

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

In the Matter of the Statement of Issues:

STEVEN JOHN PIMENTAL
1848 Arcane Street
Simi Valley, CA 93065

Pharmacy Technician Registration Applicant

Respondent.

Case No. 4002

OAH No. L-2011071061

DECISION AND ORDER

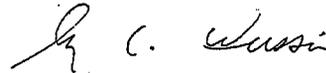
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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

10 In the Matter of the Statement of Issues
11 Against:

Case No. 4002

OAH No. L-2011071061

12 **STEVEN JOHN PIMENTAL**
13 **1848 Arcane Street**
Simi Valley, CA 93065
14 **Pharmacy Technician Registration**
Applicant

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
19 be submitted to the Board for approval and adoption as the final disposition of the Statement of
20 Issues.

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 Randy M. Mailman, Deputy Attorney
25 General.

26 2. Steven John Pimental ("Respondent") is representing himself in this proceeding and
27 has chosen not to exercise his right to be represented by counsel.
28

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

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

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

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises by the board in which he holds an interest at the time this decision becomes
18 effective unless otherwise specified in this order.

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

20 **2. Obey All Laws**

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

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

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal
26 controlled substances laws
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
28 any criminal complaint, information or indictment

- 1 • a conviction of any crime
2 • discipline, citation, or other administrative action filed by any state or federal
3 agency which involves Respondent's pharmacy technician registration number or
4 which is related to the practice of pharmacy or the manufacturing, obtaining,
5 handling, distributing, billing, or charging for any drug, device or controlled
6 substance.

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

8 **3. Report to the Board**

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

17 **4. Interview with the Board**

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

23 **5. Cooperate with Board Staff**

24 Respondent shall cooperate with the board's inspection program and with the board's
25 monitoring and investigation of Respondent's compliance with the terms and conditions of his
26 probation. Failure to cooperate shall be considered a violation of probation.

27 **6. Notice to Employers**

28 During the period of probation, Respondent shall notify all present and prospective

1 employers of the decision in case number 4002 and the terms, conditions and restrictions imposed
2 on Respondent by the decision, as follows:

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
4 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
5 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
6 tenure of employment) and owner to report to the board in writing acknowledging that the listed
7 individual(s) has/have read the decision in case number 4002 and the terms and conditions
8 imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
9 supervisor(s) submit timely acknowledgement(s) to the board.

10 If Respondent works for or is employed by or through a pharmacy employment service,
11 Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
12 of the terms and conditions of the decision in case number 4002 in advance of the Respondent
13 commencing work at each pharmacy. A record of this notification must be provided to the board
14 upon request.

15 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
16 (15) days of Respondent undertaking any new employment by or through a pharmacy
17 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
18 service to report to the board in writing acknowledging that he has read the decision in case
19 number 4002 and the terms and conditions imposed thereby. It shall be Respondent's
20 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
21 acknowledgment(s) to the board.

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

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

1 independent contractor or volunteer.

2 **7. Probation Monitoring Costs**

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

7 **8. Status of License**

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

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

15 **9. License Surrender While on Probation/Suspension**

16 Following the effective date of this decision, should Respondent cease work due to
17 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
18 Respondent may tender his pharmacy technician license to the board for surrender. The board or
19 its designee shall have the discretion whether to grant the request for surrender or take any other
20 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
21 license, Respondent will no longer be subject to the terms and conditions of probation. This
22 surrender constitutes a record of discipline and shall become a part of the Respondent's license
23 history with the board.

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

1 board.

2 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
3 **Employment**

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

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

11 **11. Tolling of Probation**

12 Except during periods of suspension, Respondent shall, at all times while on probation, be
13 employed as a pharmacy technician in California for a minimum of 20 hours per calendar month.
14 Any month during which this minimum is not met shall toll the period of probation, i.e., the
15 period of probation shall be extended by one month for each month during which this minimum is
16 not met. During any such period of tolling of probation, Respondent must nonetheless comply
17 with all terms and conditions of probation.

18 Should Respondent, regardless of residency, for any reason (including vacation) cease
19 working as a pharmacy technician for a minimum of 20 hours per calendar month in California,
20 Respondent must notify the board in writing within ten (10) days of cessation of work and must
21 further notify the board in writing within ten (10) days of the resumption of the work. Any
22 failure to provide such notification(s) shall be considered a violation of probation.

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

26 "Cessation of work" means calendar month during which Respondent is not
27 working for at least 20 hours as a pharmacy technician, as defined in Business and
28 Professions Code section 4115. "Resumption of work" means any calendar month

1 during which Respondent is working as a pharmacy technician for at least 20 hours as
2 a pharmacy technician as defined by Business and Professions Code section 4115.

3 **12. Violation of Probation**

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

9 If Respondent violates probation in any respect, the board, after giving Respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
13 a petition to revoke probation or an accusation is filed against Respondent during probation, the
14 board shall have continuing jurisdiction, and the period of probation shall be automatically
15 extended until the petition to revoke probation or accusation is heard and decided.

16 **13. Completion of Probation**

17 Upon written notice by the board indicating successful completion of probation,
18 Respondent's pharmacy technician license will be fully restored.

19 **14. No Ownership of Licensed Premises**

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

27 **15. Abstain from Drugs and Alcohol Use**

28 Respondent shall completely abstain from the possession or use of alcohol, controlled

1 substances, dangerous drugs and their associated paraphernalia except when the drugs are
2 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
3 request of the board or its designee, Respondent shall provide documentation from the licensed
4 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
5 treatment of the Respondent. Failure to timely provide such documentation shall be considered a
6 violation of probation. Respondent shall ensure that he is not in the same physical location as
7 individuals who are using illicit substances even if Respondent is not personally ingesting the
8 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
9 not supported by the documentation timely provided, and/or any physical proximity to persons
10 using illicit substances, shall be considered a violation of probation.

11 **16. Random Drug Screening**

12 Respondent, at his own expense, shall participate in random testing, including but not
13 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
14 screening program as directed by the board or its designee. Respondent may be required to
15 participate in testing for the entire probation period and the frequency of testing will be
16 determined by the board or its designee. At all times Respondent shall fully cooperate with the
17 board or its designee, and shall, when directed, submit to such tests and samples for the detection
18 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
19 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
20 of probation. Upon request of the board or its designee, Respondent shall provide documentation
21 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
22 a necessary part of the treatment of the Respondent. Failure to timely provide such
23 documentation shall be considered a violation of probation. Any confirmed positive test for
24 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented
25 medical treatment shall be considered a violation of probation and shall result in the automatic
26 suspension of work by Respondent. Respondent may not resume work as a pharmacy technician
27 until notified by the board in writing.

28 During suspension, Respondent shall not enter any pharmacy area or any portion of or any

1 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
2 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
3 devices or controlled substances are maintained. Respondent shall not do any act involving drug
4 selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent
5 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
6 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
7 substances. Respondent shall not resume work until notified by the board.

8 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
9 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
10 licensed premises in which he holds an interest at the time this decision becomes effective unless
11 otherwise specified in this order.

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

13 **17. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

14 In the event that Respondent submits a biological sample that confirms positive for alcohol
15 or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical
16 treatment Respondent shall attend a substance abuse recovery relapse prevention and support
17 group as follows:

18 Within ten (10) days of the positive test, Respondent shall begin regular attendance at a
19 recognized and established substance abuse recovery support group in California, (e.g.,
20 Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its
21 designee. Respondent must attend at least one group meeting per week unless otherwise directed
22 by the board or its designee. Respondent shall continue regular attendance and submit signed and
23 dated documentation confirming attendance with each quarterly report for the duration of
24 probation. Failure to attend or submit documentation thereof shall be considered a violation of
25 probation.

26 **18. Work Site Monitor**

27 Within ten (10) days of the effective date of this decision, Respondent shall identify a work
28 site monitor, for prior approval by the board, who shall be responsible for supervising Respondent

1 during working hours. Respondent shall be responsible for ensuring that the work site monitor
2 reports in writing to the board quarterly. Should the designated work site monitor determine at
3 any time during the probationary period that Respondent has not maintained sobriety, he shall
4 notify the board immediately, either orally or in writing as directed. Should Respondent change
5 employment, a new work site monitor must be designated, for prior approval by the board, within
6 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
7 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
8 considered a violation of probation.

9 **19. Notification of Departure**

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

14 **ACCEPTANCE**

15 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
16 stipulation and the effect it will have on my Pharmacy Technician Registration Applicant. I
17 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
18 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

19
20 DATED: 9-11-2011


21 STEVEN JOHN PIMENTAL
22 Respondent

23 **ENDORSEMENT**

24 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
25 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
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ENDORSEMENT

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

DATED: September 20, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



RANDY M. MAILMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 4002

1 KAMALA D. HARRIS
Attorney General of California
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Supervising Deputy Attorney General
3 RANDY M. MAILMAN
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9 **STATE OF CALIFORNIA**

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1848 Arcane Street
13 Simi Valley, CA 93065
14 **Pharmacy Technician Registration Number**
Applicant

STATEMENT OF ISSUES

15 Respondent.

16
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 June 29, 2010, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacy Technician Registration Number from Steven John
23 Pimental ("Respondent"). On or about June 26, 2010, Steven John Pimental certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on January 5, 2011.

26 ///

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28 ///

1 Professions Code section 4022. Possession of methamphetamine is made punishable as either a
2 felony or misdemeanor pursuant to Penal Code section 11377, subdivision (a). Being under the
3 influence of methamphetamine is punishable as a misdemeanor, pursuant to Penal Code section
4 11550.

5 8. Business and Professions Code section 4022 provides:

6 ““Dangerous drug” or “dangerous device” means any drug or
7 device unsafe for self-use in humans or animals, and includes the
8 following:

9 (a) Any drug that bears the legend: “Caution: federal law
10 prohibits dispensing without prescription,” “Rx only,” or words of
11 similar import.

12 (b) Any device that bears the statement: “Caution: federal
13 law restricts this device to sale by or on the order of a _____,” “Rx
14 only,” or words of similar import, the blank to be filled in with the
15 designation of the practitioner licensed to use or order use of the
16 device.

17 (c) Any other drug or device that by federal or state law can
18 be lawfully dispensed only on prescription or furnished pursuant to
19 Section 4006.”

20 9. California Health and Safety Code section 11550, subdivision (a) provides, in
21 pertinent part:

22 “No person shall use, or be under the influence of any controlled
23 substance which is...specified in paragraph (1) or (2) of subdivision
24 (d) or in paragraph (3) of subdivision (e) of Section 11055... except
25 when administered by or under the direction of a person licensed by
26 the state to dispense, prescribe, or administer controlled substances.
27 It shall be the burden of the defense to show that it comes within
28 the exception. Any person convicted of violating this subdivision is
guilty of a misdemeanor and shall be sentenced to serve a term of
not less than 90 days or more than one year in a county jail. The
court may place a person convicted under this subdivision on
probation for a period not to exceed five years and, except as
provided in subdivision (c), shall in all cases in which probation is
granted require, as a condition thereof, that the person be confined
in a county jail for at least 90 days. Other than as provided by
subdivision (c), in no event shall the court have the power to
absolve a person who violates this subdivision from the obligation
of spending at least 90 days in confinement in a county jail.”

10. Section 11377 of the Health and Safety Code states, in pertinent part:

“(a) Except as authorized by law and as otherwise provided in subdivision (b) or
Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of

1 Division 2 of the Business and Professions Code, every person who possesses any
2 controlled substance which is (1) classified in Schedule III, IV, or V, and which is
3 not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
4 paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
5 (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
6 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of
7 Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
8 veterinarian, licensed to practice in this state, shall be punished by imprisonment
9 in a county jail for a period of not more than one year or in the state prison.”

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(Dangerous Use of Drugs)**

12 11. Respondent's application is subject to denial under sections 480, subdivision (a)(3)
13 and 4300, subdivision (c) of the Code, as defined by section 4301, subdivision (h) of the Code,
14 for unprofessional conduct in that Respondent used a controlled substance, to wit,
15 methamphetamine, in a manner dangerous to himself or the public. The circumstances are as
16 follows:

17 12. On or about March 16, 2007, around 5:56 p.m., Officers with the Simi Valley Police
18 Department initiated a traffic enforcement stop on Respondent's vehicle after they observed him
19 cross the double yellow lines. Once the officers approached Respondent's vehicle, they observed
20 Respondent was speaking rapidly, his hands were shaky, and he was rapidly shifting a piece of
21 paper from one hand to the other. The officers initiated an evaluation of Respondent to determine
22 if he was under the influence of a central nervous system stimulant. As a result of the testing,
23 officers found Respondent's pulse elevated to 120 beats per minute, observed visible and
24 pronounced carotid pulse in his neck, and noticed that his pupils were slightly dilated with a slow
25 reaction to light. Officers determined that a drug test was necessary. Respondent, however,
26 refused all chemical tests and ultimately, a forced blood draw was performed. Respondent's
27 blood tested positive for methamphetamine.

28 **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:

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1. Denying the application of Steven John Pimental for a Pharmacy Technician Registration Applicant;
2. 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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