

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 NICHOLAS A. SANCHEZ
Deputy Attorney General
4 State Bar No. 207998
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
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. 3372

12 **RACQUEL LENORA JOHNSON**
13 **620 1/2 E. 87th Pl. #1**
Los Angeles, CA 90002

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 37600**

16 Respondent.

17
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 (Board), Department of Consumer Affairs.

22 2. On or about June 12, 2001, the Board issued Pharmacy Technician Registration
23 Number TCH 37600 to Racquel Lenora Johnson (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on February 28, 2011, 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 4. Section 475 of the Code states:

2 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
3 govern the denial of licenses on the grounds of:

4 ...

5 "(2) Conviction of a crime.

6 ...

7 "(b) Notwithstanding any other provisions of this code, the provisions of this division shall
8 govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2)
9 of subdivision (a)."

10 ...

11 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
12 revoke a license on the ground that the licensee has been convicted of a crime substantially
13 related to the qualifications, functions, or duties of the business or profession for which the
14 license was issued

15 6. Section 493 of the Code states:

16 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
17 the department pursuant to law to deny an application for a license or to suspend or revoke a
18 license or otherwise take disciplinary action against a person who holds a license, upon the
19 ground that the applicant or the licensee has been convicted of a crime substantially related to the
20 qualifications, functions, and duties of the licensee in question, the record of conviction of the
21 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
22 and the board may inquire into the circumstances surrounding the commission of the crime in
23 order to fix the degree of discipline or to determine if the conviction is substantially related to the
24 qualifications, functions, and duties of the licensee in question.

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

26 7. Section 4300 of the Code states:

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

28 ...

1 8. Section 4301 of the Code states:

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

5 ...

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

9 ...

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

27 ...

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

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REGULATORY PROVISIONS

9. 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."

COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under Code section 4301, subdivisions (l) and (p), in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. The circumstances are as follows:

a. On or about May 12, 2008, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 12025, subdivision (a)(1) [carrying a concealed firearm within any vehicle which is under his or her control or direction] in the criminal proceeding entitled *The People of the State of California v. Racquel Lenora Johnson* (Super. Ct. Los Angeles County, 2008, No. LACBA33844601). Respondent was sentenced to five days in Jail and placed on probation for two years with terms and conditions. The circumstances surrounding the conviction are that on or about March 29, 2008, Respondent was a passenger in a vehicle that was stopped during an investigation by two Los Angeles Police

1 Officers. During the investigation, a purse belonging to Respondent was recovered containing a
2 stolen loaded 45-cal pistol.

3 **SECOND CAUSE FOR DISCIPLINE**
4 **(Commission of Any Act Involving Moral Turpitude,**
5 **Dishonesty, Fraud, Deceit, or Corruption)**

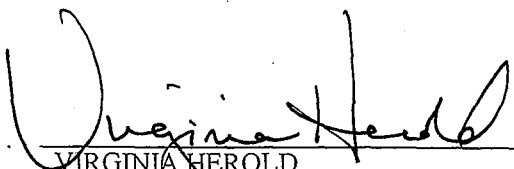
6 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
7 that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or
8 corruption, in that on or about March 29, 2008, she concealed a loaded stolen firearm in her
9 purse. Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraph 11, as though fully set forth herein.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician License No. TCH 37600, issued to
15 Respondent;
- 16 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
17 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 3/18/10


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

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