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

In the Matter of the Accusation Against:

CRYSTAL FRANCINE JOHNSTONE
6162 Tyden Way
Paradise, CA 95969

Pharmacy Technician Registration No. TCH
104667

Respondent.

Case No. 4902

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

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FINDINGS OF FACT

1
2 1. On or about October 21, 2013, Complainant Virginia Herold, in her official capacity
3 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
4 Accusation No. 4902 against Crystal Francine Johnstone (Respondent) before the Board of
5 Pharmacy. (Accusation attached as Exhibit A.)

6 2. On or about June 30, 2010, the Board of Pharmacy (Board) issued Pharmacy
7 Technician Registration No. TCH 104667 to Respondent. The Pharmacy Technician Registration
8 expired on July 31, 2013, and has not been renewed.

9 3. On or about November 4, 2013, Respondent was served by Certified and First Class
10 Mail copies of the Accusation No. 4902, 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 6162 Tyden Way
16 Paradise, CA 95969.

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/or Business & Professions Code section
19 124.

20 5. On or about November 5, 2013, Respondent signed the certified mail receipt
21 indicating delivery and acceptance of the aforementioned documents.

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

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

26 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
27 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4902.

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

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

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 4902, finds that
11 the charges and allegations in Accusation No. 4902, are separately and severally, found to be true
12 and correct by clear and convincing evidence.

13 10. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$2,162.00 as of December 3, 2013.

16 **DETERMINATION OF ISSUES**

17 1. Based on the foregoing findings of fact, Respondent Crystal Francine Johnstone has
18 subjected her Pharmacy Technician Registration No. TCH 104667 to 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. Violation of Section 4301, subdivision (l), by pleading no contest to possession of a
24 controlled substance, a substantially related criminal conviction;

25 b. Violation of Section 4301, subdivision (j), by stealing and unlawfully possessing a
26 controlled substance in violation of the laws governing controlled substances;

27 c. Violation of Section 4301, subdivision (f), by stealing controlled substances from her
28 employer, a dishonest, fraudulent, corrupt, or deceitful act;

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1 d. Violation of Section 4301, subdivision (h), by unlawfully self-administering the
2 controlled substances which she stole from her employer in a manner dangerous or injurious to
3 herself or others; and

4 e. Violation of Section 4301, subdivision (o), by violating the laws governing pharmacy
5 as stated in the paragraphs above.

6 **ORDER**

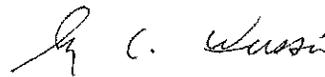
7 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 104667, heretofore
8 issued to Respondent Crystal Francine Johnstone, is revoked.

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

13 This Decision shall become effective on March 6, 2014.

14 It is so ORDERED ON February 4, 2014.

15
16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 

20 By _____
21 STAN C. WEISSER
22 Board President

23
24
25 11227691.DOC
26 DOJ Matter ID:SA2013112348

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

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2 JANICE K. LACHMAN
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3 KRISTINA T. JANSEN
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4902

11 **CRYSTAL FRANCINE JOHNSTONE**
12 **6162 Tyden Way**
13 **Paradise, CA 95969**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **104667**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about June 30, 2010, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 104667 to Crystal Francine Johnstone (Respondent). The Pharmacy
23 Technician Registration expired on July 31, 2013, and has not been renewed.

24 **JURISDICTION**

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

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

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

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

6. Section 4301 of the Code 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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

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

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

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

26 7. Section 4060 of the Code provides in pertinent part that no person shall possess any
27 controlled substance, except that furnished to a person upon a valid prescription.

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1 Paradise, California. On or about October 12, 2012, Respondent was observed by a co-worker
2 stealing hydrocodone, brand name Norco, by concealing several pills in the palm of her hand and
3 taking the pills to an office where she appeared to conceal the pills in her purse. On or about
4 October 19, 2012, an asset protection manager reviewed the security videotapes of the area and
5 confirmed the theft. Respondent was confronted and admitted to having been stealing the
6 controlled substances Norco, Soma, and Provigil from the pharmacy for her personal use for
7 approximately two months. Respondent consented to a search and was discovered to be in
8 possession of Norco, Soma, and Provigil without a prescription.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Substantially Related Criminal Conviction)**

11 14. Respondent is subject to disciplinary action under section 4301, subdivision (i) in that
12 on or about April 3, 2012, in the Butte County Superior Court case entitled *People v. Crystal*
13 *Francine Johnstone*, case number CM037981, Respondent was convicted after her plea of no
14 contest to violating Health and Safety Code section 11350, subdivision (a), possession of a
15 controlled substance, a felony. The circumstances are as described in paragraph 13, above.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Violation of Laws Governing Controlled Substance)**

18 15. Respondent is subject to disciplinary action under section 4301, subdivision (j), in that
19 in the time period from August 2012 to October 2012, Respondent violated the laws governing
20 controlled substances. Respondent stole and unlawfully possessed controlled substances in
21 violation of Code section 4060 and Health and Safety Code section 11350, subdivision (a). The
22 circumstances are as described in paragraph 13 and paragraph 14, above.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Dishonest, Fraudulent, Corrupt, Deceitful Acts)**

25 16. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
26 on or about October 12, 2012, and on unknown dates prior to October 12, 2012, Respondent
27 knowingly and dishonestly stole controlled substances from the Rite Aid pharmacy where she was
28 then employed. The circumstances are as described in paragraph 13, above.

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FOURTH CAUSE FOR DISCIPLINE

(Unlawful Self-Administration of Controlled Substance in a Manner Dangerous or Injurious to Herself or Others)

17. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that in the time period between August 2012 and October 19, 2012, Respondent unlawfully embezzled and consumed controlled substances without a prescription from the pharmacy where she worked. The circumstances are as described in paragraph 13, above.

FIFTH CAUSE FOR DISCIPLINE
(Violation of Laws Governing Pharmacy)

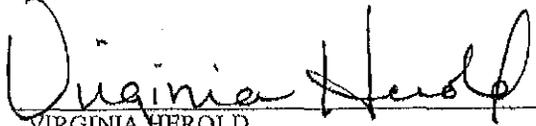
18. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that in the time period from August 2012 to October 2012, Respondent committed acts in violation of the laws governing pharmacy, Code sections 4000, et. seq., as set forth in paragraphs 13-17, above.

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 104667, issued to Crystal Francine Johnstone
2. Ordering Crystal Francine Johnstone 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: 10/21/13



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

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