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

In the Matter of the Accusation Against:

**JODIE LEE BLACKHAM**  
**612 So. R Street**  
**Tulare, CA 93274**

**Pharmacy Technician Registration No. TCH**  
**111855**

Respondent.

Case No. 6048

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 27, 2017, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6048 against Jodie Lee Blackham (Respondent) before the Board of Pharmacy (Board). (Accusation attached as Exhibit A.)

2. On or about May 6, 2011, the Board issued Pharmacy Technician Registration No. TCH 111855 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 6048 and expired on July 31, 2016. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1

1 and/or agency-specific statute, does not deprive the Board of its authority to institute or continue  
2 this disciplinary proceeding.

3 3. On or about February 3, 2017, Respondent was served by Certified and First Class  
4 Mail copies of the Accusation No. 6048, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
6 and the Board's Disciplinary Guidelines at Respondent's address of record which, pursuant to  
7 Business and Professions Code section 4100, is required to be reported and maintained with the  
8 Board. Respondent's address of record was and is:

9 612 So. R Street  
10 Tulare, CA 93274.

11 4. Service of the Accusation was effective as a matter of law under the provisions of  
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
13 124.

14 5. On or about February 15, 2017, the aforementioned documents as served by Certified  
15 and First Class Mail were returned by the U.S. Postal Service with both envelopes marked  
16 "Attempted Not Known." The address on the documents was the same as the address on file with  
17 the Board. Respondent failed to maintain an updated address with the Board and the Board has  
18 made attempts to serve the Respondent at the address on file. Respondent has not made herself  
19 available for service and therefore, has not availed herself of her right to file a notice of defense  
20 and appear at hearing.

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

27 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
28 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 6048.

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

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

4 9. 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. 6048, finds that  
9 the charges and allegations in Accusation No. 6048, are separately and severally, found to be true  
10 and correct by clear and convincing evidence.

11 10. 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 \$4,518.00 as of February 27, 2017. This includes (i) \$2,178.00 that the Board  
14 incurred through its own investigative efforts and (ii) \$2,340.00 that the Board incurred through  
15 the Office of the Attorney General in its prosecution of Accusation No. 6048.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Jodie Lee Blackham has  
18 subjected her Pharmacy Technician Registration No. TCH 111855 to discipline.

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

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

23 a. Bus. & Prof. Code § 4301(f) (Acts Involving Moral Turpitude, Dishonesty, Fraud,  
24 Deceit, or Corruption), in that Respondent admittedly stole or diverted from her employer, CVS  
25 Pharmacy #35, 100 tablets of phentermine 37.5 mg for self-administration;

26 b. Bus. & Prof. Code § 4301(h) (Self-Administration of a Controlled Substance), in that  
27 Respondent admittedly stole or diverted from her employer, CVS Pharmacy #35, 100 tablets of  
28 phentermine 37.5 mg for self-administration;

c. Bus. & Prof. Code § 4301(j) (Violations of State Laws Regulating Controlled

1 Substances), in that Respondent:

2 (i) Obtained the controlled substance phentermine by fraud, deceit,  
3 misrepresentation, or subterfuge, in violation of Health and Safety Code § 11173(a); and,

4 (ii) Possessed the controlled substance phentermine without a valid or lawful  
5 prescription for the medication, in violation of Bus. & Prof. Code § 4060;

6 d. Bus. & Prof. Code § 4301(o) (Violations of the Pharmacy Law/Unprofessional  
7 Conduct), in that Respondent, while employed and/or on duty as a pharmacy technician at CVS  
8 Pharmacy #35, violated or attempted to violate, directly or indirectly, a provision or term of the  
9 Pharmacy Law (Bus. & Prof. Code §§ 4300, *et seq.*), specifically, Bus. & Prof. Code § 4060, as  
10 set forth above.

11 ORDER

12 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 111855, heretofore  
13 issued to Respondent Jodie Lee Blackham, is revoked.

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

18 This Decision shall become effective at 5:00 p.m. on April 20, 2017.

19 It is so ORDERED on March 21, 2017.

20  
21 BOARD OF PHARMACY  
22 DEPARTMENT OF CONSUMER AFFAIRS  
23 STATE OF CALIFORNIA

24 

25  
26 By \_\_\_\_\_

27 Amy Gutierrez, Pharm.D.  
28 Board President

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Attachment:  
Exhibit A: Accusation

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# Exhibit A

Accusation

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(JODIE LEE BLACKHAM)

1 XAVIER BECERRA  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 DANIEL D. MCGEE  
Deputy Attorney General  
4 State Bar No. 218947  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-6115  
Facsimile: (916) 324-5567  
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 Accusation Against:

Case No. 6048

12 **JODIE LEE BLACKHAM**  
612 So. R Street  
13 Tulare, CA 93274

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **111855**

Respondent.

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 ("Board"), Department of Consumer Affairs.

21 2. On or about May 6, 2011, the Board issued Pharmacy Technician Registration  
22 Number TCH 111855 ("registration") to Jodie Lee Blackham ("Respondent"). The registration  
23 was in full force and effect at all times relevant to the charges brought in the Accusation. The  
24 registration was cancelled on July 31, 2016.

25 **JURISDICTION**

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

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4. Code 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. Code 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.

**STATUTORY PROVISIONS**

6. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. 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.

....

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

....



1 (j) The violation of any of the statutes of this state, or any other state, or  
2 of the United States regulating controlled substances and dangerous drugs.

3 (o) Violating or attempting to violate, directly or indirectly, or assisting in  
4 or abetting the violation of or conspiring to violate any provision or term of this  
5 chapter or of the applicable federal and state laws and regulations governing  
6 pharmacy, including regulations established by the board or by any other state or  
7 federal regulatory agency . . . .

8 7. Code section 4060 states, in pertinent part:

9 No person shall possess any controlled substance, except that furnished to  
10 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
11 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
12 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
13 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
14 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
15 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
16 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

17 8. Health and Safety Code section 11170 states that "[n]o person shall prescribe,  
18 administer, or furnish a controlled substance for himself."

19 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that  
20 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
21 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
22 misrepresentation, or subterfuge . . ."

#### 23 COST RECOVERY

24 10. Code section 125.3 provides, in pertinent part, that a Board may request the  
25 administrative law judge to direct a licensee found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.

#### 28 DRUG CLASSIFICATIONS

11. Phentermine 37.5 mg is a Schedule IV controlled substance as designated by Health  
and Safety Code section 11057, subdivision (f)(4), and a dangerous drug within the meaning of  
Code section 4022 in that it can only be obtained by a valid prescription. Phentermine 37.5 mg is  
indicated for weight loss. "Adipex-P" is a brand of phentermine 37.5 mg.

///

1 12. Phentermine 15 mg is a Schedule IV controlled substance as designated by Health  
2 and Safety Code section 11057, subdivision (f)(4), and a dangerous drug within the meaning of  
3 Code section 4022 in that it can only be obtained by a valid prescription. Phentermine 15 mg is  
4 indicated for weight loss. "Tonamin" is a brand of phentermine 15 mg.

5 **BACKGROUND**

6 13. At all times relevant to the charges brought in the Accusation, Respondent was  
7 employed as a pharmacy technician at CVS Pharmacy #35 located on N. Westwood Street in  
8 Porterville, California ("pharmacy").

9 14. On or about June 26, 2015, the Board received a letter from S. R., Lead Coordinator  
10 of the Drug Loss Program Team for CVS Caremark, indicating that they had been notified by the  
11 pharmacy of a loss or theft of controlled substances. S. R. provided the Board with a copy of a  
12 DEA 106 form that had been submitted by the pharmacy. The pharmacy reported a theft or loss  
13 of 1,605 tablets of the controlled substance alprazolam 1 mg and indicated that the theft/loss had  
14 occurred on May 27, 2015.

15 15. On or about July 23, 2015, the Board received an email from K. D. of CVS Health.  
16 K. D. stated that during their investigation of the above loss/theft, they interviewed Respondent  
17 and another employee<sup>1</sup>, who both admitted to the theft of phentermine from the pharmacy. K. D.  
18 provided the Board with copies of various documents, including a DEA 106 form that had been  
19 submitted by the pharmacy showing a theft/loss of 307 tablets of phentermine 37.5 mg and 7  
20 tablets of phentermine 15 mg on July 7, 2015, and a statement from Respondent dated July 7,  
21 2015. Respondent admitted in her statement that she took a bottle of phentermine 37.5 mg, 100  
22 tablets, two and a half to three years earlier. Respondent also admitted that she put the bottle in  
23 her pocket and took the medication for self-use to give her "more energy to deal with personal  
24 issue (*sic*) and work."

25 16. On or about April 8, 2016, Board Inspector D. P. interviewed Respondent.  
26 Respondent stated that during her investigation interview at the pharmacy, she was asked if she

27 \_\_\_\_\_  
28 <sup>1</sup> The other employee admitted to diverting a total of 160 tablets of phentermine.

1 had taken any alprazolam tablets. Respondent denied taking the alprazolam, but did admit to  
2 taking the phentermine. On or about April 19, 2016, Respondent provided the inspector with a  
3 written statement in which she admitted taking phentermine 2 years earlier.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

6 17. Respondent is subject to disciplinary action pursuant to Code section 4301,  
7 subdivision (f), for unprofessional conduct, in that while on duty as a pharmacy technician at  
8 CVS Pharmacy #35, Respondent committed acts involving moral turpitude, dishonesty, fraud,  
9 deceit, or corruption, as follows: Respondent stole or diverted 100 tablets of phentermine 37.5  
10 mg from the pharmacy for self-administration.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Self-Administration of a Controlled Substance)**

13 18. Respondent is subject to disciplinary action pursuant to Code section 4301,  
14 subdivision (h), for unprofessional conduct, in that while employed and/or on duty as a pharmacy  
15 technician at CVS Pharmacy #35, Respondent self-administered the controlled substance  
16 phentermine without a valid or lawful prescription for the medication and/or used phentermine to  
17 an extent or in a manner dangerous or injurious to herself, others and/or the public.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Violations of State Laws Regulating Controlled Substances)**

20 19. Respondent is subject to disciplinary action pursuant to Code section 4301,  
21 subdivision (j), for unprofessional conduct, in that while on duty as a pharmacy technician at CVS  
22 Pharmacy #35, Respondent did the following:

23 a. Respondent obtained the controlled substance phentermine by fraud, deceit,  
24 misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173,  
25 subdivision (a).

26 b. Respondent possessed the controlled substance phentermine without a valid or lawful  
27 prescription for the medication, in violation of Code section 4060.

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1 FOURTH CAUSE FOR DENIAL

2 (Violations of the Pharmacy Law)

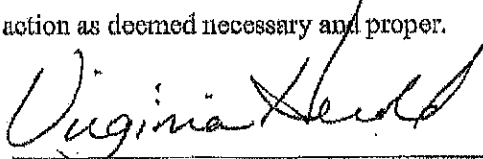
3 20. Respondent is subject to disciplinary action pursuant to Code section 4301,  
4 subdivision (o), for unprofessional conduct, in that while employed and/or on duty as a pharmacy  
5 technician at CVS Pharmacy #35, Respondent violated or attempted to violate, directly or  
6 indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.),  
7 specifically, Code section 4060.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Pharmacy issue a decision:

- 11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 111855,  
12 issued to Jodie Lee Blackham;
- 13 2. Ordering Jodie Lee Blackham to pay the Board of Pharmacy the reasonable costs of  
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
15 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: 1/27/17

  
19 VIRGINIA HEROLD  
20 Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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