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

630 Spyglass Drive
Red Bluff, CA 96080.

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

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

6. Government Code section 11506(c) states, in pertinent part:

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

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

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

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

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. 5966, finds that the charges and allegations in Accusation No. 5966, are separately and severally, found to be true and correct by clear and convincing evidence.

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

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Anna Maria Sims has subjected her Pharmacy Technician Registration No. TCH 82008 to discipline.

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

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

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

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

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

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

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

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 82008, heretofore issued to Respondent Anna Maria Sims, 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 at 5:00 p.m. on March 15, 2017.

It is so ORDERED on February 13, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:SA2016103640

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ANNA MARIA SIMS)

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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 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 20, 2008, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 82008 to Anna Maria Sims (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2017, unless renewed.

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JURISDICTION

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

4. Section 4300, 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 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, states in pertinent part:

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, 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.

. . .

(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.

. . .

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

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. Depotestosterone 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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FIRST CAUSE FOR DISCIPLINE

(Theft of Controlled Substances)

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

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

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

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

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing of Controlled Substances)

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