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

In the Matter of the Accusation Against:

JOVANY ELIZABETH EIRAS
8351 Fontenay Way
Stockton, CA 95210

Pharmacy Technician Registration No. TCH
95630

Respondent.

Case No. 5069

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 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. 5069 against Jovany Elizabeth Eiras (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about November 9, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 95630 to Respondent. The Pharmacy Technician Registration

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 5069
2 and will expire on April 30, 2015, unless renewed.

3 3. On or about September 10, 2014, Respondent was served by Certified and First Class
4 Mail copies of the Accusation No. 5069, Statement to Respondent, Notice of Defense, Request
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of
8 record was and is 8351 Fontenay Way Stockton, CA 95210.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5069.

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 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. 5069, finds that
the charges and allegations in Accusation No. 5069, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

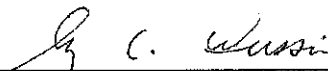
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 95630, heretofore issued to Respondent Jovany Elizabeth Eiras, is revoked.

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 December 8, 2014.

It is so ORDERED November 7, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

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SD2014706551

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5069

12 **JOVANY ELIZABETH EIRAS**
13 **8351 Fontenay Way**
14 **Stockton, CA 95210**

ACCUSATION

15 **Pharmacy Technician Registration**
No. TCH 95630

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 November 9, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 95630 to Jovany Elizabeth Eiras (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2015, unless renewed.

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

9 5. Section 4300, subdivision (a) of the Code states "Every license issued may be
10 suspended or revoked."

11 6. Section 4300.1 of the Code states:

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

17 **STATUTORY PROVISIONS**

18 7. Section 4301 of the Code states:

19 The board shall take action against any holder of a license who is
20 guilty of unprofessional conduct or whose license has been procured by
21 fraud or misrepresentation or issued by mistake. Unprofessional conduct
22 shall include, but is not limited to, any of the following:

22 ...

23 (h) The administering to oneself, of any controlled substance, or the
24 use of any dangerous drug or of alcoholic beverages to the extent or in a
25 manner as to be dangerous or injurious to oneself, to a person holding a
26 license under this chapter, or to any other person or to the public, or to the
27 extent that the use impairs the ability of the person to conduct with safety
28 to the public the practice authorized by the license.

(i) Except as otherwise authorized by law, knowingly selling,
furnishing, giving away, or administering or offering to sell, furnish, give
away, or administer any controlled substance to an addict.

28 ...

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770, states:

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

11 **COSTS**

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

18 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

19 10. Methamphetamine is a Schedule II controlled substance as designated by Health and
20 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
21 Code section 4022.

22 11. Heroin is a Schedule I controlled substance as designated by Health and Safety Code
23 section 11054(c)(11), and is a dangerous drug pursuant to Business and Professions Code section
24 4022.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Use of a Controlled Substance)**

27 12. Respondent has subjected her registration to disciplinary action under section 4301,
28 subdivision (h) of the Code in that on or about October 14, 2012, Respondent used
methamphetamine to the extent or in a manner dangerous to herself or the public. The
circumstances are as follows:

///

1 a. On or about October 14, 2012, California Highway Patrol and San Diego City
2 Police officers converged on Respondent's home to investigate a LoJack report of a stolen
3 vehicle in her driveway¹. Officer's confirmed the presence of two stolen vehicles² and in a
4 search of Respondent's home found drug paraphernalia and drugs including methamphetamine
5 and marijuana.

6 b. In an interview with police Respondent admitted that earlier in the day she
7 attempted to inject her friend with methamphetamine but failed. Respondent and her friend then
8 smoked methamphetamine. Respondent admitted to having knowledge of intravenous injections
9 due to her being a heroin addict. Respondent explained that she had used heroin to an extent that
10 she no longer had "good" veins for injecting herself.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Use of a Controlled Substance)**

13 13. Respondent has subjected her registration to disciplinary action under section 4301,
14 subdivision (h) of the Code in that Respondent used heroin to the extent or in a manner dangerous
15 to herself, in that she has used heroin to an extent where she can no longer access her veins for
16 injection as detailed in paragraph 11, above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Administering of a Controlled Substance)**

19 14. Respondent has subjected her registration to disciplinary action under section 4301,
20 subdivision (i) of the Code in that on or about October 14, 2012, Respondent administered
21 methamphetamine to her friend, as detailed in paragraph 11, above.

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26 ¹ Lojack is an aftermarket vehicle tracking system that allows vehicles to be tracked by
27 police.

28 ² According to Respondent the vehicles belonged to her friend and she had no knowledge
that they were stolen.

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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 95630, issued to Jovany Elizabeth Eiras;
2. Ordering Jovany Elizabeth Eiras 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/12/14 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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