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

12 In the Matter of the Accusation Against:

Case No.

DBC 2008-82

13 **JATTIE EARLIE ENDFINGER a.k.a.**
14 **JATTIE EARLIE SMEATON**

ACCUSATION

15 4033 Dale Road, #F
Modesto, CA 95356

16 and

17 5616 Ninth Street
Keyes, CA 95328

18 Registered Dental Assistant
19 License No. 56018

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Cathleen J. Poncabare ("Complainant") brings this Accusation solely in
24 her official capacity as the Executive Officer of the Dental Board of California ("Board"),
25 Department of Consumer Affairs, State of California..

26 2. On or about October 2, 2000, the Board issued Registered Dental Assistant
27 License No. 56018 to Jattie Earlie Endfinger also known as Jattie Earlie Smeaton
28 ("Respondent"). The Registered Dental Assistant License expired on December 31, 2005, and

1 has not been renewed. The Registered Dental Assistant License was in full force and effect at all
2 times alleged herein.

3 JURISDICTION

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

7 STATUTORY PROVISIONS

8 4. Code section 1670 provides that the Board may revoke or suspend a
9 license, reprimand a licensee, or place the licensee on probation for unprofessional conduct or
10 any other cause applicable to the licensee in the Dental Practice Act.

11 5. Code Section 118, subdivision (b), provides that the suspension,
12 expiration, or forfeiture by operation, cancellation or surrender of law of a license shall not
13 deprive the Board of jurisdiction to proceed with a disciplinary action during the period within
14 which the license may be renewed, restored, reissued or reinstated.

15 6. Section 1670.1 states, in pertinent part:

16 Any licentiate under this chapter [chapter 4 (commencing with
17 section 1600)] may have his or her license revoked or suspended or be
18 reprimanded or be placed on probation by the board for conviction of
19 a crime substantially related to the qualifications, functions, or duties
20 of a . . . dentist auxiliary, in which case the record of conviction or a
21 certified copy thereof, certified by the clerk of the court or by the
22 judge in whose court the conviction is had, shall be conclusive
23 evidence.

24 7. Code section 1681 states:

25 In addition to other acts constituting unprofessional conduct within
26 the meaning of this chapter [chapter 4 (commencing with section
27 1600)], it is unprofessional conduct for a person licensed under this
28 chapter to do any of the following:

(a) Obtain or possess in violation of law, or except as directed by a
licensed physician and surgeon, dentist, or podiatrist, administer to
himself, any controlled substance, as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or
any dangerous drug as defined in Article 8 (commencing with Section
4211) of Chapter 9.

(b) Use any controlled substance, as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or

1 any dangerous drug as defined in Article 8 (commencing with Section
2 4211) of Chapter 9, or alcoholic beverages or other intoxicating
3 substances, to an extent or in a manner dangerous or injurious to
4 himself, to any person, or the public to the extent that such use impairs
5 his ability to conduct with safety to the public the practice authorized by
6 his license.

7 (c) The conviction of a charge of violating . . . any statute or rule of
8 this state, regulating controlled substances, as defined in Division 10
9 (commencing with Section 11000) of the Health and Safety Code, or
10 any dangerous drug, as defined in Article 8 (commencing with Section
11 4211) of Chapter 9, or the conviction of more than one misdemeanor, or
12 any felony, involving the use or consumption of alcohol or drugs, if the
13 conviction is substantially related to the practice authorized by his
14 license. The record of conviction or certified copy thereof, certified by
15 the clerk of the court or by the judge in whose court the conviction is
16 had, shall be conclusive evidence of a violation of this section; a plea or
17 verdict of guilty or a conviction following a plea of nolo contendere is
18 deemed to be a conviction within the meaning of this section; the board
19 may order the license suspended or revoked,

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

21 No person shall possess any controlled substance, except that
22 furnished to a person upon the prescription of a physician, dentist,
23 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to
24 Section 3640.7, or furnished pursuant to a drug order issued by a
25 certified nurse-midwife pursuant to Section 2746.51, a nurse
26 practitioner pursuant to Section 2836.1, a physician assistant pursuant
27 to Section 3502.1, naturopathic doctor pursuant to Section 3640.5, or a
28 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or
clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of
Section 4052. . . .

9. Health and Safety ("H&S") Code section 11170 states that no person shall
prescribe, administer, or furnish a controlled substance for himself.

10. H&S Code section 11377 provides, among other things, that a person who
unlawfully possesses specified Schedule II controlled substances without a prescription from a
physician, dentist, podiatrist, or veterinarian, and is guilty of a crime.

REGULATORY PROVISION

11. California Code of Regulations ("Regulations"), title 16, section 1019,
states, in relevant part:

For the purposes of . . . , suspension or revocation of a license of
a . . . a dental auxiliary pursuant to Division 1.5 (commencing with
Section 475) of the Code, a crime or act shall be considered to be
substantially related to the qualifications, functions, or duties of a . . .
dental auxiliary if to a substantial degree it evidences present or

1 potential unfitness of a licensee to perform the functions authorized by
2 his license in a manner consistent with the public health, safety, or
3 welfare. Such crimes or acts shall include but not be limited to, those
4 involving the following:

5 (b) Any violation of the provisions of Chapter 4, Division 2 of the
6 Code.

7 **DRUG**

8 12. "Methamphetamine" is a Schedule II controlled substance, as designated
9 by H&S Code section 11055, subdivision (d)(2).

10 **COST RECOVERY**

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Convictions)**

17 14. Respondent has subjected her license to disciplinary action under Code
18 section 1670 on the grounds of unprofessional conduct, as defined in Code sections 1670.1, 1681
19 subdivision (c), and Regulations section 1019, in that Respondent was convicted of crimes
20 substantially related to the qualifications, functions, or duties of her profession, as follows:

21 a. On or about August 1, 2005, Respondent was convicted on her guilty plea
22 in the case titled *People v. Jattie Earlie Endfinger*, Stanislaus County Superior Court Case No.
23 1095277, of violating H&S Code section 11377 [possession of a controlled substance], a felony.
24 Respondent was sentenced to Proposition 36 terms, her sentence of formal probation for three
25 years was suspended, and she was ordered to pay fees and fines. On June 14, 2006, Respon-
26 dent's Proposition 36 terms were deleted, she was found guilty, and sentenced to formal
27 probation to January 1, 2009, and to serve time in county jail.

28 b. On or about August 1, 2005, Respondent was convicted on her plea of
nolo contendere in the case titled *People v. Jattie Earlie Endfinger*, Stanislaus County Superior

1 Court Case No. 1089174 [case trailed Case No. 1095277, above], of one count of violating
2 Vehicle Code section 23152, subdivision (a) [driving while under the influence of alcohol] and
3 of one count of violating Penal Code section 647, subdivision (f) [disorderly conduct], both
4 misdemeanors. Respondent admitted to a prior violation of Vehicle Code section 23152,
5 subdivision (a). Respondent was originally charged in count two of using or under the influence
6 of a controlled substance in violation of H&S Code section 11550, subdivision (a), but plead to a
7 lesser charge of disorderly conduct. Respondent was sentenced to informal probation for 36
8 months, to serve time in county jail, and to pay fees and fines.

9 c. On or about July 17, 2000, Respondent was convicted on her plea of nolo
10 contendere in the case titled *People v. Jattie Earlie Endfinger*, Stanislaus County Superior Court
11 Case No. 1009152, of violating Code section 23152, subdivision (a) [driving while under the
12 influence of alcohol], a misdemeanor.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Possessed and Self-Administered a Controlled Substance)**

15 15. Respondent has subjected her license to disciplinary action under Code
16 section 1670, on the grounds of unprofessional conduct, within the meaning of Code section
17 1681, subdivisions (a), in that Respondent committed the following acts:

18 a. On or about March 7, 2005, Respondent possessed Methamphetamine in
19 violation of Code section 4060 and H&S Code section 11377.

20 b. On or about March 7, 2005, Respondent self-administered Methamphet-
21 amine in violation of Code section 4060 and H&S Code section 11170.

22 c. On or about July 20, 2005, Respondent possessed Methamphetamine in
23 violation of Code section 4060 and H&S Code section 11377.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Use of Controlled Substances and Alcohol -**

26 **Dangerous/Injurious to Self or Others)**

27 16. Respondent has subjected her license to disciplinary action under Code
28 section 1670, on the grounds of unprofessional conduct, as defined in Code section 1681,


1 subdivision (b), in that on or about March 7, 2005, Respondent used Methamphetamine and
2 alcohol to an extent or in a manner dangerous or injurious to herself or others, to the extent that
3 such use impairs her ability to conduct with safety the practice authorized by her license.

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters
6 herein alleged, and that following the hearing, the Dental Board of California issue a decision:

- 7 1. Revoking or suspending Registered Dental Assistant License No. 56018,
8 issued to Jattie Earlie Endfinger also known as Jattie Earlie Smeaton;
- 9 2. Ordering Jattie Earlie Endfinger also known as Jattie Earlie Smeaton to
10 pay the Dental Board of California the reasonable costs of the investigation and enforcement of
11 this case, pursuant to Business and Professions Code section 125.3; and
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: March 19, 2009

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17 CATHLEEN J. PONCABARE
18 Executive Officer
19 Dental Board of California
20 State of California
21 Complainant
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