

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

In the Matter of the Petition to Revoke Probation  
Against:

Case No. 4541

OAH No. 2013100485

**MIKE DUC CHAU**  
301 S. Fremont Ave. #A  
Alhambra, CA 91801

Pharmacy Technician Registration No.  
TCH 89969

Respondent.

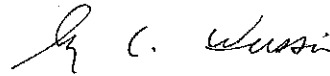
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge 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 4, 2014.

It is so ORDERED on August 5, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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

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

In the Matter of the Petition to Revoke  
Probation Against:

MIKE DUC CHAU

Pharmacy Technician Registration  
No. TCH 89969,

Respondent.

Case No. 4541

OAH No. 2013100485

**PROPOSED DECISION**

Administrative Law Judge Angela Villegas, State of California, Office of Administrative Hearings, heard this matter on June 23, 2014, in Los Angeles, California.

Gillian E. Friedman, Deputy Attorney General, represented Complainant.

Respondent was present and represented himself.

Evidence was received, and the matter was submitted for decision, on June 23, 2014.

**FACTUAL FINDINGS**

1. Complainant Virginia Herold, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed the Petition to Revoke Probation (Petition) in her official capacity. Respondent filed a notice of defense requesting a hearing.

2. Respondent is registered with the Board as a pharmacy technician under number TCH 89969. The registration was issued on April 23, 2012, and expired on December 31, 2013. The Board has continuing jurisdiction pursuant to Business and Professions Code section 118, subdivision (b). Respondent's registration was issued under the terms of a stipulated settlement and Decision and Order (collectively, Settlement)<sup>1</sup> effective April 23, 2012. In the Settlement, Respondent admitted the truth of the facts

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<sup>1</sup> The Settlement resolved underlying Board case number 3889 (Office of Administrative Hearings no. L-2011050984), which involved a statement of issues.

alleged in the underlying statement of issues, which included Respondent's use of methamphetamine on April 5, 2008,<sup>2</sup> and a misdemeanor conviction under Penal Code section 415, subdivision 1 (public challenge to fight).<sup>3</sup> Respondent and his then-attorney both signed the Settlement, and at the administrative hearing in the present manner, Respondent acknowledged that his attorney had explained the Settlement to him.<sup>4</sup>

3. As provided by the Settlement, Respondent's registration was issued with probationary terms, including stayed revocation and an immediate suspension pending Respondent's certification, within one year, "as defined by Business and Professions Code section 4202(a)(4)[.]" (Exhibit 4.) The certification defined by Business and Professions Code section 4202, subdivision (a)(4), is conferred by the Pharmacy Technician Certification Board; it is a national certification obtained by passing an examination. (Testimony of Katherine Sill.) The suspension of Respondent's registration has never been lifted, because the condition required for lifting it has not been fulfilled. Respondent did not take the Pharmacy Technician Certification Board examination within one year, and he still has not done so.

4. Additional conditions of Respondent's probationary registration under the Settlement included the following:

(a) As Condition 2,<sup>5</sup> a requirement that Respondent "report to the board quarterly, on a schedule as directed by the board or its designee. . . . either in person or in writing, as directed." (Exhibit 4.)

(b) As Condition 3, a requirement that Respondent participate in Board interviews, "at such intervals and locations as are determined by the board or its designee[.]" and provide advance notice to the Board if unable to appear. (*Id.*)

(c) As Condition 14, a requirement that Respondent enroll and participate in a random drug screening program. (*Id.*)

(d) As Condition 18, a requirement that, within 60 days of the effective date of the Settlement (i.e., by June 22, 2012), Respondent "submit to the board or its

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<sup>2</sup> Respondent was charged in connection with the incident (Superior Court of California, County of Los Angeles, case number 8AH02345) and pled guilty, but his plea was set aside under the court's deferred entry of judgment program.

<sup>3</sup> Superior Court of California, County of Los Angeles, case number 7GL02622.

<sup>4</sup> Respondent spontaneously offered this information about his attorney-client communication.

<sup>5</sup> In one place, the Petition erroneously refers to this as condition 4. (Petition at p. 3, line 4.)

designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 25 hours per year for the first two (2) years of probation.” (*Id.*)

5. In the case of a probation violation, the Board was authorized to revoke the probation after notice and an opportunity for Respondent to be heard. (*Id.*; Condition 11.)

6. The Board sent Respondent letters on April 5, April 10, May 1, May 24, and August 6, 2012, reminding him of his obligations to meet with the Board (and specifying meeting times and locations), enroll in the drug testing program, and pass the Pharmacy Technician Certification Board examination.

7. Respondent failed to fulfill his obligations under probation Conditions 2, 3, 14, and 18. He did not appear for his initial meeting with the Board, and did not appear for a second meeting scheduled as a courtesy after Respondent’s non-appearance at the first meeting. He did not provide the Board with advance notice that he would not attend the meetings. Indeed, he did not contact the Board at all. He never provided any reports to the Board, and did not enroll or participate in the Board’s drug testing program. He did not furnish a community service plan. And, as noted above (cf. Factual Finding 3), he did not take the Pharmacy Technician Certification Board examination.

8. Respondent did not comply with the terms of probation because he was disappointed when his former attorney explained his obligations under the Settlement, which Respondent found daunting. Respondent was not able to afford the cost of complying with some probation terms, such as drug testing. Because Respondent felt defeated at that point, he did not open the Board’s correspondence until “a couple months” (Respondent’s testimony) after receiving it. By that time, deadlines had passed, and Respondent felt that he had “had [his] chance and bl[own] it.” (*Id.*) Respondent did not contact the Board to see if the situation could be salvaged.

9. In the meantime, Respondent underwent training to become a surgical technologist. He is not currently employed in that capacity, though he is seeking such employment. He works part time at a Ralphs grocery store. If he were able to begin his pharmacy technician probation anew, he feels that, this time, he could and would fulfill its terms. He would immediately arrange to take the Pharmacy Technician Certification Board examination, and he feels better able to afford the financial obligations of probation because his family has offered to help.

## LEGAL CONCLUSIONS

1. Complainant established cause to revoke Respondent’s probation and impose the stayed discipline of revocation against Respondent’s pharmacy technician registration, based on Respondent total failure to fulfill the conditions of his probation. (Factual Findings 3 – 8.) Respondent’s failure to comply with the terms of probation is substantially related to

the qualifications, functions, and duties of a registered pharmacy technician because it reflects on his ability and willingness to comply with legally binding directives, and thus “evidences present or potential unfitness . . . to perform the functions authorized by his . . . registration in a manner consistent with the public health, safety, or welfare.” (Cal. Code Regs., tit. 16 (Regulation), § 1770.)

2. Respondent’s showing was insufficient to avoid the revocation of his probation and registration. His wholesale failure even to attempt to fulfill the terms of his probation—a failure that continued until the day of the administrative hearing (Regulation §§ 1769, subd. (c)(3) and 1760; Disciplinary Guidelines (Rev. 10/2007) (Guidelines) at p. 3, (13))—as well as the underlying grounds for denying his registration (two instances of criminal behavior, one involving drugs), constitute serious misconduct (Regulation § 1769, subs. (c)(1), (c)(2), (c)(4); Guidelines at p. 3 (1), (3), (4), (6), (10), (11), (14), and (15)), and are grounds for revocation (Guidelines at pp. 5 – 18 and 44). (Factual Findings 2 – 8.) Respondent had no explanation for his inaction other than his “disappointment” at the onerousness of the Settlement and its concomitant financial obligations, which prompted him to avoid facing the issue until, as Respondent put it, he had “blown” his chance. (Factual Finding 8.) (Regulation § 1769, subd. (c)(4) and (c)(5); Guidelines at p. 3, (9) and (10).) Ignoring an unpleasant situation is neither a mature nor an effective response. Respondent had options other than ignoring his probation obligations, but either did not consider them or chose not to exercise them. For example, he could have attended the meetings and at least *asked* if payment terms could be arranged for the matters he found unaffordable. Even after realizing the deadlines had passed, Respondent could have contacted the Board to see if he could do something to salvage the situation, but once again, he did not. Respondent’s actions reflect no eagerness on his part to prove his willingness to do what was necessary to maintain his registration. On the contrary, they read as a rejection of the entire undertaking. Thus, even though Respondent has made some efforts at rehabilitation in the meantime (Factual Finding 9), such as education, and even though he feels his attitude toward probation has improved, in the end he could provide no assurance that his attitude toward his pharmacy technician or his probation obligations has fundamentally changed.

## ORDER

1. The probation of pharmacy technician registration number TCH 89969, issued to Respondent Mike Duc Chau, is revoked.

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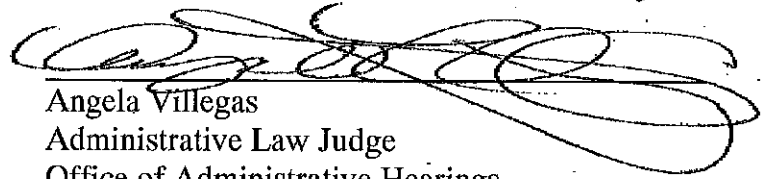
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2. Pharmacy technician registration number TCH 89969, issued to Respondent Mike Duc Chau, is also revoked. Respondent shall relinquish his pharmacy technician license to the Board within 10 days of the effective date of this Decision. Respondent may not reapply or petition the Board for reinstatement of his or her revoked technician license for three years from the effective date of this decision.

Dated: July 1, 2014



Angela Villegas  
Administrative Law Judge  
Office of Administrative Hearings

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

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

11 In the Matter of the Petition to Revoke  
12 Probation Against,

Case No. 4541

13 **MIKE DUC CHAU**  
14 **301 S. Fremont Ave., #A**  
**Alhambra, CA 91801**  
15 **Pharmacy Technician Registration No. TCH**  
**89969**

PETITION TO REVOKE PROBATION

16 Respondent.  
17

18  
19 Complainant alleges:

20 PARTIES

21 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation 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 23, 2012, the Board of Pharmacy issued Pharmacy Technician  
25 Registration Number TCH 89969 to Mike Duc Chau (Respondent). The Pharmacy Technician  
26 Registration was in effect at all times relevant to the charges brought herein and will expire on  
27 December 31, 2013, unless renewed.

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FIRST CAUSE TO REVOKE PROBATION

(Failure to Report to Board)

8. At all times after the effective date of Respondent's probation, Condition 2 stated:

**4. Report to the Board**

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

9. Respondent's probation is subject to revocation because he failed to comply with

Probation Condition 2, Failure to Report Quarterly to Board, referenced above. The facts and circumstances regarding this violation are that to date, no quarterly reports have been received by the Board.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Appear for Interviews with the Board)

10. At all times after the effective date of Respondent's probation, Condition 3 stated:

**3. Interview with the Board**

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

11. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 3, referenced above. The facts and circumstances regarding this violation are that Respondent failed to appear before the Board as scheduled on two separate occasions as required by Term 3 of the terms and conditions of probation. Respondent did not contact the Board regarding his failure to appear at each of the conferences.

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THIRD CAUSE TO REVOKE PROBATION

(Failure to Participate in Random Drug Screening)

12. At all times after the effective date of Respondent's probation, Condition 14 stated:

**14. Random Drug Screening**

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

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

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order. Failure to comply with this suspension shall be considered a violation of probation.

13. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 14, referenced above. The facts and circumstances regarding this violation are that Respondent failed to enroll in and participate in the Board's random drug screening program.

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**Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 3889**

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

In the Matter of the Statement of Issues Against:

Case No. 3889

**MIKE DUC CHAU  
AKA MIKE VU CHAU  
AKA VU DUC CHAU  
301 S. Fremont Ave., #A  
Alhambra, CA 91801  
Pharmacy Technician Application**

**OAH NO.: L-2011050984  
STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

Respondent.

**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

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

Case No. 3889

11 Against:

12 **MIKE DUC CHAU**  
13 **AKA MIKE VU CHAU**  
**AKA VU DUC CHAU**  
14 301 S. Fremont Ave., #A  
Alhambra, CA 91801  
15 Pharmacy Technician Application

OAH No. L-2011050984  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

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

25 2. Respondent Mike Duc Chau aka Mike Vu Chau aka Vu Duc Chau (Respondent) is  
26 represented in this proceeding by attorney James Victor Kosnett, Esq., whose address is: James  
27 Victor Kosnett, Esq., Law Offices of Kosnett & Durchfort 11355 West Olympic Blvd., Suite 300,  
28 Los Angeles, CA 90064.









1           **1. Obey All Laws**

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

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

- 5            an arrest or issuance of a criminal complaint for violation of any provision of the  
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
7 substances laws
- 8            a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
9 criminal complaint, information or indictment
- 10           a conviction of any crime
- 11           discipline, citation, or other administrative action filed by any state or federal agency  
12 which involves respondent's Registration as a Pharmacy Technician or which is  
13 related to the practice of pharmacy or the manufacturing, obtaining, handling,  
14 distributing, billing, or charging for any drug, device or controlled substance.

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

16           **2. Report to the Board**

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

25           **3. Interview with the Board**

26          Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
27 with the board or its designee, at such intervals and locations as are determined by the board or its  
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear at two (2) or more scheduled interviews with the board or its designee during  
2 the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's  
5 monitoring and investigation of respondent's compliance with the terms and conditions of his  
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Notice to Employers**

8 During the period of probation, respondent shall notify all present and prospective  
9 employers of the decision in case number 3889 and the terms, conditions and restrictions imposed  
10 on respondent by the decision, as follows:

11 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
12 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
13 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
14 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
15 individual(s) has/have read the decision in case number 3889 and the terms and conditions  
16 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or  
17 supervisor(s) submit timely acknowledgement(s) to the board.

18 If respondent works for or is employed by or through a pharmacy employment service,  
19 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
20 of the terms and conditions of the decision in case number 3889 in advance of the respondent  
21 commencing work at each pharmacy. A record of this notification must be provided to the board  
22 upon request.

23 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
24 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
25 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
26 report to the board in writing acknowledging that he has read the decision in case number 3889  
27 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
28 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

4 "Employment" within the meaning of this provision shall include any full-time,  
5 part-time, temporary or relief service or pharmacy management service as a pharmacy  
6 technician or in any position for which a pharmacy technician license is a requirement  
7 or criterion for employment, whether the respondent is considered an employee,  
8 independent contractor or volunteer.

9 **6. Probation Monitoring Costs**

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

14 **7. Status of License**

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

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

22 **8. License Surrender While on Probation/Suspension**

23 Following the effective date of this decision, should respondent cease work due to  
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
25 respondent may tender his pharmacy technician license to the board for surrender. The board or  
26 its designee shall have the discretion whether to grant the request for surrender or take any other  
27 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
28 license, respondent will no longer be subject to the terms and conditions of probation. This

1 surrender constitutes a record of discipline and shall become a part of the respondent's license  
2 history with the board.

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

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

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

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

18       **10. Tolling of Probation**

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

25       Should respondent, regardless of residency, for any reason (including vacation) cease  
26 working as a pharmacy technician for a minimum of 20 hours per calendar month in California,  
27 respondent must notify the board in writing within ten (10) days of cessation of work and must  
28 further notify the board in writing within ten (10) days of the resumption of the work. Any

1 failure to provide such notification(s) shall be considered a violation of probation.

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

5 "Cessation of work" means calendar month during which respondent is not  
6 working for at least 20 hours as a pharmacy technician, as defined in Business and  
7 Professions Code section 4115. "Resumption of work" means any calendar month  
8 during which respondent is working as a pharmacy technician for at least 20 hours as  
9 a pharmacy technician as defined by Business and Professions Code section 4115.

10 **11. Violation of Probation**

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

16 If respondent violates probation in any respect, the board, after giving respondent notice  
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
18 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
19 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
20 a petition to revoke probation or an accusation is filed against respondent during probation, the  
21 board shall have continuing jurisdiction, and the period of probation shall be automatically  
22 extended until the petition to revoke probation or accusation is heard and decided.

23 **12. Completion of Probation**

24 Upon written notice by the board indicating successful completion of probation,  
25 respondent's pharmacy technician license will be fully restored.

26 **No Ownership of Licensed Premises**

27 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
28 administrator, member, officer, director, trustee, associate, or partner of any business, firm,

1 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
2 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
3 days following the effective date of this decision and shall immediately thereafter provide written  
4 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
5 documentation thereof shall be considered a violation of probation.

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

7 At any time during the period of probation, if respondent has a positive drug screen for any  
8 substance not legally authorized, respondent shall begin regular attendance at a recognized and  
9 established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous,  
10 Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent  
11 must attend at least one group meeting per week unless otherwise directed by the board or its  
12 designee. Respondent shall continue regular attendance and submit signed and dated  
13 documentation confirming attendance with each quarterly report for the duration of probation.  
14 Failure to attend or submit documentation thereof shall be considered a violation of probation.

15 **14. Random Drug Screening**

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

1 shall be considered a violation of probation and shall result in the automatic suspension of work  
2 by respondent. Respondent may not resume work as a pharmacy technician until notified by the  
3 board in writing.

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

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

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

17 **15. Work Site Monitor**

18 Within ten (10) days of the effective date of this decision, respondent shall identify a work  
19 site monitor, for prior approval by the board, who shall be responsible for supervising respondent  
20 during working hours. Respondent shall be responsible for ensuring that the work site monitor  
21 reports in writing to the board quarterly. Should the designated work site monitor determine at  
22 any time during the probationary period that respondent has not maintained sobriety, he shall  
23 notify the board immediately, either orally or in writing as directed. Should respondent change  
24 employment, a new work site monitor must be designated, for prior approval by the board, within  
25 ten (10) days of commencing new employment. Failure to identify an acceptable initial or  
26 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be  
27 considered a violation of probation.

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**16. Notification of Departure**

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

**17. Abstain from Drugs and Alcohol Use**

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

**18. Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 25 hours per year for the first two (2) years of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.



**Exhibit A**

**Statement of Issues No. 3889**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 MICHEL W. VALENTINE  
Deputy Attorney General  
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300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Statement of Issues  
Against:

Case No. 3889

12 **MIKE DUC CHAU**  
13 **aka MIKE VU CHAU**  
**aka VU DUC CHAU**  
14 301 S. Fremont Ave., #A  
Alhambra, CA 91801

**STATEMENT OF ISSUES**

15 Pharmacy Technician Application

16 Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs  
23 (Board),

24 2. On or about February 10, 2009, the Board received an application for registration as a  
25 Pharmacy Technician from Mike Duc Chau aka Mike Vu Chau aka Vu Duc Chau (Respondent).  
26 On or about January 30, 2009, Respondent certified under penalty of perjury to the truthfulness of  
27 all statements, answers, and representations in the application. The Board denied the application  
28 on July 2, 2010.



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, that "unprofessional conduct" is defined to  
6 include, but not be limited to, any of the following:

7           . . . .

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

11          . . . .

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

17          . . . .

18          "(j) The violation of any of the statutes of this state, of any other state, or of the United  
19 States regulating controlled substances and dangerous drugs.

20          . . . .

21          "(l) The conviction of a crime substantially related to the qualifications, functions and  
22 duties of a licensee. . . The board may inquire into the circumstances surrounding the commission  
23 of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving  
24 controlled substances or dangerous drugs, to determine if the conviction is of an offense  
25 substantially related to the qualifications, functions, and duties of a licensee under this  
26 chapter. . . ."

27          ///

28          ///

1 REGULATORY PROVISIONS

2 8. California Code of Regulations, title 16, section 1770, states:

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

9 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

10 9. Methamphetamine is a Schedule II controlled substance as designated by Health and  
11 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
12 section 4022.

13 FIRST CAUSE FOR DENIAL OF APPLICATION

14 (Conviction of a Crime)

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

20 a. On or about August 15, 1997, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Penal Code section 415(1) [challenge to fight in  
22 public] in the criminal proceeding entitled *The People of the State of California v. Vu Duc Chau*  
23 (Super. Ct. Los Angeles County, 1997, No. 7GL02622). The Court placed Respondent on two (2)  
24 years of summary probation, and ordered Respondent to pay a fine of \$810.00, or in lieu of fine  
25 complete 125 hours of community service. In addition, the Court issued a restraining order,  
26 ordering Respondent to stay away from Glendale Galleria. On or about October 22, 2003, the  
27 Court ordered the matter dismissed pursuant to Penal Code section 1203.4.

28 ///



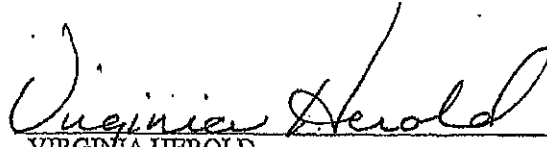


PRAYER

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

1. Denying Mike Duc Chau's Pharmacy Technician Application; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/11



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

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