

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

In the Matter of the First Amended
Accusation and Petition to Revoke Probation
Against:

GILBERT JEENHWAR YI
25311 Pines Estates Drive
Harbor City, CA 90710

Pharmacist License No. RPH 47494

Respondent.

Case No. 2725

OAH No. L2004090354

PROPOSED DECISION

This matter came on regularly for hearing before Administrative Law Judge Mark E. Harman, Office of Administrative Hearings, at Los Angeles, California, on March 10, 2005.

Complainant, Patricia F. Harris, the Executive Officer of the Board of Pharmacy (Board), was represented by Christina Thomas, Deputy Attorney General.

Gilbert Jeenhwar Yi (Respondent) appeared personally and represented himself.

Upon the motion of the Administrative Law Judge, at the commencement of the administrative hearing, the First Amended Accusation and Petition to Revoke Probation was further amended by interlineation on page 3, at line 7, beginning after the word "reinstated," by adding the following provision: "deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground." Neither Complainant nor Respondent objected to the amendment. Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on March 10, 2005.

FACTUAL FINDINGS

1. The First Amended Accusation and Petition to Revoke Probation was made by Patricia F. Harris, who is the Executive Officer of the Board of Pharmacy, Department of

Consumer Affairs, acting in her official capacity. The First Amended Accusation and Petition to Revoke Probation was served upon Respondent on February 24, 2005.

2. On or about August 10, 1994, the Board issued Pharmacist License No. RPH 47494 to Respondent. The license is currently on probation and will expire on March 31, 2006, unless renewed.

3. In a disciplinary action entitled "*In the Matter of the Accusation Against Gilbert Jeenhuar Yi*," Case No. 2368, the Board entered into a stipulated settlement with Respondent, by which the parties agreed to the terms of, as well as the factual basis for, a Disciplinary Order entered against Respondent. The factual basis consisted of Respondent admitting to the truth of the allegations in the Accusation,¹ which included, in pertinent part:

(a) On March 7, 2000, Respondent was convicted, on a plea of nolo contendere, of one count of violating Penal Code section 487, subdivision (a), grand theft, a felony;

(b) The facts and circumstances underlying the conviction are that, while Respondent was employed by Friendly Hills Healthcare Network Pharmacy, he embezzled money and personal property of a value exceeding \$400;

(c) Police found in Respondent's vehicle and home one 8-dram amber vial containing 101 tablets of Dilaudid 4mg, a controlled substance. The pharmacy label and a patient's name and number were on the vial. In addition, officers recovered over 45 various types of drugs and medications, including but not limited to, dangerous drugs; and

(d) While employed as pharmacist-in-charge of Friendly Hills Pharmacy, Culver City, Respondent failed to maintain compliance and control over drug inventory and accurate records of acquisitions and disposition of dangerous drugs, as follows: (i) 3,350 tablets of Adalat CC 60mg; (ii) 3,360 tablets of Adalat CC 30mg; (iii) 1,154 tablets of Claritin 10mg; (iv) 3,030 tablets of Monopril 10mg; (v) 4,250 tablets of Pravachol 20mg; (vi) 5,841 tablets of Prilosec 20mg; (vii) 1,460 tablets of Propulsid 10mg; and (viii) 1,820 tablets of Propulsid 20mg.

4. The Board issued its Decision adopting the Stipulated Settlement, effective July, 4, 2002, in which Respondent's pharmacist's license was revoked, the revocation was stayed, and Respondent's license was placed on probation for a period of five years under certain terms and conditions, including:

(a) Participation and successful completion of a program of rehabilitation known as the Pharmacists Recovery Program;

(b) Immediate notification to the Board upon the occurrence of:

(i) An arrest or issuance of a criminal complaint for violation of any provisions of the Pharmacy Law, and certain other laws;

(ii) A plea of guilty or nolo contendere in any court;

(iii) A conviction of any crimes; and

(iv) A discipline, citation or other administrative action filed against Respondent's license or related to the practice of pharmacy;

¹ The Board offered no other evidence of the stipulated facts in this proceeding.

- (c) Filing quarterly reports with the Board; and
- (d) Reimbursement of the Board's costs in the amount of \$10,000, with payment in full to be completed within the first four years of probation.

5. On or about July 17, 2002, Respondent signed a declaration stating that he had appeared before the Board, and that the terms and conditions of his probation had been fully explained to him by the Board representatives; further, he acknowledged that he understood the terms and conditions as set forth in the disciplinary action, and that failure to comply may result in further disciplinary action.

Respondent's DUI Convictions

6. On or about May 13, 1996, in the Los Angeles Municipal Court, Metro Branch Judicial District, Count of Los Angeles, State of California, Case No. 6MT02769-01, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle Code section 23103.5, reckless driving, a misdemeanor. The complaint had alleged a violation of Vehicle Code section 23152, subdivision (a), driving while having 0.08 percent and more, by weight, of alcohol in his blood, and had alleged Respondent's prior conviction in August 1990, of violating Vehicle Code section 23152, subdivision (b).

7. Imposition of sentence was suspended, and Respondent was placed on informal probation for a period of 36 months under various terms and conditions, including payment of fines totaling \$490, or in the alternative, incarceration for 13 days, with credit for one day time served, attendance at AA meetings at the minimum rate of three meetings per week for six months, prohibition against the use of any alcohol for six months, and submission to random testing for blood alcohol for six months.

8. On or about May 28, 2002, in the Los Angeles Municipal Court, Metro Branch Judicial District, Count of Los Angeles, State of California, Case No. 2MT04601, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving while having 0.08 percent and more, by weight, of alcohol in his blood, a misdemeanor which is substantially related to the qualifications, functions and duties of a pharmacist. Respondent also admitted to his prior conviction on May 13, 1996, of violating Vehicle Code section 23103.5, reckless driving.

9. Imposition of sentence was suspended, and Respondent was placed on summary probation for a period of 60 months under various terms and conditions, including incarceration for 96 hours, payment of a fine in the amount of \$390, or in the alternative, incarceration for 13 days, with credit for one day time served, payment of a restitution fine in the amount of \$100, a state penalty fund assessment of \$612, and other fees and assessments totaling \$189, enrollment in an 18-month alcohol treatment program, and restrictions on driving for 18 months -- to and from work, during work, and to and from the program. (In lieu of jail or fine, performance of 12 days of CalTrans; in lieu of fine, jail or CalTrans, perform 144 hours of community service.) On July 19, 2002, Respondent surrendered to the court and was committed to 96 hours incarceration. On November 26, 2002, Respondent

presented proof to the court of completion of his community service requirement. On May 27, 2003, Respondent paid \$253 to the court clerk in mandatory fees.

10. On or about January 28, 2003, in the Superior Court of California, County of Los Angeles, Case No. BA238677, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving while having 0.08 percent and more, by weight, of alcohol in his blood, a misdemeanor, and Penal Code section 148.9, false identity to a peace officer, a misdemeanor. Both crimes are substantially related to the qualifications, functions and duties of a pharmacist.

11. Imposition of sentence was suspended, and Respondent was placed on summary probation for a period of 60 months under various terms and conditions, including incarceration for 180 days in county jail, or in the alternative, to be served in the Clare Foundation Live-in Alcohol Program, payment of a fine in the amount of \$500, less credit of \$60 for two days jail time served, payment of a state penalty fund assessment of \$748, payment of a state restitution fine of \$100, payment of costs and fees of \$134, revocation of Respondent's driving privileges for three years, filing with the court a declaration of non-ownership of a motor vehicle, performance of two days of community service at the county morgue, participation in an 18-month treatment or counseling program pursuant to Health and Safety Code section 11837, and enrollment in an SB-38 program. As a result of being convicted of a third or subsequent offense for a violation of Vehicle Code section 23152, Respondent was designated as a "habitual traffic offender" for a period of three years from the date of his conviction, the effect of which was that he was subject to an enhanced jail term of 180 days and fine of \$2,000 if he drove in violation of his license revocation. On April 28, 2003, the court modified the terms of probation, nunc pro tunc, and ordered, in lieu of the fine, 209 hours of community service, payment of fees of \$233, completion of the SB38 program and the Clare Foundation Live-in Program, and completion of an additional two days of community service at the county morgue.

Administrative Probation Violations

12. Respondent failed to make any payments toward his obligation to reimburse the Board for its costs of investigation and prosecution in the amount of \$10,000, as required under the terms and conditions of his probation. Respondent failed to submit any quarterly reports to the Board, as required under the terms and conditions of his probation.

13. Respondent believes he does not have a drinking problem, only a gambling problem, which had caused him to be heavily in debt. He stole drugs from the pharmacy where he had worked to make money to pay off his creditors. Regarding his failure to satisfy certain terms of his probation, it was a combination of his arrest in October 2002, entering into the Clare Foundation Live-In Alcohol Program, and his subsequent conviction, that prevented him from filing the quarterly reports or making the scheduled payments to the Board. He was not allowed to work during this six-month program. Before his release in April 2003, he had begun looking for a pharmacy job, with the assistance of Walt Murphy, his Managed Healthcare Network (MHN) case manager; however, Respondent was unable to

find any position of employment as a pharmacist, which he blamed on the Board's new restrictions, since they had increased the level of supervision required of any employer who hired him.

14. In Spring 2003, oversight of Respondent's rehabilitation program was reassigned, from Murphy and MHN, to another company called Maximus. Respondent was required to submit to random drug screening. Respondent had many difficulties with Maximus, including difficulty communicating with both his case managers. In November and December 2003, Respondent had several arguments with one case manager concerning missing paperwork and abnormal labs – the case manager had told Respondent either that he had a kidney problem or that he was diluting the urine during his random fluid tests. In January 2004, Respondent was trying to get approval for a clinical job prior to his going to an interview. He claimed that Maximus sent him a letter stating that his behavior was "hostile" and that he would have to communicate from that point on in writing only. He claimed that this letter showed how Maximus failed to cooperate with him. He did not produce this letter, or present other evidence to corroborate his claims. Respondent failed to present sufficient credible evidence that Maximus treated him unfairly or unreasonably. Respondent did not comply with the diversion program requirements.

Costs of Investigation and Enforcement

15. Pursuant to Business of Professions Code section 125.3, complainant requested Attorney General's fees of \$3,162.25 for the costs of prosecution in this case. No request was made for the recovery of investigative costs. Complainant's request for cost recovery is deemed just and reasonable.

LEGAL CONCLUSIONS

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to suspend or revoke Respondent's pharmacist license under Business and Professions Code section 4301, subdivision (k), for conviction of more than one misdemeanor involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances. Findings 6 through 11.

2. Cause exists to suspend or revoke Respondent's pharmacist's license under Business and Professions Code sections 4301, subdivision (l), and 490, in conjunction with California Code of Regulations, title 16, section 1770, because Respondent has been convicted of crimes which are substantially related to the qualifications, functions and duties of a pharmacist, as set forth in Findings 6 through 11.

3. Cause exists to revoke Respondent's probationary certificate of licensure under Business and Professions Code section 4300, subdivision (d), for failure to comply with the Board's diversion program (condition 2 of Respondent's probation), failure to obey

state and federal laws (Condition 4), failure to report to the Board quarterly (Condition 5) and failure to comply with the payment plan (Condition 11). Findings 4-12.

4. Cause exists under Business and Professions Code section 125.3 to direct respondent to pay costs of \$3,162.25. Finding 15.

5. In 2003, Respondent was convicted for the fourth time for an offense related to driving under the influence of alcoholic beverages. His most recent conviction occurred while he was still on probation for a prior DUI. The court ordered him to serve six months in a live-in treatment program. If Respondent had become more seriously involved in the Pharmacists Recovery Program in July 2002, he might have avoided the recent conviction and begun to build a record of rehabilitation. Respondent, however, must first acknowledge that he has a problem with alcohol dependency, or at least, that it is a contributing cause, which he must address to satisfy the Board's concerns about ensuring the public safety.

6. Respondent has failed to comply with nearly every aspect of his probation. He stopped participating in the Board's diversion program. He blames that failure on the Board and the program case managers. He claims they were unreasonable toward him, but he has not proven this. Respondent's four alcohol-related convictions, including one after the Board placed him on probation, evince a pattern of recidivism that militates against Respondent's chances of successfully completing a second probation period. The public interest cannot be adequately protected should Respondent be permitted to retain his pharmacist license.

ORDER

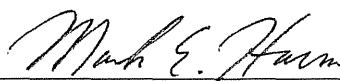
1. License number RPH 47494, issued to Respondent, Gilbert Jeenwar Yi, is revoked pursuant to Determination of Issues 1 through 6, separately and together.

2. Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision.

3. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision.

4. Respondent shall pay to the board its costs of prosecution in the amount of \$3,162.25 within 15 days of the effective date of this decision.

DATED: April 12, 2005


MARK E. HARMAN
Administrative Law Judge
Office of Administrative Hearings

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

In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

GILBERT JEENHWAR YI
25311 Pines Estates Drive
Harbor City, CA 90710

Pharmacist License No. RPH 47494,

Respondent.

Case No. 2725

OAH No. L2004090354

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on June 3, 2005.

IT IS SO ORDERED May 4, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


STANELY W. GOLDENBERG
Board President

rfm

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

11 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

Case No. 2725

OAH No.

12 GILBERT JEENHWAR YI
13 26311 Pines Estates Drive
Harbor City, CA 90710
14 Pharmacist License No. RPH 47494

**FIRST AMENDED ACCUSATION
AND PETITION TO REVOKE
PROBATION**

15 Respondent.

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18 Complainant alleges:

19 PARTIES

20 1. Patricia F. Harris (Complainant) brings this First Amended Accusation and
21 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
22 of Pharmacy (Board), Department of Consumer Affairs.

23 2. On or about August 10, 1994, the Board issued Pharmacist License No.
24 RPH 47494 to Gilbert Jeenhwari Yi (Respondent). The license expired on March 31, 2004, and
25 has not been renewed. *2006*

26 JURISDICTION

27 3. This First Amended Accusation and Petition to Revoke Probation is
28 brought before the Board, Department of Consumer Affairs, under the authority of the following

1 A conviction within the meaning of this section means a plea or verdict of guilty or a conviction
2 following a plea of nolo contendere.

3 8. Section 118(b) states that the suspension, expiration, or forfeiture by
4 operation of law of a license issued by a board in the department, or its suspension, forfeiture, or
5 cancellation by order of the board or by order of a court of law, or its surrender without the
6 written consent of the board, shall not, during any period in which it may be renewed, restored,
7 reissued, or reinstated.

8 9. California Code of Regulations, title 16, section 1770, states:

9 "For the purpose of denial, suspension, or revocation of a personal or facility
10 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
11 Code, a crime or act shall be considered substantially related to the qualifications, functions or
12 duties of a licensee or registrant if to a substantial degree it evidences present or potential
13 unfitness of a licensee or registrant to perform the functions authorized by his license or
14 registration in a manner consistent with the public health, safety, or welfare."

15 10. California Code of Regulations, title 16, section 1773, states:

16 (a) Unless otherwise directed by the Board in its sole discretion, any
17 pharmacist who is serving a period of probation shall comply with, but not limited to, the
18 following conditions:

19 "(1) Obey all laws and regulations substantially related to the practice of
20 Pharmacy;

21 "(2) Report to the Board or its designee quarterly either in person or in writing
22 as directed; the report shall include the name and address of the probationer's employer. If the
23 final probation report is not made as directed, the period of probation shall be extended until such
24 time as the final report is made."

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

PRIOR DISCIPLINE

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2 12. In a disciplinary action entitled "In the Matter of Accusation Against
3 Gilbert Jeenhwar Yi," Case No. 2368, the Board of Pharmacy, issued a Decision, effective July 4,
4 2002, in which Respondent's Pharmacist License No. 47494 was revoked. However, the
5 revocation was stayed and Respondent's license was placed on probation for a period of five (5)
6 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
7 incorporated by reference.

8 The terms and conditions included:

9 "(2) **Rehabilitation Program - Pharmacists Recovery Program (PRP).**

10 Within 30 days of the effective date of this decision, Respondent shall contact the
11 Pharmacists Recovery Program for evaluation and shall successfully participate in and complete
12 the treatment contract and any subsequent addendums as recommended and provided by the PRP
13 and as approved by the Board. The costs for PRP participation shall be borne by the Respondent.

14 If Respondent is currently enrolled in the PRP, said participation is now
15 mandatory and is no longer considered a self-referral under Business and Professions Code
16 section 4363, as of the effective date of this decision. Respondent shall successfully participate
17 in and complete his or her current contract and any subsequent addendums with the PRP.
18 Probation shall be automatically extended until Respondent successfully completes his or her
19 treatment contract. Any person terminated from the program shall be automatically suspended
20 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified by
21 the Board in writing. The Board shall retain jurisdiction to institute action to terminate probation
22 for any violation of this term.

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24 "(4) **Obey All Laws.** Respondent shall obey all state and federal laws and
25 regulations substantially related to or governing the practice of pharmacy.

26 Respondent shall report any of the following occurrences to the Board, in writing,
27 within 72 hours of such occurrence:

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1 a. an arrest or issuance of a criminal complaint for violation of any provision
2 of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled
3 substances laws;

4 b. a plea of guilty or nolo contendere in any state or federal criminal
5 proceeding to any criminal complaint, information or indictment;

6 c. a conviction of any crime;

7 d. discipline, citation, or other administrative action filed by any state and
8 federal agency which involves Respondent's Original Pharmacy License or which is related to
9 the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or
10 charging for of any drug, device or controlled substance.

11 "(5) **Reporting to the Board.** Respondent shall report to the board
12 quarterly.

13 The report shall be made either in person or in writing, as directed. Respondent
14 shall state under penalty of perjury whether there has been compliance with all the terms and
15 conditions of probation. If the final probation report is not made as directed, probation shall
16 be extended automatically until such time as the final report is made and accepted by the
17 board.

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19 "(11) **Reimbursement of Board Costs.** Respondent shall pay to the board
20 its costs of investigation and prosecution in the amount of \$10,000.00. Respondent shall
21 make said payments according to a payment plan to be approved by the Board and as follows:
22 Payment in full to be completed within the first four (4) years of probation.

23 The filing of bankruptcy by Respondent shall not relieve Respondent of his or
24 her responsibility to reimburse the board its costs of investigation and prosecution."

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Conviction of Crimes)

27 13. Respondent has subjected his license to discipline pursuant to section
28 4300 for unprofessional conduct as defined in sections 4301(k) and (l) and 490 in conjunction

1 with California Code of Regulations, title 16, section 1770 in that Respondent was convicted
2 of a crime substantially related to the qualifications, functions, or duties of a pharmacist, by
3 reason of the following:

4 a. On January 28, 2003, Respondent was convicted by the court on a plea
5 of nolo contendere of one count of violation of section 23152(b) of the Vehicle Code (driving
6 while having 0.08% and more, by weight, of alcohol in his blood - a misdemeanor) and
7 section 148.9 of the Penal Code (false identity to a peace officer - a misdemeanor) in the Los
8 Angeles Superior Court, East Los Angeles Division, County of Los Angeles, State of
9 California, Case No. BA238677, entitled *People v. Gilbert Jeenwar Yi*.

10 The circumstances of the conviction are that on or about October 19, 2002, in
11 the County of Los Angeles, California, Respondent drove a vehicle while having 0.08% and
12 more, by weight, of alcohol in his blood. On or about October 19, 2002, Respondent
13 unlawfully and falsely identified himself to a police officer.

14 b. On May 28, 2002, Respondent was convicted by the court on a plea of
15 nolo contendere of one count of violation of section 23152(b) of the Vehicle Code (driving
16 while having 0.08% and more, by weight, of alcohol in his blood - a misdemeanor) in the Los
17 Angeles Municipal Court, Metro Branch Judicial District, County of Los Angeles, State of
18 California, Case No. 2MT04601, entitled *People v. Gilbert Jeenwar Yi*.

19 The circumstances of the conviction are that on or about April 24, 2002, in the
20 County of Los Angeles, California, Respondent drove a vehicle while having 0.08% and more,
21 by weight, of alcohol in his blood.

22 c. On May 13, 1996, Respondent was convicted by the court on a plea of
23 nolo contendere of one count of violation of section 23103.5 of the Vehicle Code (reckless
24 driving - a misdemeanor) in the Los Angeles Municipal Court, Metro Branch Judicial District,
25 County of Los Angeles, State of California, Case No. 6MT02769, entitled *People v. Gilbert*
26 *Jeenwar Yi*.

27 The circumstances of the conviction are that on or about March 6, 1996, in the
28 County of Los Angeles, California, Respondent did willfully and unlawfully drive a vehicle

1 while being under the influence of an alcoholic beverage and a drug and under the combined
2 influence of an alcoholic beverage and a drug.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Dangerous Use of Alcohol)

5 14. Respondent has subjected his license to discipline pursuant to section
6 4300 of the Code as defined in section 4301(h) of the Code for unprofessional conduct in
7 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent
8 committed acts that are substantially related to the qualifications, functions or duties of a
9 pharmacist to a substantial degree that it evidences present or potential unfitness of
10 Respondent to perform the functions authorized by Respondent's license in that he used
11 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, and the
12 public, when he operated a vehicle while having 0.08% and more, by weight, of alcohol in his
13 blood, as stated above in paragraph 13.

14 **FIRST CAUSE FOR VIOLATION OF PROBATION**

15 (Failed to Comply with the Board's Diversion Program)

16 15. Respondent violated Condition 2 of his probation in that Respondent
17 failed to comply with the Board's Division Program and was terminated for the following
18 reasons:

19 a. Respondent failed to follow the contract protocol and complete the
20 required random body fluid testing by 10:00 a.m. on August 4, 2003, August 25, 2003, August
21 26, 2003, September 2, 2003, October 13, 2003, October 22, 2003, November 14, 2003,
22 December 3, 2003, December 16, 2003, January 9, 2004, February 21, 2004, February 26,
23 2004, March 22, 2004, and March 25, 2004.

24 b. On August 6, 2003, Respondent failed to complete Psychiatric
25 Assessment within two weeks per contract addendum of July 23, 2003. On August 6, 2003,
26 Respondent also failed to sign and return his July 23, 2003, contract addendum.

27 c. On October 13, 2003, and October 22, 2003, Respondent's results of
28 each drug test was out of range.

1 d. On November 11, 2003, November 14, 2003, and December 3, 2003,
2 Respondent's results of each drug test was dilute.

3 e. On December 25, 2003, December 28, 2003 and January 1, 2004,
4 Respondent failed to call in for testing.

5 f. On December 30, 2003, January 9, 2004, January 20, 2004, and
6 February 27, 2004, Respondent became hostile and/or abusive to the Board's Diversion
7 Program staff.

8 g. On January 14, 2004, Respondent failed to sign and return the
9 December 23, 2003 contract addendum.

10 h. On January 30, 2004, Respondent was requested to communicate in
11 writing due to his abusive phone conversations with the Board's Diversion staff. Respondent
12 failed to comply with the writing request by he continuously calling rather than
13 communicating in writing.

14 i. As of March 24, 2004, Respondent owes \$675.00 to the Board's
15 Diversion Program.

16 j. On March 24, 2004, Respondent was terminated from the Diversion
17 Program for noncompliance.

18 **SECOND CAUSE FOR VIOLATION OF PROBATION**

19 (Failed to Obey State and Federal Laws)

20 16. Respondent violated Condition 4 of his probation in that Respondent
21 failed to obey State and Federal laws related to the practice of pharmacy for the reasons stated
22 in paragraph 13 above.

23 **SECOND CAUSE FOR VIOLATION OF PROBATION**

24 (Failed to Report to the Board)

25 17. Respondent violated Condition 5 of his probation in that Respondent
26 failed to report to the Board on a quarterly basis as required.

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THIRD CAUSE FOR VIOLATION OF PROBATION

(Failed to Comply with the Payment Plan)

18. Respondent violated Condition 11 of his probation in that Respondent failed to make payments according to the payment plan. To date, the Board has not received any payments from Respondent.

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 Pharmacist License No. RPH 47494, issued to Gilbert Jeenhwar Yi.
2. Ordering Gilbert Jeenhwar Yi 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/22/05

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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