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

11 In the Matter of the Accusation Against:

Case No. 4737

12 **SHANNON CALIVA**  
13 **25245 Morning Dove Way**  
14 **Moreno Valley, CA 92551**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

15 **Pharmacy Technician Registration**  
16 **No. TCH 24468**

Respondent.

17 **FINDINGS OF FACT**

18 1. On or about September 3, 2013, Complainant Virginia Herold, in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
20 Accusation No. 4737 against Shannon Caliva (Respondent) before the Board of Pharmacy. (The  
Accusation is attached as Exhibit A.)

21 2. On or about November 26, 1997, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 24468 to Respondent. The Pharmacy Technician Registration  
23 expired on January 31, 2013, and has not been renewed.

24 3. On or about September 18, 2013, Respondent was served by Certified and First Class  
25 Mail copies of the Accusation No. 4737, Statement to Respondent, Notice of Defense, Request  
26 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
27 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
28 section 4100 and California Code of Regulations, title 16, section 1704, is required to be reported

1 and maintained with the Board. Respondent's address of record was and is:

2 25245 Morning Dove Way  
3 Moreno Valley, CA 92551

4 Respondent was also served copies of the aforementioned documents by Certified and First Class  
5 Mail to an alternate address which was: 2032 Daffodil Way, Hemet, CA 92545.

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
8 124.

9 5. On or about October 22, 2013, the aforementioned documents served by Certified  
10 Mail to Respondent's address of record were returned by the U.S. Postal Service marked  
11 "Unclaimed."

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4737.

20 8. California Government Code section 11520 states, in pertinent part:

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 4737, finds that  
the charges and allegations in Accusation No. 4737, are separately and severally, found to be true  
and correct by clear and convincing evidence.

10. 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 \$805.00 as of October 23, 2013.

#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Shannon Caliva has subjected her Pharmacy Technician Registration No. TCH 24468 to discipline.

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

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

a. Respondent has subjected her registration to discipline under section 4301, subdivision (j) of the Code in that she violated California statutes regulating controlled substances when she possessed methamphetamine on January 21, 2012.

b. Respondent has subjected her registration to discipline under section 4301, subdivision (h) of the Code in that she used methamphetamine to the extent or in a manner to be dangerous to herself and others on March 27, 2012.

c. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that on or about March 27, 2012, Respondent knowingly violated Business and Professions Code sections 4022 and 4059, and Health and Safety Code section 11550, subdivision (a), when Respondent furnished to herself and used the controlled substance methamphetamine.

d. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the Code for unprofessional conduct in that she committed acts involving dishonesty, fraud and deceit on January 11, 2012.

e. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the Code for unprofessional conduct in that she committed acts involving dishonesty, fraud and deceit on October 23, 2012.

///

**ORDER**

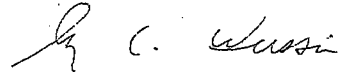
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 24468, heretofore issued to Respondent Shannon Caliva, is revoked.

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 January 27, 2014.

It is so ORDERED ON December 27, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STAN C. WEISSER  
Board President

DOJ Matter ID:SD2013705499

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4737

13 **SHANNON CALIVA**  
25245 Morning Dove Way  
14 Moreno Valley, CA 92551

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 24468**

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 November 26, 1997, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 24468 to Shannon Caliva (Respondent). Respondent is also known as  
25 Shannon Dawn Caliva, Shannon Dawn Nickers, and Shannon Dawn Nickels (Respondent). The  
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
27 brought herein. The Pharmacy Technician Registration expired on January 31, 2013, and was  
28 cancelled.

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8. Section 4059 of the Code states, 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.

9. Section 4060 of the Code states, in pertinent part, that 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.

10. 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.

• • • •

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

• • • •

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

• • • •

## REGULATORY PROVISIONS

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

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



1 COSTS

2 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 DRUG

9 13. Methamphetamine is a Schedule II controlled substance as designated by Health  
10 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business  
11 and Professions Code section 4022.

12 FIRST CAUSE FOR DISCIPLINE

13 (Possession of Methamphetamine on January 21, 2012)

14 14. Respondent has subjected her registration to discipline under section 4301,  
15 subdivision (j) of the Code in that she violated California statutes regulating controlled substances  
16 when she possessed methamphetamine on January 21, 2012. The circumstances are as follows:

17 a. On or about the afternoon of January 21, 2012, a patrol officer with the Hemet  
18 Police Department observed a vehicle engaged in suspicious activity that appeared to be drug-  
19 related. After seeing the police officer, the vehicle drove away and made an illegal lane change in  
20 front of the officer. After conducting a traffic stop, the officer made contact with Respondent,  
21 who was driving. Also in the vehicle were two adult passengers, and Respondent's two seven-  
22 year-old children. Respondent denied having anything illegal on her person, in her car, or in her  
23 purse, and gave verbal consent to search all three. Inside Respondent's purse, concealed in a  
24 bandana, the officer found a glass methamphetamine pipe lined with a useable amount of what  
25 subsequently tested positive for methamphetamine. All three adults were arrested on drug  
26 charges; the two children were retrieved by Child Protective Services.

27 b. As a result of the arrest, on or about March 27, 2012, in a criminal proceeding  
28 entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Dawn Nickels*, in

1 Riverside County Superior Court, case number SWF1200277, Respondent pled guilty to violating  
2 Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, to  
3 wit, methamphetamine, a felony reduced to a misdemeanor pursuant to Penal Code section 17b.  
4 Respondent also pled guilty to violating Health and Safety Code section 11364, possession of a  
5 device used for unlawfully injecting and smoking a controlled substance, a misdemeanor.

6 c. As a result of the plea, on or about March 27, 2012, the court deferred entry of  
7 judgment for 18 months and Respondent was ordered to enroll in and complete a drug diversion  
8 program pursuant to Penal Code section 1000.

### 9 SECOND CAUSE FOR DISCIPLINE

#### 10 **(Under the Influence of Methamphetamine on March 27, 2012)**

11 15. Respondent has subjected her registration to discipline under section 4301,  
12 subdivision (h) of the Code in that she used methamphetamine to the extent or in a manner to be  
13 dangerous to herself and others on March 27, 2012. The circumstances are as follows:

14 a. On or about the afternoon of March 27, 2012, the same day Respondent pled  
15 guilty to drug charges in case number SWF1200277, described in paragraph 14, above, a deputy  
16 with the Riverside County Sheriff's Drug Endangered Children Team (DEC), along with a county  
17 investigator and social worker, responded to a Hemet residence regarding a CPS referral with  
18 allegations that Respondent was caring for her children while under the influence of  
19 methamphetamine. Upon arrival, the team met with Respondent's parents who were caring for  
20 the children. While speaking to the parents, Respondent arrived home. Respondent exhibited  
21 symptoms of being under the influence of a central nervous system stimulant. Respondent told  
22 the social worker that she had last used methamphetamine a few days prior (on Sunday, March  
23 25). Respondent provided a urine sample which subsequently tested positive for amphetamines.  
24 During questioning, Respondent told the deputy that she had been using methamphetamine from  
25 October 2010 until February 2012, but claimed she stopped using two days prior. Respondent  
26 told the deputy that she smoked methamphetamine, but she never smoked in the home, or around  
27 the children. Respondent admitted that she cared for her children the previous Sunday after  
28 smoking methamphetamine. She also admitted that she drove the children to and from school on

1 Monday while still under the influence of methamphetamine. Believing Respondent was placing  
2 her children in danger, the deputy arrested Respondent for child endangerment and being under  
3 the influence of methamphetamine.

4 b. As a result of the arrest, on or about March 27, 2013, in a criminal proceeding  
5 entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Sawn Nickers,*  
6 *aka Shannon Dawn Nickels*, in Riverside County Superior Court, case number SWF1200275, a  
7 complaint was filed charging Respondent with violating Penal Code section 273a, subdivision  
8 (b), child endangerment; and Health and Safety Code section 11550, subdivision (a), under the  
9 influence of a controlled substance, misdemeanors.

10 c. After failing to appear at her April 11, 2013 arraignment, a bench warrant was  
11 issued. Respondent appeared at a hearing on June 14, 2013, and the court granted her motion for  
12 a continuance. Respondent was released on her own recognizance, but failed to appear at a  
13 hearing on July 22, 2013. A bench warrant was issued for Respondent's arrest.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of California Statutes Regulating Controlled Substances)**

16 16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the  
17 Code for unprofessional conduct in that on or about March 27, 2012, Respondent knowingly  
18 violated Business and Professions Code sections 4022 and 4059, and Health and Safety Code  
19 section 11550, subdivision (a), as detailed in paragraph 15, above, when Respondent furnished to  
20 herself and used the controlled substance methamphetamine.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Commission of Acts Involving Dishonesty, Fraud, Deceit on January 11, 2012)**

23 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
24 Code for unprofessional conduct in that she committed acts involving dishonesty, fraud and  
25 deceit on January 11, 2012. The circumstances are as follows:

26 a. On the afternoon of January 11, 2012, an officer with the Hemet Police  
27 Department responded to a WalMart store in reference to two women who had been detained for  
28 shoplifting. The store's Loss Prevention Officer stated that he observed Respondent and her

1 friend behaving suspiciously. Both women were observed selecting various items of clothing and  
2 concealing the merchandise in their handbags. The women exited the store without paying for the  
3 merchandise concealed in their handbags. Respondent and her friend were intercepted outside of  
4 the store and detained. Respondent told the Hemet Police Officer that while in the store, she saw  
5 several items that she needed because she was having a hard time financially. She put the  
6 merchandise in her purse because she thought she could get away with stealing the items.  
7 Respondent denied entering the WalMart with the intent to commit theft, however, when she was  
8 searched, she did not have any money or access cards in her possession.

9           b. As a result of the arrest, on or about March 1, 2012, in a criminal proceeding  
10 entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Sawn Nickers,*  
11 *aka Shannon Dawn Nickels*, in Riverside County Superior Court, case number SWM1200675, the  
12 court amended the charge of violating Penal Code section 490.5, theft of personal property or  
13 merchandise of a value not exceeding four hundred dollars, from a misdemeanor to an infraction.  
14 Respondent pled guilty to the amended charge, and she was ordered to pay fees and fines.

#### 15 **FIFTH CAUSE FOR DISCIPLINE**

##### 16 **(Commission of Acts Involving Dishonesty, Fraud, Deceit on October 23, 2012)**

17           18. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the  
18 Code for unprofessional conduct in that she committed acts involving dishonesty, fraud and  
19 deceit on October 23, 2012. The circumstances are as follows:

20           a. On the evening of October 23, 2012, an officer with the Hemet Police  
21 Department responded to a WalMart store in reference to Respondent who had been detained for  
22 shoplifting. The store's Loss Prevention Officer stated that he observed Respondent in the store  
23 acting suspiciously and trying to avoid store employees. Under surveillance, Respondent was  
24 observed placing merchandise on top of her purse which was in a shopping cart. As Respondent  
25 walked through various departments, she concealed items in her purse. Respondent left the  
26 shopping cart inside the store and exited without paying for the merchandise she had concealed in  
27 her purse. Respondent was intercepted outside of the store and detained. Respondent told the  
28 Hemet Police Officer that she had been trying on items of clothing when she noticed her wallet

1 was missing. She sent a friend to her house to retrieve her wallet. While waiting for her friend's  
2 return, she decided to conceal merchandise in her purse.

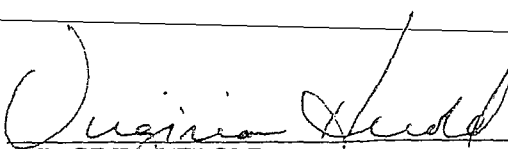
3 b. As a result of the arrest, on or about December 4, 2012, in a criminal  
4 proceeding entitled *People of the State of California v. Shannon Dawn Caliva, aka Shannon Sawn*  
5 *Nickers, aka Shannon Dawn Nickels*, in Riverside County Superior Court, case number  
6 SWM1207797, a complaint was filed charging Respondent with violating Penal Code section  
7 488, theft. Respondent failed to appear at her arraignment on December 12, 2012 and a bench  
8 warrant was issued for her arrest. Respondent appeared at a hearing on June 14, 2013, and the  
9 court granted her motion for a continuance. Respondent was released on her own recognizance,  
10 but failed to appear at a hearing on July 22, 2013. A bench warrant was issued for Respondent's  
11 arrest.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 24468,  
16 issued to Shannon Caliva;
- 17 2. Ordering Shannon Caliva to pay the Board of Pharmacy the reasonable costs of the  
18 investigation and enforcement of this case, pursuant to Business and Professions Code section  
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: 9/3/13

  
23 VIRGINIA HEROLD  
24 Executive Officer  
25 Board of Pharmacy  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

SD2013705499