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

In the Matter of the Accusation Against:
SHARNA JANAY THOMAS
512 West 64th Place
Inglewood, CA 90302

Pharmacy Technician Registration
No. TCH 104559

Respondent.

Case No. 4398
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 14, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4398 against Sharna Janay Thomas (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 16, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 104559 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4398, expired on February 28, 2014, and has not been renewed.

3. On or about September 26, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4398, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 512 West 64th Place, Inglewood, CA 90302.

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. Government Code section 11506 states, in pertinent part:

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4398.

16 7. California Government Code section 11520 states, in pertinent part:

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 4398, finds that
26 the charges and allegations in Accusation No. 4398, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$4,142.50 as of August 27, 2015.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Sharna Janay Thomas has
3 subjected her Pharmacy Technician Registration No. TCH 104559 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 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case.

8 a. Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction
9 with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of
10 crimes substantially related to the qualifications, functions or duties of a pharmacy technician as
11 follows:

12 (i) On or about July 7, 2011, Respondent was convicted of one misdemeanor count
13 of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more,
14 by weight, of alcohol in the blood] and one misdemeanor count of violating Vehicle Code section
15 14601.1, subdivision (a) [driving while having a suspended license] in the criminal proceeding
16 entitled *The People of the State of California v. Sharna Janay Thomas* (Super. Ct. Los Angeles
17 County, 2011, No. 1LT00583.) The court ordered Respondent to serve 2 days in jail and placed
18 her on 3 years probation.

19 (ii) On or about November 28, 2006, Respondent was convicted of one
20 misdemeanor count of violating Penal Code section 415(2) [disturbing the peace;
21 loud/unreasonable noise] in the criminal proceeding entitled *The People of the State of California*
22 *v. Sharna Janay Thomas* (Super. Ct. Los Angeles County, 2006, No. 5SB03612.) The court
23 ordered Respondent to serve 2 days in jail.

24 (iii) On or about November 28, 2000, Respondent was convicted of one
25 misdemeanor count of violating Penal Code section 484, subdivision (a) [theft] in the criminal
26 proceeding entitled *The People of the State of California v. Sharna Janay Thomas* (Super. Ct. Los
27 Angeles County, 2000, No. 0WL04021.) The court placed Respondent on 36 months probation.

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1 (iv) On or about December 21, 1998, Respondent was convicted of one
2 misdemeanor count of violating Penal Code section 602, subdivision (j) [trespass: injure to
3 property] in the criminal proceeding entitled *The People of the State of California v. Sharna*
4 *Janay Thomas* (Super. Ct. Los Angeles County, 1998, No. 8PN06839-02.) The court ordered
5 Respondent to serve 1 day in jail and placed her on 24 months probation.

6 f. Business and Professions Code sections 4301, subdivision (h), on the grounds of
7 unprofessional conduct, in that Respondent used an alcoholic beverage to the extent or in a
8 manner as to be dangerous or injurious to oneself others when she was found to be under the
9 influence of alcohol on January 28, 2011 and April 16, 2005.

10 g. Business and Professions Code sections 4301, subdivision (k), on the grounds of
11 unprofessional conduct, in that Respondent was convicted of more than one misdemeanor,
12 involving the use, consumption, or self-administration of any dangerous drug or alcoholic
13 beverage, or any combination of those substances, when she was found under the influence of
14 alcohol on January 28, 2011 and April 16, 2005.

15 h. Business and Professions Code sections 4301, subdivision (f), on the grounds of
16 unprofessional conduct, in that Respondent committed crimes involving moral turpitude,
17 dishonesty, fraud, deceit, and/or corruption.

18 i. Business and Professions Code sections 4301, subdivision (0), on the grounds of
19 unprofessional conduct, in that Respondent committed acts and was convicted of crimes that
20 violated the Pharmacy Act.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 104559, heretofore issued to Respondent Sharna Janay Thomas, 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 26, 2015.

It is so ORDERED September 24, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:LA2012507681

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(SHARNA JANAY THOMAS)

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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Supervising Deputy Attorney General
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300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **SHARNA JANAY THOMAS**
512 West 64th Place
13 Inglewood, CA 90302
14 Pharmacy Technician Registration No. TCH
104559
15
16 Respondent.

Case No. 4398

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
22 2. On or about July 16, 2010, the Board issued Pharmacy Technician Registration No.
23 TCH 104559 to Sharna Janay Thomas (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 February 28, 2014, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 division, from taking disciplinary action against a licensee or from denying a license for
2 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
3 record pertaining to an arrest.

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

7 8. Section 4301 states, in pertinent part:

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

11

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

15

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

21

22 "(k) The conviction of more than one misdemeanor or any felony involving the use,
23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
24 combination of those substances.

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

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

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

19 **REGULATORY PROVISION**

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

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

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1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 **(Convictions of Substantially-Related Crimes)**

8 11. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
9 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
10 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
11 related to the qualifications, functions or duties of a registered pharmacy technician which to a
12 substantial degree evidence her present or potential unfitness to perform the functions authorized
13 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

14 a. On or about July 07, 2011, after pleading *nolo contendere*, Respondent was convicted
15 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving
16 while having 0.08% or more, by weight, of alcohol in the blood]; and misdemeanor count of
17 violating Vehicle Code section 14601.1, subdivision (a) [driving while having a suspended
18 license], in the criminal proceeding entitled *The People of the State of California v. Sharna Janay*
19 *Thomas* (Super. Ct. Los Angeles County, 2011, No. 1LT00583). The court sentenced
20 Respondent to serve 2 days in jail, placed her on probation for a period of 3 years, and ordered
21 her to pay a fine or serve 15 days in jail. The circumstances surrounding the conviction are that
22 on or about January 28, 2011, a California Highway Patrol Officer, while on duty, during a
23 routine traffic stop, stopped Respondent for failing to maintain a lane position. The officer made
24 contact with the Respondent, and the Respondent provided the officer with a suspended driver's
25 license. The officer smelled an odor of an alcoholic beverage emitting from Respondent's breath
26 and person. The officer also observed Respondent to have slurred speech, red and watery eyes.
27 The Respondent admitted to the officer that she had consumed, "Two Smirnoff's." The
28 Respondent agreed to a series of Field Sobriety Test which she failed to complete satisfactorily.

1 Respondent subsequently agreed to two breath samples with results of .19% BAC and .18% BAC.

2 b. On or about November 28, 2006, after pleading *nolo contendere*, Respondent was
3 convicted of one misdemeanor count of violating Penal Code section 415 (2) [disturbing the
4 peace: loud/unreasonable noise], in the criminal proceeding entitled *The People of the State of*
5 *California v. Sharna Janay Thomas* (Super. Ct. Los Angeles County, 2005, No. 5SB03612). The
6 court sentenced Respondent to serve 2 days in jail. The circumstances surrounding the conviction
7 are that on or about April 16, 2005, the Manhattan Beach Police Department set up a check point
8 where Respondent was a passenger in the vehicle. The driver of the vehicle was arrested for
9 driving while under the influence of alcohol. The Respondent was the owner of the vehicle and
10 the officer advised Respondent that her vehicle was going to be impounded because the driver
11 was driving her vehicle with a suspended license. The Respondent became belligerent and began
12 to yell and cuss at the officer. The Respondent yelled at the officer, "You're not taking my F...ing
13 car." The Respondent continued to yell profanity at the officer and at her friend being arrested.
14 The officer smelled a strong odor of an alcoholic beverage emitting from Respondent's breath and
15 person. The officer observed Respondent to have poor balance, slurred speech, red and watery
16 eyes. The Respondent was subsequently arrested for violating Penal Code section 647,
17 subdivision (f), after the officer determined that Respondent was intoxicated to the extent that she
18 could no longer care for herself or the safety of others.

19 c. On or about November 28, 2000, after pleading *guilty*, Respondent was convicted of
20 one misdemeanor count of violating Penal Code section 484, subdivision (a) [theft], in the
21 criminal proceeding entitled *The People of the State of California v. Sharna Janay Thomas*
22 (Super. Ct. Los Angeles County, 2000, No. 0WL04021). The court placed Respondent on
23 probation for a period of 36 months, and fined her. The circumstances surrounding the conviction
24 are that on or about November 02, 2000, Los Angeles Police Officers responded to a call to
25 investigate a suspect in custody for attempting to cash a forged check at a Well's Fargo Bank
26 Branch, in the city of Los Angeles, Ca. The bank manager verified that the check sequence
27 presented by Respondent was off and that the business indicated on the check did not authorize
28 the check to be cashed. The officers identified Respondent as the female suspect who attempted

1 to cash a forged check. The officers arrested the Respondent for violating Penal Code section 470
2 and a warrant check revealed that Respondent had an outstanding warrant.

3 d. On or about December 21, 1998, Respondent was convicted of one misdemeanor
4 count of violating Penal Code section 602 (j) [trespass: injure to property], in the criminal
5 proceeding entitled *The People of the State of California v. Sharna Janay Thomas* (Super. Ct. Los
6 Angeles County, 1998, No. 8PN06839-02). The court sentenced Respondent to serve 1 day in
7 jail, placed her on probation for a period of 24 months, and fined her. The circumstances
8 surrounding the conviction are that on or about October 13, 1998, Respondent was observed by
9 loss prevention officers at Nordstrom Department Store, via the store surveillance camera,
10 entering the department store with a large purse and grabbing items quickly. The officer followed
11 the Respondent into the dressing room and observed her placing items in her purse from an
12 adjacent stall. The Respondent was observed exiting the store, passing numerous registers,
13 without paying for the merchandise concealed in her purse.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Dangerous Use of Alcohol)**

16 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
17 subdivision (h), on the grounds of unprofessional conduct, in that Respondent did use an
18 alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself or others
19 when she was found to be under the influence of alcohol on January 28, 2011 and April 16, 2005.
20 Complainant refers to, and by this reference incorporates, the allegations set forth above in
21 paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Convictions Involving Alcohol)**

24 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
25 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of
26 more than one misdemeanor, involving the use, consumption, or self-administration of any
27 dangerous drug or alcoholic beverage, or any combination of those substances, when she was
28 found to be under the influence of an alcoholic beverage on January 28, 2011 and April 16, 2005

1 and convicted for violating Vehicle Code section 23152, subdivision (b) and Penal Code section
2 415 (2). Complainant refers to, and by this reference incorporates, the allegations set forth above
3 in paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit and / or Corruption)**

6 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
7 subdivision (f), on the grounds of the unprofessional conduct, in that Respondent committed acts
8 and was convicted of crimes involving moral turpitude, dishonesty, fraud, deceit, and / or
9 corruption. Complainant refers to, and by this reference incorporates, the allegations set forth
10 above in paragraph 11, subparagraphs (a) through (d), inclusive, as though set forth fully.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Violation of Pharmacy Act)**

13 15. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
14 the grounds of unprofessional conduct, in that Respondent committed acts and was convicted of
15 crimes that violated the Pharmacy Act. Complainant refers to, and by this reference incorporates,
16 the allegations set forth above in paragraphs 11 through 14, inclusive, as though set forth fully.

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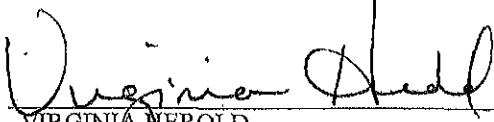
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PRAYER

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 No. TCH 104559, issued to Sharna Janay Thomas;
2. Ordering Sharna Janay Thomas to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/14



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

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