

1
2
3
4
5
6 **BEFORE THE**
7 **BOARD OF PHARMACY**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3814

11 **MAURICE ANDRE BROOKS**

12 2858 Saffron Way
13 Stockton, Ca 95210

14 and
15 333 E. Washington Street
16 Stockton, CA 95206

17 Pharmacy Technician Registration Number
18 TCH 93197

Respondent.

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about May 9, 2011, Complainant Virginia Herold, in her official capacity as the
21 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation
22 No. 3814 against Maurice Brooks (Respondent) before the Board of Pharmacy. (Accusation
23 attached as Exhibit A.)

24 2. On or about September 27, 2009, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 93197 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 3814
27 and will expire on September 30, 2011, unless renewed.
28

1 3. On or about May 13, 2011, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 3814, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board, which was and is: 2858 Saffron Way,
6 Stockton, Ca 95210.

7 4. On or about June 2, 2011, the first class mailing of the aforementioned documents
8 was returned by the U.S. Postal Service marked unable to forward. On or about June 29, 2011,
9 the certified mailing of the aforementioned documents was returned by the U.S. Postal Service
10 marked "unclaimed". The address on the documents was the same as the address on file with the
11 Board.

12 5. On or about June 6, 2011, Respondent was served by Certified and First Class Mail
13 copies of the Accusation No. 3814, Statement to Respondent, Notice of Defense, Request for
14 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
15 a newly discovered address for Respondent at 333 E. Washington Street, Stockton, Ca 95206.

16 6. On or about June 8, 2011, the Domestic Return Receipt of the certified mailing was
17 returned to our office. No other mailings were returned.

18 7. Service of the Accusation was effective as a matter of law under the provisions of
19 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
20 124. Additionally, Respondent failed to maintain an updated address with the Board and the
21 Board has made attempts to serve the Respondent at the address on file and other addresses
22 known to the Board. Respondent did not make himself available for service at his address of
23 record and therefore, any issues with service are due to Respondent not availing himself of his
24 right to file a notice of defense and appear at hearing.

25 8. Government Code section 11506 states, in pertinent part:

26 (c) The respondent shall be entitled to a hearing on the merits if the respondent
27 files a notice of defense, and the notice shall be deemed a specific denial of all parts
28 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 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
2 of the Accusation at an alternate address, and attempted service upon him at his address of record,
3 and therefore waived his right to a hearing on the merits of Accusation No. 3814.

4 10. California Government Code section 11520 states, in pertinent part:

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

8 11. Pursuant to its authority under Government Code section 11520, the Board finds
9 Respondent is in default. The Board will take action without further hearing and, based on the
10 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
11 taking official notice of all the investigatory reports, exhibits and statements contained therein on
12 file at the Board's offices regarding the allegations contained in Accusation No. 3814, finds that
13 the charges and allegations in Accusation No. 3814, are separately and severally, found to be true
14 and correct by clear and convincing evidence.

15 12. Taking official notice of its own internal records, pursuant to Business and
16 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
17 and Enforcement is \$1,317.50 as of July 21, 2011.

18 **DETERMINATION OF ISSUES**

19 1. Based on the foregoing findings of fact, Respondent Maurice Brooks has subjected
20 his Pharmacy Technician Registration No. TCH 93197 to discipline.

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

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

25 a. Business and Professions Code section 4301, subdivision (l) (criminal conviction)

26 b. Business and Professions Code section 4301, subdivision (f) (conduct involving
27 moral turpitude)

28 //

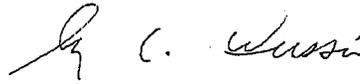
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 93197, heretofore issued to Respondent Maurice Brooks, 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 October 19, 2011.

It is so ORDERED September 19, 2011.



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

10728615.DOC
DOJ Matter ID:SA2010102516

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against: Case No. 3814

12 **MAURICE ANDRE BROOKS**

13 2858 Saffron Way
14 Stockton, Ca 95210

15 Pharmacy Technician Registration Number
16 TCH 93197

17 Respondent.

ACCUSATION

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 September 27, 2009, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 93197 to Maurice Brooks (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on September 30, 2011, unless renewed.

27 //

28 //

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

JURISDICTION

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

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

5. Section 4300 of the Code states every license issued may be suspended or revoked or otherwise appropriately disciplined as determined by the board in its discretion.

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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:

....

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

....

(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 board may inquire into the circumstances surrounding the commission of the crime, in order 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.

