

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

JESSICA ANN BLACKMON
31689 Canyon Estates Drive
Lake Elsinore, CA 92532

Pharmacy Technician Registration No. TCH
63102

Respondent.

Case No. 3805

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 17, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3805 against Jessica Ann Blackmon (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about June 13, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 63102 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 May 31, 2011, unless renewed.

3. On or about December 30, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3805, 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

1 sections 136 and 4100 and title 16, California Code of Regulations section 1704, is required to be
2 reported and maintained with the Board, which was and is:

3 31689 Canyon Estates Drive
4 Lake Elsinore, CA 92532.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about January 7, 2011, the aforementioned documents sent via certified U.S.
9 mail were signed for by Surindar Madahar. The aforementioned documents sent via first class
10 U.S. Mail have not been returned.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3805.

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 contained in the Default Decision Investigatory Evidence Packet in this matter,
27 as well as taking official notice of all the investigatory reports, exhibits and statements contained
28 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3805,
finds that the charges and allegations in Accusation No. 3805, are separately and severally 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 costs for Investigation
3 and Enforcement are \$2,895.00, as of January 31, 2011.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Jessica Ann Blackmon has
6 subjected her Pharmacy Technician Registration No. TCH 63102 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 Investigatory Evidence Packet in this case:

11 a. Respondent is subject to disciplinary action under Business & Professions Code
12 section 4301 subdivision (h), in that she used a controlled substance, methamphetamine, on or
13 about April 22, 2010.

14 b. Respondent is subject to disciplinary action under Business & Professions Code
15 section 4301 subdivision (f), in that Respondent stole dangerous drugs, carisoprodol, citalopram,
16 guaifenesin, and trazodone, from her employer, which constitutes dishonesty and deceit.

17 c. Respondent is subject to disciplinary action under Business & Professions Code
18 section 4301 subdivision (o), in that on or about April 22, 2010, Respondent furnished to herself a
19 controlled substance, methamphetamine, and possessed dangerous drugs, carisoprodol,
20 citalopram, guaifenesin, and trazodone, in violation of Business and Professions Code sections
21 4059 and 4060.

22 d. Respondent is subject to disciplinary action under Business & Professions Code
23 section 4301 subdivision (j), in that on or about April 22, 2010, Respondent violated the
24 California Uniformed Controlled Substances Act (Health & Safety Code sections 11000 et seq.)
25 by possessing and furnishing a controlled substance, methamphetamine and possessing dangerous
26 drugs, carisoprodol, citalopram, guaifenesin and trazodone to herself without prescriptions.

27 e. Respondent is subject to disciplinary action under Business & Professions Code
28 sections 490 and 4301 subdivision (l), in that on or about July 16, 2010, in a criminal proceeding

1 entitled *The People of the State of California v. Jessica Ann Stitt aka Jessica Ann Blackmon*, in
2 Riverside County Superior Court, case no. SWF10000848, Respondent was convicted on her plea
3 of guilty for violating Penal Code section 273a(a), a misdemeanor, child endangerment.

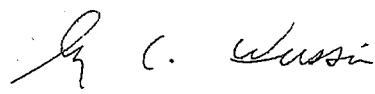
4 ORDER

5 Pharmacy Technician Registration No. TCH 63102, heretofore issued to Respondent
6 Jessica Ann Blackmon, is revoked.

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

11 This Decision shall become effective on May 11, 2011.

12 It is so ORDERED April 11, 2011.

13 

14
15 STANLEY C. WEISSER, BOARD PRESIDENT
16 FOR THE BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS

18 70432240.DOC
19 DOJ Matter ID:SD2010702107

20 Attachment:
21 Exhibit A: Accusation

22
23
24
25
26
27
28

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
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:

Case No. 3805

12 **JESSICA ANN BLACKMON**
13 **31689 Canyon Estates Drive**
14 **Lake Elsinore, CA 92532**

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **63102**

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 June 13, 2005, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 63102 to Jessica Ann Blackmon (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 May 31, 2011, 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(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender or 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 AND REGULATORY PROVISIONS

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 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 492 of the Code states:

24 Notwithstanding any other provision of law, successful completion of any
25 diversion program under the Penal Code, or successful completion of an alcohol and
26 drug problem assessment program under Article 5 (commencing with section
27 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
28 agency established under Division 2 ([Healing Arts] commencing with Section 500)
of this code, or any initiative act referred to in that division, from taking disciplinary
action against a licensee or from denying a license for professional misconduct,
notwithstanding that evidence of that misconduct may be recorded in a record

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has 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, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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

10. Section 4059 of the Code provides, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

11. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished 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. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

1 12. Section 4301 of the Code states:

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

6

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

10

11 (h) The administering to oneself, of any controlled substance, or the use of any
12 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
13 dangerous or injurious to oneself, to a person holding a license under this chapter, or
14 to any other person or to the public, or to the extent that the use impairs the ability of
15 the person to conduct with safety to the public the practice authorized by the license.

16

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

19

20 (l) The conviction of a crime substantially related to the qualifications,
21 functions, and duties of a licensee under this chapter. The record of conviction of a
22 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
23 States Code regulating controlled substances or of a violation of the statutes of this
24 state regulating controlled substances or dangerous drugs shall be conclusive
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall
26 be conclusive evidence only of the fact that the conviction occurred. The board may
27 inquire into the circumstances surrounding the commission of the crime, in order to
28 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.

....

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

1 13. Title 16, California Code of Regulations, section 1769, states:

2

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

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

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

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

13 14. Title 16, California Code of Regulations, section 1770, states:

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

21 COST RECOVERY

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

26 DRUGS

27 16. Methamphetamine is a schedule II controlled substance as designated by Health and
28 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
Code section 4022.

17. Carisoprodol, also known as Soma, is a dangerous drug pursuant to Business and
Professions Code section 4022 and is used as a muscle relaxant.

18. Citalopram, also known as Celexa, is a dangerous drug pursuant to Business and
Professions Code section 4022 and is an anti-depressant.

1 19. Trazodone, also known as Deseryl, is a dangerous drug pursuant to Business and
2 Professions Code section 4022 and is an anti-depressant.

3 20. Guaifenesin, also known as Mucinex, is a dangerous drug pursuant to Business and
4 Professions Code section 2022 and is an expectorant.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct-Use of a Controlled Substance)**

7 21. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
8 she used a controlled substance, methamphetamine. The circumstances are as follows:

9 a. On or about April 22, 2010, police officers investigated a report of a family
10 disturbance at a residence located in Lake Elsinore, California. When the police officers arrived
11 at the residence where Respondent and her husband lived, they obtained permission to search the
12 residence and searched the garage of the residence and located a small black container with a
13 small ziplock baggy inside of it. The baggy contained 2.9 grams of a white crystal like substance.
14 The white crystal like substance field tested positive for methamphetamine. When the police
15 officer questioned Respondent about the methamphetamine he had located, she said, "you found
16 it huh." A Police officer interviewed Respondent who admitted to using methamphetamine daily
17 for the last four days and specifically to injecting methamphetamine. Respondent further told the
18 police officer that the methamphetamine that he located in the garage tasted like aspirin and
19 commented that "they don't make meth like they used to." A police officer evaluated Respondent
20 and found that she displayed the objective signs of being under the influence of a central nervous
21 system stimulant, methamphetamine. She also underwent a drug screen of her urine on April 22,
22 2010 and her urine tested positive for the presence of amphetamines. Further, in a written
23 statement to the Board investigator, Respondent admitted to her drug use, writing that she
24 "decided to try methamphetamine one weekend." After her arrest, she also tested positive for the
25 presence of amphetamines/methamphetamines on April 27, 2010.

26 ~~b. The police officer also asked Respondent's husband if there were any other illicit~~
27 ~~drugs in the household besides methamphetamine and he answered in the affirmative.~~
28 Respondent's husband then escorted the officer to the kitchen and opened a cabinet. He removed

1 eight 350 mg tablets of carisoprodol, fifty-four 350 mg tablets of citalopram, ten 150 mg tablets
2 of trazodone and 5 tablets of guaifenesin from the cabinet and gave them to the officer.
3 Respondent told the officer that his wife, Respondent, "stole these pills from her work." The
4 police officer interviewed Respondent and she admitted that she had stolen the pills from her
5 employer, UCSD Medical Center, and given the pills to her husband to sell to his friend.

6 c. Respondent was arrested for violating Health and Safety Code section 11377(a),
7 Health and Safety Code section 11550 and Penal Code section 273a(a). As a result of the arrest,
8 on or about July 16, 2010, in a criminal proceeding entitled *The People of the State of California*
9 *v. Jessica Ann Stitt, aka Jessica Ann Blackmon*, in Riverside County Superior Court, case number
10 SWF10000848, Respondent pled guilty to a charge of violating Health and Safety Code section
11 11377(a), unlawful possession of a controlled substance, a misdemeanor, and was granted
12 deferred entry of judgment. On or about August 23, 2010, Respondent filed proof of enrollment
13 in a drug diversion program pursuant to Penal Code section 1000 with the Court.

14 SECOND CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct-Dishonesty and Dishonest)

16 22. Respondent is subject to disciplinary action for unprofessional conduct under section
17 4301(f) of the Code in that Respondent's theft from her employer constitutes dishonesty and
18 deceit, as is more fully described in paragraph 21 above.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct-Violations of the Chapter)

21 23. Respondent is subject to disciplinary action under section 4301(o) of the Code for
22 violation of the Pharmacy Act in that on or about April 22, 2010, Respondent furnished to herself
23 and possessed a controlled substance, methamphetamine, and possessed dangerous drugs,
24 carisoprodol, citalopram, guaifenesin and trazodone, in violation of Code sections 4059 and 4060
25 as is more fully described in paragraph 21, above.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct-Violating Laws Regulating Controlled Substances)

3 24. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
4 on or about April 22, 2010, Respondent violated the California Uniform Controlled Substances
5 Act (Health and Safety Code 11000, et seq.) by possessing and furnishing controlled substances
6 and dangerous drugs as is more fully described in paragraph 21, above.

7 FIFTH CAUSE FOR DISCIPLINE

8 (July 16, 2010 Criminal Conviction for Child Endangerment on April 18, 2010)

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

12 a. On or about July 16, 2010, in a criminal proceeding entitled *The People of the*
13 *State of California v. Jessica Ann Stitt aka Jessica Ann Blackmon*, in Riverside County Superior
14 Court, case no. SWF10000848, Respondent was convicted on her plea of guilty for violating
15 Penal Code section 273a(a), a misdemeanor, child endangerment.

16 b. As a result of the conviction, on or about July 16, 2010, Respondent was
17 sentenced to 48 months summary probation, ordered to file proof of enrollment in Child Abuse
18 Classes by August 2, 2010 and to be completed by September 2, 2011, and to pay all applicable
19 fees and fines. Respondent filed proof of enrollment in the court-ordered Child Abuse Class on
20 September 29, 2010.

21 c. The facts that led to the conviction are that while under the influence of
22 methamphetamine, Respondent allowed her nineteen month old child to stand on an
23 approximately four and a half foot tall work bench in the garage. The child fell off the bench
24 from an approximate height of fifty four inches, hit her head on the bumper of Respondent's car
25 and then hit her head on the garage floor. Respondent and her husband took their daughter to the
26 hospital while driving in excess of 100 miles per hour. When her daughter could not be seen in a
27 timely manner, she removed her daughter from the hospital against the recommendation of
28 medical staff that her daughter should remain under medical care.

PRAYER

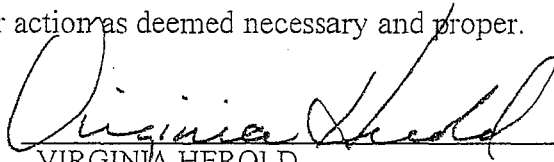
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 63102, issued to Jessica Ann Blackmon;

2. Ordering Jessica Ann Blackmon 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: 12/17/10



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

SD2010702107
70373926.doc