

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

Case No. 3378

**TINA PEACHES COLLINS
aka TINA MANTECA
5560 W. Packard St.
Los Angeles, CA 90019**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Pharmacy Technician License No.
TCH 49633**

Respondent.

FINDINGS OF FACT

1. On or about December 30, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3378 against Tina Peaches Collins, aka Tina Manteca (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 8, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 49633 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 3378, and will expire on February 28, 2013, unless renewed.

3. On or about January 14, 2010, Respondent was served by certified mail and first class mail copies of the Accusation No. 3378, Statement to Respondent, Notice of Defense (2 copies), Government Code sections 11507.5, 11507.6 and 11507.7, and Request for Discovery at Respondent's address of record pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board, which was:

13407 Kornblum Avenue, #20
Hawthorne, California 90250

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

5. On or about February 12, 2010, the aforementioned documents were returned by the U.S. Postal Service marked not "deliverable as addressed" and "unclaimed".

6. On or about February 9, 2011, Respondent was served by certified mail and first class mail copies of the Accusation No. 3378, Statement to Respondent, Notice of Defense (2 copies), Government Code sections 11507.5, 11507.6 and 11507.7, and Request for Discovery at Respondent's address of record pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board, which is:

5560 W. Packard Street
Los Angeles, California 90019

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

8. The aforementioned documents were never returned by the U.S. Postal Service.

9. 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.

10. 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. 3378.

11. 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.

1 12. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 3378, finds that
6 the charges and allegations in Accusation No. 3378, are separately and severally, found to be true
7 and correct by clear and convincing evidence.

8 13. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$3,176.00 as of October 20, 2011.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Tina Peaches Collins, aka Tina
13 Manteca has subjected her Pharmacy Technician License No. TCH 49633 to discipline.

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

15 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
16 License based upon the following violations alleged in the Accusation which are supported by the
17 evidence contained in the Default Decision Evidence Packet in this case:

18 a. Business and Professions Code sections 4301(l) and 490, in conjunction with
19 California Code of Regulations, title 16, section 1770 – Conviction of Substantially Related
20 Crimes;

21 b. Business and Professions Code sections 4301(h) and (j) – Self Administration of
22 Controlled Substances;

23 c. Business and Professions Code sections 4301(j) and 4060 – Possession of a
24 Controlled Substance without a Valid Prescription; and

25 d. Business and Professions Code 430(f) – Dishonest Acts.

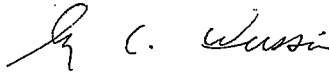
26 **ORDER**

27 *IT IS SO ORDERED* that Pharmacy Technician License No. TCH 49633, heretofore issued
28 to Respondent Tina Peaches Collins, aka Tina Manteca, is revoked.

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

5 This Decision shall become effective on March 9, 2012.

6 It is so ORDERED February 8, 2012.

7 

8 STANLEY C. WEISSER, BOARD PRESIDENT
9 FOR THE BOARD OF PHARMACY
10 DEPARTMENT OF CONSUMER AFFAIRS
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2578
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3378

12 **TINA PEACHES COLLINS**
13 **aka TINA MANTECA**
13407 Kornblum Avenue, #20
14 Hawthorne, CA 90250

A C C U S A T I O N

15 Pharmacy Technician License
No. TCH 49633

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about September 8, 2003, the Board of Pharmacy (Board) issued
23 Pharmacy Technician License No. TCH 49633 to Tina Peaches Collins, also known as Tina
24 Manteca (Respondent). The Pharmacy Technician License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on February 28, 2011, unless
26 renewed.

27 *///*
28

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 unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

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

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

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, 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

1 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
2 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
3 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
4 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
5 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
6 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
7 labeled with the name and address of the supplier or producer.”

8 7. Section 4300 states, in pertinent part, that every license issued by the Board is
9 subject to discipline, including suspension or revocation.

10 8. Section 4301 states, in pertinent part:

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

15
16 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
17 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
18 whether the act is a felony or misdemeanor or not.

19
20 (h) The administering to oneself, of any controlled substance, or the use of any
21 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
22 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
23 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
24 the public the practice authorized by the license.

25
26 (j) The violation of any of the statutes of this state, or any other state, or of the United
27 States regulating controlled substances and dangerous drugs.

28

1 (l) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of
6 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the
7 meaning of this provision."

8 REGULATORY PROVISIONS

9 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:
10 "For the purpose of denial, suspension, or revocation of a personal or facility license
11 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
12 crime or act shall be considered substantially related to the qualifications, functions or duties of a
13 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
14 licensee or registrant to perform the functions authorized by his license or registration in a manner
15 consistent with the public health, safety, or welfare."

16 COST RECOVERY

17 10. Section 125.3 states, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 CONTROLLED SUBSTANCES

22 11. "Hydrocodone 7.5mg/Acetaminophen 750mg" is a Schedule III controlled
23 substance as defined in Health and Safety Code section 11056, subdivision (e)(4), and is
24 categorized as a dangerous drug pursuant to section 4022.

25 FIRST CAUSE FOR DISCIPLINE

26 *(Convictions of Substantially Related Crimes)*

27 12. Respondent is subject to disciplinary action under sections 4301, subdivision
28 (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,

1 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
2 of a pharmacy technician. Either one of the convictions is an independent reason for disciplinary
3 action.

4 a. On or about February 23, 2006, after pleading *nolo contendere*, Respondent
5 was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision
6 (b) [driving while having a 0.08% or higher blood alcohol] in the criminal proceeding entitled
7 *The People of the State of California v. Tina Peaches Collins* (Super. Ct. Los Angeles County,
8 2006, No. 6MP00809). Respondent was placed on probation for three years with terms and
9 conditions.

10 b. The circumstances surrounding the conviction are that on or about November
11 12, 2005, Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in her
12 blood.

13 c. On or about January 29, 2009, after pleading *nolo contendere*, Respondent was
14 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [theft]
15 in the criminal proceeding entitled *The People of the State of California v. Tina Peaches Collins*
16 (Super. Ct. Los Angeles County, 2009, No. 8IG04681). Respondent was sentenced to one day in
17 Los Angeles County Jail and placed on probation for three years with terms and conditions.

18 d. The circumstances surrounding the conviction are that on or about November
19 29, 2007, Respondent stole Hydrocodone from her employer at the Walgreen's Pharmacy in
20 Inglewood, California.

21 SECOND CAUSE FOR DISCIPLINE

22 *(Use or Self-Administration of Controlled Substances)*

23 13. Respondent is subject to disciplinary action under section 4301, subdivisions
24 (h) and (j), in that, Respondent used or self-administered controlled substances, as follows:

25 a. On or about November 12, 2005, Respondent was arrested for driving while
26 having a 0.08% or higher blood alcohol. Complainant refers to, and by this reference
27 incorporates, the allegations set forth above in paragraph 12, subparagraphs (a-b), as though fully
28 set forth herein.

1 b. On or about November 29, 2007, Respondent was observed by the District Loss
2 Prevention Supervisor on circuit television video to be taking Hydrocodone tablets. On or about
3 November 30, 2007, during an interview by the District Loss Prevention Supervisor, Respondent
4 signed a written statement admitting to stealing approximately 510 tablets of Hydrocodone over
5 the course of five months for a knee injury that she had sustained in a car accident. Respondent
6 was subsequently arrested by the Inglewood Police Officers for petty theft.

7 THIRD CAUSE FOR DISCIPLINE

8 *(Possession of a Controlled Substance without a Valid Prescription)*

9 14. Respondent is subject to disciplinary action under sections 4301, subdivision (j)
10 and 4060, in that, on or about November 29, 2007, Respondent was found to be in possession of a
11 controlled substance without a valid prescription. Complainant refers to, and by this reference
12 incorporates, the allegations set forth above in paragraph 12, subparagraphs (c-d), as though fully
13 set forth herein.

14 FOURTH CAUSE FOR DISCIPLINE

15 *(Dishonest Acts)*

16 15. Respondent is subject to disciplinary action under section 4301, subdivision (f),
17 in that, Respondent committed dishonest acts by stealing controlled substance from her employer.
18 Complainant refers to, and by this reference incorporates, the allegations set forth above in
19 paragraph 12, subparagraphs (c-d), as though set forth fully.

20 PRAYER

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

23 1. Revoking or suspending Pharmacy Technician License No. TCH 49633, issued to
24 Respondent;

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

27 ///

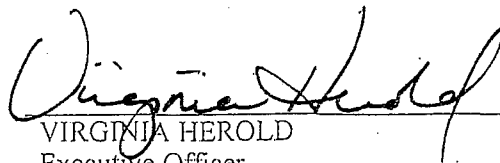
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED:

12/30/09



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

LA2009603212
60463046.rtf
jz/lana(10/07/2009)