

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3638

11 **TAJZA MONET-MAXINE HOUSTON**
12 **3100 Martin Luther King Jr. Way**
13 **Berkeley, CA 94703**

ACCUSATION

14 **Pharmacy Technician License No. TCH 83930**

15 Respondent.

16 Complainant alleges:
17

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, Department of Consumer Affairs.
21 2. On or about July 14, 2008, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 83930 to Tajza Monet-Maxine Houston (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on October 31, 2011, unless renewed.

25 JURISDICTION

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

1. 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.]. Section 4300(a) of the Code provides that every
4 license issued by the Board may be suspended or revoked.

5 5. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
7 disciplinary action during the period within which the license may be renewed, restored, reissued
8 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
9 renewed within three years following its expiration may not be renewed, restored, or reinstated
10 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
11 the Code provides that any other license issued by the Board may be canceled by the Board if not
12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
13 reissued but will instead require a new application to seek reissuance.

14 STATUTORY AND REGULATORY PROVISIONS

15 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
16 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
17 not be limited to, any of the following:

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

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

23 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
24 of a licensee under this chapter.

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by
28 the board or by any other state or federal regulatory agency.

1 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
2 revoke a license when it finds that the licensee has been convicted of a crime substantially related
3 to the qualifications, functions or duties of the license.

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

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

11 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
12 drug or dangerous device except upon the prescription of an authorized prescriber.

13 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
14 controlled substance, except that furnished upon a valid prescription/drug order.

15 11. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
16 a controlled substance in Schedule I, subdivision(s) (b), (c), or (f)(1), Schedule II, subdivision(s)
17 (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

18 12. Health and Safety Code section 11351.5, in pertinent part, makes it unlawful to
19 possess for sale or purchase for purposes of sale, cocaine base (aka rock/crack cocaine) as
20 specified in (Schedule I) Health and Safety Code section 11054(f)(1).

21 13. Health and Safety Code section 11352, in pertinent part, makes it unlawful to offer to,
22 attempt to, or succeed in transporting, importing, selling, furnishing, administering, or giving
23 away, a controlled substance in Schedule I, subdivision(s) (b), (c), (e), or (f)(1).

24 14. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any
25 person to possess **marijuana** or concentrated cannabis.

26 15. Health and Safety Code section 11359, in pertinent part, makes it unlawful for any
27 person to possess **marijuana** for purposes of sale.

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1 COST RECOVERY

2 16. 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 of the licensing
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

5 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

6 17. Section 4021 of the Code states:

7 “Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
8 11053) of Division 10 of the Health and Safety Code.”

9 18. Section 4022 of the Code states, in pertinent part:

10 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
11 except veterinary drugs that are labeled as such, and includes the following:

12 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
13 prescription,’ ‘Rx only,’ or words of similar import. . . .

14 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
15 prescription or furnished pursuant to Section 4006.”

16 19. **Cocaine** is a Schedule I (in base/rock/crack form) or Schedule II controlled substance
17 as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous
18 drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

19 20. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
20 Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions
21 Code section 4022. It is a hallucinogenic drug.

22 FACTUAL BACKGROUND

23 21. On or about April 21, 2009, San Francisco Police observed Respondent participating
24 in at least two transactions in which she exchanged/sold base (rock/crack) cocaine for cash.

25 22. On or about December 18, 2009, Respondent was interrupted by San Francisco Police
26 in the midst of a transaction in which she exchanged/sold or purchased/bought base (rock/crack)
27 cocaine for cash. A search of her person also found twenty-two (22) small bags of **marijuana**.
28 Respondent admitted to being in the business of selling **marijuana**.

1 23. On or about December 23, 2009, on the basis of the incidents described in paragraphs
2 21 and 22, Respondent was charged in *People v. Tajza Monet Maxine Houston, Jasnique V.*
3 *Williams*, Case No. 9000728 in San Francisco County Superior Court, with violating (1) Health
4 and Safety Code section 11352(a) (Sale or Giving Away of Controlled Substance – base **cocaine**),
5 a felony; (2) Health and Safety Code section 11352(a) (Sale or Giving Away of Controlled
6 Substance – base **cocaine**), a felony; (3) Health and Safety Code section 11351.5 (Possession for
7 Sale of **Cocaine** Base), a felony; and (4) Health and Safety Code section 11359 (Possession of
8 **Marijuana** For Sale), a felony. Those charges are still pending.

9
10 FIRST CAUSE FOR DISCIPLINE

11 (Furnishing of Controlled Substance)

12 24. Respondent is subject to discipline under section(s) 4301(j), (o) and/or 4059 of the
13 Code, in that Respondent, as described in paragraph(s) 21 and/or 22 above, furnished, conspired
14 to furnish, and/or assisted/abetted furnishing a controlled substance, without a valid prescription.

15
16 SECOND CAUSE FOR DISCIPLINE

17 (Possession of Controlled Substance)

18 25. Respondent is subject to discipline under section section(s) 4301(j), (o) and/or 4060
19 of the Code, and/or Health and Safety Code section(s) 11350 and/or 11357, in that Respondent, as
20 described in paragraph(s) 21 and/or 22 above, possessed, conspired to possess, and/or assisted in
21 or abetted possession of, a controlled substance, without a prescription.

22
23 THIRD CAUSE FOR DISCIPLINE

24 (Possession for Sale or Giving Away of Controlled Substance)

25 26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
26 and/or Health and Safety Code section(s) 11351.5 and/or 11359, in that Respondent, as described
27 in paragraph(s) 21 and/or 22 above, possessed or purchased, conspired to possess or purchase,
28 and/or assisted/abetted possession or purchase, of a controlled substance for sale.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Transporting, Selling, or Giving Away Controlled Substance)

3 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section 11352, in that Respondent, as described in paragraph(s) 21
5 and/or 22 above, transported, imported, sold, furnished, administered, or gave away, or offered,
6 attempted, conspired, and/or assisted/abetted any of these actions, as to a controlled substance.

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8 FIFTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

10 28. Respondent is subject to discipline under section 4301 of the Code in that
11 Respondent, as described in paragraphs 21 to 27 above, engaged in unprofessional conduct.

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13 PRAYER

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

- 16 1. Revoking or suspending Pharmacy Technician License No. TCH 83930, issued to
- 17 Tajza Monet-Maxine Houston (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

21
22 DATED: 9/23/10



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

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