BILL LOCKYER, Attorney General
of the State of California
KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2581
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2802
JOSE J. VASQUEZ 8526 Hatillo Ave. Winnetka, CA 91306	OAH No.
Pharmacy Technician Registration No. TCH 4455	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Kimberlee D. King, Deputy Attorney General.

2. Respondent JOSE J. VASQUEZ Jose J. Vasquez (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about February 5, 1993, the Board issued Pharmacy Technician Registration No. TCH 4455 to JOSE J. VASQUEZ (Respondent). The Registration was in

full force and effect at all times relevant to the charges brought in Accusation No. 2802 and will expire on March 31, 2006, unless renewed.

JURISDICTION

4. Accusation No. 2802 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 17, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2802 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2802. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2802.

9. Respondent agrees that his Pharmacy Technician Registration is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

///

CONTINGENCY

10. Respondent understands that should he at any time after revocation of licensure ever apply to the Board for reinstatement, he must meet all current California requirements for licensure, including, but not limited to, meeting all current educational requirements and taking and passing any written and/or practical examinations then required by the Board.

11. It is agreed that Respondent is obligated to pay costs associated with the board's investigation and enforcement pursuant to Business & Professions Code section 125.3, in the amount of $2,000.00 (two thousand dollars). Respondent shall be responsible for paying these costs should he petition for reinstatement of the license, reduction of the penalty, or apply for another license from the Board and payment of such costs shall be one of the conditions of reinstatement or licensure or reduction of the penalty.

12. Respondent further agrees that with adoption by the Board of this Stipulation, respondent may not petition the Board for reinstatement of the license, nor may he apply for any other license with the Board for three years after the effective date of this decision.

13. It is understood by respondent that, in deciding whether to adopt this Stipulation, the Board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the Board of other persons from future participation in this of any other matter affecting respondent. In the event this settlement is not adopted by the Board, the Stipulation will not become effective and may not be used for any purpose, except for this paragraph, which shall remain in effect.

14. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

///

///

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 4455 issued to Respondent JOSE J. VASQUEZ (Respondent) is revoked.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: _____.

_____
JOSE J. VASQUEZ (Respondent)
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: January 31, 2005.

BILL LOCKYER, Attorney General
of the State of California

Kimberlee King
KIMBERLEE D. KING
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004601786
50009595.wpd

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 4455 issued to Respondent JOSE J. VASQUEZ (Respondent) is revoked.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand th stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to b bound by the Decision and Order of the Board.

DATED: January 25, 2005

JOSE J. VASQUEZ (Respondent)
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: _____.

BILL LOCKYER, Attorney General
of the State of California

KIMBERLEE D. KING
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004601786
50009595.wpd

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

In the Matter of the Accusation Against: JOSE J. VASQUEZ 8526 Hatillo Ave. Winnetka, CA 91306 Pharmacy Technician Registration No. TCH 4455 Respondent.	Case No. 2802 OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, as its Decision in this matter.

This Decision shall become effective on March 30, 2005.

It is so ORDERED February 28, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2802

BILL LOCKYER, Attorney General
of the State of California
KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2581
Facsimile: (213) 897-2804

Attorneys for Complainant

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

In the Matter of the Accusation Against: JOSE J. VASQUEZ 8526 Hatillo Avenue Winnetka, CA 91306 Pharmacy Technician Registration No. TCH 4455, Respondent.	Case No. 2802 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about February 5, 1993, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 4455 to Jose J. Vasquez (Respondent). The registration was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2006, unless renewed.

///

///

///

JURISDICTION

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

4. Section 4300 permits the Board to take disciplinary action to suspend or revoke a license or permit.

5. Section 4301 states, in pertinent part:

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

. . .

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

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

. . .

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

. . .

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the

applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

"(p) Actions or conduct that would have warranted denial of a license."

6. Section 4059, subdivision (a), states, in pertinent part: "A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian."

7. Section 4060 states, in pertinent part: "No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian."

8. Health and Safety Code section 11377, subdivision (a), states, in pertinent part:

"Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) . . . of the Business and Professions Code, every person who possesses any controlled substance which is classified in Schedule III, IV, or V, and which is not a narcotic drug . . . unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison."

9. Health and Safety Code section 11170 states: "No person shall prescribe, administer, or furnish a controlled substance for himself."

10. Health and Safety Code section 11173, subdivision (a), states:

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

11. Section 118, subdivision (b) states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, 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."

12. Section 125.3, subdivision (a), states, in pertinent part:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . the board may request the 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."

13. DANGEROUS DRUGS/CONTROLLED SUBSTANCES

a. "Ambien," a brand name for zolpidem tartrate, a nonbarbiturate hypnotic, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

b. "Ativan," a brand of lorazepam, a benzodiazepine derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(16), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

c. "Darvocet," a trade name for dextropropoxyphene or propoxyphene hydrochloride, is designated as Schedule IV controlled substance by Health and Safety Code section 11057(c)(2), and as a dangerous drug pursuant to Business and Professions Code section 4022.

d. "Librium," a brand name for chlordiazepoxide, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(5), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

e. "Tylenol with Codeine #3," a brand name for Acetaminophen with Codeine, 30 mg. with 500 mg. Acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

f. "Vicodin," a brand name for hydrocodone bitartrate with acetaminophen, is a Schedule III controlled substance pursuant to Health and Safety Code Section 11056(e)(4), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Commission of Act Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

14. Respondent is subject to disciplinary action under Section 4300 and Section 4301(f), in that between July 2003 and April 2004, Respondent took controlled substances and/or dangerous drugs from his employer, Northridge Hospital Medical Center, for his own personal use. The circumstances are as follows:

a. In or about April 2004, Respondent was employed at Northridge Hospital Medical Center (Medical Center) as a Pharmacy Technician.

b. On or about April 9, 2004, Medical Center's pharmacist-in-charge, Tawny Bui, noticed a discrepancy regarding controlled substances.

c. Ms. Bui conducted a detailed search and found that:

(1) On March 27, 2004, at 21:25, Respondent removed 10 Vicodin tablets from the pharmacy Pyxis machine, intended for 1-East. The CSOT (Controlled Substance Order and Transport sheets) and CSAR (24-Hour Controlled Substance Administration Records) showed no record of the medication's delivery to or receipt by 1-East staff.

(2) On April 6, 2004, at 20:42, Respondent removed 10 Vicodin tablets from the pharmacy Pyxis machine, intended for the Special Care Unit. The CSOT and CSAR showed no record of the medication's delivery to or receipt by Special Care Unit staff.

(3) On April 6, 2004, at 20:44, Respondent removed 10 Xanax 1 mg. tablets from the pharmacy Pyxis machine, intended for Med/Surg 5. The CSOT, CSAR and 5th Floor Pyxis showed no record of the medication's delivery to or receipt by Med/Surg 5.

///

d. On or about April 12, 2004, Respondent admitted to Medical Center personnel Tawny Bui and Rashawn Woods that he had taken the Vicodin and Xanax tablets described above in subparagraph (b) for his own personal use. Respondent denied taking controlled substances at any other time. Respondent was suspended from work pending completion of Medical Center's investigation.

e. On or about April 15, 2004, Northridge Hospital Medical Center prepared a report entitled "Investigation on Possible Narcotic Diversion."

f. On or about May 28, 2004, Respondent admitted to the Board's investigator that he had accessed the pharmacy Pyxis and removed Xanax, Vicodin and Ambien (10 each), without authorization, which he did not deliver to the intended locations.

g. Subsequently, Northridge Hospital Medical Center provided the Board with a report, entitled "Follow-Up Investigation on Narcotic Diversion - Jose Vasquez, TCH 4455," dated June 4, 2004. The report indicated that between August 14, 2003 and April 6, 2004, 227 units of controlled substances removed from the pharmacy Pyxis by Respondent were unaccounted for, keep means, as follows:

Date	Controlled Substance/Drug	Qty. Unaccounted For
08/14/03	Ativan 1mg	10
09/12/03	Vicodin	10
10/04/03	Tylenol #3	5
10/18/03	Ambien 10 mg	10
10/24/03	Vicodin	10
10/25/03	Vicodin	20
11/07/03	Vicodin	10
11/12/03	Vicodin	10
12/13/03	Vicodin	10
12/25/03	Librium 25mg	6
12/25/03	Vicodin	6
12/30/03	Darvocet	30
01/16/04	Ativan 0.5 mg	10
01/16/04	Tylenol #3	50
03/27/04	Vicodin	10
04/06/04	Vicodin	10
04/06/04	Xanax 1mg	10
	Total	227

///

///

///

SECOND CAUSE FOR DISCIPLINE

(Procure Controlled Substances by Fraud, Deceit, Misrepresentation, Subterfuge)

15. Respondent is subject to disciplinary action under Section 4300 and Section 4301(g), and Health and Safety Code section 11173, in that Respondent procured controlled substances by fraud, deceit, misrepresentation or subterfuge, by knowingly entering nonexistent facts into the Pyxis machine at his place of employment to access and obtain controlled substances, as set forth more fully above in paragraph 15.

THIRD CAUSE FOR DISCIPLINE

(Obtain, Furnish, Possess, and Self-Administer Dangerous Drug or Controlled Substance)

16. Respondent is subject to disciplinary action under Section 4300 and Section 4301(h), 4301(j), and 4301(o), on the grounds of unprofessional conduct for violating Sections 4059 and 4060, and Health and Safety Code sections 11137 and 11170, in that Respondent obtained, furnished, possessed and self-administered dangerous drugs and controlled substances, without a prescription, as set forth in paragraphs 15 and 16.

FOURTH CAUSE FOR DISCIPLINE

(Action Warranting Denial of License)

17. Respondent has subjected his license to discipline pursuant to Sections 4300, 4301(o) and 4301(p), on the grounds of unprofessional conduct, in that Respondent committed acts which would have warranted denial of a Pharmacy Technician Registration, as set forth above in paragraphs 15 - 17.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 4455, issued to Jose J. Vasquez;

2. Ordering Jose J. Vasquez to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Section 125.3;

///

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/13/04

P. F. Harris

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

LA2004601786
60064986.wpd
cak (10/04)