

1 KAMALA D. HARRIS  
2 Attorney General of California  
3 ARMANDO ZAMBRANO  
4 Supervising Deputy Attorney General  
5 ANTONIO LOPEZ, JR.  
6 Deputy Attorney General  
7 State Bar No. 206387  
8 300 So. Spring Street, Suite 1702  
9 Los Angeles, CA 90013  
10 Telephone: (213) 897-2536  
11 Facsimile: (213) 897-2804  
12 Attorneys for Complainant

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

12 In the Matter of the Statement of Issues  
13 Against:

14 **ULISES IVAN SANTAMARIA**  
15 **Pharmacy Technician Applicant**

16 Respondent.

Case No. 3773

OAH No. 2011110805

**DEFAULT DECISION AND ORDER**

[Gov. Code, § 11520]

17 FINDINGS OF FACT

18 1. On or about June 23, 2011, Complainant Virginia K. Herold, in her official capacity  
19 as the Executive Officer of the California State Board of Pharmacy, filed Statement of Issues No.  
20 3773 against Ulises Ivan Santamaria (Respondent) before the Board.

21 2. On or about April 18, 2008, Respondent filed an application dated April 18, 2008,  
22 with the Board to obtain a Pharmacy Technician registration.

23 3. On or about April 1, 2010, the Board issued a letter denying Respondent's application  
24 for a Pharmacy Technician registration. On or about April 25, 2010, Respondent appealed the  
25 Board's denial of his application and requested a hearing.

26 4. On or about August 10, 2011, an employee of the Department of Justice, served by  
27 Certified and First Class Mail a copy of the Statement of Issues No. 3773, Statement to  
28

1 Respondent, Notice of Defense, Request for Discovery, Government Code sections 11507.5,  
2 11507.6, and 11507.7, to Respondent's address on the application form, which was and is 38754  
3 27th Street East, Palmdale, CA 93550. A copy of the Statement of Issues is attached as Exhibit  
4 A, and is incorporated herein by reference.

5 5. Service of the Statement of Issues was effective as a matter of law under the  
6 provisions of Government Code section 11505, subdivision (c).

7 6. On or about May 15, 2010, Respondent appealed the denial of his application and  
8 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's  
9 address on the application and it informed him that an administrative hearing in this matter was  
10 scheduled for September 25, 2012. Respondent failed to appear at that hearing. A copy of the  
11 Notice of Continued Hearing is attached as Exhibit B, and is incorporated by reference.

12 7. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

17 8. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the  
19 hearing, the agency may take action based upon the respondent's express admissions  
20 or upon other evidence and affidavits may be used as evidence without any notice to  
respondent; and where the burden of proof is on the respondent to establish that the  
respondent is entitled to the agency action sought, the agency may act without taking  
evidence.

21 9. Pursuant to its authority under Government Code section 11520, the Board finds  
22 Respondent is in default. The Board will take action without further hearing based upon the  
23 allegation set forth in the Statement of Issues, and Respondent's failure to establish entitlement to  
24 issuance of a license.

25 ///

26 ///

27 ///

DETERMINATION OF ISSUES

1  
2       1.    Based on the foregoing findings of fact, Respondent Ulises Ivan Santamaria has  
3 subjected his application for a Pharmacy Technician registration to denial.

4       2.    Service of Statement of Issues No. 3773 and related documents was proper and in  
5 accordance with the law.

6       3.    The agency has jurisdiction to adjudicate this case by default.

7       4.    The Board is authorized to deny Respondent's application for licensure based upon  
8 the following violations alleged in the Statement of Issues:

9           a.    Violation of section 480 (a)(1) for convictions of substantially-related crimes  
10 and dangerous use of alcohol;

11          b.    Violation of section 4300 (c) and (k) for convictions involving consumption of  
12 alcohol;

13          c.    Violation of section 4300 (c) for illegally possessing a controlled substance;

14          d.    Violation of section 480 (a)(2) for acts involving moral turpitude, dishonesty or  
15 corruption; and

16          e.    Violation of section 4300 (c) for committing unprofessional conduct.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

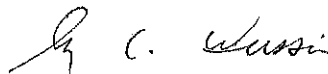
IT IS SO ORDERED that the application of Respondent Ulises Ivan Santamaria is hereby denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 18, 2014.

It is so ORDERED ON January 17, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STAN C. WEISSER  
Board President

Attachment:

Exhibit A: Statement of Issues No. 3773

**Exhibit A**

**Statement of Issues No. 3773**

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 ANTONIO LOPEZ, JR.  
Deputy Attorney General  
4 State Bar Number 206387  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2536  
6 Facsimile: (213) 897-2804

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 Statement of Issues  
Against:  
12 **ULISES IVAN SANTAMARIA**  
13 11702 Vanport Avenue  
14 Lake View Terrace, CA 91342  
15 Pharmacy Technician Applicant  
16 Respondent.

Case No. 3773

**STATEMENT OF ISSUES**

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about April 18, 2008, the Board of Pharmacy (Board) received an application  
22 for Registration as a Pharmacy Technician from Ulises Ivan Santamaria (Respondent). On or  
23 about April 8, 2008, Respondent certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 April 1, 2010. On or about June 15, 2010, the Board received a letter from Respondent,  
26 requesting a hearing to appeal the denial of his application.  
27 ///  
28 ///

1 JURISDICTION

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

5 STATUTORY PROVISIONS

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant  
8 has one of the following:

9 "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
11 board is permitted to take following the establishment of a conviction may be taken when the  
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when  
13 an order granting probation is made suspending the imposition of sentence, irrespective of a  
14 subsequent order under the provisions of Section 1203.4 of the Penal Code.

15 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
16 benefit himself or herself or another, or substantially injure another. . . ."

17 5. Section 492 states:

18 "Notwithstanding any other provision of law, successful completion of any diversion  
19 program under the Penal Code, or successful completion of an alcohol and drug problem  
20 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
21 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
22 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
23 division, from taking disciplinary action against a licensee or from denying a license for  
24 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
25 record pertaining to an arrest.

26 "This section shall not be construed to apply to any drug diversion program operated by any  
27 agency established under Division 2 (commencing with Section 500) of this code, or any  
28 initiative act referred to in that division."

1           6.    Section 4300, subdivision (c), states, in pertinent part:

2           "The board may refuse a license to any applicant guilty of unprofessional conduct. The  
3 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
4 guilty of unprofessional conduct and who has met all other requirements for licensure. . . ."

5           7.    Section 4301 states, in pertinent part:

6           "The board shall take action against any holder of a license who is guilty of unprofessional  
7 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

8 Unprofessional conduct shall include, but is not limited to, any of the following:

9           . . . .

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

13          . . . .

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

19          . . . .

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

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

25          “(l) The conviction of a crime substantially related to the qualifications, functions, and  
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
28 substances or of a violation of the statutes of this state regulating controlled substances or



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

14 . . . .

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

19 **REGULATORY PROVISIONS**

20 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:  
21 “For the purpose of denial, suspension, or revocation of a personal or facility license  
22 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
23 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
24 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
25 licensee or registrant to perform the functions authorized by his license or registration in a manner  
26 consistent with the public health, safety, or welfare.”

27 ///

28 ///

1 **CONTROLLED SUBSTANCES**

2 9. "Methamphetamine", is a Schedule II controlled substance as designated by Health  
3 and Safety Code Section 11055, subdivision (d)(2) and is categorized as dangerous drug pursuant  
4 to Business and Professions Code Section 4022.

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(Convictions of Substantially-Related Crimes)**

7 10. Respondent's application is subject to denial under sections 480, subdivision (a)(1),  
8 4300, subdivision (c), and 4301, subdivision (l), in conjunction with California Code of  
9 Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent  
10 was convicted of crimes substantially related to the qualifications, functions or duties of a  
11 registered pharmacy technician. The circumstances are as follows:

12 a. On or about March 26, 2008, after pleading *nolo contendere*, Respondent was  
13 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
14 [driving a vehicle while having a 0.8% and more, by weight, of alcohol content in his blood], in  
15 the criminal proceeding entitled *The People of the State of California v. Ulises Ivan Santamaria*  
16 (Super. Ct. Los Angeles County, 2008, No. 8AV02726). Respondent was sentenced to 3 days in  
17 the Los Angeles County Jail, placed on probation for a period of 3 years, and fined. The  
18 circumstances surrounding the conviction are that on or about January 27, 2008, two California  
19 Highway Patrol Officers were dispatched to assist Los Angeles County Sheriff's Deputies with a  
20 possible Driving under the Influence investigation. The Deputies observed a parked vehicle  
21 behind a building on private property by itself with a man asleep in the driver's seat. The  
22 Deputies awoke the man and identified him to be the Respondent. Respondent was observed to  
23 be unsteady and confused as he stepped out of the vehicle. Respondent had signs and symptoms  
24 of alcohol intoxication, with the odor of alcohol emitting from his breath, and vomit on the  
25 driver's side seat, door, and floor. Respondent was given and explained the Field Sobriety Tests,  
26 and failed to perform the tests. Respondent submitted to a preliminary alcohol screening breath  
27 test device (PAS) that detected the presence of alcohol in his system, with two readings of  
28 0.142% and 0.151%.

1           b. On or about May 6, 2005, after pleading *nolo contendere*, Respondent was convicted  
2 of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving a  
3 vehicle while having a suspended license], in the criminal proceeding entitled *The People of the*  
4 *State of California v. Ulises Ivan Santamaria* (Super. Ct. Los Angeles County, 2005, No.  
5 5SF02431). Respondent was placed on probation for a period of 36 months, and fined. The  
6 circumstances surrounding the conviction are that on or about May 4, 2005, two Los Angeles  
7 Police Officers were on patrol and stopped Respondent during a routine traffic stop for making an  
8 unsafe left turn. Respondent was unable to show proof of driver's license and auto insurance. The  
9 Officer's conducted a Department of Motor Vehicle driver's license check which revealed that  
10 Respondent was driving on a suspended/revoked driver's license.

11                               **SECOND CAUSE FOR DENIAL OF APPLICATION**

12   **(Dangerous Use of Alcohol)**

13           11. Respondent's application is subject to denial under sections 480, subdivision (a)(1),  
14 4300, subdivision (c), and 4301, subdivision (h), on the grounds of unprofessional conduct, in  
15 that Respondent was convicted of crimes that involved the usage of drugs and/or alcoholic  
16 beverages in a manner dangerous to himself and other persons, to an extent that the use impaired  
17 his ability to conduct with safety to the public the practice of a Pharmacy Technician License.  
18 Complainant refers to and by this reference incorporates the allegations set forth above in  
19 paragraph 10, subparagraphs a, and b, inclusive, as though set forth fully.

20                               **THIRD CAUSE FOR DENIAL OF APPLICATION**

21   **(Convictions Involving the Consumption of Alcohol)**

22           12. Respondent's application is subject to denial under sections 4300, subdivision (c),  
23 and 4301, subdivision (k), in conjunction with California Code of Regulations, title 16, section  
24 1770, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes that  
25 involved the usage of drugs and/or alcoholic beverages in a manner dangerous to himself and  
26 other persons. Complainant refers to and by this reference incorporates the allegations set forth  
27 above in paragraph 10, subparagraphs a, and b, inclusive, as though set forth fully.

28           ///

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 (Violate Drug Laws)

3 13. Respondent's application is subject to denial under sections 4300, subdivision (c),  
4 and 4301, subdivision (j), in that Respondent committed acts of unprofessional conduct violating  
5 Health and Safety Code section 11550, when he illegally possessed the controlled substance  
6 methamphetamine as follows:

7 a. On or about April 1, 2003, after pleading *nolo contendere*, Respondent was convicted  
8 of one misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)  
9 [possession of a controlled substance] and placed on deferred entry of judgment for a period of 2  
10 years in the criminal proceeding entitled *The People of the State of California v. Ulises Ivan*  
11 *Santamaria* (Super. Ct. Los Angeles County, 2003, No. GA052521). The circumstances  
12 surrounding the conviction are that on or about February 28, 2003, two Los Angeles Sheriff's  
13 Department Officers were on patrol and stopped Respondent during a routine traffic stop for  
14 having a broken front headlight. Respondent was observed to have rapid speech, sweat on his  
15 forehead, very anxious, and dilated eyes that had no reaction to light. During a search of  
16 Respondent's vehicle, the officer found an eye glass case in the driver side front door pocket  
17 containing a clear plastic baggie of methamphetamine.

18 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

19 (Acts Involving Moral Turpitude, Dishonesty, Corruption, or Deceit)

20 14. Respondent's application is subject to denial under sections 480, subdivision (a)(2)  
21 and 4300, subdivision (c), and section 4301, subdivision (f), on the grounds of unprofessional  
22 conduct, in that Respondent committed acts involving moral turpitude, dishonesty, corruption, or  
23 deceit. Complainant refers to and by this reference incorporates the allegations set forth above in  
24 paragraphs 10-13, inclusive, as though set forth fully.

25 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

26 (Unprofessional Conduct)

27 15. Respondent's application is subject to denial under sections 4300, subdivision (c),  
28 and section 4301, subdivision (o), on the grounds of unprofessional conduct, in that Respondent

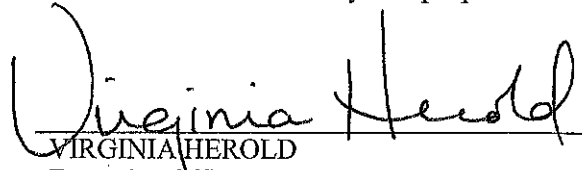
1 committed acts and was convicted of crimes that violated the pharmacy act. Complainant refers  
2 to and by this reference incorporates the allegations set forth above in paragraphs 10-14,  
3 inclusive, as though set fully.

4 **PRAYER**

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

- 7 1. Denying the application of Ulises Ivan Santamaria for Registration as a Pharmacy  
8 Technician; and  
9 2. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: 6/23/11



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

12  
13  
14  
15 LA2010600633

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28