the
2 following:

3 "(1) The nature and severity of the act(s) or offense(s).

4 "(2) Total criminal record.

5 "(3) Time that has elapsed since the commission of the act(s) or offense(s).

6 "(4) Whether the licensee has complied with all terms of parole, probation, restitution, or
7 any other sanctions lawfully imposed against the licensee.

8 "(5) Evidence, if any, of rehabilitation submitted by the licensee."

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

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

16 DRUG

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

20 COST RECOVERY

21 14. Section 125.3 of the Code provides, that the Board may request the administrative
22 law judge to direct a licentiate found to have committed a violation or violations of the licensing
23 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
24 case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(July 15, 2004 Conviction for Burglary on April 24, 2004)**

3 15. Respondent is subject to disciplinary action under Code sections 490 and 4301,
4 subdivision (1), in that she was convicted of a crime substantially related to the duties, functions,
5 and qualifications of a pharmacy technician. The circumstances are as follows:

6 a. On July 15, 2004, in a criminal proceeding entitled *People v. Amy Marie Cetrone*, in
7 the Superior Court of California, County of San Diego, East County Division case no. CE240734,
8 Respondent was convicted by her plea of guilty to a violation of Penal Code section 459
9 (burglary), a misdemeanor.

10 b. The circumstances of the crime are that on April 24, 2004, Respondent went to
11 Barona Casino in Lakeside, California, with a fictitious check with the intent to cash the check for
12 \$1,000. Although Respondent's name was printed on the check, the account number on the check
13 belonged to a different account holder, not Respondent.

14 c. Respondent was sentenced as follows: summary probation for three years, 365 days
15 custody stayed pending successful completion of probation, serve 15 days in jail, and pay various
16 fines and fees. On February 10, 2005, the San Diego County Sheriff's Department issued a
17 Notification of Program Failure in that Respondent was sentenced to 15 eight-hour workdays in
18 lieu of 15 days in custody. Respondent failed to complete her work assignment and was
19 terminated from the Sheriff's Work Release Program. On March 21, 2005, Respondent failed to
20 appear and pay her fines and fees and was referred to collection. On May 9, 2005, a warrant was
21 issued against Respondent for failing to complete her 15 eight-hour workdays in lieu of custody
22 and her probation was revoked. On May 13, 2005, Respondent appeared ex-parte and in custody
23 before the El Cajon Superior Court regarding her probation that was revoked on May 9, 2005, and
24 her warrant was cleared. Respondent was assessed various fines and fees. Respondent was
25 ordered to complete a Public Work Service Program for 12 days (and received credit for 3 days
26 time served).

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(May 6, 2009 Convictions for Burglary and**
3 **Assault With a Deadly Weapon on November 10, 2008)**

4 16. Respondent is subject to disciplinary action under Code sections 490 and 4301,
5 subdivision (1), in that she was convicted of a crime substantially related to the duties, functions,
6 and qualifications of a pharmacy technician. The circumstances are as follows:-

7 a. On or about May 6, 2009, in a criminal proceeding entitled *The People of the State of*
8 *California v. Amy Cetrone*, San Diego Superior Court, County of San Diego, South County
9 Division, case no. SCS220491, Respondent pled guilty to violating Penal Code section 459
10 (burglary) and Penal Code section 245, subdivision (a)(1) (assault with a deadly weapon), both
11 felonies.

12 b. The circumstances of the crime are that on November 10, 2008, Respondent was
13 observed taking merchandise that she did not pay for from Mervyn's department store on Saturn
14 Boulevard in San Diego, California. The Department Supervisor for Loss Prevention of
15 Mervyn's stopped Respondent as she exited the store and Respondent turned towards him with a
16 knife. The Department Supervisor struggled with Respondent and gained control of the knife.
17 He detained Respondent and contacted the police. The police arrived and Respondent was
18 subsequently arrested.

19 c. As a result of the convictions, Respondent was sentenced to three years probation and
20 180 days stayed custody.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(January 22, 2010 Conviction for Possession of Controlled**
23 **Substance for Sale on January 9, 2010)**

24 17. Respondent is subject to disciplinary action under Code sections 490 and 4301,
25 subdivision (1), in that she was convicted of a crime substantially related to the duties, functions,
26 and qualifications of a pharmacy technician. The circumstances are as follows:

27 a. On or about January 22, 2010, in a criminal proceeding entitled *People v. Amy*
28 *Cetrone*, San Diego Superior Court, County of San Diego, South County Division, case

1 no. SCS235504, Respondent pled guilty to violation of Health and Safety Code section 11378,
2 unlawful possession of a controlled substance (methamphetamine) for sale, a felony.

3 b. The circumstances of the crime are that on January 9, 2010, two San Diego Police
4 officers were conducting routine patrol in the area of San Ysidro, San Diego. They observed
5 multiple objects hanging from the rear view mirror of a Dodge Stratus and conducted a traffic
6 stop. The driver was identified as Respondent and she was driving on a suspended license and
7 had a valid fourth waiver status. A search was conducted and methamphetamine was found in
8 Respondent's vehicle.

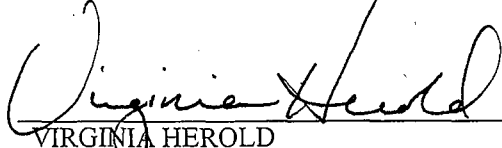
9 c. As a result of the conviction, Respondent was sentenced to three years probation and
10 180 days custody.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 54565,
15 issued to Amy Marie Cetrone;
- 16 2. Ordering Amy Marie Cetrone to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 7/6/10


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

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