

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

In the Matter of the Accusation Against:

Case No. 5651

BRANDON EUGENE HIGHTOWER
P.O. Box 1036
Helendale, CA 92342
**Pharmacy Technician Registration No. TCH
135312**

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 at 5:00 p.m. on July 8, 2016.

It is so ORDERED on June 8, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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7 *Attorneys for Complainant*

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

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14 **P.O. Box 1036**
15 **Helendale, CA 92342**
16 **Pharmacy Technician Registration No. TCH**
17 **135312**

STIPULATED SURRENDER OF
LICENSE AND ORDER

Respondent.

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 Linda L. Sun, Supervising Deputy
24 Attorney General.

25 2. Brandon Eugene Hightower (Respondent) is representing himself in this proceeding
26 and has chosen not to exercise his right to be represented by counsel.

27 3. On or about October 28, 2013, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 135312 to Brandon Eugene Hightower (Respondent). The Pharmacy
Technician Registration expired on August 31, 2015, and has not been renewed.

1 communicate directly with the Board regarding this stipulation and surrender, without notice to or
2 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
3 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Surrender of License and Order, including Portable Document Format
10 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

11 12. This Stipulated Surrender of License and Order is intended by the parties to be an
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
14 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
15 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
16 executed by an authorized representative of each of the parties.

17 13. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following Order:

19 **ORDER**

20 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 135312,
21 issued to Respondent Brandon Eugene Hightower, is surrendered and accepted by the Board of
22 Pharmacy.

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

27 2. Respondent shall lose all rights and privileges as a pharmacy technician in California
28 as of the effective date of the Board's Decision and Order.

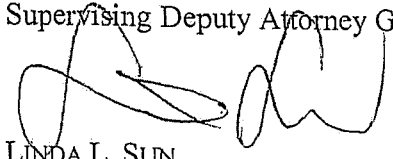
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ENDORSEMENT

The foregoing Stipulated Surrender of License and 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
LINDA L. SUN
Supervising Deputy Attorney General



LINDA L. SUN
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5651

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2 LINDA K. SCHNEIDER
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8 **BEFORE THE**
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12 **BRANDON EUGENE HIGHTOWER**
13 **P.O. Box 1036**
Helendale, CA 92342
14 **Pharmacy Technician Registration No. TCH**
15 **135312**
16 Respondent.

Case No. 5651

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
21 Affairs.

22 2. On October 28, 2013, the Board issued Pharmacy Technician Registration
23 Number TCH 135312 to Brandon Eugene Hightower (Respondent). The Pharmacy Technician
24 Registration expired on August 31, 2015, and has not been renewed.

25 **JURISDICTION**

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

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

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REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1769, states:

...
(b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been
convicted of a crime, the board, in evaluating the rehabilitation of such person and
his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or
offense(s).
- (4) Whether the licensee has complied with all terms of parole,
probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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 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

10. Code section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations

1 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
3 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
4 may be included in a stipulated settlement.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Sep. 29, 2015 Conviction for Driving with a BAC of .08% or More on March 12, 2015)**

7 11. Respondent has subjected his Pharmacy Technician Registration to discipline
8 under Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that is
9 substantially related to the qualifications, functions, and duties of a registered pharmacy
10 technician. The circumstances are as follows:

11 a. On September 29, 2015, in a criminal proceeding entitled *The People of*
12 *the State of California v. Brandon Eugene Hightower*, in the San Bernardino County Superior
13 Court, San Bernardino Justice Center, Court Case Number TSB1501382, Respondent was
14 convicted on his plea of *nolo contendere* to violating Vehicle Code (VC) section 23152,
15 subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or more, a
16 misdemeanor. A misdemeanor charge for violation of VC section 23152, subdivision (a), driving
17 under the influence (DUI) of alcohol, was dismissed under a plea bargain.

18 b. As a result of the conviction, on September 29, 2015, Respondent was
19 sentenced to serve two days in a San Bernardino County Jail Facility, with credit for two days
20 served. Respondent was granted 36 months probation under standard alcohol conditions and
21 ordered to pay fines, fees, restitution, and assessments. Respondent was also ordered to attend
22 and satisfactorily complete a nine-month DUI Program.

23 c. The facts that led to the conviction are that on March 12, 2015,
24 Respondent was involved in a traffic collision while driving westbound on state route SR-210,
25 west of Little Mountain Drive in San Bernardino, California. Responding officers from the San
26 Bernardino California Highway Patrol (CHP) area office found Respondent standing in the
27 center median of the scene of the accident. Upon contact with Respondent, a CHP officer
28 immediately smelled alcohol emitting from Respondent's breath and body. The officer also

1 observed Respondent's bloodshot eyes, slurred speech, and sway from side to side. Respondent
2 admitted to drinking Bud Light and a dose of Xanax and Prozac earlier in the day. Respondent
3 failed to perform a series of field sobriety tests as explained and demonstrated. Respondent
4 provided breath samples for the preliminary alcohol screen, which indicated a BAC of .253
5 percent and .235 percent. Respondent was arrested and transported to and booked at the Central
6 Detention Center, where he provided a blood sample.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Dangerous Use of Drugs and Alcohol)**

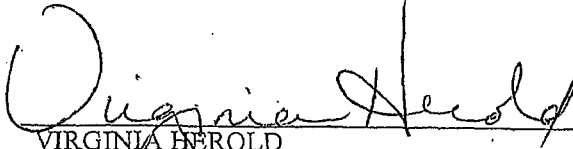
9 12. Respondent has subjected his Pharmacy Technician Registration to discipline
10 under Code section 4301, subdivision (h) in that on March 12, 2015, he used drugs and alcohol
11 to the extent and in a manner that was dangerous and injurious to himself and to the public, as
12 described in paragraph 11, above, which is incorporated by reference.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH
17 135312, issued to Brandon Eugene Hightower;
- 18 2. Ordering Brandon Eugene Hightower to pay the Board of Pharmacy the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 3/7/16


25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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