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

In the Matter of the Accusation Against:
TINA-ANN JOHNSON
Respondent.

Case No. 3661
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 31, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3661 against Tina-Ann Johnson (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about December 20, 2002, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 46701 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3661 and will expire on June 30, 2012, unless renewed.

3. On or about November 17, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3661, 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 section 4100, is required to be reported and maintained with the Board, which was and is:

15 Winslow Ave.
Vallejo, CA 94590.

1 Respondent was additionally served at an alternative address:

2 P.O. Box 1405
3 Vallejo, CA 94590.

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 section
6 124.

7 5. On or about November 19, 2011, both "Domestic Return Receipts" of the
8 aforementioned documents were returned by the U.S. Postal Service marked "Received by Tina
9 Ann Johnson."

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3661.

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

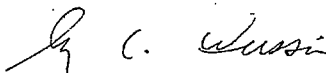
19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 3661, finds that
28 the charges and allegations in Accusation No. 3661, are separately and severally, found to be true
and correct by clear and convincing evidence.

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This Decision shall become effective on March 15, 2012.

It is so ORDERED February 14, 2012.



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

default decision_LIC.rtf
DOJ Matter ID:SF2011202132

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 3661

12 **TINA-ANN JOHNSON**
13 **15 Winslow Ave.**
Vallejo, CA 94590

ACCUSATION

14 **Pharmacy Technician Registration No.**
15 **TCH46701**

16 Respondent.

17
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 December 20, 2002, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH46701 to Tina-Ann Johnson (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on June 30, 2012, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

2 4. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
3 drug or dangerous device except upon the prescription of an authorized prescriber.

4 5. Section 4060 of the Code, in pertinent part, prohibits possession of any controlled
5 substance, except that furnished upon the prescription of an authorized prescriber.

6 6. Section 4300 of the Code states, in pertinent part:

7 "(a) Every license issued may be suspended or revoked.

8 "(b) The board shall discipline the holder of any license issued by the board, whose default
9 has been entered or whose case has been heard by the board and found guilty, by any of the
10 following methods:

11 "(1) Suspending judgment.

12 "(2) Placing him or her upon probation.

13 "(3) Suspending his or her right to practice for a period not exceeding one year.

14 "(4) Revoking his or her license.

15 "(5) Taking any other action in relation to disciplining him or her as the board in its
16 discretion may deem proper.

17 ...

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

23 7. Section 4301 of the Code states:

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

27 ...

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

4 ...

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

7 ...

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

25 ...

26 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable
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1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.

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5 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
6 revoke a license on the ground that the licensee has been convicted of a crime substantially
7 related to the qualifications, functions, or duties of the business or profession for which the
8 license was issued.

9 9. 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 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 11. Section 118, subdivision (b), of the Code provides that the expiration of a license
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
22 within which the license may be renewed, restored, reissued or reinstated.

23 12. Health and Safety Code section 11158(a) provides:

24 "Except as provided in Section 11159 or in subdivision (b) of this section, no controlled
25 substance classified in Schedule II shall be dispensed without a prescription meeting the
26 requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to
27 an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance
28

1 classified in Schedule III, IV, or V may be dispensed without a prescription meeting the
2 requirements of this chapter.”

3 13. Health and Safety Code section 11171 provides:

4 “No person shall prescribe, administer, or furnish a controlled substance except under the
5 conditions and in the manner provided by this division.”

6 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
7 any narcotic drug listed in Schedules III-V, absent a valid prescription.

8 15. Health and Safety Code section 11352, in pertinent part, makes it unlawful to sell,
9 transport, furnish, administer, or give away, any controlled substance classified in Schedule III,
10 IV, or V which is a narcotic drug, unless upon written prescription of a authorized prescriber.

11 DRUGS

12 16. Hydrocodone is a Schedule II controlled substance as designated by Health and
13 Safety Code section 11055(b)(1)(I) and is a dangerous drug per Code section 4022, used for
14 moderate to severe pain relief.

15 17. Clonazepam (Klonopin) is a Schedule IV controlled substance as designated by
16 Health and Safety Code section 11057(d)(7) and is a dangerous drug per Code section 4022, used
17 for anxiety.

18 18. Lorazepam (Ativan) is a Schedule IV controlled substance as designated by Health
19 and Safety Code section 11057(d)(16) and is a dangerous drug per Code section 4022. It is a
20 benzodiazepine, muscle relaxant and anti-convulsant.

21 FIRST CAUSE FOR DISCIPLINE

22 (CRIMINAL CONVICTIONS)

23 19. Respondent is subject to disciplinary action under section 4301(l) and/or section 490
24 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the
25 conviction of a substantially related crime, in that on or about October 2, 2006, in a criminal
26 proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los Angeles
27 County Superior Court, Case Number 6IG02394, Respondent was convicted by her plea of nolo
28 contendere of violating Penal Code section 602(k) (trespass). Respondent was sentenced to

1 probation for one year, and ordered to pay a fine in the amount of \$711.00. The circumstances of
2 the conviction were that on or about June 3, 2006, Respondent was arrested in Inglewood,
3 California for loitering with intent to commit prostitution.

4 20. Respondent is further subject to disciplinary action under section 4301(l) and/or
5 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,
6 for the conviction of a substantially related crime, in that on or about October 6, 2006, in a
7 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los
8 Angeles County Superior Court, Case Number 6HY02934, Respondent was convicted by her plea
9 of nolo contendere of violating Penal Code section 647(a) (engage in lewd or dissolute conduct).
10 Respondent was sentenced to probation for two years, 15 days jail time, and ordered to pay a fine
11 in the amount of \$191.00. The circumstances of the conviction were that on or about October 5,
12 2006, Respondent was arrested in Inglewood, California for soliciting to engage in commit
13 prostitution.

14 21. Respondent is further subject to disciplinary action under section 4301(l) and/or
15 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,
16 for the conviction of a substantially related crime, in that on or about April 25, 2007, in a criminal
17 proceeding entitled *The People of the State of California v. Tina Annmarie Johnson* in Los
18 Angeles County Superior Court, Case Number 7CA07842, Respondent was convicted by her plea
19 of nolo contendere of violating Penal Code section 653.22(a) (loiter with intent to commit
20 prostitution). Respondent was sentenced to probation for two years, 15 days jail time, and
21 ordered to pay a fine in the amount of \$120.00. The circumstances of the conviction were that on
22 or about April 24, 2007, Respondent was arrested in Inglewood, California for loitering with
23 intent to commit prostitution.

24 22. Respondent is further subject to disciplinary action under section 4301(l) and/or
25 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,
26 for the conviction of a substantially related crime, in that on or about September 27, 2007, in a
27 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in
28 Alameda County Superior Court, Case Number 532448, Respondent was convicted by her plea of

1 no contest of violating Penal Code section 415 (fighting noise/offensive words). Respondent was
2 sentenced to probation for two years, two days jail time, and ordered to pay a fine in the amount
3 of \$130.00. The circumstances of the conviction were that on or about August 16, 2007,
4 Respondent was arrested in Alameda County, California, for agreeing to engage in prostitution
5 and soliciting another to engage in lewd conduct.

6 23. Respondent is further subject to disciplinary action under section 4301(l) and/or
7 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,
8 for the conviction of a substantially related crime, in that on or about March 25, 2010, in a
9 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in
10 Sacramento County Superior Court, Case Number 10M01694, Respondent was convicted by her
11 plea of nolo contendere of violating Penal Code section 647(b) (solicit or agree to engage in
12 prostitution). Respondent was sentenced to serve 30 days jail time, and ordered to pay a fine in
13 the amount of \$621.51. The circumstances of the conviction were that on or about February 20,
14 2010, Respondent was arrested in Vallejo, California for prostitution and loitering with intent to
15 engage commit prostitution.

16 24. Respondent is further subject to disciplinary action under section 4301(l) and/or
17 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,
18 for the conviction of a substantially related crime, in that on or about October 15, 2010, in a
19 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los
20 Angeles County Superior Court, Case Number 0CA14592, Respondent was convicted by her plea
21 of nolo contendere of violating Penal Code section 653.22 (loiter with intent to commit
22 prostitution). Respondent was sentenced to serve two years probation, and ordered to pay a fine
23 in the amount of \$281.00. The circumstances of the conviction were that on or about October 14,
24 2010, Respondent was arrested in Los Angeles, California for prostitution.

25 SECOND CAUSE FOR DISCIPLINE

26 (UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCES)

27 25. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in
28 that between August 31, 2007 and July 9, 2008, Respondent possessed/transported, attempted or

1 assisted or abetted possession/transport of, and/or conspired to possess/transport, without valid
2 prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of the
3 Code and/or Health and Safety Code section(s) 11350 and/or 11352, namely five hydrocodone
4 and acetaminophen 10/325 tablets, seven hydrocodone with acetaminophen 5/500 tablets, four
5 clonazepam 1 mg tablets, and four lorazepam 1 mg tablets without a prescription.

6 THIRD CAUSE FOR DISCIPLINE

7 (DISPENSING/ADMINISTERING/FURNISHING OF NARCOTIC CONTROLLED
8 SUBSTANCES)

9 26. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in
10 that between August 31, 2007 and July 9, 2008, Respondent dispensed, administered, furnished,
11 attempted or assisted or abetted dispensing, administering or furnishing, or conspired to dispense,
12 administer or furnish, controlled substance prescriptions not meeting requirements of the Uniform
13 Controlled Substances Act, in violation of Health and Safety Code section(s) 11158 and/or 11171,
14 namely five hydrocodone and acetaminophen 10/325 tablets, seven hydrocodone with
15 acetaminophen 5/500 tablets, four clonazepam 1 mg tablets, and four lorazepam 1 mg tablets
16 without a prescription.

17 FOURTH CAUSE FOR DISCIPLINE

18 (MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR CORRUPTION)

19 27. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in
20 that between August 31, 2007 and July 9, 2008, Respondent acted with moral turpitude,
21 dishonesty, fraud, deceit or corruption when she pilfered five hydrocodone and acetaminophen
22 10/325 tablets, seven hydrocodone with acetaminophen 5/500 tablets, four clonazepam 1 mg
23 tablets, and four lorazepam 1 mg tablets from Walgreens #2609 in Berkeley, California.

24 PRAYER

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

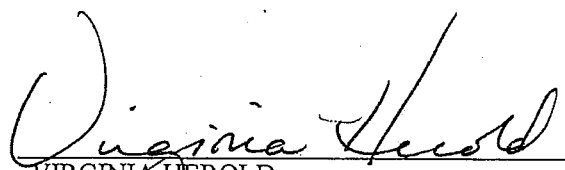
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH46701,
28 issued to Tina-Ann Johnson;

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2. Ordering Tina-Ann Johnson 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: 10/31/11



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

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