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

In the Matter of the Accusation Against:  
**ANNA MARIA SIMS  
630 Spyglass Drive  
Red Bluff, CA 96080**  
**Pharmacy Technician Registration No. TCH  
82008**  
Respondent.

Case No. 5966

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about December 9, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5966 against Anna Maria Sims (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 20, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 82008 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5966 and will expire on September 30, 2017, unless renewed.

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1           3.     On or about December 14, 2016, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5966, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
6 record was and is:

7     630 Spyglass Drive  
8     Red Bluff, CA 96080.

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.     On or about January 9, 2016, Complainant confirmed, through the United States  
13 Postal Service, that the above materials served on Respondent via certified mail on or about  
14 December 14, 2016, were unclaimed. The above materials served via First Class Mail were not  
15 returned by the United States Postal Service.

16           6.     Government Code section 11506(c) 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  
19 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
20 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
21 discretion may nevertheless grant a hearing.

22           7.     Respondent failed to file a Notice of Defense within 15 days after service upon her of  
23 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5966.

24           8.     California Government Code section 11520(a) states, in pertinent part:

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

          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
2 file at the Board's offices regarding the allegations contained in Accusation No. 5966, finds that  
3 the charges and allegations in Accusation No. 5966, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement is \$7,534.75 as of January 9, 2017.

### 8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Anna Maria Sims has subjected  
10 her Pharmacy Technician Registration No. TCH 82008 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 Registration based upon the following violations alleged in the Accusation which are supported  
14 by the evidence contained in the Default Decision Evidence Packet in this case.:

15 a. Business and Professions Code, section 4301(f) (theft of controlled substances) in that  
16 during an internal investigation by CVS Pharmacy relating to the loss of controlled substances  
17 inventory, Respondent was interviewed and voluntarily admitted to diverting the controlled  
18 substances Alprazolam and Testosterone between April and June 2015. During that time,  
19 Respondent worked as an Inventory Specialist and Lead Technician and did not have a valid  
20 prescription for either drug. Respondent admitted that she knew her conduct was wrong and  
21 illegal, but that she stole the drugs to give to her "partner;"

22 b. Business and Professions Code, section 4301(j) (unlawful possession of controlled  
23 substances) in that Respondent violated Business and Professions Code, section 4060, by  
24 unlawfully obtaining and possessing controlled substances without a valid prescription as set  
25 forth above in Paragraph 3(a), of the Determination of Issues;

26 c. Business and Professions Code, section 4301(j) (unlawful furnishing of controlled  
27 substances) in that Respondent violated Health and Safety Code, section 11171, by furnishing

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1 controlled substances to another person without a valid license or prescription authorizing it and  
2 as set forth above in Paragraph 3(a), of the Determination of Issues; and

3 d. Business and Professions Code, section 4301(j) (obtaining controlled substances by  
4 deceit) in that Respondent violated Health and Safety Code, section 11173(a), by obtaining  
5 controlled substances through fraud, deceit, or subterfuge as set forth above in Paragraph 3(a), of  
6 the Determination of Issues.

7 **ORDER**


8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 82008, heretofore  
9 issued to Respondent Anna Maria Sims, is revoked.

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

14 This Decision shall become effective at 5:00 p.m. on March 15, 2017.

15 It is so ORDERED on February 13, 2017.

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

20 

21  
22 By \_\_\_\_\_

23 Amy Gutierrez, Pharm.D.  
24 Board President

25 12549969.DOC  
26 DOJ Matter ID:SA2016103640

27 Attachment:  
28 Exhibit A: Accusation

# Exhibit A

Accusation

(ANNA MARIA SIMS)

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STANTON W. LEE  
Deputy Attorney General  
4 State Bar No. 203563  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-9921  
Facsimile: (916) 324-5567  
7 E-mail: Stanton.Lee@doj.ca.gov  
*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. 5966

12 **ANNA MARIA SIMS**

13 **630 Spyglass Drive**  
14 **Red Bluff, CA 96080**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **82008**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about March 20, 2008, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 82008 to Anna Maria Sims (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on September 30, 2017, unless renewed.

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JURISDICTION

1  
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 4300, states in pertinent part:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

15 5. Section 4300.1 states:

16 The expiration, cancellation, forfeiture, or suspension of a board-issued  
17 license by operation of law or by order or decision of the board or a court of law, the  
18 placement of a license on a retired status, or the voluntary surrender of a license by a  
19 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.

20 6. Section 4301, states in pertinent part:

21 The board shall take action against any holder of a license who is guilty of  
unprofessional conduct. . . Unprofessional conduct shall include, but is not limited to,  
22 any of the following:

23 ...  
24 (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  
25 otherwise, and whether the act is a felony or misdemeanor or not.

26 ...  
27 (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.

28 ...

(p) Actions or conduct that would have warranted denial of a license."

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7. Section 4060, states in pertinent part:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. . . .

**HEALTH AND SAFETY CODE**

8. Section 11007 states:

'Controlled substance,' unless otherwise specified, means a drug, substance, or immediate precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058.

9. Section 11171 states, "No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division."

10. Section 11173(a) states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

**CONTROLLED SUBSTANCES**

11. Xanax is the brand name for the controlled substance, Alprazolam, a sedative and a schedule IV controlled substance under Health and Safety Code, section 11057.

12. Depotstosterone is the band name for the controlled substance, Testosterone, an anabolic steroid and a schedule III controlled substances under Health and Safety Code, section 11056.

**COST RECOVERY**

13. Business and Professions Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Theft of Controlled Substances)

3 14. Respondent is subject to disciplinary action for unprofessional conduct under section  
4 4301(f) in that Respondent committed acts of moral turpitude, dishonesty, fraud, and deceit when  
5 on multiple occasions she stole controlled substances from her employer. The circumstances are  
6 as follows:

7 15. During an internal investigation by CVS Pharmacy relating to the loss of controlled  
8 substances inventory, Respondent was interviewed and voluntarily admitted to diverting the  
9 controlled substances Alprazolam and Testosterone between April and June 2015. During this  
10 time, Respondent worked as an Inventory Specialist and Lead Technician and did not have a valid  
11 prescription for either drug. Respondent admitted that she knew her conduct was wrong and  
12 illegal, but that she stole the drugs to give to her "partner."

13 SECOND CAUSE FOR DISCIPLINE

14 (Unlawful Possession of Controlled Substances)

15 16. Respondent is subject to disciplinary action for unprofessional conduct under section  
16 4301(j) in that Respondent violated Business and Professions Code, section 4060, by unlawfully  
17 obtaining and possessing controlled substances without a valid prescription as set forth in  
18 Paragraph 15.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unlawful Furnishing of Controlled Substances)

21 17. Respondent is subject to disciplinary action for unprofessional conduct under section  
22 4301(j) in that Respondent violated Health and Safety Code, section 11171, by furnishing  
23 controlled substances to another person without a valid license or prescription authorizing it and  
24 as set forth in Paragraph 15.

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**FOURTH CAUSE FOR DISCIPLINE**

**(Obtaining Controlled Substances by Deceit)**

18. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(j) in that Respondent violated Health and Safety Code, section 11173(a), by obtaining controlled substances through fraud, deceit, or subterfuge as set forth in Paragraph 15.

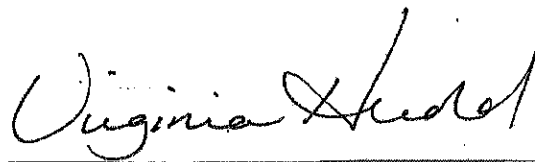
**PRAYER**

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 82008, issued to Anna Maria Sims;
- 2. Ordering Anna Maria Sims 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: \_\_\_\_\_

12/9/16



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

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