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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. 3715

STEVEN LEE JENSEN
27232 Marchland Avenue
Canyon Country, CA 91351

DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

**Pharmacy Technician Registration
No. TCH 82698**

Respondent.

FINDINGS OF FACT

1. On or about April 21, 2011, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 3715 against Steven Lee Jensen ("Respondent") before the Board of Pharmacy, Department of Consumer Affairs.

2. On or about May 19, 2008, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 82698 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 3715. The registration expired on July 31, 2011 and has not been renewed. Pursuant to Business and Professions Code § 118(b), the expiration of a license shall not deprive the Board of Pharmacy of its authority to institute or continue a disciplinary proceeding.

1 3. On or about April 28, 2011, the Respondent was served by certified mail with copies
2 of the following documents: Accusation No. 3715, Statement to Respondent, Notice of Defense
3 forms, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7). A copy of Accusation No. 3715 and the Declaration of Service are
5 attached hereto as Exhibit "A" and are incorporated as if fully set forth herein.

6 4. The Respondent was served by certified mail at his address of record, which is: 27232
7 Marchland Avenue, Canyon Country, CA 91351. Pursuant to Business and Professions Code §§
8 136 and 4100, the Respondent is required to notify the Board of any change in his mailing
9 address within thirty (30) days after the change, unless the Board has specified by regulations a
10 shorter time period.

11 5. On or about April 29, 2011 the aforementioned documents were delivered to the
12 Respondent's address by the U.S. Postal Service as indicated in a Domestic Return Receipt. A
13 copy of the receipt is attached as part of Exhibit "A".

14 6. Service of the Accusation by certified mail to the Respondent's last known address is
15 effective as a matter of law under the provisions of Government Code section 11505(c) and
16 Business and Professions Code § 124.

17 7. Government Code section 11506 provides:

18 "(a) Within 15 days after service of the accusation the respondent may file with the
19 agency a notice of defense in which the respondent may:

20 (1) Request a hearing.

21 (2) Object to the accusation upon the ground that it does not state acts or omissions
22 upon which the agency may proceed.

23 (3) Object to the form of the accusation on the ground that it is so indefinite or
24 uncertain that the respondent cannot identify the transaction or prepare a defense.

25 (4) Admit the accusation in whole or in part.

26 (5) Present new matter by way of defense.

27 (6) Object to the accusation upon the ground that, under the circumstances,
28 compliance with the requirements of a regulation would result in a material
violation of another regulation enacted by another department affecting substantive
rights.

(b) Within the time specified respondent may file one or more notices of defense
upon any or all of these grounds but all of these notices shall be filed within that
period unless the agency in its discretion authorizes the filing of a later notice.

(c) The respondent shall be entitled to a hearing on the merits if the respondent files
a notice of defense, and the notice shall be deemed a specific denial of all parts 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.

1 Unless objection is taken as provided in paragraph (3) of subdivision (a), all
2 objections to the form of the accusation shall be deemed waived.

3 (d) The notice of defense shall be in writing signed by or on behalf of the
4 respondent and shall state the respondent's mailing address. It need not be verified
5 or follow any particular form.

6 (e) As used in this section, "file," "files," "filed," or "filing" means "delivered or
7 mailed" to the agency as provided in Section 11505."

8 8. The Respondent has failed to file a notice of defense within 15 days after being served
9 with Accusation No. 3715 and therefore has waived his right to a hearing on the merits of the
10 Accusation.

11 9. California Government Code section 11520 provides:

12 "(a) If the respondent either fails to file a notice of defense or to appear at the
13 hearing, the agency may take action based upon the respondent's express
14 admissions or upon other evidence and affidavits may be used as evidence without
15 any notice to respondent; and where the burden of proof is on the respondent to
16 establish that the respondent is entitled to the agency action sought, the agency may
17 act without taking evidence.

18 (b) Notwithstanding the default of the respondent, the agency or the administrative
19 law judge, before a proposed decision is issued, has discretion to grant a hearing on
20 reasonable notice to the parties. If the agency and administrative law judge make
21 conflicting orders under this subdivision, the agency's order takes precedence. The
22 administrative law judge may order the respondent, or the respondent's attorney or
23 other authorized representative, or both, to pay reasonable expenses, including
24 attorney's fees, incurred by another party as a result of the respondent's failure to
25 appear at the hearing.

26 (c) Within seven days after service on the respondent of a decision based on the
27 respondent's default, the respondent may serve a written motion requesting that the
28 decision be vacated and stating the grounds relied on. The agency in its discretion
may vacate the decision and grant a hearing on a showing of good cause. As used in
this subdivision, good cause includes, but is not limited to, any of the following:

- (1) Failure of the person to receive notice served pursuant to Section 11505.
- (2) Mistake, inadvertence, surprise, or excusable neglect."

10 Pursuant to its authority under Government Code § 11520, the Board of Pharmacy,
11 finds the Respondent is in default. The Board of Pharmacy takes action without further hearing,
12 based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet,
13 and by taking official notice of the investigatory reports, exhibits, and statements contained
14 therein.

15 Pursuant to its authority under Government Code § 11520, the Board of Pharmacy
16 finds the charges and allegations in Accusation No. 3715, are separately and severally, found to
17 be true and correct by clear and convincing evidence.

1 12. Taking official notice of its own internal records, pursuant to Business and Professions
2 Code § 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement
3 of this case is \$4,070.00 as of October 28, 2011.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Steven Lee Jensen has subjected
6 his Pharmacy Technician Registration No. TCH 82698 to discipline.

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

8 3. The Board of Pharmacy is authorized to revoke the Respondent's Pharmacy
9 Technician Registration based upon the violations alleged in Accusation No. 3715, which are
10 supported by the evidence contained in the Default Decision Investigatory Evidence Packet for
11 this case and summarized as follows:

12 4. Violations of Business and Professions Code Sections 490(a) and 4301(l) because the
13 Respondent was convicted of a crime substantially related to the qualifications, functions, and
14 duties of a Pharmacy Technician. Additionally, a violation of Business and Professions Code
15 Section 4301(f) because the Respondent committed an act involving moral turpitude, dishonesty,
16 fraud, deceit, or corruption. Also, violations of Business and Professions Code Sections 4301(j)
17 and 4060 because the Respondent committed an act that violates a statute of this state, or of the
18 United States regulating controlled substances and dangerous drugs. On February 23, 2010, in
19 the Superior Court of the State of California, County of Los Angeles, the Respondent was
20 convicted of the crime of second degree commercial burglary, in violation of Penal Code section
21 459, a felony. The Respondent was also convicted of the crime of possession for sale of a
22 controlled substance: Oxycodone, in violation of Health and Safety Code section 11351, a felony.
23 The criminal convictions are based on evidence that on December 8, 2009, the Respondent
24 committed a nighttime burglary at a pharmacy of approximately \$6,000.00 worth of controlled
25 substances. (*People of the State of California v. Steven Jensen*, Superior Court of the State of
26 California, County of Los Angeles, Case No. PA065758, 02/23/2011).

27 5. Violation of Business and Professions Code Sections 490(a) and 4301(l) because the
28 Respondent was convicted of a crime substantially related to the qualifications, functions, and

1 duties of a Pharmacy Technician. Additionally, a violation of Business and Professions Code
2 Section 4301(f) because the Respondent committed an act involving moral turpitude, dishonesty,
3 fraud, deceit, or corruption. Also, violations of Business and Professions Code Sections 4301(j)
4 and 4060 because the Respondent committed an act that violates a statute of this state, or of the
5 United States regulating controlled substances and dangerous drugs. On February 23, 2010, in
6 the Superior Court of the State of California, County of Los Angeles, the Respondent was
7 convicted of the crime of petty theft, in violation of Penal Code section 484, a misdemeanor. The
8 criminal conviction is based on evidence that between July 2009 and December 2009, the
9 Respondent committed theft of over 500 pills of controlled substances, while employed as a
10 pharmacy technician. (*People of the State of California v. Steven Jensen*, Superior Court of the
11 State of California, County of Los Angeles, Case No. 0NW00169, 02/23/2011).

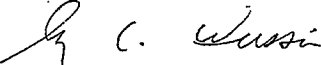
12 **ORDER**

13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 82698, heretofore
14 issued to Respondent Steven Lee Jensen, is revoked.

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

19 This Decision shall become effective on March 9, 2012.

20 It is so ORDERED February 8, 2012.

21 
22 STANLEY C. WEISSER, BOARD PRESIDENT
23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS

25 Attachment: Exhibit "A" Accusation
51009805_02.DOCX/2.8.2012/LA2010502518

Exhibit A

Accusation No. 3715

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11
12 In the Matter of the Accusation Against:

Case No. 3715

13
14 **STEVEN LEE JENSEN**
27232 Marchland Avenue
15 Canyon Country, CA 91351

ACCUSATION

16 **Pharmacy Technician Registration**
No. TCH 82698
17

Respondent.
18

19
20 Complainant alleges:

21 **PARTIES**

22 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official
23 capacity as the Executive Officer of the Board of Pharmacy.

24 2. On or about May 19, 2008, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 82698 to Steven Lee Jensen ("Respondent"). The Pharmacy
26 Technician Registration was in full force and effect at all times relevant to the charges brought
27 herein and will expire on July 31, 2011, unless renewed.
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JURISDICTION

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

4. Section 4011 of the Code provides:

"The board shall administer and enforce this chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

6. Section 118(b) of the Code states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

STATUTORY PROVISIONS

7. Section 490(a) of the Code provides:

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

8. Section 4301 of the Code provides, in pertinent part:

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

...

1 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
2 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."

3 "...
4 "(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."

5 "...
6 "(l) The conviction of a crime substantially related to the qualifications, functions,
7 and duties of a licensee under this chapter. The record of conviction of a violation
8 of Chapter 13 (commencing with Section 801) of Title 21 of the United States
9 Code regulating controlled substances or of a violation of the statutes of this state
10 regulating controlled substances or dangerous drugs shall be conclusive evidence
11 of unprofessional conduct. In all other cases, the record of conviction shall be
12 conclusive evidence only of the fact that the conviction occurred. The board may
13 inquire into the circumstances surrounding the commission of the crime, in order
14 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."

15 9. Section 4060 of the Code provides in pertinent part:

16 "No person shall possess any controlled substance, except that furnished to a
17 person upon the prescription of a physician, dentist, podiatrist, optometrist,
18 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
19 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052..."

20 REGULATORY PROVISION

21 10. California Code of Regulations, title 16, section 1770, provides:

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

1 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

2 11. Section 4021 of the Code states:

3 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
4 11053) of Division 10 of the Health and Safety Code.

5 12. Section 4022 of the Code states:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
7 use in humans or animals, and includes the following:

8 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
9 without prescription," "Rx only," or words of similar import.

10 (b) Any device that bears the statement: "Caution: federal law restricts this device
11 to sale by or on the order of a _____," "Rx only," or words of similar import, the
12 blank to be filled in with the designation of the practitioner licensed to use or order
13 use of the device.

14 (c) Any other drug or device that by federal or state law can be lawfully dispensed
15 only on prescription or furnished pursuant to Section 4006.

16 13. Oxycodone is an opioid analgesic medication synthesized from opium-derived
17 thebaine. It is generally prescribed for the relief of moderate to severe pain. Oxycodone is a
18 Schedule II controlled substance per California Health & Safety Code Section 11055(b)(1)(M).

19 14. Morphine is a potent opiate analgesic medication and is considered to be the
20 prototypical opioid. It is generally prescribed for the relief of severe or agonizing pain and
21 suffering. Morphine is a Schedule II controlled substance per California Health & Safety Code
22 Section 11055(b)(1)(L).

23 15. Suboxone is a brand name for a medication containing a combination of
24 Buprenorphine and Naloxone. Suboxone is a semi-synthetic opioid that is generally prescribed to
25 treat opioid addiction in higher dosages and to control moderate pain in non-opioid tolerant
26 individuals in lower dosages. Buprenorphine is a Schedule V controlled substance per California
27 Health & Safety Code Section 11058(d). Naloxone is a competitive narcotic antagonist that is
28 used in the management and reversal of overdoses caused by narcotics.

16 16. Hydrocodone is a semi-synthetic opioid derived from either of two naturally
17 occurring opiates—codeine and thebaine. It is generally prescribed to treat moderate to severe
18 pain. Hydrocodone is a Schedule II controlled substance per California Health & Safety Code
19 Section 11055(b)(1)(I).

1 17. Alprazolam is also known by its brand name Xanax. Alprazolam is in a class of
2 medications called benzodiazepines and is generally prescribed to treat anxiety disorders and
3 panic disorder. Alprazolam is a Schedule IV controlled substance per California Health & Safety
4 Code Section 11057(d)(1).

5 COST RECOVERY

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

10 FIRST CAUSE FOR DISCIPLINE

11 (Conviction of a Crime)

12 19. Respondent's registration is subject to disciplinary action under Business and
13 Professions Code Sections 490(a) and 4301(l) because the Respondent was convicted of a crime
14 substantially related to the qualifications, functions, and duties of a Pharmacy Technician.

15 (a) On or about February 23, 2010, in the Superior Court of the State of California,
16 County of Los Angeles, the Respondent was convicted of the crime of Second Degree
17 Commercial Burglary, in violation of Penal Code section 459, a Felony. The Respondent was
18 also convicted of the crime of Possession for Sale of a Controlled Substance: Oxycodone, in
19 violation of Health and Safety Code section 11351, a Felony. The Respondent was ordered to
20 serve 270 days in jail, placed on formal probation for a period of three (3) years, ordered to
21 complete a drug rehabilitation program, and to stay away from Zoeys Pharmacy. (*People v.*
22 *Steven Jensen, Superior Court of the State of California, County of Los Angeles, Case No.*
23 *PA065758, 02/23/2011*).

24 (b) The facts and circumstances of the criminal conviction are that on or about December
25 8, 2009, at approximately 3:30 a.m., sheriff deputies respond to a burglary alarm at Zoeys
26 Pharmacy in Canyon Country CA. Deputies notice the front doors of the pharmacy are smashed
27 and a broken roof hatch. During a search, the Respondent is found hiding in the attic space of the
28 pharmacy. A second burglar flees the crime scene but is later arrested. Approximately \$6,000.00

1 worth of prescription medication is stolen from the pharmacy, including Oxycodone, morphine,
2 Suboxone, Hydrocodone, and Alprazolam.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Committing an Act Involving Moral Turpitude and Dishonesty)**

5 20. Respondent's registration is subject to disciplinary action under Business and
6 Professions Code Section 4301(f) because the Respondent committed an act involving moral
7 turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to, and by this reference
8 incorporates the allegations set forth in paragraph 19 above, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Violating a State Statute Regulating Controlled Substances)**

11 21. Respondent's registration is subject to disciplinary action under Business and
12 Professions Code Sections 4301(j) and 4060 because the Respondent committed an act that
13 violates a statute of this state, or of the United States regulating controlled substances and
14 dangerous drugs. Complainant refers to, and by this reference incorporates the allegations set
15 forth in paragraph 19 above, as though set forth fully.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Conviction of a Crime)**

18 22. Respondent's registration is subject to disciplinary action under Business and
19 Professions Code Sections 490(a) and 4301(l) because the Respondent was convicted of a crime
20 substantially related to the qualifications, functions, and duties of a Pharmacy Technician.

21 (a) On or about February 23, 2010, in the Superior Court of the State of California,
22 County of Los Angeles, the Respondent was convicted of the crime of Petty Theft, in violation of
23 Penal Code section 484, a misdemeanor. The Respondent was ordered to serve 30 days in jail,
24 placed on formal probation for a period of three (3) years, and ordered to stay away from CVS
25 Pharmacy. (*People v. Steven Jensen, Superior Court of the State of California, County of Los*
26 *Angeles, Case No. ONW00169, 02/23/2011).*

27 (b) The facts and circumstances of the criminal conviction are that on or about December
28 22, 2009, the Respondent admitted stealing controlled substances from the CVS Pharmacy in

1 Canyon Country CA while employed as a pharmacy technician. The Respondent told police he
2 stole approximately 510 Hydrocodone pills between July 2009 and December 2009 and then
3 either furnished, sold, or consumed the Hydrocodone pills.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Committing an Act Involving Moral Turpitude and Dishonesty)**

6 23. Respondent's registration is subject to disciplinary action under Business and
7 Professions Code Section 4301(f) because the Respondent committed an act involving moral
8 turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to, and by this reference
9 incorporates the allegations set forth in paragraph 22 above, as though set forth fully.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Violating a State Statute Regulating Controlled Substances)**

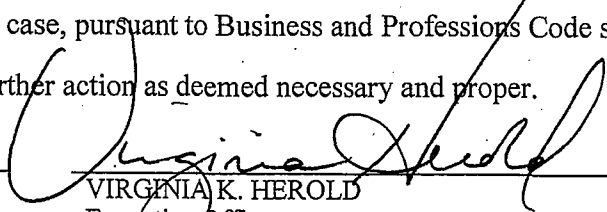
12 24. Respondent's registration is subject to disciplinary action under Business and
13 Professions Code Sections 4301(j) and 4060 because the Respondent committed an act that
14 violates a statute of this state, or of the United States regulating controlled substances and
15 dangerous drugs. Complainant refers to, and by this reference incorporates the allegations set
16 forth in paragraph 22 above, as though set forth fully.

17 **PRAYER**

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

- 20 1. Revoking or suspending Pharmacy Technician Registration Number TCH 82698,
21 issued to Steven Lee Jensen;
- 22 2. Ordering Steven Lee Jensen to pay the Board of Pharmacy the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code sec. 125.3;
- 24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: 4/21/11

26 
27 VIRGINIA K. HEROLD
28 Executive Officer
California State Board of Pharmacy
State of California
Complainant