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

12 In the Matter of the Accusation Against:

Case No. 3817

13 **SHAKE MOSKAVIAN**
14 **a.k.a., JESSICA MOSKAVIAN**
15 **a.k.a., JESSICA MONIKER**
200 N. Grand Ave. #296
West Covina, CA 91791

A C C U S A T I O N

16 Pharmacy Technician Registration
No. TCH 44114

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 August 30, 2002, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 44114 to Shake Moskavian, also known as Jessica Moskavian
25 and Jessica Moniker (Respondent). The Pharmacy Technician Registration was in full force and
26 effect at all times relevant to the charges brought herein and will expire on December 31, 2011,
27 unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license
6 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period
7 within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 4060 states, in pertinent part:

9 "No person shall possess any controlled substance, except that furnished to a person upon
10 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
11 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
12 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
13 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
14 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
15 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
16 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
17 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
18 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
19 labeled with the name and address of the supplier or producer."

20 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
21 subject to discipline, including suspension or revocation.

22 7. Section 4301 states, in pertinent part:

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

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

6

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

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

COST RECOVERY

8. Section 125.3 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

1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **CONTROLLED SUBSTANCE**

4 9. "Methamphetamine," is a Schedule II controlled substance as defined in Health and
5 Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug pursuant to
6 section 4022.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Substantially related conviction)**

9 10. Respondent is subject to disciplinary action under section 4301(l) of the Code in that
10 she was convicted of a crime that is substantially related to the qualifications, duties, and
11 functions of a pharmacy technician. The circumstances are as follows:

12 a. On or about April 21, 2011, Respondent was convicted of one felony count of
13 violating Health and Safety Code section 11379, subdivision (a) [transportation, sale, furnishing
14 of a controlled substance] in the criminal proceeding entitled *The People of the State of California*
15 *v. Shake Moskavian* (Super. Ct., Los Angeles County, 2011, Case no. KA093448). As a result of
16 the conviction, Respondent was sentenced to three years formal probation, to pay all applicable
17 fines, fees and restitution and to serve 180 days in jail.

18 b. The circumstances of the conviction are that Respondent was found to be in
19 possession of a controlled substance on or about December 1, 2009, during a traffic stop by the
20 Glendora Police Department. Respondent admitted that the methamphetamine inside her vehicle
21 was for her own personal use. Respondent also admitted that she had a concealed glass
22 methamphetamine pipe on her person, and that she had been selling methamphetamine for
23 approximately six months.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct-Possession of a Controlled Substance)**

26 11. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
27 (o), for violating section 4060 in that on or about December 1, 2009, Respondent violated the
28 California Uniform Controlled Substances Act Health and Safety Code 11000, et seq.) by

1 possessing methamphetamine, a controlled substance and dangerous drug. Complainant refers
2 to, and by this reference incorporates, the allegations set forth above in paragraph 10b, as though
3 set forth fully.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Use/Under the Influence of a Controlled Substance)**

6 12. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and
7 (j), in that on or about December 1, 2009, Respondent, used and/or was under the influence of a
8 controlled substance. Complainant refers to, and by this reference incorporates, the allegations
9 set forth above in paragraph 10b, as though set forth fully.

10 **DISCIPLINARY CONSIDERATIONS**

11 13. In order to determine the degree of discipline, if any to be imposed on Respondent,
12 Complainant alleges the following:

13 a. On or about October 21, 2009, the Board issued Citation and Fine No.
14 CI 2007 36513 to Respondent for violating section 4301, subdivision (f), resulting in the issuance
15 of a \$1,000.00 fine. The citation alleged that Respondent's conduct constituted unprofessional
16 conduct in violation of 4301(f) in that on or about April 20, 2007 and January 16, 2008,
17 Respondent was arrested on bench warrants for failure to appear at previously scheduled court
18 hearings for violating Vehicle Code section 14601.1, subdivision (a) [driving on a suspended
19 license]. Also, on April 20, 2007, Respondent was arrested for violations of HS 11364(a)
20 [possession of drug paraphernalia].

21 b. On or about April 20, 2007, Respondent was arrested for violating Health and Safety
22 Code section 11364, subdivision (a) [possession of drug paraphernalia] and on August 2, 2007,
23 Respondent pled guilty to one count of HS 11364 subdivision (a) and was granted a deferred
24 entry of judgment for 24 months in the criminal proceeding entitled *The People of the State of*
25 *California v. Shake Moskavian* (Super. Ct., Los Angeles County, 2007, No. 7JB03731).

26 c. Moreover, on or about July 25, 2007, after pleading nolo contendere, Respondent was
27 convicted of one misdemeanor count of violating Vehicle Code 12500, subdivision (a) [driving
28 without a valid driver's license] in the criminal proceeding entitled *The People of the State of*

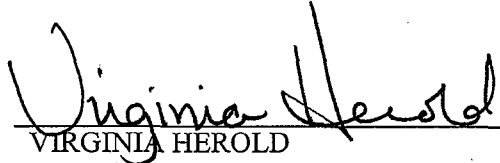
1 *California v. Shake Moskavian* (Super. Ct., Los Angeles County, 2007, No. 7PS01747). The
2 Court placed Respondent on 1 year probation, with terms and conditions. The circumstances
3 surrounding the conviction are that on or about February 13, 2007, Respondent drove a vehicle
4 without a valid driver's license.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board issue a decision:

- 8 1. Revoking or suspending Pharmacy Technician Registration No. TCH 44114, issued
9 to Respondent;
- 10 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
11 enforcement of this case, pursuant to section 125.3; and
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 8/15/11


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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