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

11 In the Matter of the Accusation Against:

Case No. 3705

12 **SIMONE GIZELLE MCGEE**
13 **4114 Misty Trail Drive**
Stockton, California 95206

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH**
15 **70844**

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, Department of Consumer Affairs.

22 2. On or about September 19, 2006, the Board of Pharmacy issued Pharmacy Technician
23 License No. TCH.70844 to Simone Gizelle McGee (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2012, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board of Pharmacy (Board), Department
3 of 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, in pertinent part:

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
9 the following methods:

10 “(1) Suspending judgment.

11 “(2) Placing him or her upon probation.

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

13 “(4) Revoking his or her license.

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

16 5. Section 4301 of the Code states, in pertinent part:

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

21 ...

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

27 ...

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1 (j) The violation of any of the statutes of this state or of the United States
2 regulating controlled substances and dangerous drugs.

3 ...

4 (p) Actions or conduct that would have warranted denial of a license.”

5 6. Business & Professions Code section 4300, subdivision (c), provides that
6 “the board may refuse a license to any applicant guilty of unprofessional conduct”.

7 7. Health and Safety Code section 11170 provides “that no person shall
8 prescribe, administer or furnish a controlled substance for himself.”

9 8. Business & Professions Code section 4021 provides that “‘controlled
10 substance’ means any substance listed in Chapter 2 (commencing with Section 11053 of Division
11 10 of the Health & Safety Code”.

12 9. Penal Code section 11364(a) provides, “it is unlawful to possess an
13 opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting
14 or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of
15 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of
16 Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2)
17 of subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug classified
18 in Schedule III, IV, or V.”

19 10. Methamphetamine is a Schedule II controlled substance pursuant to
20 Health and Safety Code section 11055(d)(2).

21 11. Section 111, subdivision (b) provides in pertinent part that “the
22 suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
23 department, or its suspension, forfeiture, or cancellation by order of the board or by order of a
24 court of law, or its surrender without the written consent of the board, shall not, during any period
25 in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to
26 institute or continue a disciplinary proceeding against the licensee upon any ground provided by
27 law or to enter an order suspending or revoking the license or otherwise taking disciplinary action
28 against the licensee on any such ground”.

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

5 FIRST CAUSE FOR DISCIPLINE

6 (Violation of Drug Laws of California and Act that would Warrant Denial of a License)

7 13. Respondent is subject to disciplinary action for unprofessional conduct
8 under Sections 4301(j) and 4301(p) in that on or about August 30, 2008, Respondent possessed a
9 "crank pipe" in violation of Penal Code section 11364, and on or about August 29, 2008, utilized
10 a "crank pipe" to self-administer methamphetamine in violation of Health & Safety Code section
11 11070.

12 SECOND CAUSE FOR DISCIPLINE

13 (Self-Administration of Controlled Substances to Extent or in a Manner Dangerous)

14 14. Respondent is subject to disciplinary action for unprofessional conduct
15 under Sections 4301(h) and 4301(p) in that on or about August 29, 2008, Respondent utilized a
16 "crank pipe" to smoke methamphetamine in violation of Health & Safety Code section 11070,
17 self-administration of controlled substances to an extent or in a manner dangerous to Respondent
18 and impairs her ability to conduct with safety her practice as a pharmacy technician.

19 PRAYER

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

22 A. Revoking or suspending Pharmacy License No. TCH 70844, issue to
23 Respondent Simone Gizelle McGee;

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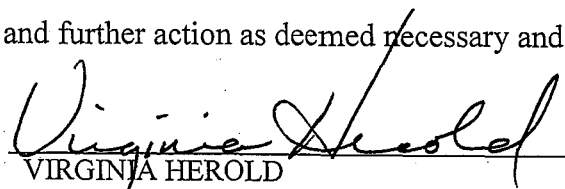
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B. Ordering Respondent to reimburse the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as deemed necessary and proper.

DATED: 6/9/10



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

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