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

In the Matter of the Accusation Against:  
**BRENDA MARIE DOBIN**  
**2519 Royal Ave.**  
**Simi Valley, CA 93065**  
**Pharmacy Technician License No. TCH**  
**99068**  
  
Respondent.

Case No. 4390  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 18, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4390 against Brenda Marie Dobin (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 22, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 99068 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4390 and expired on April 30, 2013, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) and/or agency-specific statute does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding."

1           3.    On or about August 6, 2013, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 4390, Statement to Respondent, Notice of Defense, Request  
3 for Discovery and Discovery Statutes at Respondent's address of record which, pursuant to  
4 Business & Professions Code section 4100, is required to be reported and maintained with the  
5 Board. Respondent's address of record was and is:

6 2519 Royal Ave.  
7 Simi Valley, CA 93065.

8           4.    Service of the Accusation was effective as a matter of law under the provisions of  
9 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
10 124.

11           5.    The aforementioned documents were not returned by the U.S. Postal Service and an  
12 individual named "Chelsey Empero" signed for the Accusation packet .

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

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

19           7.    Respondent failed to file a Notice of Defense within 15 days after service upon her of  
20 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4390.

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

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

26           9.    Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 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. 4390, finds that

1 the charges and allegations in Accusation No. 4390, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
4 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4390.  
5 Taking official notice of its own internal records, pursuant to Business & Professions Code 125.3,  
6 it is hereby determined that the reasonable costs for Investigation and Enforcement is \$1,000.00  
7 as of September 26, 2013.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Brenda Marie Dobin has  
10 subjected her Pharmacy Technician License No. TCH 99068 to discipline.

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

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

15 Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in  
16 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of  
17 unprofessional conduct, in that Respondent has been convicted of a crime substantially related to  
18 the qualifications, functions or duties of a pharmacy technician, as follows:

19 a. On or about February 20, 2013, after pleading guilty, Respondent was convicted of  
20 one felony count of violating Health and Safety Code section 11351 [possession for sale of a  
21 controlled substance] in the criminal proceeding entitled *The People of the State of California v.*  
22 *Brenda Marie Dobin* (Super. Ct. Ventura County, 2013, No. 2012024356.) The Court sentenced  
23 Respondent to serve 120 days in Ventura County Jail and place her on 36 months probation, with  
24 terms and conditions.

25 b. The circumstances surrounding the conviction are that on or about July 5, 2012,  
26 during a parole search of Respondent's home by the Simi Valley Police Department, Respondent  
27 was contacted. During the search, officers found a paper bag, containing a large amount of  
28 yellow pills, stamped "Watson 853". When officers showed Respondent the pills, she

1 immediately stated that she stole them from the pharmacy where she works, Midvalley Pharmacy.  
2 Respondent admitted to stealing the pills so she could sell them. She had heard she could sell the  
3 pills for three dollars each. Respondent told officers the pills were Norco and there were 500 of  
4 them. She also stated that she had a key that gave her access to the narcotics.

5 ORDER

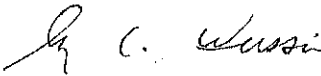
6 IT IS SO ORDERED that Pharmacy Technician License No. TCH 99068, heretofore issued  
7 to Respondent Brenda Marie Dobin, is revoked.

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

12 This Decision shall become effective on January 2, 2014.

13 It is so ORDERED ON December 2, 2013.

14 BOARD OF PHARMACY  
15 DEPARTMENT OF CONSUMER AFFAIRS  
16 STATE OF CALIFORNIA

17 

18 By \_\_\_\_\_  
19 STAN C. WEISSER  
20 Board President

21 51374437.DOC  
22 DOJ Matter ID:LA2013508679

23 Attachment:  
24 Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC GREENBAUM  
Supervising Deputy Attorney General  
3 CHRISTINA THOMAS  
Deputy Attorney General  
4 State Bar No. 171168  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2557  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4390

13 **BRENDA MARIE DOBIN**  
2519 Royal Ave.  
14 Simi Valley, CA 93065

**ACCUSATION**

15 Pharmacy Technician License No. TCH 99068

16 Respondent.

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.

21 2. On or about March 22, 2010, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 99068 to Brenda Marie Dobin (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 expired on April 30, 2013, and has not been 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 unless otherwise indicated.

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8. Section 4301 states, in pertinent 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:

....

"(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, or 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



1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
2 indictment.”

3 . . . .

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

8 9. Section 4060 states, in pertinent part:

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

16 **REGULATORY PROVISIONS**

17 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

24 **COST RECOVERY**

25 11. Section 125.3 states, in pertinent part, that the Board may request the administrative  
26 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
27 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
28 case.



1 Midvalley Pharmacy, in Simi Valley, CA, Respondent committed acts involving dishonesty,  
2 fraud, or deceit with the intent to substantially benefit herself, or substantially injure another.  
3 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
4 paragraph 12, subparagraphs (a) and (b), inclusive, as though set forth fully.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Possession of a Controlled Substance without a Valid Prescription)**

7 15. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and  
8 (o), for violating section 4060, on the grounds of unprofessional conduct, in that or on about July  
9 5, 2012, Respondent was found to be in possession of a controlled substance without a valid  
10 prescription. Complainant refers to, and by this reference incorporates, the allegations set forth  
11 above in paragraph 12, subparagraphs (a) and (b), inclusive, as though set forth in fully

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

14 16. Respondent is subject to disciplinary action under section 4301, (o), in that  
15 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
16 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
17 in paragraphs 12-15, inclusive, as though set forth fully.

18  
19 **PRAYER**

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

- 22 1. Revoking or suspending Pharmacy Technician License No. TCH 99068, issued to  
23 Brenda Marie Dobin;  
24 2. Ordering Brenda Marie Dobin to pay the Board the reasonable costs of the  
25 investigation and enforcement of this case, pursuant to section 125.3; and,  
26  
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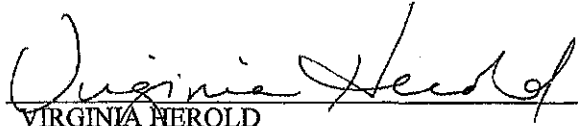
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3. Taking such other and further action as deemed necessary and proper.

DATED:

7/18/13



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

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mc (5/29/13)