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

In the Matter of the Petition to Revoke Probation Against:	Case No. 3870
<b>CYNTHIA MARIE CRIST</b> 1702 Ventura Street Suisun, CA 94585	<b>DEFAULT DECISION AND ORDER</b>
<b>Pharmacy Technician License No. TCH 20695</b>	[Gov. Code, §11520]
Respondent.	

FINDINGS OF FACT

1. On or about November 17, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Petition to Revoke Probation No. 3870 against Cynthia Marie Crist (Respondent) before the Board of Pharmacy. (A copy of the Petition to Revoke Probation is attached as exhibit A.)
2. On or about November 7, 1996, the Board of Pharmacy issued Pharmacy Technician License No. TCH 20695 to Cynthia M. Crist (Respondent). The License was in full force and effect at all times relevant to the allegations in Petition to Revoke No. 3870. The License expired on December 31, 2010, and has not been renewed. It is currently under disciplinary suspension.
3. In a disciplinary action titled "In the Matter of the Accusation against Cynthia Marie Crist," Case No. 3304, the Board of Pharmacy issued a decision, effective January 28, 2010, in which Respondent's License was revoked. However, revocation was stayed and Respondent was placed on probation for a period of four (4) years with certain terms and conditions. (A copy of the Decision and Order in Case No. 3304 is attached as exhibit B.)

1           4.     On or about November 22, 2010, Respondent was served by Certified and First Class  
2 Mail with copies of: Petition to Revoke Probation No. 3870; a Statement to Respondent; a Notice  
3 of Defense (2 copies); a Request for Discovery; and Discovery Statutes (Gov. Code, §§ 11507.5,  
4 11507.6, 11507.7) to Respondent's address of record, which was and is 702 Ventura Street,  
5 Suisun, CA 94585. Pursuant to Business and Professions Code section 136 and/or 4100, and/or  
6 California Code of Regulations, title 16, section 1704, Respondent's address of record, and any  
7 changes thereto, are required to be reported and maintained with the Board of Pharmacy (Board).

8           5.     Service of the Petition to Revoke Probation was effective under Government Code  
9 section 11505, subdivision (c) and/or Business and Professions Code section 124.

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 her of  
17 the Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of  
18 Petition to Revoke Probation No. 3870.

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 Petition to Revoke  
Probation No. 3870, finds that the charges and allegations in Petition to Revoke Probation No.  
3870, are separately and severally true and correct by clear and convincing evidence.

///

DETERMINATION OF ISSUES

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2       1.     Based on the foregoing findings of fact, Respondent Cynthia Marie Crist has  
3 subjected her Pharmacy Technician Registration No. TCH 20695 to discipline.

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

5       3.     The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
6 License based upon the following violations in the Petition to Revoke Probation supported by the  
7 evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

8       a.     In violation of Term and Condition 3 of the probation imposed by the Decision and  
9 Order of the Board in Case No. 3304, Respondent failed to timely submit quarterly reports;

10       b.    In violation of Term and Condition 6 of the probation ordered in Case No. 3304,  
11 Respondent failed to timely submit compliant employer acknowledgments;

12       c.    In violation of Term and Condition 8 of the probation ordered in Case No. 3304,  
13 Respondent failed to timely submit to/cooperate with random drug screening;

14       d.    In violation of Term and Condition 9 of the probation ordered in Case No. 3304,  
15 Respondent failed to timely notify the Board of the departure of her work site monitor, and/or to  
16 timely nominate a replacement work site monitor for approval by the Board or its designee;

17       e.    In violation of Term and Condition 12 of the probation ordered in Case No. 3304,  
18 Respondent failed to timely make cost recovery payments to the Board; and

19       f.    In violation of Term and Condition 5 of the probation ordered in Case No. 3304,  
20 Respondent failed to cooperate with Board staff ensuring her compliance with probation.

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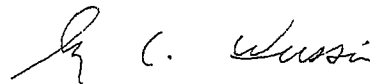
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 20695, heretofore issued to Respondent Cynthia Marie Crist, 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 March 28, 2011.

It is so ORDERED February 25, 2011.



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

20384229.DOC  
DOJ Matter ID:SF2010202658

Attachment:  
Exhibit A: Petition to Revoke Probation  
Exhibit B: Decision and Order in Case No. 3304

# Exhibit A

Petition to Revoke Probation

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke Probation  
11 Against:

Case No. 3870

12 **CYNTHIA MARIE CRIST**  
13 **1702 Ventura Street**  
**Suisun, CA 94585**

**PETITION TO REVOKE PROBATION**

14 **Pharmacy Technician License No. TCH 20695**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her  
20 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about November 7, 1996, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 20695 to Cynthia M. Crist (Respondent). The License is in full force and effect  
23 and will expire on December 31, 2010, unless renewed

24 3. In a disciplinary action titled "In the Matter of the Accusation against Cynthia Marie  
25 Crist," Case No. 3304, the Board of Pharmacy issued a decision, effective January 28, 2010, in  
26 which Respondent's License was revoked. However, revocation was stayed and Respondent was  
27 placed on probation for a period of four (4) years with certain terms and conditions. A copy of  
28 the Decision and Order in Case No. 3304 is attached as exhibit A and incorporated by reference.

JURISDICTION AND STATUTORY PROVISIONS

1  
2           4.    This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5           5.    Section 4011 of the Code provides that the Board shall administer and enforce both  
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
7 Act [Health & Safety Code, § 11000 et seq.].

8           6.    Section 4300(a) of the Code provides that every license issued by the Board may be  
9 suspended or revoked.

10          7.    Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,  
11 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
12 disciplinary action during the period within which the license may be renewed, restored, reissued  
13 or reinstated. Section 4402(e) of the Code provides that any non-pharmacist license issued by the  
14 Board may be canceled if not renewed within 60 days after expiration, and any license canceled  
15 in this fashion may not be reissued but will instead require a new application to seek reissuance.  
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FIRST CAUSE TO REVOKE PROBATION

(Failure to Timely Submit Quarterly Report(s))

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21          8.    At all times after the effective date (January 28, 2010) of the Decision and Order  
22 imposing probation on Respondent's License, Term and Condition 3 of that Order required that  
23 Respondent report to the Board quarterly, on a schedule as directed by the Board or its designee,  
24 either in person or in writing, as directed. Respondent was directed to report quarterly, in writing,  
25 with reports made due on April 10, 2010, July 10, 2010, October 10, 2010, and thereafter. No  
26 report was submitted for the October 10, 2010 deadline. This failure to timely submit quarterly  
27 report(s) subjects Respondent's License to revocation.  
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1 d. On or about March 18, 2010, Board staff sent Respondent a letter regarding her  
2 non-compliant failure to contact the FirstLab system on or about March 13 and March 16, 2010.

3 e. On or about May 24, 2010, Respondent had a non-observed drug test.

4 f. On or about June 8, 2010, Board staff sent Respondent a letter regarding her  
5 non-compliant drug test on or about May 24, 2010.

6 g. Respondent failed to contact FirstLab and/or missed scheduled testing on  
7 several additional dates in or around July, August, September, and October 2010.

8 h. On or about October 28, 2010, Respondent appeared for an in-person meeting  
9 at the Board offices. When she was asked why she had failed to call in and/or missed testing on  
10 nine (9) occasions to that point, Respondent replied that she sometimes "just forgets."

11 i. Respondent subsequently failed to contact FirstLab and/or missed scheduled  
12 testing on at least two more occasions in October and November 2010.

13 j. These failures to timely submit to random drug testing and/or to cooperate with  
14 the Board or its designee with regard to same subjects Respondent's License to revocation.

15  
16 FOURTH CAUSE TO REVOKE PROBATION

17 (Failure to Notify Board of Change in Work Site Monitor)

18 11. At all times after the effective date (January 28, 2010) of the Decision and Order  
19 imposing probation on Respondent's License, Term and Condition 9 of that Order required that  
20 within 10 days Respondent identify a work site monitor for approval by the Board, to supervise  
21 Respondent during working hours. Respondent is required to ensure that the work site monitor  
22 reports to the Board quarterly, and is required to nominate a new work site monitor within 10  
23 days in the event that Respondent changes employment or otherwise is no longer subject to the  
24 supervision of the approved work site monitor. Respondent failed to notify the Board when her  
25 approved work site monitor left her workplace, and failed to timely nominate a replacement. This  
26 failure to timely notify the Board of her work site monitor's departure, and/or failure to timely  
27 nominate a new work site monitor for approval, subject(s) Respondent's License to revocation.

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1 FIFTH CAUSE TO REVOKE PROBATION

2 (Failure to Timely Pay Cost Recovery)

3 12. At all times after the effective date (January 28, 2010) of the Decision and Order  
4 imposing probation on Respondent's License, Term and Condition 12 of that Order required that  
5 Respondent pay to the Board its costs of investigation and prosecution totaling \$1,900.00, during  
6 the first 2 years of probation, in equal quarterly installments of \$237.50. Payments were due on  
7 April 10, 2010, July 10, 2010, October 10, 2010, and thereafter. No payment was timely made.  
8 The first payment was made on or about April 28, 2010. Respondent then failed to make the July  
9 10, 2010 payment. Board staff sent Respondent a non-compliance letter regarding this payment  
10 on or about August 6, 2010, and payment was finally received on or about September 2, 2010.  
11 Respondent failed to submit any payment by the October 10, 2010 deadline. This failure to make  
12 timely payment(s) toward cost recovery subjects Respondent's License to revocation.

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14 SIXTH CAUSE TO REVOKE PROBATION

15 (Failure to Cooperate with Board Staff)

16 13. At all times after the effective date (January 28, 2010) of the Decision and Order  
17 imposing probation on Respondent's License, Term and Condition 5 of that Order required that  
18 Respondent cooperate with the Board's inspection program and with the Board's monitoring and  
19 investigation of Respondent's compliance with terms and conditions of his probation. As detailed  
20 in paragraphs 8-12 above, Respondent failed to timely cooperate on one or more occasions. Her  
21 failure(s) to timely cooperate as required subject Respondent's License to revocation.

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26 OTHER MATTERS – EXTENSION OF PROBATION

27 14. At all times after the effective date (January 28, 2010) of the Decision and Order  
28 imposing probation on Respondent's License, Term and Condition 17 of that Order required:

17. **Violation of Probation.**

1 If a respondent has not complied with any term or condition of probation, the board  
2 shall have continuing jurisdiction over respondent, and probation shall automatically be  
3 extended, until all terms and conditions have been satisfied or the board has taken other  
4 action as deemed appropriate to treat the failure to comply as a violation of probation, to  
5 terminate probation, and to impose the penalty that was stayed.

6 If respondent violates probation in any respect, the board, after giving respondent  
7 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
8 order that was stayed. Notice and opportunity to be heard are not required for those  
9 provisions stating that a violation thereof may lead to automatic termination of the stay  
10 and/or revocation of the license. If a petition to revoke probation or an accusation is filed  
11 against respondent during probation, the board shall have continuing jurisdiction, and the  
12 period of probation shall be automatically extended until the petition to revoke probation or  
13 accusation is heard and decided.

14 15. Pursuant to the operation of Term and Condition 17 of the probation order applicable  
15 to Respondent's License, probation is automatically extended by the filing hereof, and/or by  
16 Respondent's failure to comply with the terms and conditions of probation, until such time as this  
17 Petition to Revoke Probation is heard and decided, or until the Board has taken other action as  
18 deemed appropriate to treat the failure to comply as a violation of probation.

19 PRAYER

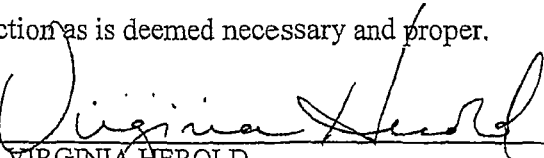
20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Board of Pharmacy issue a decision:

22 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3304  
23 and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician  
24 License No. TCH 20695 issued to Cynthia Marie Crist;

25 2. Revoking or suspending Pharmacy Technician License No. TCH 20695, issued to  
26 Cynthia Marie Crist;

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

28 DATED: 11/17/10

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

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