

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 5680

JAMAR AKEEM ABLES
66 Douglas
Clovis, CA 93611

DEFAULT DECISION AND ORDER

**Pharmacy Technician Registration No. TCH
129115**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about March 19, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5680 against Jamar Akeem Ables (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about May 10, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 129115 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5680 and will expire on October 31, 2016, unless renewed.

///

1 3. On or about April 7, 2016, Respondent was served by First Class Mail copies of the
2 Accusation No. 5680, Statement to Respondent, Notice of Defense, Request for Discovery, and
3 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's
4 address of record which, pursuant to Business and Professions Code section 4100, is required to
5 be reported and maintained with the Board. Respondent's address of record was and is:

6 66 Douglas
7 Clovis, CA 93611

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

11 5. On or about April 9, 2016 the aforementioned documents served by certified mail
12 were confirmed delivered by the U.S. Postal Service. The documents served by standard mail
13 have not been returned as undelivered.

14 6. Government Code section 11506(c) states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 5680.

23 8. California Government Code section 11520(a) states, in pertinent part:

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

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

///

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 5680, finds that
3 the charges and allegations in Accusation No. 5680, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$1,156.50, as of June 2, 2016.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Jamar Akeem Ables has
10 subjected his Pharmacy Technician Registration No. TCH 129115 to discipline.

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

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

15 a. Business and Professions Code, section 4301(l): Respondent engaged in
16 unprofessional conduct in that on or about July 9, 2015, in the criminal proceeding entitled
17 *People vs. Jamar Akeem Ables* (Fresno County Super. Ct., Case No. M15916176), Respondent
18 was convicted on his plea of nolo contendere of violating Penal Code section 484, subdivision (a)
19 (petty theft), a misdemeanor, a crime substantially related to the qualifications, functions, and
20 duties of a pharmacy technician. The circumstances of the crime are as follows: On or about

21 January 12, 2015, California Highway Patrol Officer B., while on duty in full uniform and
22 working a permanent assignment at the Fifth District Court of Appeal located in Fresno,
23 California, received a phone call from the Court's security guard. The security guard informed
24 Officer B. that a male subject, later identified as Respondent, just filed paperwork at the Clerk's
25 Office, then fled the Court in possession of state property, an x-ray machine screening bowl.
26 Respondent fled through the alarmed fire exit door of the main lobby, setting off an alarm.
27 Respondent ignored orders not to use the "fire only" exit door as well as two requests to return
28 the Court's property. Officer B. looked out the window and observed Respondent on the front

1 walkway on a skateboard. Officer B. immediately left the courthouse, got into his patrol vehicle,
2 and headed westbound on Santa Clara Street in pursuit of Respondent. At approximately 1420
3 hours, Officer B. located Respondent, activated the patrol vehicle's Code 3 lights, and positioned
4 the vehicle directly in Respondent's path. Officer B. exited the patrol vehicle and gave
5 Respondent a direct order to wait. Respondent refused, dropped his skateboard down to the road,
6 and skated around Officer B. Officer B. ordered Respondent to stop, but he refused. Officer B.
7 re-entered the patrol vehicle and proceeded westbound on Tulare Street in pursuit of Respondent.
8 Officer B. and another CHP officer caught up with Respondent as he was attempting to board a
9 bus. The officers detained Respondent and located the stolen x-ray machine security bowl
10 underneath his jacket. Later, Officer B. returned to the Court and reviewed the surveillance
11 video. The video showed Respondent in possession of the x-ray machine screening bowl.
12 Respondent was later charged with petty theft and resisting, obstructing, or delaying a peace
13 officer or EMT (the later charge was dismissed).

14 b. Business and Professions Code, section 4301(f): Respondent engaged in acts that
15 involve moral turpitude, dishonesty, fraud, deceit, or corruption.

16 c. Respondent failed to pay the fine associated with citation number CI 2014 61985,
17 after he did not challenge and appeal the citation. The circumstances of the citation are that on or
18 about December 22, 2014, the Board issued Citation and Fine No. CI 2014 61985 against
19 Respondent for violating section 4301, subdivisions (f) (acts of moral turpitude, dishonesty,
20 fraud, deceit or corruption), (g) (knowingly making or signing any certificate or other document
21 that falsely represents the existence or nonexistence of a state of facts), and (l) (conviction of a
22 crime substantially related to the practice of pharmacy). The Board ordered Respondent to pay a
23 fine of \$600 by January 21, 2015. Respondent failed to pay the citation and did not request a
24 hearing to challenge the citation. The circumstances of the citation are that on or about August
25 12, 2014, in the criminal proceeding entitled *People vs. Jamar Akeem Ables* (Fresno County
26 Super. Ct., Case No. F14905434), Respondent pled guilty to violating Penal Code sections 530.5,
27 subdivision (a) (identity theft), and 484e, subdivision (d) (acquisition of access card account
28 information), both misdemeanors. The conviction related to an incident on or about April 8,

1 2013, wherein Respondent used a bank debit card of another individual without permission, to
2 make purchases for himself. The imposition of Respondent's sentence was suspended and
3 Respondent was placed on conditional sentence probation for two years on terms and conditions,
4 including that he obey all laws and pay restitution to the victim in the amount of \$161.19.

5 **ORDER**

6 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 129115, heretofore
7 issued to Respondent Jamar Akeem Ables, is revoked.

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

12 This Decision shall become effective at 5:00 p.m. on August 12, 2016.

13 It is so ORDERED on July 13, 2016.

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

17 

18
19 By _____
20 Amy Gutierrez, Pharm.D.
Board President

21 12288381.DOC
22 DOJ Matter ID:SA2015105970

23 Attachment:
24 Exhibit A: Accusation

25
26
27
28

Exhibit A

Accusation

(JAMAR AKEEM ABLES)

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STANTON W. LEE
Deputy Attorney General
4 State Bar No. 203563
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-9921
Facsimile: (916) 324-5567
7 *Attorneys for Complainant*

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

10
11 In the Matter of the Accusation Against:

Case No. 5680

12 **JAMAR AKEEM ABLES**
66 Douglas
13 Clovis, CA 93611

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
129115

15 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 ("Board"), Department of Consumer Affairs.

21 2. On or about May 10, 2013, the Board issued Pharmacy Technician Registration
22 Number TCH 129115 to Jamar Akeem Ables ("Respondent"). The pharmacy technician
23 registration was in full force and effect at all times relevant to the charges brought herein and will
24 expire on October 31, 2016, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

5. Section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

6. Section 4301 states, in pertinent part:

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.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense

1 substantially related to the qualifications, functions, and duties of a licensee under this
2 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere is deemed to be a conviction within the meaning of this provision. The
4 board may take action when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under
7 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
9 dismissing the accusation, information, or indictment . . .

10
11 7. California Code of Regulations, title 16, section 1775.1, subdivision (d) states, in
12 pertinent part:

13 Failure of a person or entity cited to pay a fine within 30 days of the date
14 of assessment, unless the citation has been appealed, may result in disciplinary action
15 by the board.

16 COST RECOVERY

17 8. Section 125.3 provides, in pertinent part, that a Board may request the administrative
18 law judge to direct a licentiate found to have committed a violation or violations of the licensing
19 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
20 case.

21 FIRST CAUSE FOR DISCIPLINE

22 (Criminal Conviction)

23 9. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
24 section 4301, subdivision (l), in that on or about July 9, 2015, in the criminal proceeding entitled
25 *People vs. Jamar Akeem Ables* (Fresno County Super. Ct., Case No. M15916176), Respondent
26 was convicted on his plea of nolo contendere of violating Penal Code section 484, subdivision (a)
27 (petty theft), a misdemeanor, a crime substantially related to the qualifications, functions, and
28 duties of a pharmacy technician. The circumstances of the crime are as follows: On or about
January 12, 2015, California Highway Patrol Officer B., while on duty in full uniform and
working a permanent assignment at the Fifth District Court of Appeal located in Fresno,
California, received a phone call from the Court's security guard. The security guard informed
Officer B. that a male subject, later identified as Respondent, just filed paperwork at the Clerk's
Office, then fled the Court in possession of state property, an x-ray machine screening bowl.
Respondent fled through the alarmed fire exit door of the main lobby, setting off an alarm.

1 Respondent ignored orders not to use the "fire only" exit door as well as two requests to return
2 the Court's property. Officer B. looked out the window and observed Respondent on the front
3 walkway on a skateboard. Officer B. immediately left the courthouse, got into his patrol vehicle,
4 and headed westbound on Santa Clara Street in pursuit of Respondent. At approximately 1420
5 hours, Officer B. located Respondent, activated the patrol vehicle's Code 3 lights, and positioned
6 the vehicle directly in Respondent's path. Officer B. exited the patrol vehicle and gave
7 Respondent a direct order to wait. Respondent refused, dropped his skateboard down to the road,
8 and skated around Officer B. Officer B. ordered Respondent to stop, but he refused. Officer B.
9 re-entered the patrol vehicle and proceeded westbound on Tulare Street in pursuit of Respondent.
10 Officer B. and another CHP officer caught up with Respondent as he was attempting to board a
11 bus. The officers detained Respondent and located the stolen x-ray machine security bowl
12 underneath his jacket. Later, Officer B. returned to the Court and reviewed the surveillance
13 video. The video showed Respondent in possession of the x-ray machine screening bowl.
14 Respondent was later charged with petty theft and resisting, obstructing, or delaying a peace
15 officer or EMT (the later charge was dismissed). The above incident occurred while Respondent
16 was on probation for his criminal conviction of August 12, 2014, set forth in paragraph 10 below.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

19 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
20 section 4301, subdivision (f), in that Respondent committed an act involving moral turpitude,
21 dishonesty, fraud, deceit, or corruption, as set forth in paragraph 8 above.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Failure to Pay Fine)**

24 11. Respondent is subject to disciplinary action for failing to pay the fine associated with
25 citation number CI 2014 61985, after he did not challenge and appeal the citation in that on or
26 about December 22, 2014, the Board cited Respondent for multiple violations under the Business
27 and Professions Code, including sections 4301(f), (g), and (l). Thereafter, Respondent did not
28 appeal the citation and did not pay the citation by the January 21, 2015 deadline.

1 MATTERS IN AGGRAVATION

2 12. To determine the degree of discipline to be assessed against Respondent,
3 Complainant alleges as follows: On or about December 22, 2014, the Board issued Citation and
4 Fine No. CI 2014 61985 against Respondent for violating section 4301, subdivisions (f) (acts of
5 moral turpitude, dishonesty, fraud, deceit or corruption), (g) (knowingly making or signing any
6 certificate or other document that falsely represents the existence or nonexistence of a state of
7 facts), and (l) (conviction of a crime substantially related to the practice of pharmacy). The Board
8 ordered Respondent to pay a fine of \$600 by January 21, 2015. Respondent has failed to pay the
9 citation. On or about August 12, 2014, in the criminal proceeding entitled *People vs. Jamar*
10 *Akeem Ables* (Fresno County Super. Ct., Case No. F14905434), Respondent pled guilty to
11 violating Penal Code sections 530.5, subdivision (a) (identity theft), and 484e, subdivision (d)
12 (acquisition of access card account information), both misdemeanors. The imposition of
13 Respondent's sentence was suspended and Respondent was placed on conditional sentence
14 probation for two years on terms and conditions, including that he obey all laws and pay
15 restitution to the victim in the amount of \$161.19.

16 PRAYER

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

- 19 1. Revoking or suspending Pharmacy Technician Registration Number TCH 129115,
20 issued to Jamar Akeem Ables;

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 2. Ordering Jamar Akeem Ables to pay the Board of Pharmacy the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

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

5
6 DATED: 3/19/16

Virginia Herold

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SA2015105970