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

In the Matter of the Accusation Against:

**KAMAU DORSEY
1227 Autumnwood Lane
Perris, CA 92571**

**Pharmacy Technician Registration No. TCH
64637**

Respondent.

Case No. 3683

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 1, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3683 against Kamau Dorsey (Respondent) before the Board of Pharmacy. (Accusation No. 3683 is attached as Exhibit A.)

2. On or about August 31, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 64637 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

3. On or about July 15, 2010, Respondent was served by Certified and First Class Mail with copies of the Accusation No. 3683, Statement to Respondent, Blank Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
2 Code sections 136 and 4100, and title 16, California Code of Regulations, Section 1704 is
3 required to be reported and maintained with the Board, and which was and is: 1227 Autumnwood
4 Lane, Perris, CA 92571.

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

7 5. On or about August 4, 2010, the aforementioned documents sent via Certified Mail
8 were returned by the U.S. Postal Service marked "Unclaimed." The aforementioned documents
9 sent via First Class Mail were not returned by the U.S. Postal Service.

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 him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 3683.

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 before it in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 3683, finds that
the charges and allegations in Accusation No. 3683, are separately and severally, found to be true
and correct by clear and convincing evidence.

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 cost for Investigation
3 and Enforcement is \$1,845.00 as of August 10, 2010.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Kamau Dorsey has subjected his
6 Pharmacy Technician Registration No. TCH 64637 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 maintained by the Board in
11 this case:

12 a. Respondent is subject to disciplinary action under Business and Professions
13 Code sections 490 and 4301(l), in that he was convicted of a crime that is substantially related to
14 the qualifications, functions and duties of a pharmacy technician in that on or about September
15 29, 2009, in a criminal proceeding entitled *People of the State of California v. Kamau Dorsey*, in
16 the Los Angeles Superior Court case number BA355883, Respondent was convicted of violation
17 of Health and Safety Code section 11379(a), transportation of a controlled substance,
18 methylenedioxymethamphetamine (ecstasy).

19 b. Respondent is subject to disciplinary action under Business and Professions
20 Code section 4301(j) for exhibiting unprofessional conduct in that he transported a controlled
21 substance in violation of the California Uniform Controlled Substances Act and in violation of
22 Business and Professions Code section 4060.

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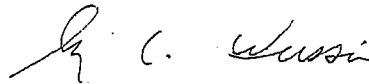
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 64637, heretofore issued to Respondent Kamau Dorsey, is revoked.

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

This Decision shall become effective on December 17, 2010.

It is so ORDERED November 17, 2010.



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

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DOJ docket number:SD2010800491

Exhibit A

Accusation No. 3683

Exhibit A

Accusation No. 3683

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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
13 KAMAU DORSEY
1227 Autumnwood Lane
14 Perris, CA 92571
15 Pharmacy Technician Registration No. TCH
64637
16
17 Respondent.

Case No. 3683

A C C U S A T I O N

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 August 31, 2005, the Board of Pharmacy issued Original Pharmacy
24 Technician Registration Number TCH 64637 to Kamau Dorsey (Respondent). The Original
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on December 31, 2010, unless renewed.

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 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

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

11 STATUTORY PROVISIONS

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to
14 evaluate the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

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

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

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

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or
26 to suspend or revoke a license or otherwise take disciplinary action against a
27 person who holds a license, upon the ground that the applicant or the licensee has
28 been convicted of a crime substantially related to the qualifications, functions, and
duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of
2 the crime in order to fix the degree of discipline or to determine if the conviction is
3 substantially related to the qualifications, functions, and duties of the licensee in
4 question.

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

7 9. Section 4060 of the Code states:

8 No person shall possess any controlled substance, except that furnished to a
9 person upon the prescription of a physician, dentist, podiatrist, optometrist,
10 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
11 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
12 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
13 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
14 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
15 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
16 section shall not apply to the possession of any controlled substance by a
17 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
18 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
19 practitioner, or physician assistant, when in stock in containers correctly labeled
20 with the name and address of the supplier or producer.

21 Nothing in this section authorizes a certified nurse-midwife, a nurse
22 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
23 stock of dangerous drugs and devices.

24 10. Section 4301 of the Code states:

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

.....

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

.....

(l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of
a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction
shall be conclusive evidence only of the fact that the conviction occurred. The

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

13
14
15 11. Health and Safety Code section 11379(a) provides in pertinent part that every person
16 who transports, offers to transport, or attempts to transport any controlled substance shall be
17 punished by imprisonment in the state prison for a period of two to four years.

18 REGULATORY PROVISIONS

19
20 12. California Code of Regulations, title 16, section 1770, states:

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

28 13. California Code of Regulations, title 16, section 1769, states:

....
(b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been
convicted of a crime, the board, in evaluating the rehabilitation of such person and
his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

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

2 **COST RECOVERY**

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

8 **DRUG**

9 15. Methylendioxyamphetamine (Ecstasy), is an analog of Methamphetamine
10 within the meaning of Health and Safety Code section 11401(a). Methamphetamine is a Schedule
11 II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a
12 dangerous drug pursuant to Business and Professions Code section 4022

13 **FIRST CAUSE FOR DISCIPLINE**

14 (September 29, 2009 Conviction for Transporting a Controlled Substance on November 13, 2006)

15 16. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
16 Code in that he was convicted of a crime that is substantially related to the qualifications, duties,
17 and functions of a pharmacy technician. The circumstances are as follows:

18 a. On or about September 29, 2009, in a criminal proceeding entitled *People of the*
19 *State of California v. Kamau Dorsey*, in Los Angeles Superior Court case number BA355883,
20 Respondent was convicted on his no contest plea of violation of Health and Safety Code section
21 11379(a), (transportation of a controlled substance, methylendioxyamphetamine (ecstasy)),
22 a felony.

23 b. The circumstances which led to the conviction are that on or about November
24 13, 2006, an officer from the San Bernardino Highway Patrol observed a black Saturn with paper
25 license plates traveling at a high rate of speed on Interstate 10 at 4th Street in San Bernardino,
26 California. The officer initiated a traffic stop, approached the vehicle and Respondent was
27 identified as the driver. Another young male was in the vehicle in the front passenger seat. In
28 conversing with the officer, Respondent provided inconsistent information and appeared nervous.

1 When the officer asked Respondent if there was anything illegal in the vehicle, Respondent was
2 non-committal, at first stating that he was not aware of anything and then stating that there should
3 not be anything.

4 c. Due to Respondent's nervous behavior, his non-committal statements regarding
5 whether there was anything illegal inside the vehicle, and the conflicting stories given by
6 Respondent and his passenger, the officer then searched the vehicle. During the search, the
7 officer discovered a heat sealed plastic bag with approximately 1000 ecstasy pills inside of it
8 located under the center console of the vehicle. Respondent and his passenger were placed in the
9 backseat of the police vehicle where their conversation was recorded concerning the pills and the
10 inconsistencies in their respective stories. Respondent was arrested and transported to Rancho
11 Cucamonga Highway Patrol Office.

12 d. As a result of his conviction, Respondent was ordered to serve 4 years in
13 prison. The execution of that sentence was suspended and the Court granted Respondent 5 years
14 of formal probation, ordered Respondent to serve 38 days in jail with 26 days of actual custody
15 and 12 days of work service, and required Respondent to pay all fines and restitution.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct – Violating State Laws Regulating Controlled Substances)

18 17. Respondent is subject to disciplinary action for unprofessional conduct under
19 section 4301(j) of the Code in that on or about November 13, 2006, Respondent transported a
20 controlled substance in violation of Code section 4060 and the California Uniform Controlled
21 Substances Act (Health and Safety Code section 11379(a)), as detailed in paragraph 16, above,
22 which is incorporated herein by reference.

23 **PRAYER**

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

26 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
27 64637, issued to Kamau Dorsey.

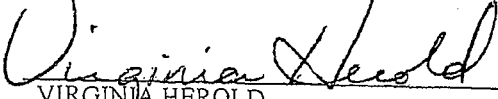
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2. Ordering Kamau Dorsey to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7/1/10



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

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