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8 *Attorneys for Complainant*

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

11
12 In the Matter of the Accusation Against:
13 **COURTNEY JANELLE PERKINS**
336 W. Guiberson Road
14 Fillmore, CA 93015
15 **Pharmacy Technician Registration**
No. TCH 109414
16
17 Respondent.

Case No. 4262

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

20 1.a 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 (“Board”).

22 2.a On or about January 12, 2011, the Board issued Pharmacy Technician Registration
23 No. TCH 109414 to Courtney Janelle Perkins (“Respondent”). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 expired on February 29, 2012, and has not been renewed.

26 **JURISDICTION**

27 3.a 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 (“Code”) unless otherwise

1 indicated.

2 4. Section 4011 of the Code provides:

3 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
4 Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10
5 commencing with Section 11000) of the Health and Safety Code.)"

6 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
7 revoke a license issued by the Board.

8 6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or
9 suspension of a board-issued license by operation of law or by order or decision of the board or a
10 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
11 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
12 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
13 suspending or revoking the license."

14 **STATUTORY PROVISIONS**

15 7. Section 490 of the Code states, in pertinent part:

16 "(a) In addition to any other action that a board is permitted to take against a licensee, a
17 board may suspend or revoke a license on the ground that the licensee has been convicted of a
18 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
19 or profession for which the license was issued.

20 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
21 discipline a licensee for conviction of a crime that is independent of the authority granted under
22 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
23 of the business or profession for which the licensee's license was issued.

24 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
25 conviction following a plea of nolo contendere. Any action that a board is permitted to take
26 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
27 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
28 made suspending the imposition of sentence, irrespective of a subsequent order under the

1 provisions of Section 1203.4 of the Penal Code."

2 8. Section 493 of the Code states:

3 "Notwithstanding any other provision of law, in a proceeding conducted by a
4 board within the department pursuant to law to deny an application for a license or to
5 suspend or revoke a license or otherwise take disciplinary action against a person who
6 holds a license, upon the ground that the applicant or the licensee has been convicted
7 of a crime substantially related to the qualifications, functions, and duties of the
8 licensee in question, the record of conviction of the crime shall be conclusive
9 evidence of the fact that the conviction occurred, but only of that fact, and the board
10 may inquire into the circumstances surrounding the commission of the crime in order
11 to fix the degree of discipline or to determine if the conviction is substantially related
12 to the qualifications, functions, and duties of the licensee in question."

13 As used in this section, "license" includes "certificate," "permit," "authority," and
14 "registration."

15 9. Section 4301 of the Code states, in pertinent part:

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

19

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

23

24 "(l) The conviction of a crime substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
27 substances or of a violation of the statutes of this state regulating controlled substances or
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
2 The board may inquire into the circumstances surrounding the commission of the crime, in order
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
4 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
7 of this provision. The board may take action when the time for appeal has elapsed, or the
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
12 indictment.

13

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

18 **REGULATORY PROVISION**

19 10. California Code of Regulations, title 16, section 1770, states:

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

26 **COST RECOVERY**

27 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

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

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially-Related Crime)**

5 12. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
6 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section
7 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime
8 substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

9 a. On or about June 30, 2011, after pleading *nolo contendere*, Respondent was
10 convicted of one misdemeanor count of violating Penal Code section 487, subdivision (b)(3)
11 [grand theft by servant, etc.], in the criminal proceeding entitled *The People of the State of*
12 *California v. Courtney Janelle Perkins* (Super. Ct. Ventura County, 2011, No. 2011006276 MA).
13 The court sentenced Respondent to serve 20 days in jail, placed on probation for a period of 12
14 months, and ordered her to pay a fine and restitution.

15 b. The circumstances surrounding the conviction are that on or about February 18, 2011,
16 an Oxnard Police Department Officer was dispatched to Von's grocery store located in the city of
17 Oxnard, California, regarding a theft. During the investigation, the Loss Prevention Officer
18 pointed out nine specific events under video surveillance of which a female cashier, later
19 identified as the Respondent, was observed removing currency from the cash register placing into
20 the pockets on her person. The Loss Prevention Officer advised he had a total of thirteen incidents
21 when the cash registers came up short. The audit revealed a total of \$2,400.00 was missing from
22 Respondent's cash register from the time that she had been confronted. The Respondent admitted
23 to the officer that she had stolen the money to pay, "unexpected medical bills, and was so sorry."
24 The Respondent was subsequently arrested for violating Penal Code section, 487 (b)(3).

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

27 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
28 subdivision (f) of the Code, on the grounds of unprofessional conduct as Respondent committed

1 an act involving moral turpitude, dishonesty, fraud, deceit and corruption, whether the act was
2 committed in the course of relations as a licensee or otherwise, and whether the act is a felony or
3 misdemeanor or not. Complainant refers to, and by this reference incorporates, the allegations set
4 forth above in paragraph 12 as though set forth fully.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violation of Pharmacy Act)**

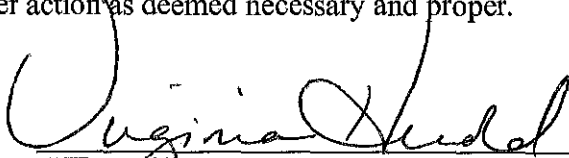
7 14. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
8 Code, on the grounds of unprofessional conduct, in that Respondent was convicted of a crime and
9 committed an act that was in violation of the Pharmacy Act. Complainant refers to, and by this
10 reference incorporates, the allegations set forth above in paragraphs 12 through 13, inclusive, as
11 though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration No. TCH 109414, issued
16 to Courtney Janelle Perkins;
- 17 2. Ordering Courtney Janelle Perkins to pay the Board the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 7/18/13


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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