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

In the Matter of the Accusation Against:

Case No. 4320

ANTHONY T. ROMERO

1054 W. 12th Street San Pedro, CA 90731

Pharmacy Technician Registration No. TCH 68632

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 May 31, 2013.

It is so ORDERED on May 1, 2013.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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Ву

STANLEY C. WEISSER Board President

1	Kamala D. Harris		
2	Attorney General of California GLORIA A. BARRIOS		
3	Supervising Deputy Attorney General Michael Brown		
4	Deputy Attorney General State Bar No. 231237		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2095 Facsimile: (213) 897-2804		
7	E-mail: MichaelB.Brown@doj.ca.gov Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against: Case No. 4320		
12	ANTHONY T. ROMERO		
13	San Pedro, CA 90731 STIPULATED SURRENDER OF		
14	Pharmacy Technician Registration No. TCH LICENSE AND ORDER 68632		
15	Respondent.		
16			
17	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this		
18	proceeding that the following matters are true:		
19	<u>PARTIES</u>		
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 Kamala		
22	D. Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney		
23	General.		
24	2. Anthony T. Romero (Respondent) is representing himself in this proceeding and has		
25	chosen not to exercise his right to be represented by counsel.		
26	3. On or about April 18, 2006, the Board of Pharmacy issued Pharmacy Technician		
27	Registration No. TCH 68632 to Anthony T. Romero (Respondent). The Pharmacy Technician		
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Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4320 and will expire on September 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 4320 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 27, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4320 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in Accusation No. 4320. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4320, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician Registration No. TCH 68632 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician Registration without further process.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 68632, issued to Respondent Anthony T. Romero, is surrendered and accepted by the Board of Pharmacy.

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

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- 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.
- 4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 4320 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$1,872.50 prior to issuance of a new or reinstated license.
- 6. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Pharmacy Decision and Order. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by Respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

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1	DATED: 2.23:13	Chlore Tomero
2		ANTHONY T. KOMERO Respondent
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4	ENDO	RSEMENT
5	The foregoing Stipulated Surrender of Li	icense and Order is hereby respectfully submitted
6	for consideration by the Board of Pharmacy of	the Department of Consumer Affairs.
7	Dated: February 23, 2013	Respectfully submitted,
8		Kamala D. Harris
. 9		Attorney General of California GLORIA A. BARRIOS
10	1	Supervising Deputy Attorney General
11		MAL
12		MICHAEL BROWN
13		Deputy Attorney General Attorneys for Complainant
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Exhibit A

Accusation No. 4320

1	KAMALA D. HARRIS		
2	GLORIA A. BARRIOS Supervising Deputy Attorney General		
3	MICHAEL BROWN Deputy Attorney General		
4	State Bar No. 231237 300 So. Spring Street, Suite 1702		
5	Los Angeles, CA 90013		
6	Telephone: (213) 897-2095 Facsimile: (213) 897-2804 Attorneys for Complainant		
7	BEFORE THE		
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
9.	STATE OF CALIFORNIA		
10	In the Matter of the Accusation Against: Case No. 4320		
11.			
12	ANTHONY T. ROMERO ACCUSATION 1054 W. 12th Street		
	San Pedro, CA 90731		
13	Pharmacy Technician Registration No. TCH 68632		
14	Respondent.		
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16	Complainant alleges:		
17	PARTIES		
18	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
.19	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
20	2. On or about April 18, 2006, the Board of Pharmacy (Board) issued Pharmacy		
21	Technician Registration No. TCH 68632 to Anthony T. Romero (Respondent). The Pharmacy		
22	Technician Registration was in full force and effect at all times relevant to the charges brought		
23	herein and will expire on September 30, 2013, unless renewed.		
24	<u>JURISDICTION</u>		
25	3. This Accusation is brought before the Board under the authority of the following		
26	laws. All section references are to the Business and Professions Code unless otherwise indicated.		
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STATUTORY PROVISIONS

- 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 490 states, in pertinent part:
- "(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- "(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."
- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
 - 7. Section 4301 states, in pertinent parf:

"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:

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"(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."

"(1)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

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

"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

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licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

9. Section 125.3 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.

10. CONTROLLED SUBSTANCE

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under section 4301, subdivision (I) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. On or about January 20, 2011, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 12021, subdivision (a)(1) [felon in possession of a firearm] in the criminal proceeding entitled *The People of the State of California v. Anthony Tod Romero* (Super. Ct. Los Angeles County, 2011, No. NA087752). The Court sentenced Respondent to serve 16 months in State Prison and denied probation. The circumstances surrounding the conviction are that on or about January 10, 2011, Respondent was contacted by the Los Angeles Police Department. When asked if he was in possession of any firearms, Respondent replied, "Yes." The officer conducted a search of his person and found a Rossi, six-shot revolver that was unloaded.

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SECOND CAUSE FOR DISCIPLINE

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

- 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially benefit himself, or substantially injure another, as follows:
- a. <u>Gang Association:</u> On or about December 15, 2011, Respondent was contacted, by the Los Angeles Police Department, during a gang enforcement investigation. He was observed to be standing outside of 678 W. 16th Street, #2, a known Rancho San Pedro gang hangout. Respondent is a documented Rancho San Pedro gang member on parole for a weapons charge. Officers conducted a probation stop and subsequently arrested Respondent for violating Penal Code section 3056 [Violation of parole: gang association].
- b. Felon in Possession of a Firearm: On or about January 10, 2011, Respondent was arrested for violating Penal Code section 12021, subdivision (a)(1) [felon in possession of a firearm]. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

DISCIPLINARY CONSIDERATION

- 13. In order to determine the degree of discipline, if any to be imposed on Respondent, Complainant alleges, as follows:
 - a. On or about March 3, 2010, the Board issued a Letter of Admonishment.
- b. On or about September 13, 2009, Respondent failed to disclose his 2009 conviction case against him on his renewal application.
- c. On or about May 15, 2009, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 12031, subdivision (a)(1) [carrying a loaded firearm] in the criminal proceeding entitled *The People of the State of California v. Anthony Tod Romero* (Super. Ct. Los Angeles County, 2009, No. NA081710). The Court sentenced Respondent to serve 2 days in Los Angeles County Jail and placed him on 3 years probation, with terms and conditions. The circumstances surrounding the conviction are that on or about

1	April 9, 2009, during an investigation by the Los Angeles Police Department, Respondent was		
2	contacted. The officers detected a strong smell of Marijuana as they approached Respondent.		
3	When asked what he was doing, Respondent stated, "just finished smoking some weed sir."		
4	When asked if there was any Marijuana on his person or the vehicle, Respondent told the officer		
5	there was a "roach" in the ashtray. During a search of the vehicle, the officer recovered the burn		
6	Marijuana cigarette from the ashtray and a small black semi-automatic handgun from the rear or		
. 7	the vehicle, which belonged to Respondent. Respondent was subsequently arrested for violating		
8	Penal Code section 12031, subdivision (a)(1) [carrying a loaded firearm].		
9	PRAYER		
10	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
11	and that following the hearing, the Board issue a decision:		
12.	1. Revoking or suspending Pharmacy Technician Registration No. TCH 68632, issued		
13	to Respondent;		
14.	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and		
15	enforcement of this case, pursuant to section 125.3;		
16	3. Taking such other and further action as deemed necessary and proper.		
17	DATED: 11/19/12		
18	VIRGINIA HEROLD		
19	Executive Officer Board of Pharmacy Board of Consumer Affician		
20	Department of Consumer Affairs State of California		
21	Complainant		
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