

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

In the Matter of the Accusation Against:

**JOHN J. MARTINEZ**  
25 East Olive Avenue  
Fresno, CA 93728

Original Pharmacy Technician License No.  
TCH 14084

Respondent.

Case No. 3327

OAH No. 2010010459

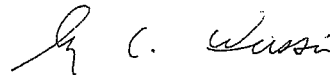
**DECISION**

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 October 27, 2010.

It is so ORDERED September 27, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

BEFORE THE  
CALIFORNIA STATE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Accusation against:

JOHN J. MARTINEZ  
Fresno, California

Pharmacy Technician Registration  
No. TCH 14084,

Respondent.

Case No. 3327

OAH No. 2010010459

**PROPOSED DECISION**

Robert Walker, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 14, 2010, in Fresno, California.

Elena L. Almanzo, Deputy Attorney General, represented the complainant, Virginia Herold, Executive Officer of the Board of Pharmacy.

The respondent, John J. Martinez, appeared in propria persona.

The record was closed on July 14, 2010.

**SUMMARY AND ISSUES**

Respondent has been convicted of driving under the influence of alcohol, and he has been convicted of being under the influence of cocaine. Because of his alcoholism, he is on leave of absence from his employment as a pharmacy technician. Complainant filed an accusation seeking suspension or revocation of respondent's license.

The ultimate issues are: Should respondent's license be disciplined? If it should be disciplined, what discipline is appropriate?

Complainant also seeks cost recovery, and there are issues regarding the prayer for cost recovery.

## FACTUAL FINDINGS

### *BACKGROUND*

1. On September 27, 1994, the California State Board of Pharmacy issued Pharmacy Technician Registration No. TCH 14084 to the respondent, John J. Martinez. In 1994, after respondent was licensed, he began working at Fresno County Community Regional Medical Center as a pharmacy technician. He worked there until June 7, 2010, when he was granted disability leave. The leave was based on a doctor's certification that respondent was disabled. The disability resulted from alcoholism. Respondent, however, did not disclose his alcoholism to his employer. He also has not disclosed his history of drug use to his employer.

2. Respondent began using cocaine in 1997. He said that he did not use it regularly but used it occasionally for 12 years. He said, "My problem was with alcohol."

### *POSSESSION OF COCAINE*

3. On April 20, 2006, respondent was riding his bicycle when a Fresno police officer stopped him. He admitted to the officer that he was in possession of rock cocaine, and he showed the cocaine to the officer.

### *CONVICTIONS*

4. On June 26, 2007, in the Superior Court of California for the County of Fresno, respondent was convicted of violating Health and Safety Code section 11550, subdivision (a), being under the influence of a controlled substance, cocaine, a misdemeanor. The conviction was on a plea of nolo contendere. The court placed respondent on probation and approved a conditional settlement according to which respondent was required to enroll in an educational program and attend one Narcotics Anonymous (NA) meeting per week.

5. The incident that gave rise to the June 26, 2007, conviction occurred on April 26, 2007. The manager of an apartment complex that was used as a transitional living home called the police regarding a tenant who, the manager believed, was using drugs, which was a violation of the transitional living rules. The police investigated and found evidence that the tenant and respondent were in the facility using drugs. One of the officers attempted to evaluate respondent, but respondent became rigid and combative. The officers placed handcuffs on respondent and arrested him.

6. The crime of which respondent was convicted on June 26, 2007, is one that is substantially related to the qualifications, functions, and duties of a pharmacy technician.

7. On April 6, 2009, in the Superior Court of California for the County of Fresno, respondent was convicted of violating Vehicle Code section 23152, subdivision (b), driving

while under the influence of alcohol, a misdemeanor. The conviction was on a plea of nolo contendere. Respondent's conviction was a violation of the probation granted in connection with the June 26, 2007, conviction. The court suspended the imposition of judgment and placed respondent on probation for three years. As conditions of probation, the court required respondent to serve 180 days in jail. The court, however, suspended all but 17 days of that condition. The court permitted respondent to satisfy the jail time by participating in an adult offender work program. As further conditions of probation, the court required respondent to pay fines and fees of \$1,639 and complete a three-month first-offender alcohol program. The court imposed other standard conditions of probation. Respondent's probation is scheduled to end on April 6, 2012.

8. The incident that gave rise to the April 6, 2009, conviction occurred on January 1, 2009. (The police report mistakenly is dated January 1, 2008.) Respondent was involved in an automobile accident. When the police arrived, respondent said: "I'm drunk. I've been drinking and hit him. I didn't see him."

9. The crime of which respondent was convicted on April 6, 2009, is one that is substantially related to the qualifications, functions, and duties of a pharmacy technician.

10. On August 5, 2009, in the Superior Court of California for the County of Fresno, respondent was convicted of violating Vehicle Code section 23152, subdivision (b), driving while under the influence of alcohol, a misdemeanor. The conviction was on a plea of guilty. The court suspended the imposition of judgment and placed respondent on probation for three years. As conditions of probation, the court required respondent to serve 365 days in jail. The court, however suspended all but 45 days of that condition. The court permitted respondent to satisfy all but three days of the jail time by participating in an adult offender work program. As further conditions of probation, the court required respondent to pay fines and fees of \$1,749, complete an 18-month alcohol offender program, and attend three AA meetings per week. The court imposed other standard conditions of probation. Respondent's probation is scheduled to end on August 5, 2012.

11. After the conviction, respondent's driver's license was revoked and will not be reinstated until after he completes the 18-month alcohol offender program. He began that program in April of 2010.

12. The incident that gave rise to the August 5, 2009, conviction occurred on April 30, 2009. Officers stopped respondent, administered a field sobriety test, and arrested him for driving under the influence. Respondent testified that he had used cocaine that day and was under the influence of alcohol.

13. On August 5, 2009, the court found that respondent's conduct and conviction constituted a violation of the probation granted in connection with the April 6, 2009, conviction. The court revoked and reinstated that probation.

14. The crime of which respondent was convicted on August 5, 2009, is one that is substantially related to the qualifications, functions, and duties of a pharmacy technician.

*REHABILITATION*

15. Respondent began attending NA meeting in satisfaction of a condition imposed in connection with the probation granted on June 26, 2007. He began attending AA meetings in satisfaction of a condition imposed in connection with the probation granted on August 28, 2007. He testified that he has attended AA meetings "off and on." He said that he has a sponsor and has completed all 12 steps.

16. Respondent testified that he last used cocaine on April 30, 2009, the day of the arrest that resulted in the August 5, 2009, conviction. He testified that his alcohol sobriety date is May 23, 2010.

17. On June 16, 2010, respondent enrolled in a substance abuse treatment program that is provided by Central California Recovery (CCR) in Fresno. Debbie Harkness, the executive director of the program, wrote a letter dated July 13, 2010, in which she confirmed that respondent had entered the program. Ms. Harkness wrote that the program includes a placement assessment conducted according to criteria established by the American Society of Addiction Medicine. She wrote that respondent has participated in the assessment and has assisted with the determination of placement. She said that respondent has begun intensive outpatient sessions, which the staff estimates will last two months. She said the staff estimates that will be followed by two months of less intensive sessions and two months of after care.

18. From June 14 to July 14, 2010, the day of the hearing, respondent lived in a sober living home. He said that he elected to spend those 30 days in a sober living home and that, during that period, he attended seven AA meetings per week.

19. Respondent testified that he no longer associates with the people he associated with when he drank. He said that he has a new circle of friends – mostly people he met through AA and CCR. He has cultivated a group of friends with whom he occasionally has lunch or dinner.

20. Also, respondent testified that he has removed a former source of stress in his life by arranging for his mother and sister to take over his house and make the mortgage and utility payments. Respondent has moved to a different residence.

21. Respondent declared that the most important change in his life is that he now takes care of himself. Respondent said that he plans to go back to school but has not decided what to study. He said that he is determined to continue attending AA meetings.

*MATTERS IN MITIGATION*

22. Respondent testified that he used drugs and alcohol only on days when he was not working. He said that he takes his work seriously and would never allow drugs or alcohol to affect his performance. He said that he loves his work and that patient care is his top priority.

23. No evidence was presented that respondent ever was observed to be under the influence of drugs or alcohol while at work. No evidence was presented that his performance ever was less than satisfactory. These things are consistent with his testimony that he used drugs and alcohol only on days when he was not working.

*EXPERT TESTIMONY REGARDING RISKS TO THE PUBLIC AND THE MATTER OF WHETHER THE CRIMES OF WHICH RESPONDENT WAS CONVICTED ARE SUBSTANTIALLY RELATED TO THE FUNCTIONS AND DUTIES OF A PHARMACY TECHNICIAN*

24. Dr. Rick Iknoian, a licensed pharmacist and an investigator for the board, testified concerning the duties of a pharmacy technician and the character of the crimes of which respondent has been convicted. He said that it is important that a pharmacy technician exercise care in discharging his or her duties related to patient care and preparation of prescriptions. He said that alcohol addiction and the use of illegal drugs create a risk that one will fail to discharge those duties satisfactorily. Alcohol addiction and the use of illegal drugs pose an unacceptable risk to the public – including a risk of drug diversion.

25. Dr. Iknoian concluded that the crimes of which respondent was convicted are substantially related to the qualifications, functions, and duties of a pharmacy technician.

*COST RECOVERY*

26. Complainant submitted a cost certification showing costs for the Attorney General's services in the amount of \$3,952. Attached to the certification is a description of the tasks performed and the time spent on the various tasks. The certification satisfies California Code of Regulations, title 1, section 1042, subdivision (b)(3). It is found that those costs were incurred and are reasonable.

LEGAL CONCLUSIONS

*THERE ARE GROUNDS TO SUSPEND OR REVOKE RESPONDENT'S LICENSE*

1. By reason of the matters set forth in Factual Findings 4 through 15, 25 and 26, it is determined that respondent has been convicted of crimes that are substantially related to the qualifications, functions, and duties of a pharmacy technician. Thus, pursuant to Business and Professions Code section 490 and section 4301, subdivisions (k) and (l), there are grounds to suspend or revoke respondent's license.

2. By reason of the matters set forth in Factual Finding 3, it is determined that respondent illegally possessed a controlled substance. Thus, pursuant to Business and Professions Code section 4060 and section 4301, subdivisions (j) and (o), there are grounds to suspend or revoke respondent's license.

3. By reason of the matters set forth in Factual Findings 4 through 15, it is determined that respondent used alcohol or drugs in a manner dangerous to himself or others. Thus, pursuant to Business and Professions Code section 4301, subdivision (h), there are grounds to suspend or revoke respondent's license.

#### *REHABILITATION*

4. Respondent is to be congratulated for the progress he has made toward rehabilitation. The evidence, however, shows that he has only begun his rehabilitation. Moreover, the progress he has made has been made while on probation. Good conduct while on probation, with a view to avoiding the risk of going to prison, or good conduct while incarcerated, does not necessarily demonstrate integrity.

5. On this record, it is not possible to determine that respondent's progress has been substantial.

#### *WHAT LICENSE DISCIPLINE IS APPROPRIATE?*

6. Protection of the public requires that respondent's license be revoked.

#### *COST RECOVERY*

7. By reason of the matters set forth in Factual Finding 27, it is determined that the board's costs in this matter were \$3,952 and that, within the terms of Business and Professions Code section 125.3, those costs were reasonable.

8. In *Zuckerman v. State Board of Chiropractic Examiners*,<sup>1</sup> a case in which the State Board of Chiropractic Examiners had disciplined a license, the Supreme Court of California dealt with the issue of cost recovery. The court held that "the Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that ... [cost recovery] does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing." The court established five rules that an agency must observe in assessing the amount to be charged. To some extent, these rules are similar to matters one would consider in determining whether costs are reasonable. The court's rules, however, go beyond considerations of whether the costs are reasonable. The court said:

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<sup>1</sup> *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32.

[T]he Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor's "subjective good faith belief in the merits of his or her position" [citation] and whether the chiropractor has raised a "colorable challenge" to the proposed discipline [citation]. Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [citation] the Board must determine that the chiropractor will be financially able to make later payments. Finally the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation and prosecution to prove that a chiropractor engaged in relatively innocuous misconduct.<sup>2</sup>

9. In this case, respondent did engage in the conduct that is the primary focus of the accusation, and respondent offered no evidence that assessing the full costs of investigation and prosecution would constitute an unfair penalty.

10. It is determined that this was not a case in which the agency conducted a disproportionately large investigation and prosecution to prove relatively innocuous misconduct.

11. That leaves one final matter to be considered. Will respondent be financially able to make payments to reimburse the agency for its costs? If the board reinstates respondent's license, it will be necessary for the board to make a determination regarding respondent's ability to pay at that time.

12. *Zuckerman* requires that, in assessing costs, an agency must consider a licensee's "subjective good faith belief in the merits of his or her position" and must consider whether the licensee has raised a "colorable challenge" to the proposed discipline. In compliance with this requirement, it is determined that respondent failed to present evidence that he has made substantial progress toward rehabilitation. Moreover, he continues to be on probation. He did not present the sort of challenge that would support a reduction in the costs.

#### ORDER

1. Respondent's pharmacy technician registration is revoked.

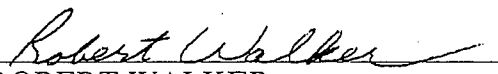
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<sup>2</sup> *Id.* at p. 45.



2. If respondent applies for reinstatement of his registration and if the board determines that he has been rehabilitated and satisfies all requirements for reinstatement, the board, as is required by *Zuckerman*, shall determine whether respondent will be financially able to make payments on the cost recovery. If the board determines that respondent will not be able to make payments on the cost recovery, the board shall not recover costs. If the board determines that respondent will be able to make payments on the cost recovery, the board may issue a probationary license and impose a condition requiring respondent to make payments in an amount set by the board until respondent has paid a total of \$3,952 in cost recovery.

DATED: August 13, 2010

  
ROBERT WALKER  
Administrative Law Judge  
Office of Administrative Hearings

**Exhibit A**  
**Accusation No. 3327**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR TAGGART  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-5524  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3327

12  
13 **JOHN J. MARTINEZ**  
14 **25 East Olive Avenue**  
**Fresno, California 93728**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration**  
16 **No. TCH 14084**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 27, 1994, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 14084 to John J. Martinez (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on March 31, 2010, unless renewed.

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28 ///

JURISDICTION

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

4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

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1           (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
2 certificate of licensure for any violation of the terms and conditions of probation. Upon  
3 satisfactory completion of probation, the board shall convert the probationary certificate to a  
4 regular certificate, free of conditions.

5           (e) The proceedings under this article shall be conducted in accordance with Chapter 5  
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
7 shall have all the powers granted therein. The action shall be final, except that the propriety of  
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
9 Civil Procedure."

10           5. Section 4301 of the Code states in pertinent part:

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

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

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

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

24           (k) The conviction of more than one misdemeanor or any felony involving the use,  
25 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
26 combination of those substances.

27           (l) The conviction of a crime substantially related to the qualifications, functions, and  
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
2 substances or of a violation of the statutes of this state regulating controlled substances or  
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
5 The board may inquire into the circumstances surrounding the commission of the crime, in order  
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
7 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
10 of this provision. The board may take action when the time for appeal has elapsed, or the  
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
15 indictment.

16 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
17 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
18 federal and state laws and regulations governing pharmacy, including regulations established by  
19 the board or by any other state or federal regulatory agency.

20 6. Business and Professions Code section 4060 provides in pertinent part that:

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

28 ///

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

5 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
6 revoke a license on the ground that the licensee has been convicted of a crime substantially  
7 related to the qualifications, functions, or duties of the business or profession for which the  
8 license was issued.

9 9. "Cocaine" is a Schedule II controlled substance as designated by Health and Safety  
10 Code section 11055(b)(6).

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of crimes)**

13 10. Respondent is subject to disciplinary action under section 490 and 4301 subds. (k)  
14 and (l) in that he was convicted of a crimes substantially related to the practice of a pharmacy  
15 technician. The circumstances are as follows:

16 11. On or about August 5, 2009, in *People v. John J. Martinez*, Superior Court of  
17 California, County of Fresno; Case No. M09918300, respondent was convicted on his plea of  
18 guilty to a violation of Vehicle Code section 23152 (b), for driving while under the influence of  
19 alcohol with a .08 % or higher blood alcohol level. Respondent also admitted a prior conviction  
20 on April 6, 2009.

21 12. On or about April 6, 2009, in *People v. John J. Martinez*, Superior Court of  
22 California, County of Fresno; Case No. M09912399, respondent was convicted on his plea of  
23 nolo contendere to a violation of Vehicle Code section 23152 (b), for driving while under the  
24 influence of alcohol with a .08 % or higher blood alcohol level. Respondent also admitted a  
25 violation of probation.

26 13. On or about June 26, 2007, in *People v. John J. Martinez*, Superior Court of  
27 California, County of Fresno; Case No. M07918988, respondent was convicted on his plea of  
28

1 nolo contendere to a violation of Health and Safety Code section 11550 (a), for being under the  
2 influence of a controlled substance, to wit, Cocaine.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Possession of a Controlled Substance)**

5 14. Respondent is subject to disciplinary action under sections 4060 and 4301  
6 subdivisions (j) and (o) in that he illegally possessed controlled substances. The circumstances  
7 are set forth above in paragraph 13, above and as follows:

8 15. On or about April 20, 2006, respondent was stopped by Fresno police when he was  
9 riding his bike on the wrong side of the road against traffic. Respondent admitted to the Fresno  
10 police that he was in possession of rock cocaine.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Use of Alcohol or Drugs in a Manner Dangerous to Self or Others)**

13 16. Respondent is subject to disciplinary action under section 4301 (h) in that he used  
14 alcohol or drugs in a manner dangerous to himself or others as set forth in paragraphs 11, 12, and  
15 13, above.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician Registration Number TCH 14084,  
20 issued to John J. Martinez.

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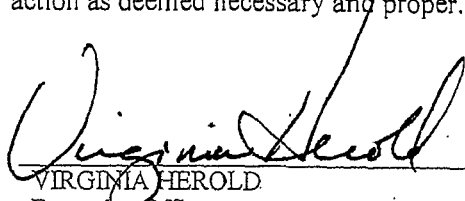


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2. Ordering John J. Martinez to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10/27/09



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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