

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:

**JAMES PROSPER AHRENHOLTZ AKA
JAMES AHRENHOLTZ
1409 El Pueblo Drive
Modesto, CA 95355**

**Pharmacy Technician Registration No. TCH
99246**

Respondent.

Case No. 4374

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 22, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed

1 Accusation No. 4374 against James Prosper Ahrenholtz aka James Ahrenholtz (Respondent)
2 before the Board of Pharmacy. (Accusation attached as Exhibit A.)

3 2. On or about February 26, 2010, the Board of Pharmacy (Board) issued Pharmacy
4 Technician Registration No. TCH 99246 to Respondent. The Pharmacy Technician Registration
5 was in full force and effect at all times relevant to the charges brought in Accusation No. 4374
6 and expired on April 30, 2013, and has not been renewed. This lapse in licensure, however,
7 pursuant to Code section 4300.1 does not divest the Board of its authority to institute or continue
8 disciplinary proceedings..

9 3. On or about September 3, 2013, Respondent was served by Certified and First Class
10 Mail copies of the Accusation No. 4374, Statement to Respondent, Notice of Defense, Request
11 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
12 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
13 section 4100, is required to be reported and maintained with the Board. Respondent's address of
14 record was and is:

15 1409 El Pueblo Drive
16 Modesto, CA 95355.

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

19 5. On or about September 4, 2013, Respondent signed the certified mail receipt.

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

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 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.

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 4374.

27 8. California Government Code section 11520 states, in pertinent part:

28 ///

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

5 9. Pursuant to its authority under Government Code section 11520, the Board finds
6 Respondent is in default. The Board will take action without further hearing and, based on the
7 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
8 taking official notice of all the investigatory reports, exhibits and statements contained therein on
9 file at the Board's offices regarding the allegations contained in Accusation No. 4374, finds that
10 the charges and allegations in Accusation No. 4374, are separately and severally, found to be true
11 and correct by clear and convincing evidence.

12 10. Taking official notice of its own internal records, pursuant to Business and
13 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
14 and Enforcement is \$1,232.50 as of October 21, 2013.

15 DETERMINATION OF ISSUES

16 1. Based on the foregoing findings of fact, Respondent James Prosper Ahrenholtz aka
17 James Ahrenholtz has subjected his Pharmacy Technician Registration No. TCH 99246 to
18 discipline.

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

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

23 a. Code section 4301, subdivision (l), in that Respondent was convicted of a crime
24 substantially related to his registration as a pharmacy technician. Respondent committed
25 theft of controlled substances from the pharmacy where he was employed.

26 b. Code section 4301, subdivision (j), in that Respondent violated the laws
27 governing controlled substances.

28 ///

///

1 c. Code section 4301, subdivision (h), in that Respondent unlawfully self-
2 administered a controlled substance in a manner or to an extent as to be dangerous to
3 himself or others.

4 d. Code section 4301, subdivision (f), in that Respondent committed dishonest,
5 fraudulent, corrupt, or deceitful acts by embezzling controlled substances from his
6 employer.

7 e. Code section 4301, subdivision (o), in that Respondent violated the laws
8 governing pharmacy.

9 **ORDER**

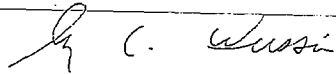
10 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 99246, heretofore
11 issued to Respondent James Prosper Ahrenholtz aka James Ahrenholtz, is revoked.

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

16 This Decision shall become effective on January 27, 2014.

17 It is so ORDERED ON December 27, 2013.

18 BOARD OF PHARMACY
19 DEPARTMENT OF CONSUMER AFFAIRS
20 STATE OF CALIFORNIA

21 
22 By _____
23 STAN C. WEISSER
24 Board President

25 11198919.DOC
26 DOJ Matter ID:SA2012107943

27 Attachment:
28 Exhibit A: Accusation

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

11198919.DOC
DOJ Matter ID:SA2012107943

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

9
10
11 In the Matter of the Accusation Against:

Case No. 4374

12 **JAMES PROSPER AHRENHOLTZ AKA**
13 **JAMES AHRENHOLTZ**
14 **1409 Pueblo Drive**
Modesto, CA 95355

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
99246

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 26, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 99246 to James Prosper Ahrenholtz aka James Ahrenholtz
24 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
25 relevant to the charges brought herein and expired on April 30, 2013; it has not yet been renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

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

5 4. Section 4300 of the Code states in pertinent part:

6 "(a) Every license issued may be suspended or revoked.

7 "(b) The board shall discipline the holder of any license issued by the board... whose case
8 has been heard by the board and found guilty, by any of the following methods:

9 "(1) Suspending judgment.

10 "(2) Placing him or her upon probation.

11 "(3) Suspending his or her right to practice for a period not exceeding one year.

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board in its
14 discretion may deem proper."

15 5. Code section 4300.1 states: "The expiration, cancellation, forfeiture, or suspension of
16 a board-issued license by operation of law or by order or decision of the board or a court of law,
17 the placement of a license on a retired status, or the voluntary surrender of a license by a licensee
18 shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or
19 action or disciplinary proceeding against, the licensee or to render a decision suspending or
20 revoking the license."

21 6. Section 4301 of the Code states in pertinent part:

22 "The board shall take action against any holder of a license who is guilty of unprofessional
23 conduct... Unprofessional conduct shall include, but is not limited to, any of the following:

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

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

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

6 "(l) The conviction of a crime substantially related to the qualifications, functions, and
7 duties of a licensee under this chapter. The record of conviction of a violation of
8 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
9 regulating controlled substances or of a violation of the statutes of this state regulating
10 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
11 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
12 the fact that the conviction occurred. The board may inquire into the circumstances
13 surrounding the commission of the crime, in order to fix the degree of discipline or, in
14 the case of a conviction not involving controlled substances or dangerous drugs, to
15 determine if the conviction is of an offense substantially related to the qualifications,
16 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
17 conviction following a plea of nolo contendere is deemed to be a conviction within the
18 meaning of this provision. The board may take action when the time for appeal has
19 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
20 granting probation is made suspending the imposition of sentence, irrespective of a
21 subsequent order under Section 1203.4 of the Penal Code allowing the person to
22 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
23 verdict of guilty, or dismissing the accusation, information, or indictment.

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

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

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

35 8. Section 4060 of the Code states:

1 "No person shall possess any controlled substance, except that furnished to a person upon
2 the prescription of a physician..."

3 9. Section 4022 of the Code states

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

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

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

10 DRUGS

11 10. Hydrocodone is a Schedule III controlled substance as designated by Health and
12 Safety Code section 11056(e) and a dangerous drug pursuant to Code section 4022.

13 COST RECOVERY

14 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 FIRST CAUSE FOR DISCIPLINE

21 (Substantially Related Criminal Conviction)

22 12. Respondent is subject to disciplinary action under section 4301, subdivision (1) in that
23 on or about July 9, 2012, in Stanislaus County Superior Court in the case entitled *People v. James*
24 *Prosper Ahrenholz*, Case No. 1443646, Respondent pled nolo contendere to violating Penal Code
25 section 487(a), a felony (Grand Theft - Property exceeding value of \$950) and Health and Safety
26 Code section 11351, a felony (possession of a controlled substance for purpose of sale). The
27 circumstances are as follows:

28 ///

1 13. On or about March 12, 2012, Respondent was employed at Walgreens pharmacy in
2 Turlock, California, as a pharmacy technician. Walgreens loss prevention confronted Respondent
3 with evidence that over approximately the previous six (6) months, there had been an
4 investigation into inventory shortages of prescription drugs, and it was believed that Respondent
5 was responsible. Respondent admitted that he had been stealing hydrocodone from Walgreens
6 since approximately August 2011. Respondent estimated that he stole approximately 20 bottles,
7 each containing 500 pills of hydrocodone, as well as other drugs. Respondent admitted to having
8 pills in his home and vehicle. Walgreens loss prevention called the Turlock Police Department
9 who searched Respondent's home and vehicle and found \$700.00 cash and 52 hydrocodone pills
10 at his home, and 35 hydrocodone pills in his vehicle.

11 SECOND CAUSE FOR DISCIPLINE

12 (Violation of Laws Governing Controlled Substances)

13 14. Respondent is subject to disciplinary action under section 4301, subdivision (j) for
14 violating state laws governing controlled substances. Respondent violated Health and Safety
15 Code section 11351, as set forth above in paragraphs 12 and 13, and also violated Code section
16 4060, in that between August 2011 and March 12, 2012, Respondent unlawfully possessed the
17 controlled substance hydrocodone.

18 THIRD CAUSE FOR DISCIPLINE

19 (Unlawful Self-Administration of Controlled Substance)

20 15. Respondent is subject to disciplinary action under section 4301, subdivision (h) in
21 that on multiple occasions between August, 2011 and March 12, 2012, Respondent unlawfully
22 self administered hydrocodone, a controlled substance, in a manner as to be injurious to himself.

23 16. On or about March 12, 2012, when Respondent was giving a statement to the Turlock
24 Police Department in regards to the theft as outlined in paragraph 13, above, Respondent was
25 asked if he was addicted to hydrocodone. Respondent stated that he was not addicted; however,
26 he admitted that he self administered the hydrocodone he stole from the Walgreens pharmacy
27 approximately one time per week.

28 ///

1
2
3
4
5
6
7
8

FOURTH CAUSE FOR DISCIPLINE

(Dishonest/Fraudulent/Corrupt/Deceitful Acts)

17. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that between August, 2011, and March 12, 2012, while employed and on duty as a pharmacy technician at the Walgreens store in Turlock, California, Respondent committed dishonest, fraudulent, corrupt, and/or deceitful acts by stealing a large quantity of hydrocodone, a controlled substance, from the Walgreens pharmacy, as described above in paragraphs 12 and 13.

9
10
11
12
13

FIFTH CAUSE FOR DISCIPLINE

(Violation of Laws Governing Pharmacy)

18. Respondent is subject to disciplinary action under section 4301, subdivision (o) in that between August 2011, and March 12, 2012, Respondent committed acts in violation of the laws governing pharmacy, as set forth above in paragraphs 12 through 17.

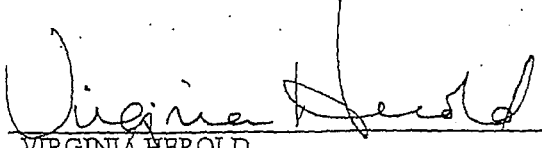
PRAYER

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 Registration Number TCH 99246, issued to James Prosper Ahrenholtz aka James Ahrenholtz
2. Ordering James Prosper Ahrenholtz aka James Ahrenholtz 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.

22
23
24
25
26
27
28

DATED: 7/22/13


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

SA2012107943
11099196.doc