

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:
DRAKKAR JACOB SOUTHERN
1226 Brooktrail Drive
Pittsburg, CA 94565
Pharmacy Technician Registration No. TCH
110664

Respondent.

Case No. 5024

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 10, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5024 against Drakkar Jacob Southern (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about February 14, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 110664 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5024 and expired on July 31, 2014.

1 3. On or about May 28, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5024, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 1226 Brooktrail Drive
8 Pittsburg, CA 94565.

9 4. On or about July 16, 2014, Respondent was also served by Certified and First Class
10 Mail copies of the Accusation No. 5024, 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 the San Francisco County Jail located at:

13 425 7th Street
14 San Francisco, CA 94103.

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

18 6. On or about June 26, 2014, the aforementioned documents which had been served
19 upon Respondent's address of record were returned by the U.S. Postal Service marked
20 "Unclaimed."

21 7. Government Code section 11506 states, in pertinent part:

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

27 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
28 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
5024.

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

 (a) If the respondent either fails to file a notice of defense or to appear at the

1 hearing, the agency may take action based upon the respondent's express admissions
2 or upon other evidence and affidavits may be used as evidence without any notice to
3 respondent.

4 10. Pursuant to its authority under Government Code section 11520, the Board finds
5 Respondent is in default. The Board will take action without further hearing and, based on the
6 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
7 taking official notice of all the investigatory reports, exhibits and statements contained therein on
8 file at the Board's offices regarding the allegations contained in Accusation No. 5024, finds that
9 the charges and allegations in Accusation No. 5024, are separately and severally, found to be true
10 and correct by clear and convincing evidence.

11 11. Taking official notice of its own internal records, pursuant to Business and
12 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
13 and Enforcement is \$1,485.00 as of September 11, 2014.

14 DETERMINATION OF ISSUES

15 1. Based on the foregoing findings of fact, Respondent Drakkar Jacob Southern has
16 subjected his Pharmacy Technician Registration No. TCH 110664 to discipline.

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

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

21 a. Substantially related conviction: Business and Professions Code sections 490 and
22 4301(l) and California Code of Regulations, title 16, section 1770;

23 b. Acts involving moral turpitude, dishonesty, fraud, deceit or corruption: Business and
24 Professions Code section 4301(f); and

25 c. Possession of methamphetamine: Business and Professions Code sections 4301(j),
26 4301(o) and 4060 and Health and Safety Code sections 11350.

27 ///

28 ///

///

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

ORDER

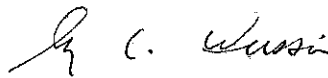
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 110664, heretofore issued to Respondent Drakkar Jacob Southern, is revoked.

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

This Decision shall become effective on October 31, 2014.

It is so ORDERED October 1, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

41075934.DOC
DOJ Matter ID:SF2013406695

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
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. 5024

11 **DRAKKAR JACOB SOUTHERN**
12 **1226 Brooktrail Drive**
13 **Pittsburg, CA 94565**

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
110664

15 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.

21 2. On or about February 14, 2011, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 110664 to Drakkar Jacob Southern (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on July 31, 2014, unless renewed.

25 **JURISDICTION**

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

1
2 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
3 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
4 whether the act is a felony or misdemeanor or not.

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

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

26
27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
28 violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.

3 . . . "

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

8 8. Section 4022 of the Code states

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

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

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

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

18 9. Section 4060 of the Code states:

19 "No person shall possess any controlled substance, except that furnished to a person upon
20 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
21 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
22 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
23 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
24 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
25 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
26 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
27 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
28

1 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
2 labeled with the name and address of the supplier or producer.

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

6
7 10. California Code of Regulations, title 16, section 1770, states:

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

14 11. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
15 controlled substances without a valid prescription.

16 COST RECOVERY

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

21 DRUGS

22 13. Methamphetamine is a Schedule II controlled substance as designated by Health and
23 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
24 Code section 4022. It is a stimulant drug.

25 FIRST CAUSE FOR DISCIPLINE

26 (SUBSTANTIALLY RELATED CRIMINAL CONVICTION)

27 14. Respondent is subject to discipline under the following section(s) of the Code: 490
28 and 4301(l); and California Code of Regulations, title 16, section 1770, for conviction of a

1 substantially related crime, in that on or about January 14, 2013, Respondent was convicted in
2 *People of the State of California v. Drakkar J. Southern*, Case No. 219433 in San Francisco
3 Superior Court of violating Penal Code sections 245(a) (assault with a deadly weapon) and 487(c)
4 (grand theft), felonies. Respondent was sentenced to serve one year in county jail, and three years
5 probation. The circumstances of the conviction are that on or about December 27, 2012,
6 Respondent grabbed a cellular phone out of someone's hands in a Jack in the Box on Geary Street
7 in San Francisco, California. The owner of the cellular phone chased Respondent down the street,
8 and when he caught Respondent, Respondent punched him in the face. Police arrived, and
9 Respondent threw the cellular phone underneath a car.

10 SECOND CAUSE FOR DISCIPLINE

11 (ACT(S) INVOLVING MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR
12 CORRUPTION)

13 15. Respondent is subject to discipline under the following section(s) of the Code:
14 4301(f) in that he committed act(s) involving moral turpitude, dishonesty, fraud, deceit or
15 corruption. On or about November 6, 2012, Respondent grabbed a cellular phone out of a
16 woman's hands while on a BART train at Embarcadero Station in San Francisco, California. The
17 woman chased Respondent and yelled at other BART patrons to stop him. Another BART patron
18 detained Respondent. Police found the woman's phone in Respondent's pocket and arrested him.

19 THIRD CAUSE FOR DISCIPLINE

20 (POSSESSION OF METHAMPHETAMINE)

21 16. Respondent is subject to discipline under the following section(s) of the Code:
22 4301(j), 4301(o) and 4060 and Health and Safety Code section 11350 in that he possessed
23 methamphetamine. On or about February 19, 2013, Respondent was picked up by police officers
24 on Larkin Street in San Francisco, as he matched the description of a robbery suspect.
25 Respondent was ruled-out as the robbery suspect, but was arrested when the police officers found
26 that he was in possession of methamphetamine.

27 ///

28 ///

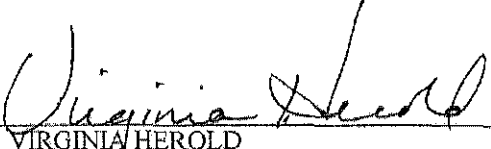
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 110664, issued to Drakkar Jacob Southern;
- 2. Ordering Drakkar Jacob Southern 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: 5/10/14



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

SF2013406695
40886241.doc