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

In the Matter of the Accusation Against:

Case No. 5357

PAMELA SUE DOXEY DONALDSON
32698 Clearvail Drive
Temecula, CA 92592

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Pharmacy Technician Registration No. TCH
22260**

Respondent.

FINDINGS OF FACT

1. On or about December 21, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5357 against Pamela Sue DoxeY Donaldson (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about May 7, 1997, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 22260 to Respondent. The Pharmacy Technician Registration expired on April 30, 2015, and has not been renewed.

1 3. On or about January 4, 2016, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5357, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 32698 Clearvail Drive
8 Temecula, CA 92592.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. 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 6. 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. 5357.

20 7. 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 8. 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. 5357, finds that
the charges and allegations in Accusation No. 5357, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 e. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
2 in that Respondent committed theft, an act of moral turpitude, dishonesty, fraud, deceit, or
3 corruption.

4 ORDER

5 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 22260, heretofore
6 issued to Respondent Pamela Sue Doxey Donaldson, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective at 5:00 p.m. on April 11, 2016.

12 It is so ORDERED on March 11, 2016.

13 BOARD OF PHARMACY
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

16 

17
18 By _____

19 Amy Gutierrez, Pharm.D.
20 Board President

21 81248710.DOC
22 DOJ Matter ID:SD2015802808

23 Attachment:
24 Exhibit A: Accusation
25
26
27
28

Exhibit A

Accusation

(PAMELA SUE DOXEY DONALDSON)

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Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
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Telephone: (619) 645-2634
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E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5357

13 **PAMELA SUE DOXEY DONALDSON**
14 **32698 Clearvail Drive**
Temecula, CA 92592

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **22260**

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 May 7, 1997, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 22260 to Pamela Sue Doxey Donaldson (Respondent). The Pharmacy
25 Technician Registration expired on April 30, 2015, and has not been renewed.

26 ///

27 ///

28 ///

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of the crime in
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the
4 qualifications, functions, and duties of the licensee in question.

5 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

6 10. Section 4301 of the Code states:

7 "The board shall take action against any holder of a license who is guilty of unprofessional
8 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

9 Unprofessional conduct shall include, but is not limited to, any of the following:

10 "...

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

14 "...

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

20 "...

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

23 "...

24 "(l) The conviction of a crime substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
27 substances or of a violation of the statutes of this state regulating controlled substances or
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

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

13 ". . .

14 "(p) Actions or conduct that would have warranted denial of a license.

15 ". . . . "

16 11. Section 4060 of the Code states:

17 "No person shall possess any controlled substance, except that furnished to a person upon
18 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
19 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
20 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
21 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
22 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
23 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
24 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
25 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
26 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
27 labeled with the name and address of the supplier or producer.

28

1 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
2 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
3 devices."

4 **REGULATORY PROVISIONS**

5 12. California Code of Regulations, title 16, section 1769, states:

6 "...

7 "(b) When considering the suspension or revocation of a facility or a personal license on the
8 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating
9 the rehabilitation of such person and his present eligibility for a license will consider the
10 following criteria:

11 "(1) Nature and severity of the act(s) or offense(s).

12 "(2) Total criminal record.

13 "(3) The time that has elapsed since commission of the act(s) or offense(s).

14 "(4) Whether the licensee has complied with all terms of parole, probation, restitution or
15 any other sanctions lawfully imposed against the licensee.

16 "(5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

24 **COSTS**

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

1 **DRUGS**

2 15. Soma is a brand name of Carisoprodol, a muscle relaxant. It is a Schedule IV
3 controlled substance and a dangerous drug pursuant to Code section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(September 25, 2015, Criminal Conviction for Grand Theft on November 4, 2014)**

6 16. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
7 (l) of the Code in that she was convicted of a crime substantially related to the qualifications,
8 functions, and duties of a licensee in the following respect:

9 17. On or about September 25, 2015, in a criminal proceeding entitled *People v.*
10 *Donaldson*, in California Superior Court, Riverside County, case number SWM1409634,
11 Respondent was convicted on her plea of guilty of violating Penal Code section 487, subdivision
12 (a), grand theft, a misdemeanor. As a result of a plea agreement, one count of violating Health
13 and Safety Code section 11350, unlawful possession of the controlled substance carisoprodol, a
14 misdemeanor, was dismissed.

15 18. As a result of the conviction, on or about September 25, 2015, Respondent was
16 sentenced to three years summary probation and ordered to pay restitution and to have no direct or
17 indirect contact with Rite Aid. By way of a December 29, 2014, order under Penal Code section
18 23, Respondent was further prohibited as a term of probation from engaging in any activity for
19 which a pharmacy technician registration is required.

20 19. The facts that led to the conviction are that on or about November 3, 2014, an officer
21 with the Murrieta Police Department responded to a radio call of theft at a Rite Aid pharmacy in
22 Murrieta. The officer arrived and spoke with the asset protection district manager of Rite Aid,
23 who advised that they had been investigating the mysterious shortage of Soma pills from their
24 store since the previous week. As a result, they had installed covert cameras in the pharmacy.
25 They reviewed the cameras on November 1, 2014, and saw Respondent, a pharmacy technician at
26 the Rite Aid, steal Soma pills. Further review of the surveillance showed Respondent stealing
27 over 100 Soma pills valued over \$1000.00.

1 cause for denial of a license to an applicant who committed an act of dishonesty with the intent to
2 substantially benefit herself or another.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Act of Moral Turpitude or Dishonesty)**

5 27. Complainant re-alleges and incorporates by reference the allegations set forth above
6 in paragraphs 16-26.

7 28. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
8 in that Respondent committed theft, an act of moral turpitude, dishonesty, fraud, deceit, or
9 corruption.

10 **PRAYER**

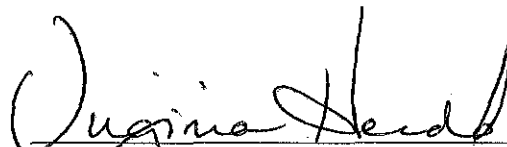
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 22260,
14 issued to Pamela Sue Doxey Donaldson;

15 2. Ordering Pamela Sue Doxey Donaldson to pay the Board of Pharmacy the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
17 section 125.3; and

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

19
20
21
22 DATED: 12/21/15



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

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