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

In the Matter of the Accusation Against:

**NEERACHA JEENSGAR
1820 S. California St.
San Gabriel, CA 91776
Pharmacy Technician Registration No. TCH
26977**

Respondent.

Case No. 3677

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 9, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), filed Accusation No. 3677 against Neeracha Jeensngar (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 1, 1998, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 26977 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3677 and expired on November 30, 2011, and has not been renewed. "This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) and/or agency-specific statute does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding."

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1 3. On or about November 21, 2011, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 3677, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 1820 S. California St., San Gabriel, CA 91776.

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. On or about November 22, 2011, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Unclaimed." The address on the documents was the same as the
12 address on file with the Board. Respondent failed to maintain an updated address with the Board
13 and the Board has made attempts to serve the Respondent at the address on file. Respondent has
14 not made herself available for service and therefore, has not availed herself of her right to file a
15 notice of defense and appear at hearing.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3677.

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

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

29 9. Pursuant to its authority under Government Code section 11520, the Board finds
30 Respondent is in default. The Board will take action without further hearing and, based on the
31 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 3677, finds that
3 the charges and allegations in Accusation No. 3677, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$5,000.00 as of August 17, 2012.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Neeracha Jeensngar has
10 subjected her Pharmacy Technician Registration No. TCH 26977 to discipline.

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

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

15 Respondent is subject to disciplinary action under sections 490 and 4301, subdivision (l), of
16 the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
17 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
18 of a licensed pharmacy technician, as follows:

19 a. On or about February 15, 2008, after pleading guilty, Respondent was convicted of
20 one misdemeanor count of violating Penal Code section 459 [second degree commercial
21 burglary], and one misdemeanor count of violating Penal Code section 476 [forgery], in the
22 criminal proceeding entitled People of the State of California v. Neeracha Jeensngar (Super. Ct.
23 Los Angeles County, 2008, No. 7RI05933). Respondent was sentenced to 30 days in jail, ordered
24 to pay a fine and placed on formal probation for a period of 36 months with terms and conditions.

25 b. The circumstances surrounding the conviction are that on or about September 18,
26 2007, Los Angeles Sheriff's Department deputies responded to a "Bank of the West" branch
27 regarding an individual (Respondent) who was attempting to cash ten \$500 denomination
28 fictitious traveler's checks and deposit a check in the amount of twenty three thousand five

1 hundred dollars and no cents (\$23,500) into her personal account. When the deputies approached
2 Respondent and asked her what she was doing at the bank, she responded that she was there to
3 make a deposit for her "work." Respondent stated to the deputies that she had recently started
4 working for a company based in Canada as bookkeeper and that the company would send her
5 checks which she was to deposit into her personal banking account. Once the checks cleared, she
6 was to take ten percent of the total as her fee and then wire the balance back to the company in
7 Canada. When asked by the deputies if she believed that the checks that she was depositing could
8 have been fictitious, Respondent replied that she "thought they could be fake, but [she] needed
9 the money."

10 ORDER

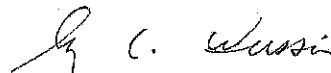
11 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 26977, heretofore
12 issued to Respondent Neeracha Jeensngar, is revoked.

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.

17 This Decision shall become effective on November 26, 2012.

18 It is so ORDERED ON October 25, 2012

19 BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS
21 STATE OF CALIFORNIA

22 

23 By _____
24 STANLEY C. WEISSER
25 Board President

26 51123427.DOC
27 DOJ Matter ID:LA2010501810

28 Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
4 State Bar No. 242920
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 3677

11 **NEERACHA JEENSGAR**
12 **1820 S. California St.**
San Gabriel, CA 91776
13 **Pharmacy Technician Registration No. TCH**
26977
14

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about September 1, 1998, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 26977 to Neeracha Jeensngar (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on November 30, 2011, unless renewed.
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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
7 surrender or cancellation of a license shall not deprive the Board, Registrar or Director of
8 jurisdiction to proceed with a disciplinary action during the period within which the license may
9 be renewed, restored, reissued or reinstated.

10 5. Section 490 of the Code states:

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

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

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

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

2 “(a) Every license issued may be suspended or revoked.

3 “(b) The board shall discipline the holder of any license issued by the board, whose default
4 has been entered or whose case has been heard by the board and found guilty, by any of the
5 following methods:

6 “(1) Suspending judgment.

7 “(2) Placing him or her upon probation.

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

9 “(4) Revoking his or her license.

10 “(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper.

12

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

18 7. Section 4301 of the Code states:

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

22

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

26

27 “(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

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

16

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

21 **REGULATORY PROVISION**

22 8. California Code of Regulations, title 16, section 1770, states:

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

1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Substantially Related Criminal Conviction)

8 10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
9 (1), of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
10 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
11 of a licensed pharmacy technician, as follows:

12 a. On or about February 15, 2008, after pleading guilty, Respondent was convicted of
13 one misdemeanor count of violating Penal Code section 459 [second degree commercial
14 burglary], and one misdemeanor count of violating Penal Code section 476 [forgery], in the
15 criminal proceeding entitled *People of the State of California v. Neeracha Jeensngar* (Super. Ct.
16 Los Angeles County, 2008, No. 7RI05933). Respondent was sentenced to 30 days in jail, ordered
17 to pay a fine and placed on formal probation for a period of 36 months with terms and conditions.

18 b. The circumstances surrounding the conviction are that on or about September 18,
19 2007, Los Angeles Sheriff's Department deputies responded to a "Bank of the West" branch
20 regarding an individual (Respondent) who was attempting to cash ten \$500 denomination
21 fictitious traveler's checks and deposit a check in the amount of twenty three thousand five
22 hundred dollars and no cents (\$23,500) into her personal account. When the deputies approached
23 Respondent and asked her what she was doing at the bank, she responded that she was there to
24 make a deposit for her "work." Respondent stated to the deputies that she had recently started
25 working for a company based in Canada as bookkeeper and that the company would send her
26 checks which she was to deposit into her personal banking account. Once the checks cleared, she
27 was to take ten percent of the total as her fee and then wire the balance back to the company in
28 Canada. When asked by the deputies if she believed that the checks that she was depositing could

1 have been fictitious, Respondent replied that she "thought they could be fake, but [she] needed
2 the money."

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

5 11. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
6 Code in that she engaged in an act involving moral turpitude, dishonesty, fraud, deceit and/or
7 corruption. Complainant refers to, and by this reference incorporates, the allegations set forth in
8 paragraph 10, subparagraphs (a) and (b), as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 12. Respondent is subject to disciplinary action under section 4301 of the Code in that
12 she violated laws and/or regulations governing pharmacy. Complainant refers to, and by this
13 reference incorporates, the allegations set forth in paragraph 10, subparagraphs (a) and (b), as though
14 set forth fully.

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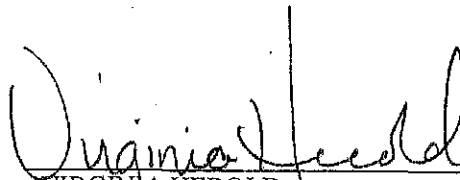
PRAYER

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 26977, issued to Neeracha Jeensngar;
2. Ordering Neeracha Jeensngar 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

11/9/11



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

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