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

In the Matter of the Statement of Issues  
Against:  
**JESSICA MORIEL STACY**  
  
Respondent.

Case No. 5084  
OAH No. 2014110303  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about September 13, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Statement of Issues No. 5084 against Jessica Moriel Stacy (Respondent) before the Board of Pharmacy.
2. On or about May 14, 2013, Respondent filed an application dated April 10, 2013, with the Board of Pharmacy to obtain registration as a Pharmacy Technician.
3. On or about November 4, 2013, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about November 22, 2013, Respondent appealed the Board's denial of her application and requested a hearing.
4. On or about October 13, 2014, an employee of the Department of Justice served by Certified and First Class Mail a copy of the Statement of Issues No. 5084, Statement to Respondent, Notice of Defense, Notice of Withdrawal of Request for Hearing, Notice of

1 Designation of Counsel, Request for Discovery, and Government Code sections 11507.5,  
2 11507.6, and 11507.7, to Respondent's address on the application form, which was and is  
3 4009 Santa Fe Way, North Highlands, CA 95660. A copy of the Statement of Issues is attached  
4 as exhibit A, and is incorporated herein by reference.

5 5. Service of the Statement of Issues was effective as a matter of law under the  
6 provisions of Government Code section 11505, subdivision (c).

7 6. On or about November 22, 2013, Respondent appealed the denial of her application  
8 and requested a hearing, and in October 2014, after service of the Statement of Issues,  
9 Respondent completed and returned the forms entitled Request for Hearing and Notice of  
10 Designation of Counsel, both of which listed a new address for Respondent. A Notice of Hearing  
11 was served by mail at Respondent's new address as listed on the Request for Hearing and on  
12 Notice of Designation of Counsel (marked "I am not now represented by counsel"), which was  
13 5672 Rosario Avenue, Atascadero, CA 93422. The Notice of Hearing informed her that an  
14 administrative hearing in this matter was scheduled for March 6, 2015. Respondent failed to  
15 appear at that hearing.

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

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
19 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.

20 8. 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 the  
22 hearing, the agency may take action based upon the respondent's express admissions  
23 or upon other evidence and affidavits may be used as evidence without any notice to  
24 respondent; and where the burden of proof is on the respondent to establish that the  
respondent is entitled to the agency action sought, the agency may act without taking  
evidence.

25 9. 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 based upon the  
27 allegation set forth in the Statement of Issues and Respondent's failure to establish entitlement to  
28 issuance of a license.

DETERMINATION OF ISSUES

1  
2       1.    Based on the foregoing findings of fact, Respondent Jessica Moriel Stacy has  
3 subjected her application for registration as a Pharmacy Technician to denial.

4       2.    Service of Statement of Issues No. 5084 and related documents was proper and in  
5 accordance with the law.

6       3.    The agency has jurisdiction to adjudicate this case by default.

7       4.    The Board of Pharmacy is authorized to deny Respondent's application for licensure  
8 based upon the following violations alleged in the Statement of Issues:

9           a. Violation of Business and Professions Code Section 480, subdivision (a)(1) based  
10 on the fact that Respondent was convicted of the following substantially related crimes:

11               1. On September 11, 2007, based upon her plea of nolo contendere in the  
12 criminal proceeding *The People of the State of California v Jessica Moriel Stacy* (Superior Court  
13 San Luis Obispo County, 2007, No. M407122), Respondent was convicted of one misdemeanor  
14 count of violating Vehicle Code section 23152(b) (driving under the influence and while having a  
15 blood alcohol level of .08% or more).

16               2. On June 1, 2009, based upon her plea of nolo contendere in the criminal  
17 proceeding *The People of the State of California v Jessica Moriel Stacy* (Superior Court San Luis  
18 Obispo County, 2009, No. M000430862), Respondent was convicted of one misdemeanor count  
19 of violating Vehicle Code section 23152(b) (driving under the influence and while having a blood  
20 alcohol level of .08% or more). Respondent was also found to have committed a violation of the  
21 probation imposed by the court in case no. M407122, referenced above, and was sentenced to 30  
22 days in county jail to run concurrent with case no. M000430862. Probation in case no. M407122  
23 was extended until June 1, 2011.

24               3. On March 8, 2012, based upon her plea of no contest in the criminal  
25 proceeding titled *People v. Jessica Moriel Stacy* (San Luis Obispo Superior Court Case No.  
26 M000466989), Respondent was convicted of one misdemeanor count of violating Penal Code  
27 section 273.5(A) (inflicting corporal injury upon a spouse or cohabitant). The court also found a  
28

1 violation of the probation imposed in case no. M000430862 and extended probation until June 1,  
2 2013.

3 b. Violation of Business and Professions Code Section 480, subdivisions (a)(2) and  
4 (c), in that Respondent committed acts of deceit and dishonesty with the intent to benefit herself  
5 by making false statements in her license application: Respondent failed to disclose her  
6 conviction of March 8, 2012, and failed to disclose that the California Board of Vocational  
7 Nursing and Psychiatric Technicians revoked Respondent's Psychiatric Technician License No.  
8 PT 32745 on July 28, 2010.

9 c. Violation of Business and Professions Code Section 480 (a)(3)(A), in that, as  
10 described above, Respondent committed acts that if done by a licensee would be grounds for  
11 suspension or revocation of license under section 4301, subdivisions (h), (k), and (l).

12 ORDER

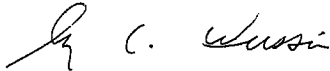
13 IT IS SO ORDERED that the application of Respondent Jessica Moriel Stacy for  
14 registration as a Pharmacy Technician is hereby denied.

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

19 This decision shall become effective on May 8, 2015.

20 It is so ORDERED on April 8, 2015.

21 BOARD OF PHARMACY  
22 DEPARTMENT OF CONSUMER AFFAIRS  
23 STATE OF CALIFORNIA

24   
25 By \_\_\_\_\_  
26 STAN C. WEISSER  
27 Board President  
28

1 DOJ docket number:SA2014114384  
11782361.DOC

2 Attachment:

3 Exhibit A: Statement of Issues No.5084

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# Exhibit A

Statement of Issues No. 5084

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
4 State Bar No. 186131  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-7384  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 5084

13 **JESSICA MORIEL STACY**  
14 **4009 SANTA FE WAY**  
15 **NORTH HIGHLANDS, CA 95660**

**STATEMENT OF ISSUES**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about May 14, 2013, the Board of Pharmacy, Department of Consumer Affairs  
22 received an application for registration as a Pharmacy Technician from Jessica Moriel Stacy. On  
23 or about April 10, 2013, Jessica Moriel Stacy certified under penalty of perjury to the truthfulness  
24 of all statements, answers, and representations in the application. The Board denied the  
25 application on November 4, 2013.

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

6           (k) The conviction of more than one misdemeanor or any felony involving the use,  
7 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
8 combination of those substances.

9           (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
10 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 to  
16 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           6. Section 480 of the Code states:

27           (a) A board may deny a license regulated by this code on the grounds that the applicant has  
28 one of the following:

1           "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea  
2 or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is  
3 permitted to take following the establishment of a conviction may be taken when the time for  
4 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order  
5 granting probation is made suspending the imposition of sentence, irrespective of a subsequent  
6 order under the provisions of Section 1203.4 of the Penal Code.

7           "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
8 benefit himself or herself or another, or substantially injure another.

9           "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
10 would be grounds for suspension or revocation of license.

11           "(B) The board may deny a license pursuant to this subdivision only if the crime or act is  
12 substantially related to the qualifications, functions, or duties of the business or profession for  
13 which application is made.

14           "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
15 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
16 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
17 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
18 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
19 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
20 Section 482.

21           "(c) A board may deny a license regulated by this code on the ground that the applicant  
22 knowingly made a false statement of fact required to be revealed in the application for the license."

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

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

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Substantially Related Convictions Involving Alcohol)**

5 8. Respondent's application for registration is subject to denial pursuant to Section 480,  
6 subdivision (a)(1), in that Respondent was convicted of the following substantially related crimes:

7 A. On September 11, 2007, based upon her plea of nolo contendere in the criminal  
8 proceeding *The People of the State of California v Jessica Moriel Stacy* (Superior Court San Luis  
9 Obispo County, 2007, No. M407122), Respondent was convicted of one misdemeanor count of  
10 violating Vehicle Code section 23152(b), driving under the influence and while having a blood  
11 alcohol level of .08% or more. On August 19, 2007, the San Luis Obispo Sheriff's Department  
12 arrested Respondent for driving under the influence of an alcohol beverage. Respondent was  
13 ordered by the court to attend a three month Alcohol Counseling Program and placed on probation  
14 for a period of 36 months with terms and conditions.

15 B. On June 1, 2009, based upon her plea of nolo contendere in the criminal  
16 proceeding *The People of the State of California v Jessica Moriel Stacy* (Superior Court San Luis  
17 Obispo County, 2009, No. M000430862), Respondent was convicted of one misdemeanor count  
18 of violating Vehicle Code section 23152(b), driving under the influence and while having a blood  
19 alcohol level of .08% or more. The circumstances of the crime were that on March 15, 2009, the  
20 California Highway patrol arrested respondent for driving under the influence of alcohol.  
21 Respondent was court ordered to pay \$2,091.00 in fines and placed on probation for a period of  
22 36 months with terms and conditions. Respondent was also found to have committed a violation  
23 of the probation imposed by the court in case no. M407122, referenced above, and was sentenced  
24 to 30 days in county jail to run concurrent with case no. M000430862. Probation in case no.  
25 M407122 was extended until June 1, 2011.

26 C On March 8, 2012, based upon her plea of no contest in the criminal proceeding  
27 titled *People v. Jessica Moriel Stacy* (San Luis Obispo Superior Court Case No. M000466989),  
28 Respondent was convicted of one misdemeanor count of violating Penal Code section 273.5(A)

1 (inflicting corporal injury upon a spouse or cohabitant). The circumstances of the crime were that  
2 on October 30, 2011, during an argument, Respondent hit her boyfriend with a chair. The court  
3 also found a violation of the probation imposed in case no. M000430862 and extended probation  
4 until June 1, 2013.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(False Statement/Deceitful, Dishonest Acts)**

7 9. Respondent's application for registration is subject to denial pursuant to Section 480,  
8 subdivisions (a)(2) and (c), in that Respondent committed acts of deceit and dishonesty with the  
9 intent to benefit herself by making false statements in her license application as follows:

10 A. Question number 7 on the Pharmacy Technician Application states: "Have you  
11 ever been convicted of any crime in any state, the USA and its territories, military court or foreign  
12 country?" In response to this question, Respondent disclosed the 2007 and 2009 convictions set  
13 forth above in paragraph 8A and 8B, but failed to disclose her conviction of March 8, 2012, set  
14 forth above in paragraph 8C.

15 B. Question number 5 on the Pharmacy Technician Application states: "Have you  
16 ever had a pharmacy permit, or any professional or vocational license or registration, denied or  
17 disciplined by a government authority in this state or any other state?" In response to this  
18 question, Respondent checked the "No" box. In fact, effective June 28, 2010, the California  
19 Board of Vocational Nursing and Psychiatric Technicians revoked Respondent's Psychiatric  
20 Technician License No. PT 32745.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Acts If Committed By a Licensee)**

23 10. Respondent's application for registration is subject to denial pursuant to Section 480,  
24 subdivision (a)(3)(A), in that as set forth above in paragraphs 8 and 9, Respondent committed acts  
25 that if done by a licensee would be grounds for suspension or revocation of license under section  
26 4301, subdivisions (h), (k), and (l) (see paragraph 8, above), and subdivisions (f) and (g) (see  
27 paragraph 9, above).

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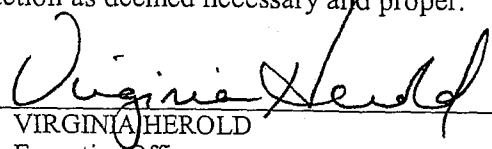
PRAYER

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. Denying the application of Jessica Moriel Stacy for registration as a Pharmacy Technician;

2. Taking such other and further action as deemed necessary and proper.

DATED: 9/13/14



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

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