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

12 In the Matter of the Accusation Against:

Case No. 4012

13 OAH No. 2012040198

14 **MELODY CROCKETT**
6205 8th Avenue, #7
15 Los Angeles, CA 90043

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Pharmacy Technician Registration No. TCH**
17 **68836**

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19 Respondent.

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21 **FINDINGS OF FACT**

22 1. On or about April 21, 2011, Complainant Virginia K. Herold, in her official capacity
23 as the Executive Officer of the Board of Pharmacy, filed Accusation No. 4012 against Melody
24 Crockett (Respondent) before the Board of Pharmacy, Department of Consumer Affairs.
25 (Accusation attached as Exhibit A.)

26 2. On or about May 3, 2006, the Board of Pharmacy ("Board") issued Pharmacy
27 Technician Registration No. TCH 68836 to Respondent. The Pharmacy Technician Registration
28 was in full force and effect at all times relevant to the charges brought in Accusation No. 4012.

1 The registration expired on April 30, 2012 and has not been renewed. Pursuant to Business and
2 Professions Code § 118(b), the expiration of a license shall not deprive the Board of Pharmacy of
3 its authority to institute or continue a disciplinary proceeding.

4 3. On or about February 29, 2012, Respondent was served by Certified Mail copies of
5 the Accusation No. 4012, Statement to Respondent, Notice of Defense, Request for Discovery,
6 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7). A copy of
7 Accusation No. 4012 and the Declaration of Service are attached hereto as Exhibit "A" and are
8 incorporated as if fully set forth herein.

9 4. The Respondent was served by certified mail at her address of record, which is: 6205
10 8th Avenue, #7, Los Angeles, CA 90043. Pursuant to Business and Professions Code §§ 136 and
11 4100, the Respondent is required to notify the Board of any change in her mailing address within
12 thirty (30) days after the change, unless the Board has specified by regulations a shorter time
13 period.

14 5. On or about February 29, 2012 the aforementioned documents were delivered to the
15 Respondent's address by the U.S. Postal Service as indicated in a Domestic Return Receipt. A
16 copy of the receipt is attached as part of Exhibit "A".

17 6. Service of the Accusation by certified mail to the Respondent's last known address is
18 effective as a matter of law under the provisions of Government Code section 11505(c) and
19 Business and Professions Code § 124.

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

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

26 8. On or about March 20, 2012, Respondent signed and returned a Notice of Defense,
27 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
28

1 address of record and it informed her that an administrative hearing in this matter was scheduled
2 for October 9, 2012. Respondent failed to appear at that hearing.

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

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

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

13 11. Pursuant to its authority under Government Code § 11520, the Board of Pharmacy
14 finds the charges and allegations in Accusation No. 4012, are separately and severally, found to
15 be true and correct by clear and convincing evidence.

16 12. Taking official notice of its own internal records, pursuant to Business and
17 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
18 and Enforcement is \$8152.50.50 as of October 8, 2012.

19 **DETERMINATION OF ISSUES**

20 1. Based on the foregoing findings of fact, Respondent Melody Crockett has subjected
21 her Pharmacy Technician Registration No. TCH 68836 to discipline.

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

23 3. The Board of Pharmacy is authorized to revoke the Respondent's Pharmacy
24 Technician Registration based upon the violations alleged in Accusation No. 4012, which are
25 supported by the evidence contained in the Default Decision Investigatory Evidence Packet for
26 this case and summarized as follows:

27 4. Violations of Business and Professions Code Sections 4301(j) and 4301(o), in
28 accordance with California Code of Regulations, title 16, section 1770 and Health and Safety

1 Code section 11364.1, because the Respondent committed an act that violates a statute of this
2 state, or of the United States regulating controlled substances and dangerous drugs, when she
3 possessed an opium pipe or any device, contrivance, instrument, or paraphernalia used for
4 unlawfully injecting or smoking a controlled substance. On or about February 16, 2010, Los
5 Angeles Police Department narcotic officers were conducting night surveillance on a suspected
6 drug trafficking residence. The police observed the Respondent walk up to the residence. The
7 Respondent quickly returned to her vehicle and was then stopped for a traffic violation. During
8 the traffic stop, a male passenger exited the vehicle, dropped an off-white substance on the
9 pavement, and immediately stepped on it. A subsequent search of the Respondent's purse,
10 revealed a small, cylindrical pipe that contained an off-white residue, resembling rock cocaine.
11 The Respondent was arrested for possession of drug paraphernalia in violation of Health and
12 Safety Code Section 11364. While being booked, the Respondent was searched again. The
13 police found a second small, cylindrical pipe containing an off-white residue, resembling rock
14 cocaine. This second pipe was hidden inside the Respondent's underwear.

15 5. Additionally, as a disciplinary consideration, on or about March 7, 1991, in the
16 Superior Court of California, County of Los Angeles, the Respondent entered a guilty plea and
17 was convicted of the crime of possession of controlled substance paraphernalia, in violation of
18 Health and Safety Code section 11364. The Court suspended 180 days of jail and sentenced the
19 Respondent to nine (9) actual days in jail, and probation for three (3) years. (*People of the State*
20 *of California v. Melody Crockett* (Superior Court of California, County of Los Angeles,
21 03/07/1991, Case No. 91M02106).

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ORDER

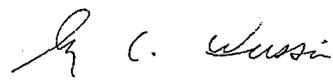
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 68836, heretofore issued to Respondent Melody Crockett, is revoked.

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 November 22, 2013.

It is so ORDERED ON October 23, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

STAN C. WEISSER
Board President

Attachment: Exhibit "A" Accusation

51281266.DOC
DOJ Matter ID:LA2011501399
8/22/13

Exhibit A

Accusation 4012

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9 **BOARD OF PHARMACY**
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12 **MELODY CROCKETT**
6205 8th Avenue, #7
13 Los Angeles, CA 90043

ACCUSATION

14 **Pharmacy Technician Registration**
15 **No. TCH 68836**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about May 3, 2006, the Board of Pharmacy ("Board") issued Original
22 Pharmacy Technician Registration No. TCH 68836 to Melody Crockett ("Respondent"). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 and allegations brought herein, and will expire on April 30, 2012, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides:

2 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
3 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10
4 (commencing with Section 11000) of the Health and Safety Code)."

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 6. Section 118(b) of the Code provides:

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

13 **STATUTORY PROVISIONS**

14 7. Section 4301 of the Code provides in pertinent part:

15 "The board shall take action against any holder of a license who is guilty
16 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:"

17 ...

18 "(j) The violation of any of the statutes of this state, or any other state, or
19 of the United States regulating controlled substances and dangerous
drugs."

20 ...

21 "(o) Violating or attempting to violate, directly or indirectly, or assisting
22 in or abetting the violation of or conspiring to violate any provision or
term of this chapter or of the applicable federal and state laws and
regulations governing pharmacy, including regulations established by the
board or by any other state or federal regulatory agency."

23 8. Section 4060 of the Code provides in pertinent part:

24 "No person shall possess any controlled substance, except that furnished
25 to a person upon the prescription of a physician, dentist, podiatrist,
26 optometrist, veterinarian, or naturopathic doctor pursuant to Section
3640.7, or furnished pursuant to a drug order issued by a certified
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant
to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or
28 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant
to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052..."

1 9. Section 4021 of the Code provides:

2 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
3 11053) of Division 10 of the Health and Safety Code.

4 10. Section 4022 of the Code provides:

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

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

9 (b) Any device that bears the statement: "Caution: federal law restricts
10 this device to sale by or on the order of a _____," "Rx only," or words of
11 similar import, the blank to be filled in with the designation of the
12 practitioner licensed to use or order use of the device.

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

15 REGULATORY PROVISION

16 11. California Code of Regulations, title 16, section 1770, states:

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

25 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

26 12. Health and Safety Code Section 11350 provides in pertinent part, that it unlawful to
27 possess any controlled substance specified in subdivision (b) or (c) of Health and Safety Code
28 Section 11055.

13 13. Health and Safety Code Section 11364.1(a) provides:

14 "It is unlawful to possess an opium pipe or any device, contrivance,
15 instrument, or paraphernalia used for unlawfully injecting or smoking (1)
16 a controlled substance specified in subdivision (b), (c), or (e), or
17 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph
18 (14), (15), or (20) of subdivision (d) of Section 11054, specified in
19 subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of
20 subdivision (d) of Section 11055, or (2) a controlled substance which is a
21 narcotic drug classified in Schedule III, IV, or V."

1 DISCIPLINE CONSIDERATIONS

2 17. To determine the degree of discipline, if any, to be imposed on the Respondent,
3 Complainant alleges the following:

4 a. On or about March 7, 1991, in the Superior Court of California, County of Los
5 Angeles, the Respondent entered a guilty plea and was convicted of the crime of possession of
6 controlled substance paraphernalia, in violation of Health and Safety Code section 11364. The
7 court suspended 180 days of jail and sentenced the Respondent to nine (9) actual days in jail, and
8 probation for three (3) years. (People of the State of California v. Melody Crockett (Superior
9 Court of California, County of Los Angeles, 03/07/1991, Case No. 91M02106).

10 PRAYER

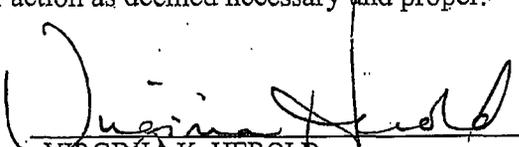
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Original Pharmacy Technician Registration No. 68836,
14 issued to Respondent Melody Crockett;

15 2. Ordering Respondent Melody Crockett to pay the Board of Pharmacy the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
17 Code section 125.3;

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

19
20 DATED: 2/22/12


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

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28 LA2011501399/51077054.docx/1.12.2012