

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

In the Matter of the Accusation Against:

Case No. 4013

**BRIAN MICHAEL BATTS**

4341 Opal Avenue  
Cypress, CA 90630

Pharmacy Technician Registration No. TCH  
84719

Respondent.

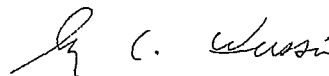
**DECISION AND ORDER**

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 September 21, 2011.

It is so ORDERED August 22, 2011.

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 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
4 Senior Legal Analyst  
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*Attorneys for Complainant*

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11 **DEPARTMENT OF CONSUMER AFFAIRS**  
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Case No. 4013

13 **BRIAN MICHAEL BATTS**  
14 **4341 Opal Avenue**  
**Cypress, CA 90630**

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

15 **Pharmacy Technician Registration**  
16 **No. TCH 84719**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
23 She brought this action solely in her official capacity and is represented in this matter by Kamala  
24 D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal Analyst.
- 25 2. Brian Michael Batts (Respondent) is representing himself in this proceeding and has  
26 chosen not to exercise his right to be represented by counsel.
- 27 3. On or about March 11, 2010, the Board of Pharmacy issued Pharmacy Technician  
28 Registration No. TCH 84719 to Brian Michael Batts (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 4013 and will expire on October 31, 2011, unless renewed.

### 3 JURISDICTION

4 4. Accusation No. 4013 was filed before the Board of Pharmacy (Board), Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on June 10, 2011.

7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 4013 is attached as Exhibit A and incorporated by reference.

### 9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 4013. Respondent also has carefully read, and understands the effects of this  
12 Stipulated Surrender of License and Order.

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

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

### 22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 4013, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician  
25 Registration No. TCH 84719 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue  
27 an order accepting the surrender of his Pharmacy Technician Registration without further process.

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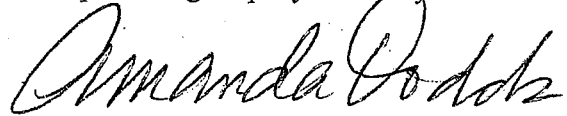
ENDORSEMENT

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: 7/6/2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General



AMANDA DODDS  
Senior Legal Analyst  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4013**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
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14 **4341 Opal Avenue**  
**Cypress, CA 90630**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 84719**

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 March 11, 2010, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 84719 to Brian Michael Batts (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on October 31, 2011, unless renewed.

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## JURISDICTION

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

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

19 5. Section 4300, subdivision (a) of the Code states "Every license issued may be  
20 suspended or revoked."

## STATUTORY PROVISIONS

21 6. Section 482 of the Code states:

22 Each board under the provisions of this code shall develop criteria to evaluate  
23 the rehabilitation of a person when:

24 (a) Considering the denial of a license by the board under Section 480; or

25 (b) Considering suspension or revocation of a license under Section 490.

26 Each board shall take into account all competent evidence of rehabilitation  
27 furnished by the applicant or licensee.

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

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a  
board within the department pursuant to law to deny an application for a license or to  
suspend or revoke a license or otherwise take disciplinary action against a person who  
holds a license, upon the ground that the applicant or the licensee has been convicted  
of a crime substantially related to the qualifications, functions, and duties of the  
licensee in question, the record of conviction of the crime shall be conclusive  
evidence of the fact that the conviction occurred, but only of that fact, and the board  
may inquire into the circumstances surrounding the commission of the crime in order  
to fix the degree of discipline or to determine if the conviction is substantially related  
to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, "license" includes "certificate," "permit," "authority,"  
2 and "registration."

3 9. Section 4301 of the Code states:

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

8 . . . .

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

12 . . . .

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

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal  
license on the ground that the licensee or the registrant has been convicted of a crime,  
the board, in evaluating the rehabilitation of such person and his present eligibility for  
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

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(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

11. 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.

**COSTS**

12. Section 125.3 of the Code states, in pertinent part, that 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.

**FIRST CAUSE FOR DISCIPLINE**

**(November 1, 2010 Criminal Convictions for Grand Theft, Identity Theft & Acts Constituting Forgery)**

13. Respondent has subjected his registration to discipline under sections 490 and 4301, subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about November 1, 2010, in a criminal proceeding entitled *People of the State of California v. Brain Michael Batts*, in Orange County Superior Court, case number 10WF1886, Respondent was convicted on his plea of guilty to one count of grand theft (Pen. Code, § 487(a)); four counts of acts constituting forgery (Pen. Code, § 470(d)); and three counts of unauthorized use of personal identifying information (Pen. Code, § 530.5(a)). The remaining seven counts were dismissed pursuant to a plea agreement. All counts were charged as felonies, but reduced to misdemeanors as a result of a plea agreement.

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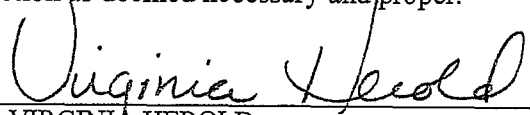
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**PRAYER**

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 Registration Number TCH 84719, issued to Brian Michael Batts;
2. Ordering Brian Michael Batts 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: 6/2/11



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

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