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

In the Matter of the Accusation Against:

**SCOTT DAVID GREENBERG
709 S. Twin Oaks Valley Road, #477
San Marcos, CA 92078**

**Pharmacy Technician Registration No. TCH
129331**

Respondent.

Case No. 6909

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 6, 2020, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 6909 against Scott David Greenberg (Respondent) before the Board. (Accusation attached as Exhibit A.)

2. On or about January 7, 2013, the Board issued Pharmacy Technician Registration No. TCH 129331 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 6909 and will expire on November 30, 2020, unless renewed.

1 3. On or about April 13, 2020, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 6909, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is 709 S. Twin Oaks Valley Road, #477, San Marcos, CA 92078.

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

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

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

15 6. The Board takes official notice of its records and the fact that Respondent failed to
16 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
17 waived his right to a hearing on the merits of Accusation No. 6909.

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

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6909,
28 finds that the charges and allegations in Accusation No. 6909, are separately and severally, found
to be true and correct by clear and convincing evidence.

 9. The Board finds that the actual costs for Investigation and Enforcement are \$1,685.00
as of May 12, 2020.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Scott David Greenberg has
3 subjected his Pharmacy Technician Registration No. TCH 129331 to discipline.

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

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

8 a. Business and Professions Code section 4301, subdivision (h)(unprofessional
9 conduct—dangerous use of controlled substance). Respondent admitted to using heroin,
10 Percocet, and methamphetamine;

11 b. Business and Professions Code section 4301, subdivision (j)(unprofessional
12 conduct—violation of State laws regulating controlled substances). Respondent violated
13 Business and Professions Code section 4060; Health and Safety Code sections 11350, subdivision
14 (a), and 11364.

15 **ORDER**

16 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 129331, issued to
17 Respondent Scott David Greenberg, is revoked.

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

22 This Decision shall become effective on July 29, 2020.

23 It is so ORDERED on June 29, 2020.

24 

25 _____
26 Greg Lippe
27 Board President
28 FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

82303748.DOCX
DOJ Matter ID:SD2020700445
Exhibit A: Accusation

Exhibit A

Accusation

(SCOTT DAVID GREENBERG)

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

12 In the Matter of the Accusation Against:

Case No. 6909

13 **SCOTT DAVID GREENBERG**
14 **709 S. Twin Oaks Valley Road, #477**
San Marcos, CA 92078

ACCUSATION

15 **Pharmacy Technician Registration No.**
16 **TCH 129331**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about January 7, 2013, the Board issued Pharmacy Technician Registration
23 Number TCH 129331 to Scott David Greenberg (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on November 30, 2020, unless renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

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

5 4. Code section 4300, subdivision (a), states: “Every licensed issued may be suspended
6 or revoked.”

7 5. Code section 4300.1 states:

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

12 **STATUTORY PROVISIONS**

13 6. Code section 4060 states:

14 A person shall not possess any controlled substance, except that furnished to a
15 person upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
17 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
18 practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section
19 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to
20 Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any
21 controlled substance by a manufacturer, wholesaler, third-party logistics provider,
22 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
23 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant,
24 if in stock in containers correctly labeled with the name and address of the supplier or
25 produce....

21 7. Code section 4301 states:

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

24 ...

25 (h) The administering to oneself, of any controlled substance, or the use of any
26 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
27 or injurious to oneself, to a person holding a license under this chapter, or to any other
28 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.

28 ...

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

3

4 8. Health and Safety Code section 11350, subdivision (a), states:

5 Except as otherwise provided in this division, every person who possesses (1)
6 any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of
7 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
8 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
9 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance
10 classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written
11 prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
12 this state, shall be punished by imprisonment in a county jail for not more than one
13 year, except that such person shall instead be punished pursuant to subdivision (h) of
14 Section 1170 of the Penal Code if that person has one or more prior convictions for an
15 offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e)
16 of Section 667 of the Penal Code or for an offense requiring registration pursuant to
17 subdivision (c) of Section 290 of the Penal Code.

18 9. Health and Safety Code section 11364, subdivision (a), states:

19 It is unlawful to possess an opium pipe or any device, contrivance, instrument,
20 or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance
21 specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section
22 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054,
23 specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of
24 subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug
25 classified in Schedule III, IV, or V.

26 **COST RECOVERY**

27 10. Code section 125.3 states, in pertinent part, that the Board may request the
28 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.

CONTROLLED SUBSTANCES

11. Heroin is a Schedule I controlled substance as designated by Health and Safety Code
section 11054, subdivision (c).

12. Methamphetamine is a Schedule II controlled substance as defined in Health and
Safety Code section 11055, subdivision (d).

13. Percocet, which contains a combination of oxycodone/acetaminophen, is a Schedule
II controlled substance as defined in Health and Safety Code section 11055, subdivision (b).

1 **FACTUAL ALLEGATIONS**

2 14. On August 30, 2019, at approximately 12:44 a.m., deputies with the San Diego
3 County Sheriff’s Department were on duty in San Marcos, California, when they observed a
4 vehicle driving with an expired registration tag and conducted an enforcement stop. Deputies
5 made contact with Respondent, who was the driver and sole occupant of the vehicle. While
6 speaking with Respondent, a deputy observed a metal canister in his vehicle, which he recognized
7 to be commonly abused as an inhalant and noticed that Respondent had constricted pupils.
8 Deputies conducted an investigation. During a search of Respondent’s vehicle, deputies retrieved
9 a large sheathed knife, approximately 0.52 grams of heroin, and burnt tin foil; as well as straws, a
10 bulbous glass pipe, and a small baggie and cap, all containing white residue. Respondent was
11 arrested for possession of a controlled substance in violation of Health and Safety Code section
12 11350, subdivision (a), and possession of paraphernalia in violation of Health and Safety Code
13 section 11364. During questioning, Respondent admitted that he uses heroin and Percocet, and
14 stated that he last used heroin and methamphetamine within the weeks prior to his arrest.

15 15. As a result of the arrest, on or about October 11, 2019, in a criminal proceeding titled
16 *People of the State of California v. Scott David Greenberg*, in San Diego County Superior Court,
17 Case No. CN405987, Respondent was charged with misdemeanor counts of unlawful possession
18 of a controlled substance, to wit: heroin (Health & Saf. Code, § 11350(a)), and unlawful
19 possession of paraphernalia (Health & Saf. Code, § 11364). On December 2, 2019, the court
20 granted pretrial diversion for twelve months pursuant to Penal Code section 1000. Respondent
21 was ordered to complete a minimum of three-months in the Medication Assisted Treatment
22 program which requires that Respondent comply with medication treatments and random drug
23 testing, and attend weekly counseling and self-help meetings. The criminal matter is currently
24 active, pending successful completion of the pretrial diversion period.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Controlled Substances)**

27 16. Respondent has subjected his license to disciplinary action under Code section 4301,
28 subdivision (h), for unprofessional conduct in that, as more fully set forth in paragraphs 14 and

1 15, above, incorporated herein by reference, Respondent used controlled substances in a manner
2 as to be dangerous or injurious to himself. Specifically, Respondent admitted to using heroin,
3 Percocet and methamphetamine.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Violation of State Laws Regulating Controlled Substances)**


6 17. Respondent has subjected his license to disciplinary action under Code section 4301,
7 subdivision (j), for unprofessional conduct in that, as more fully set forth in paragraphs 14 and 15,
8 above, incorporated herein by reference, Respondent violated Code section 4060; and Health and
9 Safety Code sections 11350, subdivision (a), and 11364.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 129331,
14 issued to Respondent Scott David Greenberg;
- 15 2. Ordering Respondent Scott David Greenberg to pay the Board of Pharmacy the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.
- 19

20
21 DATED: April 6, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant