

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

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 RONALD ANDRE BLACKWELL
13 275 Boylston Street
14 San Francisco, CA 94134

15 Pharmacy Technician License No. TCH 50387

16 Respondent.

Case No. 3051

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

17 FINDINGS OF FACT

18 1. On or about August 12, 2003, the Board of Pharmacy issued Pharmacy
19 Technician License No. TCH 50387 to Ronald Andre Blackwell (Respondent). The Pharmacy
20 Technician License was in full force and effect at all times relevant to the charges brought herein.
21 The License expired on March 31, 2007, and has not been renewed.

22 2. On or about February 23, 2007, Complainant Virginia Herold, in her
23 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
24 Consumer Affairs, filed Accusation No. 3051 against Respondent before the Board.

25 3. On or about February 26, 2007, Fe M. Domingo, an employee of the
26 Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3051, a
27 Statement to Respondent, two copies of a Notice of Defense, a Request for Discovery, and copies
28 of Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record

1 with the Board, which was and is 275 Boylston Street, San Francisco, CA 94134. A copy of the
2 Accusation, the related documents, and the Declaration of Service are attached as exhibit A, and
3 are incorporated herein by reference.

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

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

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

11 6. Respondent failed to file a Notice of Defense within 15 days after service
12 upon him of, and therefore waived his right to a hearing on the merits of, Accusation No. 3051.

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

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

17 8. Pursuant to its authority under Government Code section 11520, the Board
18 finds Respondent is in default. The Board will take action without further hearing and, based on
19 Respondent's express admissions by way of default and the evidence before it, finds that the
20 allegations in Accusation No. 3051 are true.

21 9. The total costs for investigation and enforcement are \$2,453.50 as of April
22 23, 2007.

23 DETERMINATION OF ISSUES

24 1. Based on the foregoing findings of fact, Respondent Ronald Andre
25 Blackwell has subjected his Pharmacy Technician License No. TCH 50387 to discipline.

26 2. A copy of the Accusation and the related documents and Declaration of
27 Service are attached.

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

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

3 a. In violation of Business and Professions Code section 4301(l) and
4 California Code of Regulations, title 16, section 1770, Respondent was convicted, on or about
5 October 17, 2005, of a crime substantially related to pharmacy practice, pursuant to a plea of *nolo*
6 *contendere* to violating Penal Code section 484 [Theft], a misdemeanor, in a criminal proceeding
7 in San Mateo County Superior Court titled *People v. Ronald Andre Blackwell Jr.*, Case No. NM
8 347643A, a conviction arising out of Respondent's conduct in December 2004 and January 2005
9 of stealing controlled substances and dangerous drugs including **Vicodin** or other **hydrocodone-**
10 **containing drugs, Tylenol with Codeine No. 3, Tylenol with Codeine No. 4, and Viagra** from a
11 Walgreens Pharmacy by which Respondent was employed as a pharmacy technician, and selling
12 the stolen drugs on the street for cash;

13 b. In violation of Business and Professions Code section 4301(f),
14 Respondent, as described in paragraph 4(a) above, committed acts involving moral turpitude,
15 dishonesty, fraud, deceit or corruption;

16 c. In violation of Business and Professions Code sections 4301(j)
17 and/or 4301(o), Respondent, as described in paragraph 4(a) above, violated, attempted to violate,
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, not a pharmacist, sold,
20 furnished, or dispensed to others, dangerous drugs, in violation of section 4051 of the Code;

21 d. In violation of Business and Professions Code sections 4301(j)
22 and/or 4301(o), Respondent, as described in paragraph 4(a) above, violated, attempted to violate,
23 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
24 and dangerous drugs and/or laws governing pharmacy, when Respondent furnished/dispensed to
25 himself or to others, without valid prescriptions, controlled substances and/or dangerous drugs, in
26 violation of section 4059 of the Code;

27 ///

28 ///

1 e. In violation of Business and Professions Code sections 4301(j)
2 and/or 4301(o), Respondent, as described in paragraph 4(a) above, violated, attempted to violate,
3 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
4 and dangerous drugs and/or laws governing pharmacy, when Respondent possessed, without
5 valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of
6 the Code and/or Health and Safety Code section 11350;

7 f. In violation of Business and Professions Code sections 4301(j)
8 and/or 4301(o), Respondent, as described in paragraph 4(a) above, violated, attempted to violate,
9 assisted in or abetted violation of or conspired to violate laws regulating controlled substances
10 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health
11 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,
12 deceit, misrepresentation, subterfuge, or by the concealment of a material fact;

13 g. In violation of Business and Professions Code sections 4301(j)
14 and/or 4301(o), Respondent, as described in paragraph 4(a) above, had in his possession and/or
15 conspired to possess and/or assisted in or abetted the possession of narcotic controlled
16 substances, for purposes of sale, in violation of Health and Safety Code section 11351;

17 h. In violation of Business and Professions Code sections 4301(j)
18 and/or 4301(o), Respondent, as described in paragraph 4(a) above, sold / furnished and/or
19 conspired to sell or furnish and/or assisted in or abetted the sale or furnishing of narcotic
20 controlled substances, in violation of Health and Safety Code section 11352;

21 i. In violation of Business and Professions Code section 4301,
22 Respondent, as described in paragraph 4(a) above, engaged in "unprofessional conduct" not
23 becoming the profession of pharmacy.

24 ///

25 ///

26 ///

27 ///

28 ///

Exhibit A
Accusation No. 3051,
Related Documents and Declaration of Service

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

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 RONALD ANDRE BLACKWELL
275 Boylston Street
13 San Francisco, CA 94134
14 Pharmacy Technician License No. TCH 50387
15 Respondent.

Case No. 3051
OAH No.

A C C U S A T I O N

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about August 12, 2003, the Board of Pharmacy issued Pharmacy
22 Technician License Number TCH 50387 to Ronald Andre Blackwell (Respondent). The
23 Pharmacy Technician License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on March 31, 2007, unless renewed.

25 JURISDICTION

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

1
2 ...
3 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
4 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
5 applicable federal and state laws and regulations governing pharmacy, including regulations
6 established by the board.
7 ...
8 ...
9 ...
10 ...
11 ...
12 ...
13 ...
14 ...
15 ...
16 ...
17 ...
18 ...
19 ...
20 ...
21 ...
22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...
 8. California Code of Regulations, title 16, section 1770, states:

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

 9. Section 4051 of the Code provides, in pertinent part, that it is unlawful for
any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or
dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a
prescriber, unless he or she is a pharmacist under this chapter.

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

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

 12. Health and Safety Code section 11173, subdivision (a), provides that no
person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
the administration of or prescription for controlled substances, (1) by fraud, deceit,
misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful
to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules
III-V which is a narcotic drug, unless upon written prescription of an authorized prescriber.

PRAYER

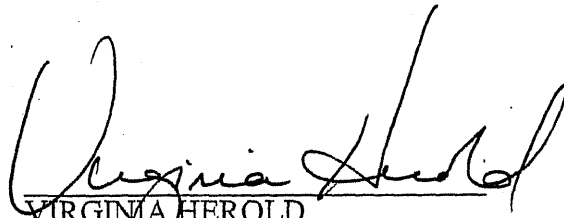
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacy Technician License Number TCH 50387, issued to Ronald Andre Blackwell (Respondent).

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

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

DATED 2/23/07



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

SF2006403473

40124847.wpd