

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

In the Matter of the Statement of Issues Against:

Case No. 4509

SAMUEL STEVEN SOLORIO

25 El Nido Avenue Apt. 6
Pasadena, CA 91107

Pharmacy Technician Registration Applicant

Respondent.

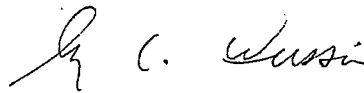
DECISION AND ORDER

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 May 8, 2013.

It is so ORDERED on April 8, 2013.

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 GREGORY J. SALUTE
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Attorneys for Complainant

7
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. 4509

12 **SAMUEL STEVEN SOLORIO**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 25 El Nido Avenue Apt. 6
14 Pasadena, CA 91107

15 Pharmacy Technician Registration

16 Respondent.

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

23 **PARTIES**

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
25 She brought this action solely in her official capacity and is represented in this matter by Kamala
26 D. Harris, Attorney General of the State of California, by Katherine Messana, Deputy Attorney
27 General.

28 ///

1 2. Respondent Samuel Steven Solorio (Respondent) is representing himself in this
2 proceeding and has chosen not to exercise his right to be represented by counsel.

3 3. On or about March 7, 2012, Respondent filed an application for registration as a
4 pharmacy technician dated March 4, 2012, with the Board of Pharmacy.

5 **JURISDICTION**

6 4. Statement of Issues No. 4509 was filed before the Board of Pharmacy (Board),
7 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
8 Issues and all other statutorily required documents were properly served on Respondent on
9 February 21, 2013.

10 5. A copy of Statement of Issues No. 4509 is attached as Exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, and understands the charges and allegations in
14 Statement of Issues No. 4509. Respondent has also carefully read, and understands the effects of
15 this Stipulated Settlement and Disciplinary Order.

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

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 9. Respondent admits the truth of each and every charge and allegation in Statement of
27 Issues No. 4509.

28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Respondent Samuel Steven Solorio that Pharmacy
3 Technician Registration will be issued and immediately revoked. The revocation will be stayed
4 and the Respondent placed on five (5) years probation on the following terms and conditions.

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

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

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

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

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

24 **2. Obey All Laws**

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

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

28 an arrest or issuance of a criminal complaint for violation of any provision of the

1 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
2 substances laws

- 3 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
4 criminal complaint, information or indictment
- 5 a conviction of any crime
- 6 discipline, citation, or other administrative action filed by any state or federal agency
7 which involves respondent's pharmacy technician license or which is related to the
8 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
9 or charging for any drug, device or controlled substance.

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

11 **3. Report to the Board**

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

20 **4. Interview with the Board**

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

26 **5. Cooperate with Board Staff**

27 Respondent shall cooperate with the board's inspection program and with the board's
28 monitoring and investigation of respondent's compliance with the terms and conditions of his

1 probation. Failure to cooperate shall be considered a violation of probation.

2 **6. Notice to Employers**

3 During the period of probation, respondent shall notify all present and prospective
4 employers of the decision in case number 4509 and the terms, conditions and restrictions imposed
5 on respondent by the decision, as follows:

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
7 respondent undertaking any new employment, respondent shall cause his direct supervisor,
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
9 tenure of employment) and owner to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in case number 4509 and the terms and conditions
11 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
12 supervisor(s) submit timely acknowledgement(s) to the board.

13 If respondent works for or is employed by or through a pharmacy employment service,
14 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
15 of the terms and conditions of the decision in case number 4509 in advance of the respondent
16 commencing work at each pharmacy. A record of this notification must be provided to the board
17 upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through a pharmacy employment
20 service, respondent shall cause his direct supervisor with the pharmacy employment service to
21 report to the board in writing acknowledging that he has read the decision in case number 4509
22 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
23 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

27 "Employment" within the meaning of this provision shall include any full-time,
28 part-time, temporary or relief service or pharmacy management service as a pharmacy

1 technician or in any position for which a pharmacy technician license is a requirement
2 or criterion for employment, whether the respondent is considered an employee,
3 independent contractor or volunteer.

4 **7. Probation Monitoring Costs**

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

9 **8. Status of License**

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

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

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

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

26 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
27 license to the board within ten (10) days of notification by the board that the surrender is
28 accepted. Respondent may not reapply for any license, permit, or registration from the board for

1 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
2 applicable to the license sought as of the date the application for that license is submitted to the
3 board.

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

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

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

13 **11. Tolling of Probation**

14 Except during periods of suspension, respondent shall, at all times while on probation, be
15 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
16 Any month during which this minimum is not met shall toll the period of probation, i.e., the
17 period of probation shall be extended by one month for each month during which this minimum is
18 not met. During any such period of tolling of probation, respondent must nonetheless comply
19 with all terms and conditions of probation.

20 Should respondent, regardless of residency, for any reason (including vacation) cease
21 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
22 respondent must notify the board in writing within ten (10) days of cessation of work and must
23 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
24 to provide such notification(s) shall be considered a violation of probation.

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

28 "Cessation of work" means calendar month during which respondent is not

1 working for at least 40 hours as a pharmacy technician, as defined in Business and
2 Professions Code section 4115. "Resumption of work" means any calendar month
3 during which respondent is working as a pharmacy technician for at least 40 hours as
4 a pharmacy technician as defined by Business and Professions Code section 4115.

5 **12. Violation of Probation**

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

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

18 **13. Completion of Probation**

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

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

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

1 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
2 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
3 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
4 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
5 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
6 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
7 that interest, but only to the extent of that position or interest as of the effective of this decision.
8 Violation of this restriction shall be considered a violation of probation.

9 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

10 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
11 attendance at a recognized and established substance abuse recovery support group in California,
12 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
13 or its designee. Respondent must attend at least one group meeting per week unless otherwise
14 directed by the board or its designee. Respondent shall continue regular attendance and submit
15 signed and dated documentation confirming attendance with each quarterly report for the duration
16 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
17 probation.

18 **16. Random Drug Screening**

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

1 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
2 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
3 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
4 shall be considered a violation of probation and shall result in the automatic suspension of work
5 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
6 board in writing.

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

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

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

20 **17. Work Site Monitor**

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

1 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
2 considered a violation of probation.

3 **18. Notification of Departure**

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

8 **19. Abstain from Drugs and Alcohol Use**

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

20 **20. Prescription Coordination and Monitoring of Prescription Use**

21 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
22 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
23 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
24 history with the use of alcohol and who will coordinate and monitor any prescriptions for
25 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
26 practitioner shall be provided with a copy of the board's statement of issues and decision. A
27 record of this notification must be provided to the board upon request. Respondent shall sign a
28 release authorizing the practitioner to communicate with the board about Respondent's

1 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
2 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
3 compliance with this condition. If any substances considered addictive have been prescribed, the
4 report shall identify a program for the time limited use of any such substances. The board may
5 require that the single coordinating physician, nurse practitioner, physician assistant or
6 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
7 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
8 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the
9 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
10 respondent's choice to the board or its designee for its prior approval. Failure to timely submit
11 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
12 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

13 If at any time an approved practitioner determines that respondent is unable to practice
14 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
15 telephone and follow up by written letter within three (3) working days. Upon notification from
16 the board or its designee of this determination, respondent shall be automatically suspended and
17 shall not resume practice until notified by the board that practice may be resumed.

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

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

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

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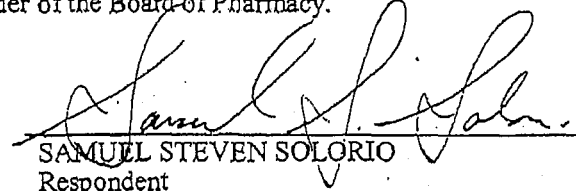
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ACCEPTANCE

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

DATED: 3/12/13 
SAMUEL STEVEN SOLORIO
Respondent

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:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


KATHERINE MESSANA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 4509

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
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7 *Attorneys for Complainant*

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

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

Case No. 4509

13 **SAMUEL STEVEN SOLORIO**

STATEMENT OF ISSUES

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about March 7, 2012, the Board of Pharmacy ("Board") received an application
21 for registration as a Pharmacy Technician from Samuel Steven Solorio ("Respondent"). On or
22 about March 4, 2012, Respondent certified under penalty of perjury to the truthfulness of all
23 statements, answers, and representations in the application. The Board denied the application on
24 October 26, 2012.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code ("Code") unless
28 otherwise indicated.

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4. Section 480 states, in pertinent part:

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

(1) Been convicted of a crime. 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.

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

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.”

5. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocations.

6. Section 4301 states, in pertinent part:

“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:

...

(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.

...

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

1
2 (k) The conviction of more than one misdemeanor or any felony
3 involving the use, consumption, or self-administration of any dangerous drug or
4 alcoholic beverage, or any combination of those substances.

5 (l) The conviction of a crime substantially related to the qualifications,
6 functions, and duties of a licensee under this chapter. The record of conviction of a
7 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
8 States Code regulating controlled substances or of a violation of the statutes of this
9 state regulating controlled substances or dangerous drugs shall be conclusive
10 evidence of unprofessional conduct. In all other cases, the record of conviction shall
11 be conclusive evidence only of the fact that the conviction occurred. The board may
12 inquire into the circumstances surrounding the commission of the crime, in order to
13 fix the degree of discipline or, in the case of a conviction not involving controlled
14 substances or dangerous drugs, to determine if the conviction is of an offense
15 substantially related to the qualifications, functions, and duties of a licensee under this
16 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
17 contendere is deemed to be a conviction within the meaning of this provision. The
18 board may take action when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under
21 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
22 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
23 dismissing the accusation, information, or indictment.

24 ...
25 (o) Violating or attempting to violate, directly or indirectly, or assisting
26 in or abetting the violation of or conspiring to violate any provision or term of this
27 chapter or of the applicable federal and state laws and regulations governing
28 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.”

7. Section 490 states, in pertinent part:

19 “(a) In addition to any other action that a board is permitted to take
20 against a licensee, a board may suspend or revoke a license on the ground that the
21 licensee has been convicted of a crime, if the crime is substantially related to the
22 qualifications, functions, or duties of the business or profession for which the license
23 was issued.

24 (b) Notwithstanding any other provision of law, a board may exercise
25 any authority to discipline a licensee for conviction of a crime that is independent of
26 the authority granted under subdivision (a) only if the crime is substantially related to
27 the qualifications, functions, or duties of the business or profession for which the
28 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.”

1 **REGULATORY PROVISION**

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

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

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(Conviction of Substantially Related Crimes)**

9 9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
10 the Code in conjunction with California Code of Regulations, title 16, section 1770 in that
11 Respondent was convicted of crimes substantially related to the qualifications, functions and
12 duties of a pharmacy technician, as follows:

13 10. On or about June 30, 2005, Respondent pled nolo contendere to and was convicted of
14 one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having 0.08%
15 or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the*
16 *State of California v. Samuel Solorio* (Super. Ct. Los Angeles County, 2005, Case No.
17 SMT05809). The court sentenced Respondent to serve 2 days in Los Angeles County Jail and
18 placed him on probation for thirty-six (36) months, with terms and conditions. The court
19 acknowledged that the Blood Alcohol Content ("BAC") test showed a BAC of 0.25%. The
20 circumstances underlying the conviction are that on or about June 4, 2005, Los Angeles Police
21 Department Officers ("Officers") conducted a traffic stop on a vehicle driven by Respondent.
22 While speaking to Respondent, Officers observed Respondent to have the objective symptoms of
23 intoxication. When asked to exit the vehicle Officers observed Respondent stumbled out of the
24 car. Officers placed Respondent in handcuffs and Respondent attempted to run away from the
25 scene with the handcuffs behind his arms. During the booking procedure, Respondent submitted
26 to blood test that resulted in a blood-alcohol content level of 0.25%.

27 11. On or about July 17, 2008, Respondent pled guilty to one misdemeanor count of
28 violating Vehicle Code section 10851, subdivision (a) [drive vehicle without owner's consent] in

1 the criminal proceeding entitled *The People of the State of California v. Samuel Steven Solorio*
2 (Super. Ct. Los Angeles County, 2008, Case No. GA073752). On or about January 21, 2009, the
3 court sentenced Respondent to serve 205 days in Los Angeles County Jail and placed Respondent
4 on probation for three (3) years, with terms and conditions. The circumstances underlying the
5 conviction are that on or about June 24, 2008, Respondent took a car that did not belong to him
6 without the consent of the owner.

7 12. On or about June 19, 2009, Respondent pled nolo contendere to and was convicted of
8 one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having 0.08%
9 or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the*
10 *State of California v. Samuel Steven Solorio* (Super. Ct. Los Angeles County, 2009, Case No.
11 9MP07203). The court sentenced Respondent to serve 45 days in Los Angeles County Jail and
12 placed him on probation for a period of sixty (60) months, with terms and conditions. The
13 circumstances underlying the conviction are that on or about June 17, 2009, during an
14 investigation of a single vehicle collision by the California Highway Patrol Department,
15 Respondent was contacted. While speaking to the Respondent, the officer detected an odor of an
16 alcoholic beverage emitting from his breath. Respondent admitted to consuming some alcoholic
17 beverages. During the booking procedure, Respondent submitted to a breath test that resulted in a
18 0.19% BAC on the first reading and 0.20% BAC on the second reading.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Act Involving Dishonesty, Fraud, or Deceit)**

21 13. Respondent's application is subject to denial under section 480, subdivision (a)(2) of
22 the Code, in that Respondent committed an act involving dishonesty, fraud, or deceit with the
23 intent to substantially benefit himself, or substantially injure another when he took a vehicle
24 without the owner's consent. The act is described in more particularity in paragraph 11 above,
25 inclusive and hereby incorporated by reference.

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1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Conduct Warranting Discipline of Licensee)**

3 14. Respondent's application is subject to denial under section 480, subdivision (a)(3) of
4 the Code, in that Respondent committed acts which if done by a licentiate of the business and
5 profession in question, would be grounds for suspension or revocation of his license, as follows:

6 15. Respondent was convicted of crimes substantially related to the qualifications,
7 functions, or duties of a pharmacy technician which to a substantial degree evidence his present
8 or potential unfitness to perform the functions authorized by his license in a manner consistent
9 with the public health, safety, or welfare, in violation of section 4031, subdivision (l) and section
10 490 of the Code in conjunction with California Code of Regulations, title 16, section 1770. The
11 convictions are described in more particularity in paragraphs 10 through 12 above, inclusive and
12 hereby incorporated by reference.

13 16. Respondent committed an act involving dishonesty, fraud or deceit in violation of
14 section 4301, subdivision (f) of the Code. The dishonest acts are described in more particularity
15 in paragraph 11 above, inclusive and hereby incorporated by reference.

16 17. Respondent used alcoholic beverages to an extent or in a manner dangerous or
17 injurious to himself, others and the public, in violation of section 4301, subdivision (h) of the
18 Code. The dangerous use is described in more particularity in paragraphs 10 and 12 above,
19 inclusive and hereby incorporated by reference.

20 18. Respondent was criminally convicted of two misdemeanors involving the use,
21 consumption and self-administration of alcoholic beverages in violation of section 4301,
22 subdivision (k) of the Code. The convictions are described in more particularity in paragraphs 10
23 and 12 above, inclusive and hereby incorporated by reference.

24 19. Respondent violated provisions of the licensing chapter in violation of section 4301,
25 subdivision (o) of the Code. The violations are described in more particularity in paragraphs 14
26 through 18 above, inclusive and hereby incorporated by reference.

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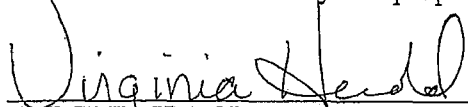
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PRAYER

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

1. Denying the application of Samuel Steven Solorio for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 2/12/13



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

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