BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LESLIE J. DES ROCHES 1106 Reggio Place Pomona, CA 91766 Original Pharmacy Technician Registration No. TCH 36106 Respondent.	Case No. 2846 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 15, 2005, Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), filed Accusation No. 2846 against Leslie J. Des Roches (Respondent) before the Board.

2. On or about February 23, 2001, the Board issued Original Pharmacy Technician Registration No. TCH 36106 to Respondent. The Original Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

3. On or about April 21, 2005, Judith A. Baerresen, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2846, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 1106 Reggio Place, Pomona, CA 91766. A copy of the Accusation is attached

as exhibit A and is incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2846.

7. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibit A and finds that the allegations in Accusation No. 2846 are true.

9. The total costs for investigation and enforcement are $1,172.75 as of May 31, 2005.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Leslie J. Des Roches has subjected her Original Pharmacy Technician Registration No. TCH 36106 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Pharmacy is authorized to revoke Respondent's Original Pharmacy Technician Registration based upon the following violations alleged in the Accusation:

a. Business and Profession Code section 4301, subdivision (j) - for possession of a controlled substance.

ORDER

IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH 36106, heretofore issued to Respondent Leslie J. Des Roches, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 5, 2005.

It is so ORDERED July 6, 2005

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Attachment:

Exhibit A: Accusation No.2846

By _____
STANLEY W. GOLDENBERG
Board President

DOJ docket number:03583110-LA2005500532
50043020.wpd

Exhibit A

Accusation No. 2846

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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: LESLIE J. DES ROCHES 1106 Reggio Place Pomona, CA 91766 Original Pharmacy Technician Registration No. TCH 36106 Respondent.	Case No. 2846 **A C C U S A T I O N**

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

2. On or about February 23, 2001, the Board issued Original Pharmacy Technician Registration No. TCH 36106 to Leslie J. Des Roches (Respondent). The pharmacy technician registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

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JURISDICTION

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

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

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

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

. . .

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

6. Section 4060 states:

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

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices."

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7. Section 125.3 of the Code 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 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DANGEROUS DRUGS/CONTROLLED SUBSTANCES

8. **Methamphetamine** is a Schedule II controlled substances as defined in Health and Safety Code section 11055(d)(2), and is categorized as a dangerous drug pursuant to section 4022 of the Code.

CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance)

9. Respondent is subject to disciplinary action under Code sections 4300 and 4301(j) on the grounds of unprofessional conduct for violating section 4060 of the Code, in that Respondent was in possession of a controlled substance. The circumstances are as follows:

10. On or about July 27, 2004, Los Angeles Police Department officers arrested Respondent for possession of a controlled substance. Respondent admitted that she had a glass pipe and a jar containing "meth."

PRAYER

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

1. Revoking or suspending Original Pharmacy Technician Registration No. TCH 36106, issued to Leslie J. Des Roches;

2. Ordering Leslie J. Des Roches to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/15/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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