

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

In the Matter of the Accusation Against:

Case No. 3455

FERDINAND MENDEZ MOJICA
1072 Folsom Street, #340
San Francisco, California 94103

Pharmacy Technician License No. TCH 58422
Respondent.

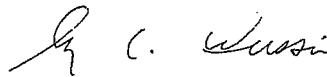
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 November 18, 2010.

It is so ORDERED on October 19, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
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Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3455

12 **FERDINAND MENDEZ MOJICA**
1072 Folsom Street, #340
13 San Francisco, California 94103
Pharmacy Technician License No. TCH
14 58422

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Edmund
22 G. Brown Jr., Attorney General of the State of California, by Diann Sokoloff, Supervising Deputy
23 Attorney General.

24 2. Respondent Ferdinand Mendez Mojica (Respondent) is represented in this proceeding
25 by attorney Adam Slote, whose address is Slote & Links, 100 Pine Street, Suite 750, San
26 Francisco, CA 94111.

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 58422 issued to
3 Respondent Ferdinand Mendez Mojica (Respondent) is revoked. However, the revocation is
4 stayed and Respondent is placed on probation for two (2) years on the following terms and
5 conditions.

6 1. **Certification Prior to Resuming Work**

7 Respondent shall be automatically suspended from working as a pharmacy technician until
8 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides
9 satisfactory proof of certification to the board. Respondent shall not resume working as a
10 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
11 year shall be considered a violation of probation. Respondent shall not resume working as a
12 pharmacy technician until notified by the board.

13 During suspension, respondent shall not enter any pharmacy area or any portion of any
14 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
15 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
16 devices or controlled substances are maintained. Respondent shall not do any act involving drug
17 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
18 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
19 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
20 substances. Respondent shall not resume work until notified by the board.

21 Failure to comply with this suspension shall be considered a violation of probation.

22 2. **Obey All Laws**

23 Respondent shall obey all state and federal laws and regulations.

24 Respondent shall report any of the following occurrences to the board, in writing, within
25 seventy-two (72) hours of such occurrence:

26 a. An arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
28 laws.

1 b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to
2 any criminal complaint, information or indictment.

3 c. A conviction of any crime.

4 d. Discipline, citation, or other administrative action filed by any state or federal
5 agency which involves respondent's Pharmacy Technician license or which is related to the
6 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
7 for any drug, device or controlled substance.

8 Failure to timely report any such occurrence shall be considered a violation of probation.

9 **3. Report to the Board**

10 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
11 designee. The report shall be made either in person or in writing, as directed. Among other
12 requirements, respondent shall state in each report under penalty of perjury whether there has
13 been compliance with all the terms and conditions of probation. Failure to submit timely reports
14 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
15 in submission of reports as directed may be added to the total period of probation. Moreover, if
16 the final probation report is not made as directed, probation shall be automatically extended until
17 such time as the final report is made and accepted by the board.

18 **4. Interview with the Board**

19 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
20 with the board or its designee, at such intervals and locations as are determined by the board or its
21 designee. Failure to appear for any scheduled interview without prior notification to board staff,
22 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
23 the period of probation, shall be considered a violation of probation.

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the board's inspection program and with the board's
26 monitoring and investigation of respondent's compliance with the terms and conditions of his
27 probation. Failure to cooperate shall be considered a violation of probation.
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1 6. **Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 3455 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 3455 and the terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
11 supervisor(s) submit timely acknowledgement(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 3455 in advance of the respondent
15 commencing work at each pharmacy. A record of this notification must be provided to the board
16 upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause his direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that he has read the decision in case number 3455
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time, part-
27 time, temporary or relief service or pharmacy management service as a pharmacy
28 technician or in any position for which a pharmacy technician license is a requirement or

1 criterion for employment, whether the respondent is considered an employee, independent
2 contractor or volunteer.

3 **7. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$3300.00. Respondent shall
6 make payments on a payment schedule as follows: 18 monthly installment payments in the
7 amount of \$183.34 to begin within thirty (30) days of the effective date of this decision. There
8 shall be no deviation from this schedule absent prior written approval by the board or its designee.
9 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

10 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
11 reimburse the board its costs of investigation and prosecution.

12 **8. Probation Monitoring Costs**

13 Respondent shall pay any costs associated with probation monitoring as determined by the
14 board each and every year of probation. Such costs shall be payable to the board on a schedule as
15 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
16 be considered a violation of probation.

17 **9. Status of License**

18 Respondent shall, at all times while on probation, maintain an active, current pharmacy
19 technician license with the board, including any period during which suspension or probation is
20 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

21 If respondent's pharmacy technician license expires or is cancelled by operation of law or
22 otherwise at any time during the period of probation, including any extensions thereof due to
23 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
24 terms and conditions of this probation not previously satisfied.

25 **10. License Surrender While on Probation/Suspension**

26 Following the effective date of this decision, should respondent cease work due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 respondent may tender his pharmacy technician license to the board for surrender. The board or

1 its designee shall have the discretion whether to grant the request for surrender or take any other
2 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
3 license, respondent will no longer be subject to the terms and conditions of probation. This
4 surrender constitutes a record of discipline and shall become a part of the respondent's license
5 history with the board.

6 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
7 license to the board within ten (10) days of notification by the board that the surrender is
8 accepted. Respondent may not reapply for any license, permit, or registration from the board for
9 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
10 applicable to the license sought as of the date the application for that license is submitted to the
11 board.

12 **11. Notification of a Change in Name, Residence Address, Mailing Address**
13 **or Employment**

14 Respondent shall notify the board in writing within ten (10) days of any change of
15 employment. Said notification shall include the reasons for leaving, the address of the new
16 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
17 shall further notify the board in writing within ten (10) days of a change in name, residence
18 address and mailing address, or phone number.

19 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
20 phone number(s) shall be considered a violation of probation.

21 **12. Tolling of Probation**

22 Except during periods of suspension, respondent shall, at all times while on probation, be
23 employed as a pharmacy technician in California for a minimum of 20 hours per calendar month.
24 Any month during which this minimum is not met shall toll the period of probation, i.e., the
25 period of probation shall be extended by one month for each month during which this minimum is
26 not met. During any such period of tolling of probation, respondent must nonetheless comply
27 with all terms and conditions of probation.

28 Should respondent, regardless of residency, for any reason (including vacation) cease

1 working as a pharmacy technician for a minimum of 20 hours per calendar month in California,
2 respondent must notify the board in writing within ten (10) days of cessation of work and must
3 further notify the board in writing within ten (10) days of the resumption of the work. Any
4 failure to provide such notification(s) shall be considered a violation of probation.

5 It is a violation of probation for respondent's probation to remain tolled pursuant to the
6 provisions of this condition for a total period, counting consecutive and non-consecutive months,
7 exceeding thirty-six (36) months.

8 "Cessation of work" means calendar month during which respondent is not working
9 for at least 20 hours as a pharmacy technician, as defined in Business and Professions Code
10 section 4115. "Resumption of work" means any calendar month during which respondent
11 is working as a pharmacy technician for at least 20 hours as a pharmacy technician as
12 defined by Business and Professions Code section 4115.

13 13. Violation of Probation

14 If a respondent has not complied with any term or condition of probation, the board shall
15 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
16 all terms and conditions have been satisfied or the board has taken other action as deemed
17 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
18 to impose the penalty that was stayed.

19 If respondent violates probation in any respect, the board, after giving respondent notice
20 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
21 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
22 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
23 a petition to revoke probation or an accusation is filed against respondent during probation, the
24 board shall have continuing jurisdiction, and the period of probation shall be automatically
25 extended until the petition to revoke probation or accusation is heard and decided.

26 14. Completion of Probation

27 Upon written notice by the board indicating successful completion of probation,
28 respondent's pharmacy technician license will be fully restored.

1 **15. No Ownership of Licensed Premises**

2 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
5 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
6 days following the effective date of this decision and shall immediately thereafter provide written
7 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
8 documentation thereof shall be considered a violation of probation.

9 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
10 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
11 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
12 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
13 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
14 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
15 that interest, but only to the extent of that position or interest as of the effective of this decision.
16 Violation of this restriction shall be considered a violation of probation.

17 **16. Notification of Departure**

18 Prior to leaving the probationary geographic area designated by the board or its designee for
19 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
20 writing of the dates of departure and return. Failure to comply with this provision shall be
21 considered a violation of probation.

22 **17. Community Services Program**

23 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
24 board or its designee, for prior approval, a community service program in which respondent shall
25 provide free health-care related services on a regular basis to a community or charitable facility or
26 agency for a total of at least forty (40) hours during the two (2) years of probation. Within thirty
27 (30) days of board approval thereof, respondent shall submit documentation to the board
28 demonstrating commencement of the community service program. A record of this notification

1 must be provided to the board upon request. Respondent shall report on progress with the
2 community service program in his quarterly reports. Failure to timely submit, commence, or
3 comply with the program shall be considered a violation of probation.

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Exhibit A

Accusation No. 3455

1 EDMUND G. BROWN JR.
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **FERDINAND MENDEZ MOJICA**
1072 Folsom Street, #340
13 San Francisco, California 94103
14
15 **Pharmacy Technician License No. TCH**
58422
16
17 Respondent.

Case No. 3455

A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On or about September 1, 2004, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 58422 to Ferdinand Mendez Mojica (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on August 31, 2010, unless renewed.

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8. Section 4301 of the Code states:

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.

...

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

...

REGULATORY PROVISIONS

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

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.

1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct: Commission of Acts Involving Moral Turpitude, Dishonesty, or Fraud)

8 11. Respondent has subjected his license to disciplinary action under Code section 4301,
9 subdivision (f), in that Respondent has committed acts involving moral turpitude, dishonesty,
10 fraud, deceit, or corruption. The circumstances are as follows:

11 a. On or about January 7, 2008, in the Superior Court of California, County of
12 San Mateo, in the case entitled, *People of the State of California v. Ferdinand Mendez Mojica*,
13 Case No. NM370870, Respondent was convicted on his plea of nolo contendere of violating
14 Penal Code section 487, subdivision (a), (Grand Theft), a misdemeanor. Respondent was
15 sentenced to serve 5 days in county jail and 18 months of informal probation and to comply with
16 other terms and conditions.

17 b. The underlying circumstances of the crime are that on September 30, 2007, during the
18 course and scope of his employment as a Pharmacy Technician at Target Store #1407,
19 Respondent charged the purchase of two \$500.00 Target gift cards to a customer's credit card that
20 was without the owner's/customer's permission.

21 SECOND CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct: Conviction of Substantially Related Crime)

23 12. Respondent has subjected his license to disciplinary action under Code section 4301,
24 subdivision (l), in that Respondent has been convicted of a crime substantially related to the
25 qualifications, functions or duties of a pharmacy technician, within the meaning of Title 16 of the
26 California Code of Regulations, section 1770, as described more fully in Paragraph 11, above.

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PRAYER

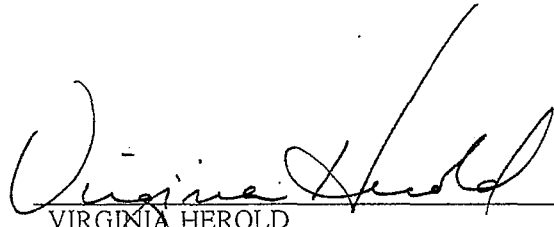
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License Number TCH 58422, issued to Ferdinand Mendez Mojica.

2. Ordering Ferdinand Mendez Mojica 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; and

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

DATED: 4/5/10



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

SF2009405157
accusation.rtf

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: In the Matter of the Accusation Against: ***FERDINAND MENDEZ MOJICA***

Case No.: **3455**

I declare:

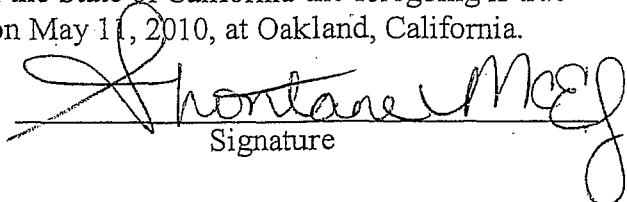
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 11, 2010, I served the attached **STATEMENT TO RESPONDENT; ACCUSATION, REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (2 copies) and DISCOVERY STATUTES** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT; ACCUSATION, REQUEST FOR DISCOVERY, NOTICE OF DEFENSE (2 copies) and DISCOVERY STATUTES** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1515 Clay Street, 20th Floor, Oakland, CA 94612-0550, addressed as follows:

Ferdinand Mendez Mojica
1072 Folsom Street, #340
San Francisco, CA 94103
Certified Article No. 7000 0520 0024 6380 6180

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 11, 2010, at Oakland, California.

SHONTANE MCELROY
Declarant


Signature

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

0819 0869 4200 0024 6380 6380
7000 0520 0250 0002

~~ALVARO~~ MOJICA

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
Here

Ferdinand Mendez Mojica
1072 Folsom Street, #340
San Francisco, CA 94103

(mailed)