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

In the Matter of the Accusation Against: **ANMARIE SCHEEPERS** **19307 Titleist Way** **Redding, CA 96003** **Pharmacy Technician License No. TCH 90857** Respondent.	Case No. 3775 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 2, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3775 against Anmarie Scheepers (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about May 6, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 90857 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011, unless renewed. Pursuant to Business and Professions Code section 118(b), the expiration of a license does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On or about November 10, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3775, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 136 and/or agency specific statute or regulation, is required to be reported and maintained with the Board, which was and is: 19307 Titleist Way, Redding, CA 96003.

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. 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. 3775.

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 the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 3775, finds that the charges and allegations in Accusation No. 3775, are separately and severally, found to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is $722.50 as of December 22, 2010.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Anmarie Scheepers has subjected her Pharmacy Technician License No. TCH 90857 to discipline.

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

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

a. Respondent is subject to disciplinary action under section 4301, subsection (l) in that on or about March 23, 2010, in the case entitled *People vs. Anmarie Scheepers,* (Shasta County Superior Court, case number 09F7751), Respondent was convicted on her plea of guilty to violating penal code section 487(a) (grand theft of personal property), a felony.

b. Respondent is subject to disciplinary action under section 4301, subsection (f) in that on or about March 23, 2010, Respondent was convicted of grand theft, an act involving moral turpitude, dishonesty, fraud, deceit, or corruption.

c. Respondent is subject to disciplinary action under section 4301, subsection (j) for violating Health and Safety Code section 11350, subdivision (a) (unlawfully possessing a controlled substance).

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ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 90857, heretofore issued to Respondent Anmarie Scheepers, 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 April 15, 2011.

It is so ORDERED March 16, 2011.

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

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

In the Matter of the Accusation Against: **ANMARIE SCHEEPERS** **19307 Titleist Way** **Redding, CA 96003** **Pharmacy Technician License No. TCH 90857** Respondent.	Case No. 3775 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about May 6, 2009, the Board of Pharmacy issued Pharmacy Technician License Number TCH 90857 to Anmarie Scheepers (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011, unless renewed.

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JURISDICTION

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

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

STATUTORY PROVISIONS

5. Section 4301 of the Code states, in 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:
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> . . . .
>
> (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
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> . . . .
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> (j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.
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> . . . .
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> (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of

guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

6. Health and Safety Code section 11350 states, in part:

(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in . . . subdivision (b) or (c) of Section 11055, . . . shall be punished by imprisonment in the state prison.

CONTROLLED SUBSTANCES AT ISSUE

7. **OxyContin**, a brand of Oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N).

COST RECOVERY

8. 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

(Criminal Conviction)

9. Respondent is subject to disciplinary action under section 4301, subsection (l) in that on or about March 23, 2010, in the case entitled *People vs. Anmarie Scheepers,* (Shasta County Superior Court, case number 09F7751), Respondent was convicted on her plea of guilty to violating penal code section 487(a) (grand theft of personal property), a felony. Such criminal conviction is substantially related to the qualifications, functions, and duties of this licensee. The circumstances are as follows:

On or about July 9, 2009, Redding Police Department was dispatched to Rite Aid Pharmacy in Redding on a report of theft of prescription medication. In May 2009, the Rite Aid Pharmacy District Manager (who is also Respondent's father) notified the Rite Aid Loss Prevention Manager of 111 missing OxyContin pills. In June 2009, the Rite Aid Pharmacy District Manager notified the Rite Aid Loss Prevention Manager of another 117 missing OxyContin pills from a different Rite Aid Pharmacy site. Respondent was the only individual who worked at both sites and who had access to the OxyContin. On or about July 2, 2009, Respondent admitted stealing

the OxyContin to the Loss Prevention Manager and wrote a statement apologizing for her theft. Respondent was subsequently terminated, and arrested.

SECOND CAUSE FOR DISCIPLINE

(Dishonest Acts)

10. Respondent is subject to disciplinary action under section 4301, subsection (f) in that on or about March 23, 2010, Respondent was convicted of grand theft, an act involving moral turpitude, dishonesty, fraud, deceit, or corruption, as more fully set forth in paragraph 9, above.

THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substances)

11. Respondent is subject to disciplinary action under section 4301, subsection (j) for violating Health and Safety Code section 11350, subdivision (a) (unlawfully possessing a controlled substance), as more fully set forth in paragraph 9, above.

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 Pharmacy Technician License Number TCH 90857, issued to Anmarie Scheepers

2. Ordering Anmarie Scheepers 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;

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

DATED: 11/2/10

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

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