

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

In the Matter of the Accusation Against:

Case No. 4037

ZAIDA JOHNSON
5711 Charlotte Place
Palmdale, CA 93552

Pharmacy Technician Registration No.
TCH 27183

Respondent.

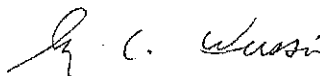
DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 3, 2013.

It is so ORDERED on January 31, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
 Attorney General of California
 2 GLORIA A. BARRIOS
 Supervising Deputy Attorney General
 3 KATHERINE MESSANA
 Deputy Attorney General
 4 State Bar No. 272953
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4037

12 **ZAIDA JOHNSON.**

OAH No. 2012061248

13 5711 Charlotte Place
 14 Palmdale, CA 93552

**STIPULATED SURRENDER OF
 LICENSE AND ORDER**

15 Pharmacy Technician Registration No. TCH
 27183

16 Respondent.

17
 18 In the interest of a prompt and speedy resolution of this matter, consistent with the public
 19 *interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs*
 20 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
 21 submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
 24 She brought this action solely in her official capacity and is represented in this matter by Kamala
 25 D. Harris, Attorney General of the State of California, by Katherine Messana, Deputy Attorney
 26 General.

27 2. Zaida Johnson ("Respondent") is representing herself in this proceeding and has
 28 chosen not to exercise her right to be represented by counsel.

1 3. On or about September 23, 1998, the Board of Pharmacy issued Pharmacy Technician
2 Registration No. TCH 27183 to Zaida Johnson (Respondent). The Pharmacy Technician
3 Registration was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 4037 and will expire on March 31, 2012, unless renewed.

5 JURISDICTION

6 4. *Accusation No. 4037 was filed before the Board of Pharmacy ("Board"), Department*
7 *of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other*
8 *statutorily required documents were properly served on Respondent on June 6, 2012. Respondent*
9 *timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4037 is*
10 *attached as Exhibit A and incorporated by reference.*

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 4037. Respondent also has carefully read, and understands the effects of this
14 Stipulated Surrender of License and Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 4037, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
27 Registration No. TCH 27183 for the Board's formal acceptance.

28

1 9. Respondent understands that by signing this stipulation she enables the Board to issue
2 an order accepting the surrender of her Pharmacy Technician Registration without further
3 process.

4 CONTINGENCY

5 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
6 *understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may*
7 *communicate directly with the Board regarding this stipulation and surrender, without notice to or*
8 *participation by Respondent. By signing the stipulation, Respondent understands and agrees that*
9 *she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board*
10 *considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,*
11 *the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this*
12 *paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not*
13 *be disqualified from further action by having considered this matter.*

14 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
15 License and Order, including facsimile signatures thereto, shall have the same force and effect as
16 the originals.

17 12. This Stipulated Surrender of License and Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
21 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
22 executed by an authorized representative of each of the parties.

23 13. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following Order:

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ORDER

IT IS HEREBY ORDERED that Respondent surrenders pharmacy technician license number TCH 27183 as of the effective date of this decision. Respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of the effective date of this decision.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of discipline and shall become a part of respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

5. Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in Accusation, No. 4037 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$3,442.50 prior to issuance of a new or reinstated license.

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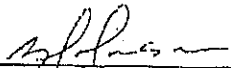
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 12/27/2012


Z.AIDA JOHNSON
Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General


KATHERINE MESSANA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4037

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Senior Assistant Attorney General
3 KATHERINE MBESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4037

11 **ZAIDA JOHNSON**
12 a.k.a., **ZAIDA MICHELLE JOHNSON**

ACCUSATION

13 5711 Charlotte Place
14 Palmdale, CA 93552

15 Pharmacy Technician Registration No.
TCH 27183

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 23, 1998, the Board issued Pharmacy Technician Registration
22 No. TCH 27183 to Zaida Johnson, also known as Zaida Michelle Johnson ("Respondent"). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein. The Registration expired on March 31, 2012, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

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 4300 of the Code provides, in pertinent part, that every license issued by the
2 Board is subject to discipline, including suspension or revocation.

3 5. Sections 118 subdivision (b) of the Code grants the Board jurisdiction over
4 suspended, expired, forfeited, cancelled, or surrendered licenses:

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

13 6. Section 490 of the Code states, in pertinent part:

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

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

24 (c) A conviction within the meaning of this section means a plea or
25 verdict of guilty or a conviction following a plea of nolo contendere. Any action that
26 a board is permitted to take following the establishment of a conviction may be taken
27 when the time for appeal has elapsed, or the judgment of conviction has been
28 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."

 7. Section 4060 of the Code 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, a physician assistant pursuant to
Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the
possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic
doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in
stock in containers correctly labeled with the name and address of the supplier or
producer."

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1 8. Section 4301 of the Code states, in pertinent part:

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

6 ...

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

10 (g) Knowingly making or signing any certificate or other document that
11 falsely represents the existence or nonexistence of a state of facts.

12 ...

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

15 ...

16 (l) The conviction of a crime substantially related to the qualifications,
17 functions, and duties of a licensee under this chapter. The record of conviction of a
18 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
19 States Code regulating controlled substances or of a violation of the statutes of this
20 state regulating controlled substances or dangerous drugs shall be conclusive
21 evidence of unprofessional conduct. In all other cases, the record of conviction shall
22 be conclusive evidence only of the fact that the conviction occurred. The board may
23 inquire into the circumstances surrounding the commission of the crime, in order to
24 fix the degree of discipline or, in the case of a conviction not involving controlled
25 substances or dangerous drugs, to determine if the conviction is of an offense
26 substantially related to the qualifications, functions, and duties of a licensee under this
27 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
28 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.

29 ...

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

35 ///

36 ///

1 **REGULATORY PROVISIONS**

2 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

10 **COST RECOVERY**

11 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **CONTROLLED SUBSTANCE**

16 a. "Lorazepam," is the generic name for Ativan. It is a Schedule IV controlled
17 substance as designated by Health and Safety Code section 11057, subdivision (d)(16) and is
18 categorized as a dangerous drug pursuant to section 4022 of the Code.

19 b. "Methylphenidate," is a Schedule II controlled substance as designated by Health and
20 Safety Code section 11055, subdivision (d)(6) and is categorized as a dangerous drug pursuant to
21 section 4022 of the Code.

22 c. "Oxycontin," is the brand name for Oxycodone. It is a Schedule II controlled
23 substance as designated by Health and Safety Code section 11055, subdivision (b)(1) and is
24 categorized as a dangerous drug pursuant to section 4022 of the Code.

25 d. "Phendimetrazine," is a Schedule III controlled substance as designated by Health
26 and Safety Code section 11056, subdivision (b)(1)(M) and is categorized as a dangerous drug
27 pursuant to section 4022 of the Code.

28 e. "Xanax," is the brand name for Alprazolam, an anti-anxiety benzodiazepine. It is a
Schedule IV controlled substance as designated by Health and Safety Code section 11057,
subdivision (d)(1) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (l) and
4 section 490 of the Code, in conjunction with California Code of Regulations, title 16, section
5 1770, in that Respondent was convicted of a crime substantially related to the qualifications,
6 functions, and duties of a pharmacy technician, as follows:

7 12. On or about October 25, 2010, after pleading guilty, Respondent was convicted of
8 one felony count of violating Health and Safety Code section 11173, subdivision (a) [obtaining a
9 controlled substance by fraud], one felony count of violating Business and Professions Code
10 section 4324, subdivision (a) [forging a prescription], one felony count of violating Penal Code
11 section 530.5, subdivision (a) [identity theft], one felony count of violating Penal Code section
12 487, subdivision (a) [grand theft of personal property], one felony count of violating Health and
13 Safety Code section 11350, subdivision (a) [possession of a controlled substance], one felony
14 count of violating Health and Safety Code section 11377, subdivision (a) [possession a controlled
15 substance], and one felony count of violating Health and Safety Code section 11375, subdivision
16 (b)(1) [possession for sale/sale of a designated controlled substance] in the criminal proceeding
17 entitled *The People of the State of California v. Zaida Michelle Johnson* (Super. Ct. Los Angeles
18 County, 2010, No. BA375970).

19 13. The Court sentenced Respondent to serve 270 days in Los Angeles County Jail,
20 placed her on formal probation for a period of five (5) years with terms and conditions and
21 ordered her to pay restitution to Kaiser Permanente Foundation Health Plan in the amount of \$77,
22 701.00. The circumstances surrounding the conviction are, as follows:

23 14. At or about the time of the misconduct for which she was convicted, Respondent had
24 been employed as a pharmacy technician at Kaiser Permanente ("Kaiser"), in Lancaster, CA. On
25 or about August 19, 2009, Respondent unlawfully obtained and attempted to obtain a controlled
26 substance, to wit: Xanax, and procured and attempted to procure the administration of and
27 prescription for said controlled substance by fraud, deceit and misrepresentation. In addition, she
28 signed the name of another, and of a fictitious person, and falsely made, altered forged, uttered,

1 passed and attempted to pass, as genuine, a prescription for a drug, Xanax. Additionally, on or
2 between February 1, 2010 and March 30, 2010, Respondent willfully and unlawfully obtained
3 personal identifying information of P.T. and used the information for an unlawful purpose and to
4 obtain, and attempted to obtain credit, goods, services, real property, and medical information
5 without the consent of P.T. Furthermore, on or between August 19, 2009 and April 16, 2010,
6 Respondent unlawfully took money and personal property of a value exceeding four hundred
7 dollars (\$400), to wit: Money, the property of Kaiser. On or about April 16, 2010, Respondent
8 unlawfully possessed a controlled substance, to wit: Oxycontin, Methylphenidate, and
9 Phendimetrazine. In addition, on or about April 16, 2010, Respondent unlawfully possessed for
10 sale and sold a designated controlled substance, to wit: Lorazepam, Alprazolam, and Xanax.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Forged Prescriptions)**

13 15. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the
14 Code in that while employed as a pharmacy technician at Kaiser, in Lancaster, CA Respondent
15 forged prescriptions. Additionally, Respondent was criminally convicted of one felony count of
16 violating section 4324, subdivision (a) of the Code [forging a prescription]. Complainant refers
17 to, and by this reference incorporates, the allegations set forth above in paragraphs 11 through 14,
18 as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Illegally Possessed Controlled Substances)**

21 16. Respondent is subject to disciplinary action under section 4060 of the Code in that
22 while employed as a pharmacy technician at Kaiser, in Lancaster, CA, Respondent obtained and
23 possessed controlled substances in violation of the law. Additionally, Respondent was criminally
24 convicted of one felony count of violating Health and Safety Code section 11350, subdivision (a)
25 [possession of a controlled substance], one felony count of violating Health and Safety Code
26 section 11377, subdivision (a) [possession of a controlled substance] and one felony count of
27 violating Health and Safety Code section 113675, subdivision (b)(1) [possession for sale/sale of
28

1 designated controlled substance]. Complainant refers to, and by this reference incorporates, the
2 allegations set forth above in paragraphs 11 through 14, as though set forth fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Acts Involving Dishonest Acts, Fraud, or Deceit)**

5 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
6 Code in that while employed as a pharmacy technician at Kaiser, in Lancaster, CA, Respondent
7 committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit
8 herself, or substantially injure another when she obtained controlled substances by forging
9 prescriptions. Additionally, Respondent was criminally convicted of one felony count of
10 violating Health and Safety Code section 11173, subdivision (a) [obtaining a controlled substance
11 by fraud], one felony count of violating section 4324, subdivision (a) of the Code [forging a
12 prescription], one felony count of violating Penal Code section 530.5, subdivision (a) [identity
13 theft] and one felony count of violating Penal Code section 487, subdivision (a) [grand theft of
14 personal property]. Complainant refers to, and by this reference incorporates, the allegations set
15 forth above in paragraphs 11 through 14, as though set forth fully.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Violation of Laws Regulating Controlled Substances)**

18 18. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
19 Code in that Respondent violated California statutes regulating controlled substances when she
20 was convicted of two felony counts of violating Health and Safety Code section 11173,
21 subdivision (a), one felony count of violating Health and Safety Code section 11350, subdivision
22 (a) and one felony count of violating Health and Safety Code section 11375, subdivision (b)(1).
23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraphs 11 through 14, as though set forth fully.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct)**

27 19. Respondent is subject to disciplinary action under section 4301 of the Code in that
28 Respondent was involved in a conspiracy to obtain controlled substances by fraud. Complainant

1 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 11
2 through 14, as though set forth fully.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Violation of Pharmacy Law)**

5 20. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
6 Code in that Respondent violated provisions of the Pharmacy Law when she was involved in a
7 conspiracy to obtain controlled substances by fraud. Complainant refers to, and by this reference
8 incorporates, the allegations set forth above in paragraphs 11 through 19, as though set forth fully.

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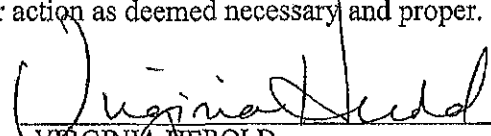
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 27183, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/29/12



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

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