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

11 In the Matter of the Accusation Against:

Case No. 3518

12 **SAMANTHA L. LOOKMAN**
13 17586 Orange Dr.
14 Yorba Linda, CA 92886

A C C U S A T I O N

15 **Pharmacy Technician License No. TCH**
16 **77115**

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 October 31, 2007, the Board of Pharmacy issued Pharmacy Technician
24 license Number TCH 77115 to Samantha L. Lookman (Respondent). The Pharmacy Technician
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on January 31, 2011, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300 of the Code states:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

11 (4) Revoking his or her license.

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

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14 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
15 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
16 disciplinary action during the period within which the license may be renewed, restored, reissued
17 or instated.

18 **STATUTORY AND REGULATORY PROVISIONS**

19 6. Section 482 of the Code states:

20 Each board under the provisions of this code shall develop criteria to evaluate the
21 rehabilitation of a person when:

22 (a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

23 Each board shall take into account all competent evidence of rehabilitation
24 furnished by the applicant or licensee.

25 7. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
26 on the ground that the licensee has been convicted of a crime substantially related to the
27 qualifications, functions, or duties of the business or profession for which the license was issued.

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1 8. Section 4060 provides that "No person shall possess any controlled substance, except
2 that furnished to a person upon the prescription of a physician, dentist, podiatrist, or
3 veterinarian...."

4 9. Section 4301 of the Code states:

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

9 ...

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

12 ...

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

10. Title 16, CCR, section 1769 provides:

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

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution
or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

9 12. Health and Safety Code section 11364 states:

10 (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or
11 paraphernalia used for unlawfully injecting or smoking (1) a controlled substance
12 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section
13 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054,
14 specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of
15 subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic
16 drug classified in Schedule III, IV, or V.

17

18 DRUGS

19 13. **Methamphetamine** is a Schedule II controlled substance as designated by Health and
20 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
21 Code section 4022.

22 14. **Cocaine** is a Schedule II controlled substance as designated by Health and Safety
23 Code section 11055(b)(6), and is a dangerous drug pursuant to Business and Professions Code
24 section 4022.

25 15. **Ecstasy**, or MDMA (3,4-methylenedioxyamphetamine), is a Schedule I
26 controlled substance as designated by Health and Safety Code section 11054(d), and is a
27 dangerous drug pursuant to Business and Professions Code section 4022.

28 16. **Vicodin**, a brand name for acetaminophen and hydrocodone bitartrate, is a Schedule
III controlled substance as designated by Health and Safety Code Section 11056, and is a
dangerous drug pursuant to Business and Professions Code section 4022.

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1 FIRST CAUSE FOR DISCIPLINE

2 (April 10, 2009 Conviction of Possession of Controlled Substance Paraphernalia on
3 December 3, 2008)

4 17. Respondent is subject to disciplinary action under Code sections 4301(l) and 490, for
5 conviction of a crime that is substantially related to the qualifications, functions and duties of a
6 pharmacy technician in that on April 10, 2009, in *People of the State of California v. Samantha*
7 *Lynn Lookman*, Orange County Superior Court, Case No. 08CM13609, Respondent was
8 convicted on her guilty plea of violation of Health and Safety Code section 11364, possession of
9 drug paraphernalia.

10 18. The circumstances are as follows. On or about December 3, 2008, an officer of the
11 Orange Police Department conducted a traffic stop of Respondent's vehicle because of an
12 extinguished license plate lamp in violation of Vehicle Code section 24601. During the traffic
13 stop, the officer identified the passenger of Respondent's vehicle as S.E., who was on probation
14 for hit and run. The officer approached S.E. and asked him whether he had anything illegal on his
15 person. S.E. denied possessing any illegal item and consented to a search. The officer
16 approached Respondent and asked her if she had anything illegal on her person or in the vehicle.
17 Respondent denied possessing any illegal item and consented to a search of her person and
18 vehicle. During the search, the police officer found a straight glass pipe with a bulbous end,
19 known by the officer, from his training and experience, to be used for smoking
20 methamphetamine. Respondent was arrested and charged with violation of Health and Safety
21 Code 11364, possession of controlled substance paraphernalia.

22 19. On April 10, 2009, Respondent entered a guilty plea. Under Penal Code section
23 1000, *et seq.* judgment was deferred for 18 months and Respondent was required to complete a
24 deferred entry of judgment drug treatment program. On December 7, 2009, Respondent was
25 terminated from the deferred entry of judgment program and was sentenced to 3 years informal
26 probation and was required to complete a drug rehabilitation program.

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1 the purse was a small, pink, zippered case. The officer opened the case and found make up, and a
2 small, blue Ziploc bag containing a white rock. The officer conducted a narcotics field test of the
3 white rock at the scene and it tested positive for cocaine.

4 27. The officer unlocked the center console and found a colored glass pipe, a red straw
5 with white residue inside, a small metal scale and a Ziploc bag containing 2 blue pills, each with
6 Mickey Mouse printed on one side. The blue pills were tested at the station and tested positive
7 for opium alkaloid/codeine/amphetamine, and were identified by the officer as Ecstasy.

8 **PRAYER**

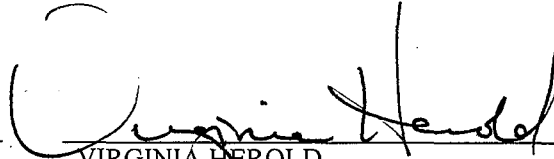
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Pharmacy issue a decision:

11 1. Revoking or suspending Pharmacy Technician license Number TCH 77115, issued to
12 Samantha L. Lookman;

13 2. Ordering Samantha L. Lookman to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3; and,

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

17
18 DATED: 3/15/10


19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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