

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN  
Deputy Attorney General  
4 State Bar No. 193338  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5341  
Facsimile: (916) 327-8643  
7 E-mail: Geoffrey.Allen@doj.ca.gov  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3906

12 **DAVID GIANNI RAINES**  
13 **16526 Karen Road**  
14 **Madera, California 93638**

**ACCUSATION**

15 **Pharmacy Technician Registration**  
16 **No. TCH 42827**

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 1, 2002, the Board of Pharmacy issued Pharmacy Technician  
23 License Number TCH 42827 to David Gianni Raines (Respondent). The Pharmacy Technician  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on December 31, 2011, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

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

4. Code section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

....

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

5. Code 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:

....

(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.

....

6. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 CAUSE FOR DISCIPLINE

4 (Dangerous Use of Alcohol)

5 7. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)  
6 in that Respondent used alcoholic beverages to the extent or in a manner as to be dangerous or  
7 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
8 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
9 the public the practice authorized by the license. The circumstances are as follows:

10 8. On or about April 24, 2010, Respondent was arrested for a violation of Vehicle Code  
11 sections 23152, subdivision (a) (driving under the influence of alcohol or drugs); and 23152,  
12 subdivision (b) (driving with a blood alcohol level of 0.08% or more), both misdemeanors. The  
13 circumstances of the arrest are that while on a routine patrol, Officer Jeremy Maffei of the Fresno  
14 Police Department observed Respondent speeding and driving a vehicle without a license plate.  
15 Following a traffic stop, Officer Maffei detected alcohol on Respondent's breath and initiated a  
16 series of field sobriety tests. Respondent failed the field sobriety tests and a preliminary alcohol  
17 screening was conducted upon Respondent with a result of 0.107% blood alcohol level.

18 DISCIPLINE CONSIDERATIONS

19 9. To determine the degree of discipline, if any, to be imposed on Respondent,  
20 Complainant alleges that on or about January 6, 2010, in a prior action, the Board of Pharmacy  
21 issued Citation Number CI 2007 36507 and ordered Respondent to pay a fine of \$750.00. That  
22 Citation is now final and is incorporated by reference as if fully set forth.

23 PRAYER

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

26 1. Revoking or suspending Pharmacy Technician License Number TCH 42827, issued  
27 to David Gianni Raines;

28

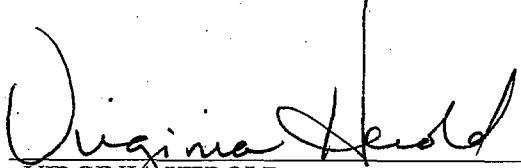
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. Ordering David Gianni Raines to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

5/27/11



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

SA2010103170  
10702157.doc