v			
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1 2 3 4 5	 BILL LOCKYER, Attorney General of the State of California JOSHUA A. ROOM, State Bar No. 214663 Deputy Attorney General California Department of Justice 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Telephone: (415) 703-1299 Facsimile: (415) 703-5480 		
6	Attorneys for Complainant		
7	BEFORE T BOARD OF PHA		
8	DEPARTMENT OF CON STATE OF CAL	SUMER AFFAIRS	
9	In the Matter of the Accusation Against:	Case No. 2799	
10	PAUL A. GONSALVES	OAH No.	
11	62 Trinity Drive Novato, California 94947-5247	STIPULATED SURRENDER OF	
12		LICENSE AND ORDER	
13	Pharmacy Technician License No. TCH 23109		
14	Respondent.	· · · · ·	
15			
16		resolution of this matter, consistent with the	
17	public interest and responsibility of the Board of Pha		
18	the parties hereby agree to the following Stipulated S		
19	submitted to the Board for approval and adoption as	the final disposition of the Accusation.	
20			
. 21	PARTIES		
22	1. Patricia F. Harris (Complainat	nt) is the Executive Officer of the Board of	
23	Pharmacy. She brought this action solely in her offi-	cial capacity and is represented in this matter	
24	by Bill Lockyer, Attorney General of the State of Ca	lifornia, by Joshua A. Room, Deputy	
25	Attorney General.		
26	2. Paul A. Gonsalves (Responde	nt) is represented in this proceeding by	
27	attorney Ivan Weinberg, Weinberg, Hoffman, Casey	& Ropers, whose address is 900 Larkspur	
28	Landing Cir. # 155, Larkspur, CA 94939.		

1	3. On or about July 7, 1997, the Board of Pharmacy issued Pharmacy
2	Technician License No. TCH 23109 to Paul A. Gonsalves (Respondent). The Pharmacy
3	Technician License was in full force and effect at all times relevant to the charges brought in
4	Accusation No. 2799. It expired on November 30, 2004, and has not been renewed.
5	
6	JURISDICTION
7	4. Accusation No. 2799 was filed before the Board of Pharmacy (Board),
8	Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
9	and all other statutorily required documents were properly served on Respondent on July 27,
10	2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
11	Accusation No. 2799 is attached as Exhibit A and incorporated herein by reference.
12	
13	ADVISEMENT AND WAIVERS
14	5. Respondent has carefully read, fully discussed with counsel, and
15	understands the charges and allegations in Accusation No. 2799. Respondent also has carefully
16	read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
17	License and Order.
18	6. Respondent is fully aware of his legal rights in this matter, including the
19	right to a hearing on the charges and allegations in the Accusation; the right to be represented by
20	counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
21	the right to present evidence and to testify on his own behalf; the right to the issuance of
22	subpoenas to compel the attendance of witnesses and the production of documents; the right to
23	reconsideration and court review of an adverse decision; and all other rights accorded by the
24	California Administrative Procedure Act and other applicable laws.
25	7. Respondent voluntarily, knowingly, and intelligently waives and gives up
26	each and every right set forth above.
27	
28	///

CULPABILITY

11	
2	8. Respondent agrees that, at a hearing, Complainant could establish a factual
3	basis for charges and allegations in Accusation No. 2799. Respondent agrees that sufficient
4	cause exists for license discipline and hereby surrenders his Pharmacy Technician License No.
5	TCH 23109 for the Board's formal acceptance.
6	9. Respondent understands that by signing this stipulation he enables the
7	Board to issue an order accepting the surrender of his Pharmacy Technician License without
8	further process, notice, or opportunity to be heard.
9	
10	CONTINGENCY
11	10. This stipulation shall be subject to approval by the Board of Pharmacy.
12	Respondent understands and agrees that counsel for Complainant and the staff of the Board of
13	Pharmacy may communicate directly with the Board regarding this stipulation and surrender,
14	without notice to or participation by Respondent or his counsel. By signing the stipulation,
15	Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
16	the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
17	this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall
18	be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
19	between the parties, and the Board shall not be disqualified from further action by having
20	considered this matter.
21	11. The parties understand and agree that facsimile copies of this Stipulated
22	Surrender of License and Order, including facsimile signatures thereto, shall have the same force
23	and effect as the originals.
24	12. In consideration of the foregoing admissions and stipulations, the parties
25	agree that the Board may, without further notice or formal proceeding, issue and enter the
26	following Order:
27	
28	

<u>ORDER</u>

1	ORDER	
2	IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 23109,	
3	issued to Respondent Paul A. Gonsalves, is surrendered and accepted by the Board of Pharmacy.	
4	13. The surrender of Respondent's Pharmacy Technician License and the	
5	acceptance of the surrendered license by the Board shall constitute the imposition of discipline	
6	against Respondent. This stipulation constitutes a record of the discipline and shall become a	
7	part of Respondent's license history with the Board.	
8	14. Respondent shall lose all rights and privileges as a Pharmacy Technician	
9	in California as of the effective date of the Board's Decision and Order.	
10	15. Respondent shall cause to be delivered to the Board his License, wall and	
11	pocket license certificate(s), on or before the effective date of the Decision and Order.	
12	16. Respondent may not apply or reapply for any licensure or registration of	
13	the Board for three (3) years from the effective date of the Decision and Order.	
14	17. Respondent understands and agrees that if he ever applies for licensure or	
15	petitions for reinstatement in the State of California, the Board shall treat it as a new application	
16	for licensure. Respondent must comply with all the laws, regulations and procedures for	
17	licensure in effect at the time the application or petition is filed, and all of the charges and	
18	allegations contained in Accusation No. 2799 shall be deemed to be true, correct and admitted by	
19	Respondent when the Board determines whether to grant or deny the application or petition.	
20	18. Should Respondent ever apply or reapply for a new license or certification,	
21	or petition for reinstatement of a license, by any other heath care licensing agency in the State of	
22	California, all of the charges and allegations contained in Accusation No. 2799 shall be deemed	
23	to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any	
24	other proceeding seeking to deny or restrict licensure.	
25	19. Respondent shall pay the Board its costs of investigation and enforcement	
26	in the amount of \$5,000.00 prior to issuance of a new or reinstated license.	
27	///	
28	///	

1	ACCEPTANCE
2	I have carefully read the above Stipulated Surrender of License and Order and
3	have fully discussed it with my attorney, Ivan Weinberg. I understand the stipulation and the
4	effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of
5	License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6	Decision and Order of the Board of Pharmacy.
7	DATED:
8	PAUL A. GONSALVES
9	Respondent
10	I have read and fully discussed with Respondent Paul A. Gonsalves the terms and
11	conditions and other matters contained in this Stipulated Surrender of License and Order. I
12	approve its form and content.
13	DATED: telman 3 2006.
14	IVAN WEINBERG
15	Attorney for Respondent
16	
17	ENDORSEMENT
18	The foregoing Stipulated Surrender of License and Order is hereby respectfully
19	submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
20	
21	DATED:·
22	BILL LOCKYER, Attorney General of the State of California
23	
24	
25	JOSHUA A. ROOM Deputy Attorney General
26	Attorneys for Complainant
27	
28	DOJ Matter ID: SF2004401008; 40077199.wpd
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e ²				
			1	ACCEPTANCE
			2	I have carefully read the above Stipulated Surrender of License and Order and
			3	have fully discussed it with my attorney, Ivan Weinberg. I understand the stipulation and the
			4	effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of
			5	License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
		н 1	6	Decision and Order of the Board of Pharmacy.
	-		7	DATED:
			8	PAUL A. GONSALVES
			9	Respondent
			10	I have read and fully discussed with Respondent Paul A. Gonsalves the terms and
			11	conditions and other matters contained in this Stipulated Surrender of License and Order. I
			12	approve its form and content.
			13	DATED:
			14	TVAN WEINBERG
		•	15	Attorney for Respondent
	•		16	
			17	ENDORSEMENT
			18	The foregoing Stipulated Surrender of License and Order is hereby respectfully
			19	submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
			20	
			21	DATED:
		·	22	BILL LOCKYER, Attorney General of the State of California
			23	of the State of Camorina
			24	
			25	JOSHUA A. ROOM
			26	Deputy Attorney General
			27	Attorneys for Complainant
			28	DOJ Matter ID: SF2004401008; 40063323.wpd
				5

1	ACCEPTANCE
2	I have carefully read the above Stipulated Surrender of License and Order and
3	have fully discussed it with my attorney, Ivan Weinberg. I understand the stipulation and the
4	effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of
5	License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6	Decision and Order of the Board of Pharmacy.
7	DATED:
8	PAUL A. GONSALVES
9	Respondent
10	I have read and fully discussed with Respondent Paul A. Gonsalves the terms and
11	conditions and other matters contained in this Stipulated Surrender of License and Order. I
12	approve its form and content.
13	DATED:
14	IVAN WEINBERG
15	Attorney for Respondent
16	
17	ENDORSEMENT
18	The foregoing Stipulated Surrender of License and Order is hereby respectfully
19	submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
20	
21	DATED: $\frac{Z/9/06}{06}$.
22	BILL LOCKYER, Attorney General of the State of California
23	
24	John Room
25	JOSHUA A. ROOM Deputy Attorney General
26	Attorneys for Complainant
27	
28	DOJ Matter ID: SF2004401008; 40077199.wpd
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BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2799

OAH No.

PAUL A. GONSALVES 62 Trinity Drive Novato, California 94947-5247

Pharmacy Technician License No. TCH 23109

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the

Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on <u>April 12, 2006</u>

It is so ORDERED <u>March 13, 2006</u>.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG Board President

Exhibit A

Accusation No. 2799

1	BILL LOCKYER, Attorney General	
2	of the State of California JOSHUA A. ROOM, State Bar No. 214663 Deputy Attorney General	
3	California Department of Justice	
4	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	
5	Telephone: (415) 703-1299 Facsimile: (415) 703-5480	
6	Attorneys for Complainant	
7	BEFORE	
8	BOARD OF PH. DEPARTMENT OF CON	
9	STATE OF CAL	JFORNIA
10	In the Matter of the Accusation Against:	Case No. 2799
11	PAUL A. GONSALVES	OAH No.
12	62 Trinity Drive Novato, California 94947-5247	ACCUSATION
13	Pharmacy Technician License No. TCH 23109	
14	Respondent.	
15		
16	Complainant alleges:	- ,
17	PARTIE	2 <u>S</u>
18	1. Patricia F. Harris (Complaina	nt) brings this Accusation solely in her
19	official capacity as Executive Officer, Board of Phan	macy, Department of Consumer Affairs.
20	2. On or about July 7, 1997, the	Board of Pharmacy issued Pharmacy
21	Technician License Number TCH 23109 to Paul A.	Gonsalves (Respondent). The License was
22	in full force and effect at all times relevant to the cha	arges brought herein. On or about September
23	3, 2004, on request from the Board of Pharmacy und	ler Penal Code section 23, an order entered in
24	Marin County Superior Court, Case No. SC136490A	A, set as a condition of bail that Respondent
25	would be prohibited from practicing as a Pharmacy	Technician and would surrender his License
26	to the Board during pending criminal proceedings.	The License expired on November 30, 2004,
27	and has not been renewed.	
28	///	

JURISDICTION

2	3. This Accusation is brought before the Board of Pharmacy (Board),
3	Department of Consumer Affairs, under the authority of the following laws. All section
4	references are to the Business and Professions Code unless otherwise indicated.
5	4. Section 4011 of the Code provides that the Board shall administer and
6	enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
7	Substances Act [Health & Safety Code, § 11000 et seq.].
8	5. Section 4300(a) of the Code provides that every license issued by the
9	Board may be suspended or revoked.
10	6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
11	expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
12	proceed with a disciplinary action during the period within which the license may be renewed,
13	restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not
14	renewed within three years following its expiration may not be renewed, restored, or reinstated
15	and shall be canceled by operation of law at the end of the three-year period.
16	
17	STATUTORY PROVISIONS
18	7. Section 4301 of the Code provides, in pertinent part, that the Board shall
19	take action against any holder of a license who is guilty of "unprofessional conduct," defined to
20	include, but not be limited to, any of the following:
21	•••
22	"(f) The commission of any act involving moral turpitude, dishonesty, fraud,
23	deceit, or corruption, whether the act is committed in the course of relations as a licensee or
24	otherwise, and whether the act is a felony or misdemeanor or not.
25	
26	"(j) The violation of any of the statutes of this state or of the United States
26 27	"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

"(1) The conviction of a crime substantially related to the qualifications, functions, 1 and duties of a licensee under this chapter. . . . 2 3 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or 4 abetting the violation of or conspiring to violate any provision or term of this chapter or of the 5 applicable federal and state laws and regulations governing pharmacy, including regulations 6 7 established by the board. 8 California Code of Regulations, title 16, section 1770, states: 8. 9

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

9. Section 4060 of the Code provides, in pertinent part, that no person shall
possess any controlled substance, except that furnished to a person upon the prescription of a
physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a
certified nurse-midwife, a nurse practitioner, or a physician assistant.

10. Health and Safety Code section 11173, subdivision (a), provides that 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,

23 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

11. Health and Safety Code section 11350, in pertinent part, makes it unlawful
for any person to possess any controlled substance classified in Schedule III, IV, or V which is a
narcotic drug, unless upon a written prescription of a physician, dentist, podiatrist, or veterinarian
licensed to practice in this state.

28 ///

Health and Safety Code section 11351, in pertinent part, makes it unlawful 12. 1 for any person to possess for sale or purchase for sale any controlled substance classified in 2 Schedule III, IV, or V which is a narcotic drug. 3 Health and Safety Code section 11357, in pertinent part, makes it unlawful 4 13. for any person to possess marijuana or concentrated cannabis. 5 Health and Safety Code section 11375, in pertinent part, makes it unlawful б 14. for any person to possess, or to possess for sale, or to sell, any form of diazepam. 7 Health and Safety Code section 11377, in pertinent part, makes it unlawful 8 15. for any person to possess any controlled substance classified in Schedule III, IV, or V which is 9 not a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or 10 veterinarian licensed to practice in this state. 11 Health and Safety Code section 11378, in pertinent part, makes it unlawful 12 16. for any person to possess for sale any controlled substance classified in Schedule III, IV, or V 13 which is not a narcotic drug. 14 Section 125.3 of the Code provides, in pertinent part, that the Board may 15 17. request the administrative law judge to direct a licentiate found to have committed a violation of 16 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement. 17 18 CONTROLLED SUBSTANCES / DANGEROUS DRUGS 19 Section 4021 of the Code states: 18. 20 "Controlled substance' means any substance listed in Chapter 2 (commencing 21 with Section 11053) of Division 10 of the Health and Safety Code." 22 Section 4022 of the Code states, in pertinent part: 19. 23 "Dangerous drug' or 'dangerous device' means any drug or device unsafe for 24 self-use, except veterinary drugs that are labeled as such, and includes the following: 25 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing 26 without prescription,' 'Rx only,' or words of similar import. 27 28

"(c) Any other drug or device that by federal or state law can be lawfully 1 dispensed only on prescription or furnished pursuant to Section 4006." 2 Marijuana is a Schedule I controlled substance as designated by Health 20. 3 and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and 4 Professions Code section 4022. It is a hallucinogenic drug. 5 Cocaine is a Schedule I (in base form) or Schedule II controlled substance 21. 6 as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous 7 drug as designated by Business and Professions Code section 4022. It is a narcotic drug. 8 Methamphetamine is a Schedule II controlled substance as designated by 9 22. Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and 10 Professions Code section 4022. It is a stimulant drug. 11 LSD (lysergic acid diethylamide) is a Schedule I controlled substance as 23. 12 designated by Health and Safety Code section 11054(d)(12), and a dangerous drug as designated 13 by Business and Professions Code section 4022. It is a hallucinogenic drug. 14 Valium is a brand name for diazepam, which is a Schedule IV controlled 24. 15 substance as designated by Health and Safety Code section 11057(d)(9) and a dangerous drug as 16 designated by Business and Professions Code section 4022. It is a depressant drug. 17 Dexedrine and Adderall are brand names for amphetamine and/or 18 25. dextroamphetamine sulfate, a Schedule II controlled substance as designated by Health and 19 Safety Code section 11055(d)(1) and a dangerous drug as designated by Business and Professions 20 Code section 4022. It is a stimulant drug. 21 Cylert is a brand name for pemoline, which is a Schedule IV controlled 26. 22 substance as designated by Health and Safety Code section 11057(f)(5) and a dangerous drug as 23 designated by Business and Professions Code section 4022. It is a stimulant drug. 24 Lortab is one of several brand names for compounds of acetaminophen 25 27. (APAP) and hydrocodone bitartrate, a Schedule III controlled substance as designated by 26 Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by Business and 27 Professions Code section 4022. It is a narcotic drug. 28

Methadone is a Schedule II controlled substance as designated by Health
 and Safety Code section 11055(c)(14) and a dangerous drug as designated by Business and
 Professions Code section 4022. It is a narcotic drug.
 APAP with Codeine is a commonly used designation for compounds of

varying dosages of acetaminophen (APAP) and codeine, a Schedule III controlled substance as
designated by Health and Safety Code section 11056(e)(2) and a dangerous drug as designated by
Business and Professions Code section 4022. It is a narcotic drug.

30. Ativan is a brand name for lorazepam, a Schedule IV controlled
substance as designated by Health and Safety Code section 11057(d)(16) and a dangerous drug as
designated by Business and Professions Code section 4022. It is a depressant drug.

11 31. Klonopin is a brand name for clonazepam, a Schedule IV controlled
12 substance as designated by Health and Safety Code section 11057(d)(7) and a dangerous drug as
13 designated by Business and Professions Code section 4022. It is a depressant drug.

32. Xanax is a brand name for alprazolam, a Schedule IV controlled
substance as designated by Health and Safety Code section 11057(d)(1) and a dangerous drug as
designated by Business and Professions Code section 4022. It is a depressant drug.

33. Ambien is a brand name for zolpidem tartrate, a Schedule IV controlled
substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as
designated by Business and Professions Code section 4022. It is a depressant drug.

34. Restoril is a brand name for temazepam, a Schedule IV controlled
substance as designated by Health and Safety Code section 11057(d)(29) and a dangerous drug as
designated by Business and Professions Code section 4022. It is a depressant drug.

35. Redux and Pondimin are brand names for fenfluramine, a Schedule IV
controlled substance as designated by Health and Safety Code section 11057(e) and a dangerous
drug as designated by Business and Professions Code section 4022. It is a diet drug.

36. Adipex-P is a brand name for phentermine, a Schedule IV controlled
substance as designated by Health and Safety Code section 11057(f)(4) and a dangerous drug as
designated by Business and Professions Code section 4022. It is a stimulant drug.

Flexeril is a brand name for cyclobenzaprine, a dangerous drug as 37. 1 designated by Business and Professions Code section 4022. It is a muscle relaxant drug. 2 Soma is a brand name for carisoprodol, a dangerous drug as designated 38. 3 by Business and Professions Code section 4022. It is a muscle relaxant drug. 4 Lipitor is a brand name for atorvastatin calcium, a dangerous drug as 5 39. designated by Business and Professions Code section 4022. It is a cholesterol-lowering drug. 6 Levaguin is a brand name for levofloxacin, a dangerous drug as 40. 7 designated by Business and Professions Code section 4022. It is an antibiotic drug. 8 Doryx is a brand name for doxycycline hyclate, a dangerous drug as 41. 9 designated by Business and Professions Code section 4022. It is an antibiotic drug. 10 Viagra is a brand name for sildenafil, a dangerous drug as designated by 42. 11 Business and Professions Code section 4022. It is an erectile-dysfunction treatment drug. 12 Prozac is a brand name for fluoxetine hydrochloride, a dangerous drug 13 43. as designated by Business and Professions Code section 4022. It is an anti-depressant drug. 14 15 FACTUAL BACKGROUND 16 On or about April 22, 2002, Respondent was apprehended at a U.S. Border 44. 17 Patrol Checkpoint located west of Sierra Blanca, Texas, and found to be in possession of: three 18 baggies of marijuana - total weight 0.10 lbs; a glass vial of cocaine powder - total weight 0.04 19 lbs; sixteen capsules containing methamphetamine - total weight 0.04 lbs; ten sugar cubes 20 containing LSD - total weight 0.081 lbs; and ninety-two tablets of Valium (diazepam). 21 Respondent was charged with four felonies: (1) Possession of controlled 45. 22 substance, Penalty Group I - cocaine; (2) Possession of controlled substance, Penalty Group IA -23 LSD; (3) Possession of controlled substance, Penalty Group I - methamphetamine; (4) Possession 24 of controlled substance, Penalty Group 3 - diazepam. (Tex. H & S Code, § 481.101 et seq.). 25 On or about September 19, 2002, in the matter of State of Texas v. Paul 46. 26 Gonsalves, Case No. 2866 in the 205th District Court of Hudspeth County, Texas, Respondent 27 entered a plea of guilty to the fourth count in the indictment, a Felony 3 offense. 28

On or about September 19, 2002, pursuant to a plea agreement, the 205th 47. 1 District Court of Hudspeth County, Texas entered the following order: further adjudication of 2 the matter would be deferred for five (5) years, during which time Respondent would be placed 3 on/under court-ordered community supervision/probation. Respondent was also required to pay 4 a fine of \$500.00, court costs of \$208.00, and laboratory costs of \$140.00. Respondent was also 5 required, inter alia, to perform 160 hours of community service, to submit to breath analysis or 6 urinalysis as required, and to participate in alcohol and drug education and treatment as directed. 7 On or about October 23, 2002, Respondent received permission from the 48. 8 State of Texas to serve his five (5) years of community supervision, then scheduled to expire on 9 or about September 19, 2007, in the State of California, where he was then resident. 10 On or about June 28, 2004, a search warrant executed by the Marin County 49. 11 Major Crimes Task Force at Respondent's residence in Novato, California led to the seizure of 12 large quantities of controlled substances and dangerous drugs, including, reportedly, 230 grams 13 of suspected marijuana, 1.7 grams of suspected methamphetamine, several doses of suspected .14 LSD, 7.0 grams of suspected cocaine, and approximately 6,177 tablets of prescription controlled 15 substances and dangerous drugs. Included among the prescription drugs seized were: stimulants 16 Dexedrine, Adderall (both amphetamine(s)), and Cylert (pemoline); narcotics hydrocodone, 17 methadone, APAP with Codeine, and Lortab; tranquilizers/depressants Valium (diazepam), 18 Ativan (lorazepam), clonazepam, and alprazolam; sleep aids Ambien (zolpidem tartrate) and 19 temazepam; diet drugs Redux, Pondimin (both fenfluramine(s)), and phentermine; muscle 20 relaxants Soma (carisoprodol) and cyclobenzaprine; the cholesterol-control drug Lipitor 21 (atorvastatin calcium); antibiotics Levaquin (levofloxacin) and doxycycline hyclate; the male 22 impotence drug Viagra (sildenafil), and the anti-depressant drug fluoxetine. Marin County 23 authorities also recovered various drug paraphernalia including pipes and packaging materials. 24 On or about October 14, 2004, Respondent's employer, Jack's Drugstore 50. 25 & Medical Supplies, Inc., completed an audit of controlled substances inventory for the period 26 October 2002 to July 2004, during which Respondent was employed as a Pharmacy Technician. 27 That audit revealed substantial shortages in controlled substances and dangerous drugs. 28

51. On or about August 27, 2004, in the matter of *People v. Paul Anthony Gonsalves*, Case No. SC136490 in Marin County Superior Court, Respondent was charged with
 six felony counts: two counts of violating Health and Safety Code section 11351 (possession for
 sale of controlled substances); three counts of violating Health and Safety Code section 11378
 (possession for sale of controlled substances); and one count of violating Health and Safety Code
 section 11375 (sale or possession for sale of controlled substances).

52. On or about September 3, 2004, in response to a request from the Board
pursuant to an appearance under Penal Code Section 23 in *People v. Paul Anthony Gonsalves*,
Case No. SC136490, Respondent was ordered by Marin County Superior Court, as a condition of
bail, to refrain from further practice as a Pharmacy Technician and to surrender his Pharmacy
Technician License to the Board, during the pendency of criminal proceedings.

On or about January 28, 2005, a Second Amended Complaint was filed in 53. 12 the matter of People v. Paul Anthony Gonsalves, Case No. SC136490, charging Respondent with 13 three felonies: (1) violation of Penal Code section 487(b)(3) / Penal Code section 506 (fiduciary 14 grand theft by embezzlement), for fraudulently appropriating money or property he was entrusted 15 with or had in his control, between October 3, 2002 and June 28, 2004; (2) violation of Health 16 and Safety Code section 11375(b)(1) (possession for sale of controlled substance), for possession 17 for sale of alprazolam (Xanax) and diazepam (Valium); and (3) violation of Health and Safety 18 Code section 11350(a) (possession of controlled substance), for possession of cocaine. 19

On or about January 28, 2005, before the Marin County Superior Court in 54. 20 the matter of People v. Paul Anthony Gonsalves, Case No. SC 136490, Respondent entered pleas 21 of guilty to, and was convicted of, all three above-listed felony counts. On or about March 25, 22 2005, Respondent was given a sentence including: six (6) months in the custody of the Marin 23 County Sheriff; probation of three (3) years, through March 25, 2008; abstention from alcohol 24 during the probation period; prohibition on use, transport, or possession of non-prescribed or 25 illegal drugs, or associated paraphernalia; chemical testing as directed; search and seizure as 26 directed; drug and alcohol treatment, as directed; AA or NA attendance, as directed; ongoing 27 psychotherapy; restitution; fines, fees and court costs; and registration as a narcotics offender. 28

1	55. On or about April 21, 2005, Respondent was remanded into the custody of
2	the Marin County Sheriff to commence service of his six (6) month term. On that date, License
3	No. TCH 23109, issued to Respondent, was suspended by operation of law under Business and
4	Professions Code section 4311, due to Respondent's incarceration for a felony conviction.
5	
6	FIRST CAUSE FOR DISCIPLINE
7	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)
8	56. Respondent is subject to discipline under Code section 4301(f) in that, as
9	described in paragraphs 44-55 above, Respondent committed numerous acts involving moral
10	turpitude, dishonesty, fraud, deceit, or corruption.
11	
12	SECOND CAUSE FOR DISCIPLINE
13	(Conviction of Substantially Related Crime)
14	57. Respondent is subject to discipline under Code section 4301(1) and/or
15	California Code of Regulations, title 16, section 1770, in that, as described in paragraphs 53-54
16	above, on or about January 28, 2005, in People v. Paul Anthony Gonsalves, Case No. SC 136490
17	in Marin County Superior Court, Respondent was convicted by guilty plea under Penal Code
18	sections 487(b)(3) and 506 (fiduciary grand theft by embezzlement), a felony.
19	
20	THIRD CAUSE FOR DISCIPLINE
21	(Conviction of Substantially Related Crime)
22	58. Respondent is subject to discipline under Code section 4301(l) and/or
23	California Code of Regulations, title 16, section 1770, in that, as described in paragraphs 53-54
24	above, on or about January 28, 2005, in People v. Paul Anthony Gonsalves, Case No. SC
25	136490 in Marin County Superior Court, Respondent was convicted by guilty plea under Health
26	and Safety Code section 11375(b)(1) (possession for sale of controlled substance - alprazolam
27	(Xanax) and diazepam (Valium)), a felony.
28	///
	10

1	FOURTH CAUSE FOR DISCIPLINE
2	(Conviction of Substantially Related Crime)
3	59. Respondent is subject to discipline under Code section 4301(l) and/or
4	California Code of Regulations, title 16, section 1770, in that, as described in paragraphs 53-54
5	above, on or about January 28, 2005, in People v. Paul Anthony Gonsalves, Case No. SC
6	136490 in Marin County Superior Court, Respondent was convicted by guilty plea under Health
7	and Safety Code section 11350(a) (possession of controlled substance - cocaine), a felony.
8	
9	FIFTH CAUSE FOR DISCIPLINE
10	(Obtaining Controlled Substances by Fraud or Deceit)
11	60. Respondent is subject to discipline under Code section 4301(j) and/or
12	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, obtained
13	controlled substances by fraud, deceit, or subterfuge, in violation of Health and Safety Code
14	section 11173(a).
15	
16	SIXTH CAUSE FOR DISCIPLINE
17	(Unlawful Possession of Controlled Substances)
18	61. Respondent is subject to discipline under Code section 4301(j) and/or
19	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
20	conspired to possess, and/or assisted in or abetted the possession of controlled substances,
21	without a valid prescription, in violation of Code section 4060.
22	
23	SEVENTH CAUSE FOR DISCIPLINE
24	(Unlawful Possession of Narcotic Controlled Substances)
25	62. Respondent is subject to discipline under Code section 4301(j) and/or
26	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
27	conspired to possess, and/or assisted in or abetted possession of narcotic controlled substances
28	without a valid prescription, in violation of Health and Safety Code section 11350.
	11

II

1	EIGHTH CAUSE FOR DISCIPLINE
2	(Unlawful Possession for Sale of Narcotic Controlled Substances)
3	63. Respondent is subject to discipline under Code section 4301(j) and/or
4	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
5	conspired to possess, and/or assisted in or abetted the possession of narcotic controlled
6	substances, for purposes of sale, in violation of Health and Safety Code section 11351.
7	
8	NINTH CAUSE FOR DISCIPLINE
9	(Unlawful Possession of Marijuana)
10	64. Respondent is subject to discipline under Code section 4301(j) and/or
11	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
12	conspired to possess, and/or assisted in or abetted the possession of marijuana, in violation of
13	Health and Safety Code section 11357.
14	
15	TENTH CAUSE FOR DISCIPLINE
16	(Unlawful Possession of Diazepam)
17	65. Respondent is subject to discipline under Code section 4301(j) and/or
18	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
19~	conspired to possess, and/or assisted in or abetted the possession of diazepam, in violation of
20	Health and Safety Code section 11375.
21	
22	ELEVENTH CAUSE FOR DISCIPLINE
23	(Unlawful Possession of Non-Narcotic Controlled Substances)
24	66. Respondent is subject to discipline under Code section 4301(j) and/or
25	Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above, possessed,
26	conspired to possess, and/or assisted in or abetted the possession of non-narcotic controlled
27	substances, without a valid prescription, in violation of Health and Safety Code section 11377.

1	TWELFTH CAUSE FOR DISCIPLINE
2	(Unlawful Possession for Sale of Non-Narcotic Controlled Substances)
3	67. Respondent is subject to disciplinary action under Code section 4301(j)
4	and/or Code section 4301(o) in that Respondent, as described in paragraphs 49-54 above,
5	possessed, conspired to possess, and/or assisted in or abetted the possession of non-narcotic
6	controlled substances, for purposes of sale, in violation of Health and Safety Code section 11378.
7	
8	FOURTEENTH CAUSE FOR DISCIPLINE
9	(Unprofessional Conduct)
10	68. Respondent is subject to disciplinary action under section 4301 of the
11	Code in that Respondent, by way of the conduct described in paragraphs 44-55 above, engaged in
12	"unprofessional conduct" not becoming the profession of pharmacy.
13	
14	PRAYER
15	WHEREFORE, Complainant requests that a hearing be held on the matters herein
16	alleged, and that following the hearing, the Board of Pharmacy issue a decision:
17	A. Revoking or suspending Pharmacy Technician License Number TCH
18	23109, issued to Respondent Paul A. Gonsalves.
19	B. Ordering Respondent Paul A. Gonsalves to pay the Board of Pharmacy the
20	reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21	Professions Code section 125.3; and
22	C. Taking such other and further action as is deemed necessary and proper.
23	DATED: <u>7/25/05</u>
24	P. J. Harris'
25	PATRICIA F. HARRIS Executive Officer
26	Board of Pharmacy Department of Consumer Affairs
27	State of California Complainant
28	SF2004401008; 20014149.wpd
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