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

12 In the Matter of the Accusation Against:  
13 TAMI LYN EVANS, TCH  
725 South Walnut Avenue  
14 Brea, CA 92281  
15 Pharmacy Technician Registration No. 53016  
16 Respondent.

Case No. 3069

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, § 11520]

17  
18 FINDINGS OF FACT

19 1. On or about October 26, 2007, Complainant Virginia Herold, in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs, filed Accusation No. 3069 against Tami Lynn Evans, TCH (Respondent) before the  
22 Board of Pharmacy.

23 2. On or about November 3, 2003, the Board of Pharmacy (Board) issued  
24 Registered Pharmacy Technician No. 53016 to Respondent. The Registered Pharmacy  
25 Technician expired on March 31, 2007, and has not been renewed.

26 3. On or about November 5, 2007, Jennifer Familo, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.  
28 3069 to Respondent's address of record with the Board, which was and is 725 South Walnut

1 Avenue, Brea, CA 92281. A copy of the Accusation is attached as Exhibit A, and is incorporated  
2 herein by reference.

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

5 5. On or about December 12, 2007, the aforementioned documents were  
6 returned by the U.S. Postal Service marked "Attempted Not Known."

7 6. Business and Professions Code section 118 states, in pertinent part:

8 . . . .

9 (b) The suspension, expiration, or forfeiture by operation of law of a  
10 license issued by a board in the department, or its suspension, forfeiture, or  
11 cancellation by order of the board or by order of a court of law, or its surrender  
12 without the written consent of the board, shall not, during any period in which it  
13 may be renewed, restored, reissued, or reinstated, deprive the board of its  
14 authority to institute or continue a disciplinary proceeding against the licensee  
15 upon any ground provided by law or to enter an order suspending or revoking the  
16 license or otherwise taking disciplinary action against the license on any such  
17 ground.

14 7. Government Code section 11506 states, in pertinent part:

15 . . . .

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

19 8. Respondent failed to file a Notice of Defense within 15 days after service  
20 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
21 Accusation No. 3069.

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

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

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1 possessed non-prescribed Schedule III controlled substances, Butalbital/APAP/Caffeine Plus and  
2 hydrocodone-APAP, in violation of Health and Safety Code sections 11350, and 11056,  
3 subdivisions (e)(2) and (e)(4).

4 d. Respondent subjected her license to discipline under sections 4301,  
5 subdivisions (f), (j), and (o), in that on or about January 20, 2006, she admitted to stealing and  
6 concealing Schedule III controlled substances, in violation of Penal Code sections 484(a)-488,  
7 and Health and Safety Code section 11173, subdivision (a)

8 ORDER

9 IT IS SO ORDERED that Registered Pharmacy Technician Registration No.  
10 53016, heretofore issued to Respondent Tami Lynn Evans, TCH, is revoked.

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

16 This Decision shall become effective on March 20, 2008.

17  
18 It is so ORDERED February 19, 2008

19 BOARD OF PHARMACY  
20 DEPARTMENT OF CONSUMER AFFAIRS  
21 STATE OF CALIFORNIA

22  
23 By



24 WILLIAM POWERS  
Board President

25 DOJ docket number:SD2007800931

26 Attachment: Ex. A -- Accusation No. 3069  
27  
28

Exhibit A  
Accusation No. 3069

1 EDMUND G. BROWN JR., Attorney General  
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**BOARD OF PHARMACY**  
13 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 3069

15 TAMI LYNN EVANS  
725 South Walnut Avenue  
16 Brea, CA 92281

**A C C U S A T I O N**

17 Pharmacy Technician Registration No. 53016

18 Respondent.

19  
20 Complainant alleges:

21 PARTIES

22 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about November 26, 2003, the Board of Pharmacy issued Registered  
25 Technician Number 53016 to Tami Lynn Evans (Respondent). The registration expired on  
26 March 31, 2007, and has not been renewed.

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7. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

....

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

8. Section 4059(a) of the Code states, in pertinent part:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

9. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, 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, or a physician assistant pursuant to Section 3502.1. . . .

10. 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.

**ALLEGED FACTS**

11. On or about May 8, 2006, in a criminal proceeding entitled *People v. Tami Lynn Evans*, Orange County Superior Court case number 06NF0857, Respondent pled guilty to violating Health and Safety Code section 11350, possession of a controlled substance, a felony (count one); Business and Professions Code section 4060, possession of a controlled substance without a prescription, a misdemeanor (count two); and Penal Code section 484(a)-488, petty theft, a misdemeanor (count three).

12. As a result of the guilty plea, on or about May 8, 2006, the court ordered judgment deferred on counts one and two, and Respondent was ordered to enroll in a Drug Diversion Program and pay fines and restitution pursuant to Penal Code section 1000. The court



1 suspended the sentence on count three and Respondent was granted three years informal  
2 probation with standard terms, 40 hours community service, and payment of fines and fees.

3 13. The facts that lead to the plea were that on or about January 20, 2006,  
4 Respondent was arrested at her place of employment, Walgreens Pharmacy in Placentia,  
5 California, after an investigation revealed she had stolen controlled and uncontrolled drugs. The  
6 circumstances of the investigation follow:

7 14. Following an "on hand" count of controlled drugs in November 11, 2005, a  
8 Walgreen's Loss Prevention Officer (LPO) discovered that a significant number of pills were  
9 missing from inventory. On December 30, 2005, the LPO installed a video surveillance system  
10 directly above a specific counter area which contained "prescribed only" pills, namely  
11 hydrocodone. After allowing the video surveillance to run a couple of weeks, the LPO reviewed  
12 the video and observed that Respondent was stealing drugs.

13 15. The first videotaped theft occurred on January 13, 2006. The videotape  
14 showed Respondent picking up a bottle, opening it, stepping partially off screen, and then  
15 immediately stepping back into camera range. She closed the bottle cap and returned the bottle  
16 to the shelf. A store computer later showed that there was a shortage of drugs on the shelf not  
17 equivalent to the amount that had been dispensed.

18 16. The second theft incident took place on January 16, 2006. The videotape  
19 showed Respondent removing a bottle later determined to contain Hydrocodone, which had been  
20 placed there by the LPO. Respondent was videotaped removing the bottle from the shelf,  
21 opening the lid, pouring an unknown amount of pills into her hand, and then placing the pills into  
22 a pocket of her smock. She then closed the bottle and returned it to its original location on the  
23 shelf.

24 17. On January 20, 2006, the LPO and a Walgreen's district manager met with  
25 Respondent. Respondent verbally admitted and signed her name verifying the theft of  
26 approximately 250 hydrocodone-APAP and hydrocodone-ibuprofen pills in varying strengths  
27 with a total retail value of \$277.02.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Obtaining Controlled Substances by Fraud and Deceit)**

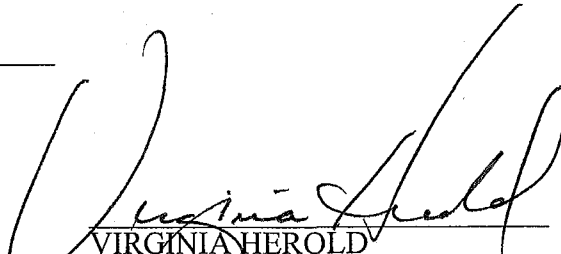
3 22. Respondent has subjected her license to discipline under sections 4301,  
4 subdivisions (f), (j), and (o), in that on or about January 20, 2006, she admitted to stealing and  
5 concealing Schedule III controlled substances, in violation of Penal Code sections 484(a)-488,  
6 and Health and Safety Code section 11173(a), as outlined in paragraphs 11-19, above.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration  
11 Number TCH 53016 issued to TAMI LYNN EVANS;
- 12 2. Ordering TAMI LYNN EVANS to pay the Board of Pharmacy the  
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
14 Professions Code section 125.3; and,
- 15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: 10/26/07

18  
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20   
21 VIRGINIA HEROLD  
22 Executive Officer  
23 Board of Pharmacy  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

27 SD2007800931

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