

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

In the Matter of the Accusation Against:

Case No. 3774

**ALAN LEE DAY**  
21801 Roscoe Blvd., #335  
Canoga Park, CA 91304

Pharmacy Technician License No. TCH 25566

Respondent.

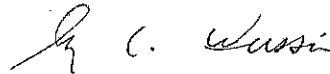
**DECISION AND ORDER**

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 October 10, 2013.

It is so ORDERED on September 10, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC GREENBAUM  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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Case No. 3774

11 **ALAN LEE DAY**  
12 **21801 Roscoe Blvd., #335**  
13 **Canoga Park, CA 91304**  
14 **Pharmacy Technician License No. TCH**  
**25566**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
17 proceeding that the following matters are true:

18 PARTIES

19 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
20 She brought this action solely in her official capacity and is represented in this matter by Kamala  
21 D. Harris, Attorney General of the State of California, by Kimberlee D. King, Deputy Attorney  
22 General.

23 2. Alan Lee Day (Respondent) is representing himself in this proceeding and has chosen  
24 not to exercise his right to be represented by counsel.

25 3. On or about April 21, 1998, the Board of Pharmacy issued Pharmacy Technician  
26 License No. TCH 25566 to Alan Lee Day (Respondent). The Pharmacy Technician License was  
27 in full force and effect at all times relevant to the charges brought in Accusation No. 3774 and  
28 will expire on September 30, 2011, unless renewed.



1 communicate directly with the Board regarding this stipulation and surrender, without notice to or  
2 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
3 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
9 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
10 the originals.

11 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
14 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
15 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
16 executed by an authorized representative of each of the parties.

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

19 **ORDER**

20 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 25566, issued to  
21 Respondent Alan Lee Day, is surrendered and accepted by the Board of Pharmacy.

22 1. The surrender of Respondent's Pharmacy Technician License and the acceptance of  
23 the surrendered license by the Board shall constitute the imposition of discipline against  
24 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
25 Respondent's license history with the Board of Pharmacy.

26 2. Respondent shall lose all rights and privileges as a pharmacy technician in California  
27 as of the effective date of the Board's Decision and Order.

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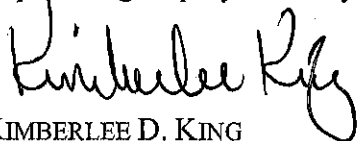
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: July 18, 2013

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
MARC GREENBAUM  
Supervising Deputy Attorney General

  
KIMBERLEE D. KING  
Deputy Attorney General  
*Attorneys for Complainant*

LA2010600837  
Stipulation.rtf

**Exhibit A**

**Accusation No. 3774**

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2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **ALAN LEE DAY**  
13 **a.k.a., AL DAY**  
14 **a.k.a., ALLAN LEE DAY**  
15 **a.k.a., ALLEN DAY**  
16 **a.k.a., ALLEN LEE DAY**  
21801 Roscoe Blvd., #335  
15 Canoga Park, CA 91304  
16 Pharmacy Technician License No. TCH 25566  
17 Respondent.

Case No. 3774  
**FIRST AMENDED ACCUSATION**

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her  
22 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
23 Affairs.  
24 2. On or about April 21, 1998, the Board of Pharmacy (Board) issued Pharmacy  
25 Technician License No. TCH 25566 to Alan Lee Day, also known as Al Day, Allan Lee Day,  
26 Allen Day, and Allen Lee Day (Respondent). The Pharmacy Technician License was in full force  
27 and effect at all times relevant to the charges brought herein and expired on September 30, 2011.  
28 ///



**JURISDICTION**

1  
2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
6 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9 5. Section 490 states, in pertinent part:

10 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
11 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
12 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
13 or profession for which the license was issued.

14 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
15 discipline a licensee for conviction of a crime that is independent of the authority granted under  
16 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
17 of the business or profession for which the licensee's license was issued.

18 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
19 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
20 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
21 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
22 made suspending the imposition of sentence, irrespective of a subsequent order under the  
23 provisions of Section 1203.4 of the Penal Code."

24 6. Section 4300 provides, in pertinent part, that every license issued by the Board is  
25 subject to discipline, including suspension or revocation.

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1           7.     Section 4301 states, in pertinent part:

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

5           .....

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

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

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

16          .....

17          "(l)   The conviction of a crime substantially related to the qualifications, functions, and  
18    duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
19    (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
20    substances or of a violation of the statutes of this state regulating controlled substances or  
21    dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
22    record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
23    The board may inquire into the circumstances surrounding the commission of the crime, in order  
24    to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
25    or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
26    qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
27    a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
28    of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
5 indictment.”

6 **REGULATORY PROVISIONS**

7 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

14 **COST RECOVERY**

15 9. Section 125.3 provides, in pertinent part, that the Board may request the  
16 administrative law judge to direct a licentiate found to have committed a violation or violations of  
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
18 enforcement of the case.

19 10. **CONTROLLED SUBSTANCE**

20 "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code  
21 section 11054, subdivision (d)(13) and categorized as a dangerous drug pursuant to section 4022.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Convictions of Substantially Related Crimes)**

24 11. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
25 490, in conjunction of California Code of Regulations, title 16, section 1770, in that Respondent  
26 was convicted of crimes substantially related to the qualifications, functions or duties of a  
27 licensed pharmacy technician, as follows:

28 ///

1 a. On or about February 28, 2012, Respondent was convicted by jury trial, of two felony  
2 counts of violating Penal Code section 459 [First Degree Burglary] in the criminal proceeding  
3 entitled *The People of the State of California v. Allen Lee Day* (Super. Ct. Los Angeles County,  
4 2012, No. LA067676). Respondent was denied probation and sentenced to a total of seven (7)  
5 years and four months in state prison with a total credit of 621 days for time in custody and  
6 good/work time.

7 The circumstances surrounding the conviction are that on or about April 20, 2010,  
8 Respondent entered victim's home and was discovered by victim. Respondent fled the scene and  
9 the victim contacted the police. The police located Respondent later in the general area based  
10 upon the victim's description and arrested him. Numerous items stolen from the victim's home  
11 were recovered from Respondent's clothing pockets by the police. Respondent had a knife on his  
12 person during the commission of the crime.

13 b. On or about May 7, 2009, after pleading nolo contendere, Respondent was convicted  
14 of one felony count of violating Penal Code section 666 [petty theft with prior jail term] in the  
15 criminal proceeding entitled *The People of the State of California v. Allen Lee Day* (Super. Ct.  
16 Los Angeles County, 2009, No. SA070559). The Court sentenced Respondent to 180 days in Los  
17 Angeles County Jail and placed him on 3 years formal probation, with terms and conditions. The  
18 circumstances surrounding the conviction are that on or about March 7, 2009, Respondent entered  
19 a Rite Aid Store, in Culver City, CA, selected six cans of beer, put them in his short pockets, and  
20 walked past the cash register without paying for the beer. He was subsequently arrested for  
21 violating Penal Code section 211 [robbery].

22 c. On or about March 2, 2009, after pleading nolo contendere, Respondent was  
23 convicted of one misdemeanor count of violating Penal Code section 242-243, subdivision (e) (1)  
24 [battery] in the criminal proceeding entitled *The People of the State of California v. Alan Lee Day*  
25 (Super. Ct. Los Angeles County, 2009, No. 9SR01044). The Court sentenced Respondent to 45  
26 days in Los Angeles County Jail and placed him on 3 years probation, with terms and conditions.  
27 The circumstances surrounding the conviction are that on or about March 1, 2009, Respondent  
28

1 and the victim had a verbal argument. He grabbed the victim, hit her on top of her head,  
2 approximately 3 to 4 times with a closed fist, and walked out of the motel.

3 d. On or about September 10, 2008, after pleading nolo contendere, Respondent was  
4 convicted of one misdemeanor count of violating Penal Code section 243 subdivision (e)(1)  
5 [battery] in the criminal proceeding entitled *The People of the State of California v. Alan Lee Day*  
6 (Super. Ct. Los Angeles County, 2008, No. 8PS03923). The Court sentenced Respondent to 7  
7 days in Los Angeles County Jail and placed him on 3 years probation, with terms and conditions.  
8 The circumstances surrounding the conviction are that on or about September 1, 2008,  
9 Respondent and the victim had a verbal argument. Respondent pushed the victim, hit her  
10 numerous times, slammed her head multiple times into a sofa backing, and threw things around  
11 the house at her.

12 e. On or about April 27, 2007, after pleading nolo contendere, Respondent was  
13 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a)  
14 [driving under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of*  
15 *the State of California v. Alan Lee Day* (Super. Ct. Los Angeles County, 2007, No. 7VY00655).  
16 The Court sentenced Respondent to 192 hours in Los Angeles County Jail and placed him on  
17 probation for a period of 48 months, with terms and conditions.

18 The circumstances surrounding the conviction are that on or about February 11, 2007,  
19 Respondent drove a vehicle while under the influence of alcohol or drugs, collided with a  
20 Department of Water and Power power pole, and fled the scene of the accident on foot. While  
21 speaking to Respondent, the Los Angeles Police Department Officer detected an alcoholic odor  
22 emitting from his mouth and person. He was observed to have red, bloodshot, watery eyes, loud  
23 speech, and an unsteady gait. When asked if he had been drinking, Respondent admitted to  
24 drinking one beer which he claimed that he bought from a liquor after the collision before he was  
25 detained. He submitted to a Preliminary Alcohol Screening (PAS) Test that resulted in a blood-  
26 alcohol content of 0.15% on the first reading and 0.16% on the second reading. During a search  
27 of Respondent's vehicle, the officer found a sunglass case on the passenger floorboard that  
28 contained a green leafy substance resembling that of marijuana. He was subsequently arrested for

1 violating Vehicle Code section 23152, subdivision (a) [driving while under the influence of  
2 alcohol or drugs], Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and  
3 more, by weight, of alcohol in his blood], Vehicle Code section 20002, subdivision (a) [hit and  
4 run: property damage], and Vehicle Code section 23222, subdivision (b) [possession of 1 ounce  
5 or less of marijuana while driving]. During the booking procedure, Respondent repeatedly yelled  
6 obscenities at the officers and refused to submit to a breath or blood chemical test.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol)**

9 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
10 that on or about February 11, 2007, Respondent used alcoholic beverages to an extent or in a  
11 manner dangerous or injurious to himself, any person, or the public, when he drove a vehicle  
12 while under the influence of alcohol or drugs and while having approximately 0.16% of alcohol  
13 in his blood. Complainant refers to, and by this reference incorporates, the allegations set forth  
14 above in paragraph 11, subparagraph (d), as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

17 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
18 that on or about September 8, 2008, March 1, 2009, and March 7, 2009, Respondent committed  
19 acts involving moral turpitude, dishonesty, fraud, or deceit. Complainant refers to, and by this  
20 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) through  
21 (c), inclusive, as though set forth fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Knowingly Made a False Statement of Fact to Licensing Authority)**

24 13. Respondent is subject to disciplinary action under section 4301, subdivision (g), in  
25 that on or about September 15, 2009, Respondent knowingly made a false statement of fact to the  
26 Board of Pharmacy, by failing to disclose 3 conviction cases against him on his pharmacy  
27 technician license renewal application. Respondent marked "No" to the question asking if he had  
28 been convicted of any crime since his last renewal in 2007. Complainant refers to, and by this

1 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) through  
2 (c), inclusive, as though set forth fully.

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5 **DISCIPLINARY CONSIDERATIONS**

6 14. To determine the degree of discipline, if any to be imposed on Respondent,  
7 Complainant alleges the following:

8 a. On or about February 22, 2000, Respondent was convicted of one misdemeanor count  
9 of violating Vehicle Code section 23103 [reckless driving] in the criminal proceeding entitled *The*  
10 *People of the State of California v. Alan Lee Day* (Super. Ct. Los Angeles County, 2000, No.  
11 0WL00396). The Court sentenced Respondent to 5 days in Los Angeles County Jail and placed  
12 him on probation for a period of 36 months, with terms and conditions. The circumstances  
13 surrounding the conviction are that on or about January 30, 2000, Respondent drove a vehicle  
14 upon a highway in a willful or wanton disregard for the safety of persons or property. He was  
15 arrested for violating Vehicle Code section 23153, subdivision (a) [driving under the influence of  
16 alcohol or drugs, resulting in injuries to another]. On or about January 30, 2000, the Board  
17 conducted a complaint investigation, CI 2000 20034, regarding Respondent's 2000 driving under  
18 the influence arrest. The investigation was mediated and closed on July 19, 2001.

19 b. On or about August 30, 1999, Respondent was convicted of one misdemeanor count  
20 of violating Penal Code section 508 [embezzlement by employee] in the criminal proceeding  
21 entitled *The People of the State of California v. Alan Lee Day* (Super. Ct. Los Angeles County,  
22 2000, No. 9SM02651). The Court sentenced Respondent to 1 day in Los Angeles County Jail  
23 and placed him on 3 years probation, with terms and conditions. The circumstances surrounding  
24 the conviction are that on or about August 30, 1999, Respondent a clerk, agent, or servant  
25 fraudulently appropriated for his own use the property of his employer. On or about January 30,  
26 2000, the Board conducted a complaint investigation, CI 1999 18839, regarding Respondent's  
27 1999 embezzlement by employee arrest. The investigation was mediated and closed on July 19,  
28 2001.

1 c. On or about October 28, 1982, Respondent was convicted of one felony count of  
2 violating Penal Code section 487.1 [grand theft of property] in the criminal proceeding entitled  
3 *The People of the State of California v. Alan Lee Day* (Super. Ct. Los Angeles County, 1982, No.  
4 A902616). The Court sentenced Respondent to 2 years in State Prison and denied probation. The  
5 circumstances surrounding the conviction are that on or about September 29, 1982, Respondent  
6 stole, took, or carried away the personal property of another.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician License No. TCH 25566, issued to  
11 Respondent;
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
13 enforcement of this case, pursuant to section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: \_\_\_\_\_

1/8/13



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

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22 50847080.docx  
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