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

In the Matter of the Accusation Against:

**RACQUEL LENORA JOHNSON
620 1/2 E. 87th Pl. #1
Los Angeles, CA 90002**

**Pharmacy Technician
Registration No. TCH 37600**

Respondent.

Case No. 3372

DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 18, 2010, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No. 3372 against Racquel Lenora Johnson ("Respondent") before the Board of Pharmacy, Department of Consumer Affairs.
2. On or about June 12, 2001, the Board of Pharmacy, Department of Consumer Affairs ("Board") issued Pharmacy Technician Registration No. TCH 37600 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2011, unless renewed.
3. On or about March 22, 2010, Respondent was served by certified mail copies of the following documents: Accusation No. 3372, Statement to Respondent, Notice of Defense forms,

1 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
2 and 11507.7). A copy of the Accusation and Declaration of Service are attached hereto as Exhibit
3 "A" and are incorporated as if fully set forth herein.

4 4. The Respondent was served at her address of record, which is:

5 620 1/2 E. 87th Pl. #1
6 Los Angeles, CA 90002

7 Pursuant to Business and Professions Code section 136 and/or the agency specific statute or
8 regulation, the Respondent is required to notify the Board of any change in mailing address
9 within 30 days after the change, unless the Board has specified by regulations a shorter time
10 period.

11 5. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 6. The aforementioned documents were returned by the U.S. Postal Service marked
15 "Unclaimed."

16 7. Government Code section 11506 states:

17 (a) Within 15 days after service of the accusation the respondent may file
18 with the agency a notice of defense in which the respondent may:

19 (1) Request a hearing.

20 (2) Object to the accusation upon the ground that it does not state acts or
21 omissions upon which the agency may proceed.

22 (3) Object to the form of the accusation on the ground that it is so indefinite
23 or uncertain that the respondent cannot identify the transaction or prepare a
24 defense.

25 (4) Admit the accusation in whole or in part.

26 (5) Present new matter by way of defense.

27 (6) Object to the accusation upon the ground that, under the circumstances,
28 compliance with the requirements of a regulation would result in a material
violation of another regulation enacted by another department affecting
substantive rights.

(b) Within the time specified respondent may file one or more notices of
defense upon any or all of these grounds but all of these notices shall be filed
within that period unless the agency in its discretion authorizes the filing of a
later notice.

(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.

1 Unless objection is taken as provided in paragraph (3) of subdivision (a), all
2 objections to the form of the accusation shall be deemed waived.

3 (d) The notice of defense shall be in writing signed by or on behalf of the
4 respondent and shall state the respondent's mailing address. It need not be
5 verified or follow any particular form.

6 (e) As used in this section, "file," "files," "filed," or "filing" means "delivered
7 or mailed" to the agency as provided in Section 11505.

8 8. Respondent failed to file a Notice of Defense within 15 days after service of the
9 Accusation, and therefore the Respondent has waived her right to a hearing on the merits of
10 Accusation No. 3372.

11 9. California Government Code section 11520 states:

12 (a) If the respondent either fails to file a notice of defense or to appear at the
13 hearing, the agency may take action based upon the respondent's express
14 admissions or upon other evidence and affidavits may be used as evidence
15 without any notice to respondent; and where the burden of proof is on the
16 respondent to establish that the respondent is entitled to the agency action
17 sought, the agency may act without taking evidence.

18 (b) Notwithstanding the default of the respondent, the agency or the
19 administrative law judge, before a proposed decision is issued, has discretion
20 to grant a hearing on reasonable notice to the parties. If the agency and
21 administrative law judge make conflicting orders under this subdivision, the
22 agency's order takes precedence. The administrative law judge may order the
23 respondent, or the respondent's attorney or other authorized representative, or
24 both, to pay reasonable expenses, including attorney's fees, incurred by
25 another party as a result of the respondent's failure to appear at the hearing.

26 (c) Within seven days after service on the respondent of a decision based on
27 the respondent's default, the respondent may serve a written motion
28 requesting that the decision be vacated and stating the grounds relied on. The
agency in its discretion may vacate the decision and grant a hearing on a
showing of good cause. As used in this subdivision, good cause includes, but
is not limited to, any of the following: (1) Failure of the person to receive
notice served pursuant to Section 11505. (2) Mistake, inadvertence, surprise,
or excusable neglect.

10 Pursuant to its authority under Government Code section 11520, the Board of
11 Pharmacy, Department of Consumer Affairs finds Respondent is in default. The Board of
12 Pharmacy takes action without further hearing and based on the relevant evidence contained in
13 the Default Decision Investigatory Evidence Packet, and by taking official notice of all the
14 investigatory reports, exhibits and statements contained therein.

15 Pursuant to its authority under Government Code section 11520, the Board of
16 Pharmacy, Department of Consumer Affairs finds the charges and allegations in Accusation No.
17 3372, are separately and severally true and correct by clear and convincing evidence.
18

1 12. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$3,453.50, as of December 7, 2010.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Racquel Lenora Johnson has
6 subjected her Pharmacy Technician Registration No. TCH 37600 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
9 Registration No. TCH 37600 based upon the violations alleged in Accusation 3372, which are
10 supported by the evidence contained in the Default Decision Investigatory Evidence Packet for
11 this case.

12 a. Violation of Business and Professions Code section 4301(l), unprofessional conduct
13 for a conviction of a crime substantially related to the qualifications, functions, or duties of a
14 pharmacy technician, as defined in California Code of Regulations, title 16, section 1770. In
15 addition, a violation of Business and Professions Code sections 4301(p), unprofessional conduct
16 for committing an act that would warrant the denial of a pharmacy technician license. The
17 circumstances are that on or about March 29, 2008, the Respondent was a passenger in a vehicle
18 that was stopped by the Los Angeles Police Department in connection with a call of a reckless
19 driver with a gun. During a search of the Respondent's purse, police recovered a stolen and
20 loaded 45-caliber Ruger firearm. On May 12, 2008, the Respondent was convicted of the crime
21 of violating Penal Code section 12025(a)(1), namely carrying a concealed weapon in a vehicle.
22 (*People v. Racquel Lenora Johnson*, Superior Court of the State of California, County of Los
23 Angeles, Case No. BA 338446).

24 b. Violation of Business and Professions Code section 4301(f) unprofessional conduct
25 by committing an act involving moral turpitude, dishonesty, fraud, deceit, or corruption, in that on
26 or about March 29, 2008, the Respondent possessed in her purse a stolen and loaded 45-caliber
27 Ruger firearm. The circumstances are set forth above in paragraph 3(a) and incorporated by
28 reference as though fully set forth herein.

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

In the Matter of the Accusation Against:

RACQUEL LENORA JOHNSON
620 1/2 E. 87th Pl. #1
Los Angeles, CA 90002

Pharmacy Technician
Registration No. TCH 37600

Respondent.

Case No. 3372

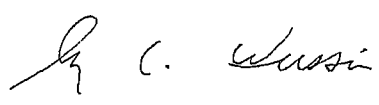
ORDER
[Gov. Code, §11520]

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 37600, heretofore issued to Respondent Racquel Lenora Johnson, 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 March 28, 2011.

It is so ORDERED February 25, 2011.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 NICHOLAS A. SANCHEZ
Deputy Attorney General
4 State Bar No. 207998
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation Against:

Case No. 3372

12 **RACQUEL LENORA JOHNSON**
13 **620 1/2 E. 87th Pl. #1**
Los Angeles, CA 90002

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 37600**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about June 12, 2001, the Board issued Pharmacy Technician Registration
23 Number TCH 37600 to Racquel Lenora Johnson (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on February 28, 2011, unless renewed.

26 **JURISDICTION**

27 3. 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 unless otherwise indicated.

1 4. Section 475 of the Code states:

2 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
3 govern the denial of licenses on the grounds of:

4 ...

5 "(2) Conviction of a crime.

6 ...

7 "(b) Notwithstanding any other provisions of this code, the provisions of this division shall
8 govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2)
9 of subdivision (a) ."

10 ...

11 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
12 revoke a license on the ground that the licensee has been convicted of a crime substantially
13 related to the qualifications, functions, or duties of the business or profession for which the
14 license was issued

15 6. Section 493 of the Code states:

16 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
17 the department pursuant to law to deny an application for a license or to suspend or revoke a
18 license or otherwise take disciplinary action against a person who holds a license, upon the
19 ground that the applicant or the licensee has been convicted of a crime substantially related to the
20 qualifications, functions, and duties of the licensee in question, the record of conviction of the
21 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
22 and the board may inquire into the circumstances surrounding the commission of the crime in
23 order to fix the degree of discipline or to determine if the conviction is substantially related to the
24 qualifications, functions, and duties of the licensee in question.

25 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

26 7. Section 4300 of the Code states:

27 "(a) Every license issued may be suspended or revoked."

28 ...

1 8. Section 4301 of the Code states:

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

5 ...

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

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 "(p) Actions or conduct that would have warranted denial of a license."

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REGULATORY PROVISIONS

9. 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."

COST RECOVERY

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.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under Code section 4301, subdivisions (l) and (p), in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. The circumstances are as follows:

a. On or about May 12, 2008, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section 12025, subdivision (a)(1) [carrying a concealed firearm within any vehicle which is under his or her control or direction] in the criminal proceeding entitled *The People of the State of California v. Racquel Lenora Johnson* (Super. Ct. Los Angeles County, 2008, No. LACBA33844601). Respondent was sentenced to five days in Jail and placed on probation for two years with terms and conditions. The circumstances surrounding the conviction are that on or about March 29, 2008, Respondent was a passenger in a vehicle that was stopped during an investigation by two Los Angeles Police

1 Officers. During the investigation, a purse belonging to Respondent was recovered containing a
2 stolen loaded 45-cal pistol.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Commission of Any Act Involving Moral Turpitude,**
5 **Dishonesty, Fraud, Deceit, or Corruption)**

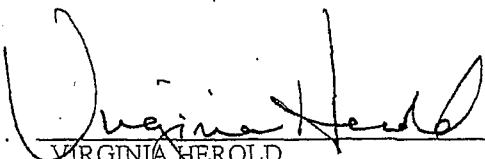
6 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
7 that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or
8 corruption, in that on or about March 29, 2008, she concealed a loaded stolen firearm in her
9 purse. Complainant refers to, and by this reference incorporates, the allegations set forth above in
10 paragraph 11, as though fully set forth herein.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician License No. TCH 37600, issued to
15 Respondent;
- 16 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
17 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 3/18/10


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

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