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

In the Matter of the Accusation Against:  
**MICHELLE ANNE MCCALLUM**  
**9555 Archer Road**  
**Salinas, CA 93907**  
**Pharmacy Technician Registration No. TCH**  
**6527**

Case No. 4588

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about June 10, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4588 against Michelle Anne McCallum (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 7, 1993, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 6527 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4588 and will expire on January 31, 2015, unless renewed.

1           3.     On or about June 17, 2013, Respondent was served by Certified and First Class Mail  
2 copies of: Accusation No. 4588, Statement to Respondent, Notice of Defense, and Request for  
3 Discovery at Respondent's address of record which, pursuant to Business and Professions Code  
4 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
5 record was and is: 9555 Archer Road, Salinas, CA 93907.

6           4.     Pursuant to Business and Professions Code section 136 and/or 4100, and/or California  
7 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes  
8 thereto, are required to be reported and maintained with the Board.

9           5.     Government Code section 11506 states, in pertinent part:

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

15           6.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4588.

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

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

22           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
23 Respondent is in default. The Board will take action without further hearing and, based on the  
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
26 file at the Board's offices regarding the allegations contained in Accusation No. 4588, finds that  
27 the charges and allegations in Accusation No. 4588, are separately and severally, found to be true  
28 and correct by clear and convincing evidence.



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ORDER

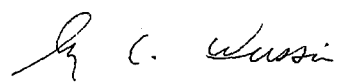
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 6527, heretofore issued to Respondent Michelle Anne McCallum, is revoked.

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 November 22, 2013.

It is so ORDERED ON October 23, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STAN C. WEISSER  
Board President

40730800.DOC  
DOJ Matter ID:SF2013404231

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUSTIN R. SURBER  
Deputy Attorney General  
4 State Bar No. 226937  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 355-5437  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 4588

11 **MICHELLE ANNE McCALLUM**  
12 **9555 Archer Road**  
13 **Salinas, CA 93907**

**A C C U S A T I O N**

14 **Pharmacy Technician License No. TCH**  
15 **6527**

Respondent.

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about April 7, 1993, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 6527 to Michelle Anne McCallum (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on January 31, 2015, unless renewed.

25 JURISDICTION

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



1 (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
2 of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
4 substances or of a violation of the statutes of this state regulating controlled substances or  
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
6 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
7 The board may inquire into the circumstances surrounding the commission of the crime, in order  
8 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
9 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
10 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
11 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
12 of this provision. The board may take action when the time for appeal has elapsed, or the  
13 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
14 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
15 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
16 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
17 indictment.

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

23 8. Section 4022 of the Code states

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

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

28



1           (b) Any device that bears the statement: "Caution: fe  
2 by or on the order of a \_\_\_\_\_," "Rx only," or words c  
3 in with the designation of the practitioner licensed to use or

4           (c) Any other drug or device that by federal or state  
5 prescription or furnished pursuant to Section 4006."

6           9. Section 4060 of the Code states:

7           "No person shall possess any controlled substance, ex  
8 the prescription of a physician, dentist, podiatrist, optometr  
9 pursuant to Section 3640.7, or furnished pursuant to a drug  
10 nurse-midwife pursuant to Section 2746.51, a nurse practiti  
11 physician assistant pursuant to Section 3502.1, or naturopat  
12 or a pharmacist pursuant to either subparagraph (D) of para  
13 subparagraph (A) of paragraph (5) of, subdivision (a) of Se  
14 apply to the possession of any controlled substance by a ma  
15 pharmacist, physician, podiatrist, dentist, optometrist, veter  
16 nurse-midwife, nurse practitioner, or physician assistant, w  
17 labeled with the name and address of the supplier or produ

18           "Nothing in this section authorizes a certified nurse-r  
19 physician assistant, or a naturopathic doctor, to order his or  
20 devices."

21           10. Health and Safety Code section 11170 provide  
22 administer, or furnish a controlled substance for himself or

23           11. Health and Safety Code section 11173, subdivi  
24 obtain or attempt to obtain controlled substances, or procur  
25 administration of or prescription for controlled substances,  
26 or subterfuge; or (2) by the concealment of a material fact.

27           ///

28           ///

1 12. Code of Federal Regulations Title 21, section 1308.14 states:

2 (a) Schedule IV shall consist of the drugs and other substances, by whatever official name,  
3 common or usual name, chemical name, or brand name designated, listed in this section. Each  
4 drug or substance has been assigned the DEA Controlled Substances Code Number set forth  
5 opposite it.

6 ...  
7 (c) Depressants. Unless specifically excepted, or unless listed in another schedule, any  
8 material, compound, mixture, or preparation which contains any quantity of the following  
9 substances, including its salts, isomers, and salts of isomers whenever the existence of such salts,  
10 isomers, and salts of isomers is possible within the specific chemical designation:

11 ...  
12 (5) Carisoprodol. . .”

13 COSTS

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

18 DRUGS INVOLVED

19 14. Carisoprodol (Brand name Soma) is a Schedule IV controlled substance pursuant to  
20 Code of Federal Regulations Title 21, section 1308.14.

21 FIRST CAUSE FOR DISCIPLINE

22 (Diversion of Drugs)

23 15. Respondent is subject to disciplinary action under section 430.1(f) of the code in that  
24 Respondent committed moral turpitude, dishonesty, fraud, deceit, or corruption. From  
25 Approximately 2010 until approximately July, 2012, Respondent stole thousands of tablets of  
26 carisoprodol from her employer, CVS, where Respondent worked as a pharmacy technician.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Self Administration of a Controlled Substance)

3 16. Respondent is subject to disciplinary action under section 4301(h) of the code in that  
4 Respondent self administered the controlled substance carisoprodol. Respondent stole thousands  
5 of tablets of carisoprodol from her employer for self use.

6 THIRD CAUSE FOR DISCIPLINE

7 (Violation of Drug and Pharmacy Laws)

8 17. Respondent is subject to disciplinary action under sections 4301(j) and/or 4301(o) of  
9 the code in that Respondent violated Section 4060 of the code and/or Health and Safety Code §§  
10 11170 and/or 11173. Respondent possessed and self administered the controlled substance  
11 carisoprodol that was not furnished through a prescription. Respondent obtained the carisoprodol  
12 by fraud, deceit, misrepresentation, subterfuge, or by the concealment of a material fact.  
13 Respondent stole thousands of tablets of carisoprodol from her employer, CVS, where she  
14 worked as a pharmacy technician.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Conviction)

17 18. Respondent is subject to discipline under section 4301(l) of the Code in that  
18 Respondent was convicted of a crime that is substantially related to the duties, functions, or  
19 qualifications of a pharmacy technician. On or about January 22, 2013, In Monterey County  
20 Superior Court Case No. SS121935A, Respondent was convicted of violating Penal Code section  
21 508, embezzlement by an employee. Respondent stole thousands of tablets of carisoprodol from  
22 her employer, CVS, where she worked as a pharmacy technician.

23 FIFTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 19. Respondent is subject to discipline under section 4301 of the Code in that Respondent  
26 engaged in unprofessional conduct. Respondent stole thousands of tablets of carisoprodol from  
27 her employer, CVS, where Respondent worked as a pharmacy technician.

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PRAYER

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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:

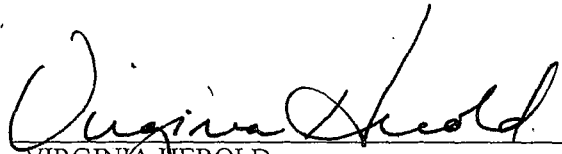
1. Revoking or suspending Pharmacy Technician Registration Number TCH 6527, issued to Michelle Anne McCallum;

2. Ordering Michelle Anne McCallum 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:

6/10/13



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

SF2013404231  
accusation.rtf