

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

In the Matter of the Accusation Against:

Case No. 5839

RON DEREK ESCOTE BASTO
5448 McKee Road
San Jose, CA 95127

**Pharmacy Technician License No. TCH
127862**

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 January 23, 2017.

It is so ORDERED on December 23, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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Attorney General of California
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 5839

13 **RON DEREK ESCOTE BASTO**
14 **5448 McKee Road**
San Jose, CA 95127

15 **STIPULATED SURRENDER OF**
16 **LICENSE AND ORDER**

17 **Pharmacy Technician Registration No. TCH**
127862

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 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Kamala D. Harris, Attorney General of the State of California, by Diann Sokoloff, Supervising
24 Deputy Attorney General.

25 2. Ron Derek Escote Basto (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

27 3. On or about November 8, 2012, the California State Board of Pharmacy, Department
28 of Consumer Affairs issued Original Pharmacy Technician Registration Number TCH 127862 to

1 Ron Derek Escote Basto (Respondent). The Original Pharmacy Technician Registration was in
2 full force and effect at all times relevant to the charges brought in this Accusation and expired on
3 March 31, 2016.

4 JURISDICTION

5 4. Accusation No. 5839 was filed before the (Board), and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on August 23, 2016. Respondent timely filed his Notice of Defense contesting the
8 Accusation. A copy of Accusation No. 5839 is attached as Exhibit A and incorporated by
9 reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 5839. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

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

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 5839, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
26 Registration No. TCH 127862 for the Board's formal acceptance.

27 9. Respondent understands that by signing this stipulation he enables the Board to issue
28 an order accepting the surrender of his Pharmacy Technician Registration without further process.

CONTINGENCY

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

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

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

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

ORDER

22 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 127862,
23 issued to Respondent Ron Derek Escote Basto, is surrendered and accepted by the Board of
24 Pharmacy.

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

1 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
2 as of the effective date of the Board's Decision and Order.

3 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 4. Respondent may not apply for any license, permit, or registration from the board for
6 three (3) years from the effective date of this decision. If he ever applies for licensure or petitions
7 for reinstatement in the State of California, the Board shall treat it as a new application for
8 licensure. Respondent stipulates that should he apply for any license from the board on or after
9 the effective date of this decision, all allegations set forth in the accusation shall be deemed to be
10 true, correct and admitted by respondent when the board determines whether to grant or deny the
11 application. Respondent shall satisfy all requirements applicable to that license as of the date the
12 application is submitted by the board, including, but not limited to certification by a nationally
13 recognized body prior to the issuance of a new license. Respondent is required to report this
14 surrender as disciplinary action.

15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$1,167.50 prior to issuance of a new or reinstated license.

17 6. If Respondent should every apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 5839 shall be deemed to
20 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
21 other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

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

DATED: 11-22-16



RON DEREK ESCOTE BASTO
Respondent

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: 11/29/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General



DIANN SOKOLOFF
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5839

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA SCHNEIDER
Senior Assistant Attorney General
3 DIANN SOKOLOFF
Supervising Deputy Attorney General
4 State Bar No. 161082
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5839

12 **RON DEREK ESCOTE BASTO**
13 **5448 McKee Rd.,**
San Jose, CA 95127

ACCUSATION

14 **Technician Registration No. TCH 127862**

15 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about November 8, 2012, the California State Board of Pharmacy, Department
25 of Consumer Affairs issued Original Pharmacy Technician Registration Number TCH 127862 to
26 Ron Derek Escote Basto (Respondent). The Original Pharmacy Technician Registration was in
27 full force and effect at all times relevant to the charges brought in this Accusation and expired on
28 March 31, 2016.

1 JURISDICTION

2 3. This Accusation is brought before the California Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300.1 of the Code states:

6 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
7 operation of law or by order or decision of the board or a court of law, the placement of a license
8 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
9 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
10 proceeding against, the licensee or to render a decision suspending or revoking the license."

11 5. Section 4301 of the Code states, in pertinent part:

12 "The board shall take action against any holder of a license who is guilty of unprofessional
13 conduct"

14 STATUTORY PROVISIONS

15 6. Section 4301 of the Code states, in pertinent part:

16 "Unprofessional conduct shall include, but is not limited to, any of the following:

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

20

21 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
22 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
23 oneself, to a person holding a license under this chapter, or to any other person or to the
24 public

25

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

28

1 “(l) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
6 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
7 The board may inquire into the circumstances surrounding the commission of the crime, in order
8 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
9 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
10 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
11 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
12 of this provision.

13 ...
14 “(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
15 board.”

16 COST RECOVERY PROVISION

17 7. Section 125.3 of the Code states, in pertinent part, that a board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 FACTUAL BACKGROUND

22 8. On or about November 13, 2015 in the Superior Court of California, County of Santa
23 Clara, *The People of the State of California v. Ron Basto*, Case No. B1582321, Respondent
24 entered a plea of nolo contendere and was convicted of possessing marijuana while driving, an
25 infraction (Vehicle Code § 23222 (b)).

26 9. The circumstances of the crime are that on or about September 4, 2015, Sunnyvale
27 Police Department Officers responded to the scene of an accident involving Respondent.
28 Respondent admitted to consuming alcohol prior to driving and the officers smelled alcohol on

1 Respondent's person. After obtaining Respondent's consent to search his car, Officers
2 discovered a glass jar containing marijuana.

3 10. On or about January 27, 2016 in the Superior Court of California, County of San
4 Joaquin, *The People of the State of California v. Ron Derek Escote Basto*, Case No. CR-2016-
5 499, Respondent entered a plea of nolo contendere and was convicted of obstructing or resisting a
6 peace officer, a misdemeanor (Penal Code § 148 (a)(1).

7 11. The circumstances of the crime are that on or about December 23, 2015, University of
8 the Pacific Officers stopped Respondent's car on suspicion that Respondent was driving under the
9 influence of alcohol. California Highway Patrol officers arrived and began an investigation.
10 Respondent admitted to consuming at least one drink and using marijuana some time prior to
11 driving. The officers smelled alcohol and marijuana on Respondent's person. Respondent
12 refused to answer the officers' questions, refused to leave his vehicle when directed, and acted
13 combatively with the officers.

14 12. On or around March 1, 2016, the Board requested by certified mail that Respondent
15 supply a valid medical marijuana recommendation and a written explanation of the arrests
16 described in paragraphs 8 and 10, above. This request was made in the course of the Board's
17 investigation into Respondent's conduct. On or around March 3, 2016, the United States Postal
18 Service indicated that Respondent had received the request. On or around March 23, 2016, the
19 Board investigator closed the investigation into Respondent. By that date, Respondent had not
20 responded to the request for documentation.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Commission of Any Act Involving Moral Turpitude)
23 (Cal. Bus. & Prof. Code § 4301(f)).

24 13. Respondent has subjected his Original Pharmacy Technician Registration to
25 disciplinary action under Code section 4301, subdivision (f), in that he was convicted of a crime
26 involving moral turpitude, dishonesty, and deceit, obstructing or resisting a peace officer. The
27 circumstances of this conviction are set forth in paragraphs 9 and 10, above.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Use of Alcohol and Drugs in a Dangerous Manner)
3 (Cal. Bus. & Prof. Code § 4301(h))

4 14. Respondent has subjected his Original Pharmacy Technician Registration to
5 disciplinary action under Code section 4301, subdivision (h), in that he used alcohol and drugs in
6 a manner dangerous to himself and others. The circumstances of that act are set forth in
7 paragraph 10, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Use of Alcohol and Drugs in a Dangerous Manner)
10 (Cal. Bus. & Prof. Code § 4301(h))

11 15. Respondent has subjected his Original Pharmacy Technician Registration to
12 disciplinary action under Code section 4301, subdivision (h), in that he used alcohol in a manner
13 dangerous to himself and others. The circumstances of that act are set forth in paragraph 8, above

14 **FOURTH CAUSE FOR DISCIPLINE**

15 (Violation of a Statue Regulating Controlled Substances)
16 (Cal. Bus. & Prof. Code § 4301(j))

17 16. Respondent has subjected his Original Pharmacy Technician Registration to
18 disciplinary action under Code section 4301, subdivision (j), in that he was convicted of violating
19 a statue regulating a controlled substance. The circumstances of this conviction are set forth in
20 paragraphs 7 and 8, above.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 (Substantially Related Conviction)
23 (Cal. Bus. & Prof. Code § 4301(l))

24 17. Respondent has subjected his Original Pharmacy Technician Registration to
25 disciplinary action under Code section 4301, subdivision (l), in that he was convicted of two
26 crimes substantially related to the qualifications, functions, and duties of a licensee. The
27 circumstances of these convictions are set forth in paragraphs 7 through 10, above.
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SIXTH CAUSE FOR DISCIPLINE

(Conduct that Subverts An Investigation of the Board)
(Cal. Bus. & Prof. Code § 4301(q))

18. Respondent has subjected his Original Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (q), in that his conduct subverted or attempted to subvert an investigation of the Board. The circumstances are set forth in paragraph 11, above,

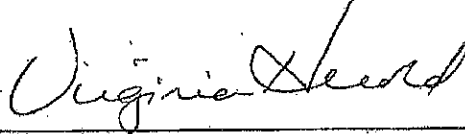
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters in this Accusation, and that following the hearing, the California State Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 127862, issued to Ron Derek Escote Basto;
2. Ordering Ron Derek Escote Basto to pay the California State Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

8/10/16



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

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Respondent.

DECISION AND ORDER

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This Decision shall become effective on _____.

It is so ORDERED _____.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS