

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

In the Matter of the Accusation Against:

Case No. 4258

SARA BLACK
235 7th Street
Seal Beach, CA 90740

Pharmacy Technician Registration No.
TCH 36567

Respondent.

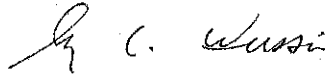
DECISION AND ORDER

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 November 26, 2012.

It is so ORDERED on October 25, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4258

12 **SARA E. BLACK**
13 **235 7th Street**
14 **Seal Beach, CA 90740**
15 **Pharmacy Technician License No. TCH**
16 **36567**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Diane De Kervor, Deputy Attorney
23 General.

24 2. Sara E. Black (Respondent) is representing herself in this proceeding and has chosen
25 not to exercise her right to be represented by counsel.

26 3. On or about February 21, 2001, the Board of Pharmacy issued Pharmacy Technician
27 License No. TCH 36567 to Sara E. Black (Respondent). The Pharmacy Technician License was
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1 in full force and effect at all times relevant to the charges brought in Accusation No. 4258 and
2 will expire on November 30, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 4258 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on July 18, 2012.

7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 4258 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 4258. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No. 4258, if
24 proven at a hearing, constitute cause for imposing discipline upon her Pharmacy Technician
25 License.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up her right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation she enables the Board to issue
4 an order accepting the surrender of her Pharmacy Technician License without further process.

5 RESERVATION

6 11. The admissions made by Respondent herein are only for the purposes of this
7 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
8 licensing agency is involved, and shall not be admissible in any other criminal or civil
9 proceeding.

10 CONTINGENCY

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

20 13. The parties understand and agree that facsimile copies of this Stipulated Surrender of
21 License and Order, including facsimile signatures thereto, shall have the same force and effect as
22 the originals.

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

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

3 **ORDER**

4 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 36567, issued to
5 Respondent Sara E. Black, is surrendered and accepted by the Board of Pharmacy.

6 1. The surrender of Respondent's Pharmacy Technician License and the acceptance of
7 the surrendered license by the Board shall constitute the imposition of discipline against
8 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
9 Respondent's license history with the Board of Pharmacy.

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

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

14 4. If Respondent ever files an application for licensure or a petition for reinstatement in
15 the State of California, the Board shall treat it as a new application for licensure. Respondent
16 must comply with all the laws, regulations and procedures for licensure in effect at the time the
17 application or petition is filed, and all of the charges and allegations contained in Accusation No.
18 4258 shall be deemed to be true, correct and admitted by Respondent when the board determines
19 whether or grant or deny the application or petition.

20 5. Respondent shall pay the agency its costs of investigation and enforcement in the
21 amount of \$2,598.00 prior to issuance of a new or reinstated license.

22 6. Respondent shall not apply for licensure or petition for reinstatement for three (3)
23 years from the effective date of the Board's Decision and Order.

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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 License. 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: 9/20/12 S E Black
SARA E. BLACK
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: 9/20/12 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General
Diane de Kervor
DIANE DE KERVOR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4258

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 **SARA E. BLACK**
235 7th Street
14 Seal Beach, CA 90740
15 **Pharmacy Technician License No. TCH 36567**
16 Respondent.

Case No. 4258
ACCUSATION

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 February 21, 2001, the Board of Pharmacy issued Pharmacy
23 Technician License Number TCH 36567 to Sara E. Black (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on November 30, 2012, unless renewed.

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JURISDICTION

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

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

19 5. Section 4300, subdivision (a), of the Code states that every license issued may be
20 suspended or revoked.

STATUTORY PROVISIONS

21 6. Section 482 of the Code states:

22 Each board under the provisions of this code shall develop criteria to
23 evaluate the rehabilitation of a person when:

24 (a) Considering the denial of a license by the board under Section 480; or

25 (b) Considering suspension or revocation of a license under Section 490.

26 Each board shall take into account all competent evidence of rehabilitation
27 furnished by the applicant or licensee.

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

8. Section 493 of the Code states:

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

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is substantially related to the qualifications, functions, and duties of the licensee in question.

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

9. Section 4022 of the Code states

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

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

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

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

10. Section 4060 of the Code states:

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 physician assistant pursuant to Section 3502.1, or 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. 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.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

11. Section 4301 of the Code states:

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.

....

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

....

(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.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting 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.

....

12. Health & Safety Code section 11173 states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

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REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1769, states:

.....
(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

14. 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.

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COST RECOVERY

15. 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.

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DRUG AT ISSUE

16. Hydrocodone 10/325; commonly known as Norco, is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

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1 FIRST CAUSE FOR DISCIPLINE

2 (March 18, 2011 Criminal Conviction for Obtaining Controlled Substance By Fraud from
3 February to October 22, 2010)

4 17. Respondent subjected her license to discipline under sections 490 and 4301,
5 subdivision (l) of the Code in that Respondent was convicted of a crime that is substantially
6 related to the qualifications, functions, and duties of a licensed pharmacy technician. The
7 circumstances are as follows:

8 a. On or about March 18, 2011, in a criminal proceeding entitled *The People*
9 *of the State of California vs. Sara Elizabeth Black*, in Los Angeles County Superior Court, Case
10 Number VA117394, Respondent was convicted on her plea of guilty to violating Health &
11 Safety Code section 11173 subdivision (a), obtaining controlled substance by fraud, a felony.
12 Respondent was also charged with violation of Penal Code (PC) section 487, subdivision (a),
13 grand theft of property with a value over \$950.00, a felony, which was dismissed pursuant to a
14 plea bargain.

15 b. As a result of the conviction, on or about April 15, 2011, Respondent was
16 sentenced to 180 days in Los Angeles County Jail with credit for one day served, which was
17 suspended, and placed on three years formal probation. Respondent was also ordered to perform
18 120 hours of service with the California Department of Transportation, or another agency, and
19 pay \$400.00 in fines, \$120.00 in fees, and \$8,300.00 in restitution.

20 c. The facts that led to the conviction are that on or about July 2010, at a
21 pharmacy in Lakewood, California where Respondent was employed, the prescription drug
22 monitoring report for the month showed a variance of 5,980 pills of hydrocodone 10/325. The
23 Regional Loss Prevention Manager (RLPM) and the store's supervisor agreed on a hand
24 counting system of weekly inventory and on the installation of multiple covert cameras. On or
25 about October 5, 2010, an inventory showed that since July 2010, an additional 3,418 tablets of
26 hydrocodone 10/325 were missing. A review of video surveillance showed Respondent removing
27 hydrocodone bottles from the shelf while dispensing records showed no activity of dispensing at
28 those times. On or about October 27, 2010, while the RLPM was watching real-time feeds from

1 the covert cameras, he witnessed Respondent making a selection of hydrocodone as shown in the
2 monitors. The RLPM interviewed Respondent who admitted to stealing 12,844 pills of
3 hydrocodone 10/325, that she sold them for a dollar a tablet, that she would take drugs no more
4 than four times a month, that she would remove drugs in a Rx bag that she would be picking up
5 to take home or in her pocket and no one would check her smock while she left the store, and
6 that she caused a loss of \$8,300.00. An audit completed from the last physical inventory of
7 August 26, 2009 to October 27, 2010 reflected a loss of 27, 582 tablets of hydrocodone 10/325.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct – Commission of Acts Involving Moral Turpitude, Dishonesty,
10 Fraud, Deceit, and Corruption)**

11 18. Respondent is subject to disciplinary action under Code section 4301, subdivision
12 (f), in that during the period of February to October, 2010, Respondent knowingly, voluntarily,
13 and repeatedly obtained thousands of pills of hydrocodone 10/325, a controlled substance, by
14 fraud, deceit, or misrepresentation, as detailed in paragraph 17, above.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Drug Laws)**

17 19. Respondent is subject to disciplinary action under Code section 4301, subdivision
18 (j), in that Respondent violated Health & Safety Code section 11173 subdivision (a), regulating
19 controlled substances and dangerous drugs, as detailed in paragraph 17, above.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct – Violation of Pharmacy Laws)**

22 20. Respondent is subject to disciplinary action under Code section 4301, subdivision
23 (o), in that Respondent possessed hydrocodone 10/325 without a prescription in violation of
24 Code section 4060, as detailed in paragraph 17, above, in violation of pharmacy law.

25 **PRAYER**

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

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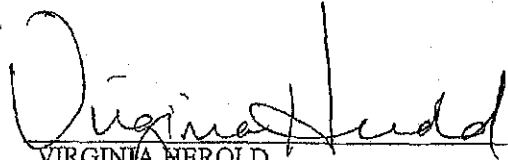
1. Revoking or suspending Pharmacy Technician License Number TCH 36567,
issued to Sara E. Black;

2. Ordering Sara E. Black 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:

7/12/12



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

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