

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Petition to Revoke
11 Probation Against,
12 **JASON ALLAN HAWES**
13 **1967 West 236th Street**
14 **Torrance, CA 90504**
Pharmacy Technician Registration No. TCH
95258
15 Respondent.

Case No. 4254

PETITION TO REVOKE PROBATION

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.
22 2. On or about April 19, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 95258 to Jason Allan Hawes (Respondent). The Pharmacy Technician
24 Registration was in effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2012, unless renewed.
26
27
28

1 3. In a disciplinary action entitled "In the Matter of Statement of Issues Against Jason
2 Allan Hawes," Case No. 3760, the Board of Pharmacy, issued a decision effective April 15, 2011,
3 in which Respondent was issued a Pharmacy Technician Registration that was immediately
4 revoked. However, the revocation was stayed and Respondent's Pharmacy Technician
5 Registration placed on probation for a period of three (3) years with certain terms and conditions.
6 A copy of that decision is attached as Exhibit A and incorporated by reference.

7 JURISDICTION

8 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
9 Department of Consumer Affairs, under the authority of the following laws. All section
10 references are to the Business and Professions Code unless otherwise indicated.

11 FIRST CAUSE TO REVOKE PROBATION

12 (Failure to Submit to Drug Testing)

13 5. At all times after the effective date of the Decision and Order imposing probation on
14 Respondent's Registration, term and condition no. 5 stated:

15 **Cooperate with Board Staff.** Respondent shall cooperate with the board's inspection
16 program and with the board's monitoring and investigation of respondent's compliance with the
17 terms and conditions of his probation. Failure to cooperate shall be considered a violation of
18 probation.

19 6. At all times after the effective date of Respondent's probation, Condition 16 stated:

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

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

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

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

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

21 7. Respondent's probation is subject to revocation in that he violated Term and
22 Condition of Probation Nos. 5 and 16 as follows:

23 a. Respondent failed to call in to determine if he was required to submit for testing
24 on the following dates: May 11-15, 2011; May 30, 2011; June 2-4, 2011; and June 7-21, 2011.

25 b. Respondent failed to submit to drug testing as required on the following dates:
26 May 10, 2011; May 12, 2011; May 30, 2011; June 4, 2011; June 6, 2011; June 13, 2011; June 14,
27 2011; and June 16, 2011.

28

1 SECOND CAUSE TO REVOKE PROBATION

2 (Failure to Abstain from Drugs and Alcohol)

3 8. At all times after the effective date of Respondent's probation, Condition 18 stated:

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

16 9. Respondent's probation is subject to revocation in that he failed to comply with
17 Probation Condition 18 as follows:

18 a. On or around May 31, 2011, Respondent tested positive for ETG/ETS
19 (alcohol.)

20 b. On or around May 18, 2011, Respondent tested positive for marijuana.

21 PRAYER

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

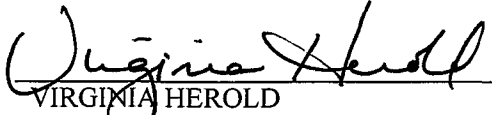
24 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3760
25 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Technician
26 Registration No. TCH 95258 issued to Jason Allan Hawes;

27 2. Revoking or suspending Pharmacy Technician Registration No. TCH 95258, issued
28 to Jason Allan Hawes;

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

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

DATED: 7/10/12



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

LA2012602688
51115575.doc

Exhibit A

Decision and Order

Board of Pharmacy Case No. 3760

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

In the Matter of the Statement of Issues Against:

Case No. 3760

JASON ALLAN HAWES
1967 West 236th Street
Torrance, CA 90504

Applicant for Pharmacy Technician License

Respondent.

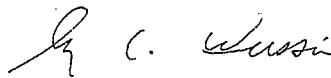
DECISION AND ORDER

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 15, 2011.

It is so ORDERED on March 16, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
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:

12 **JASON ALLAN HAWES**
13 **1967 West 236th Street**
Torrance, CA 90504

14 **Applicant for Pharmacy Technician**
15 **Registration**

16 Respondent.

Case No. 3760

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18
19
20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

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 Edmund
26 G. Brown Jr., Attorney General of the State of California, by Gillian E. Friedman, Deputy
27 Attorney General.

28 ///

1 2. On or about August 10, 2009, Respondent filed an application dated July 9, 2009 with
2 the Board of Pharmacy to obtain Registration as a Pharmacy Technician.

3 **JURISDICTION**

4 3. Statement of Issues No. 3760 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
6 Issues and all other statutorily required documents were properly served on Respondent on
7 November 15, 2010. A copy of Statement of Issues No. 3760 is attached as exhibit A and
8 incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

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

17 5. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
18 every right set forth above.

19 **CULPABILITY**

20 6. Respondent admits the truth of each and every charge and allegation in Statement of
21 Issues No. 3760.

22 7. Respondent agrees that his Applicant for Pharmacy Technician Registration is subject
23 to denial and he agrees to be bound by the Board's probationary terms as set forth in the
24 Disciplinary Order below.

25 **CONTINGENCY**

26 8. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
27 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
28 communicate directly with the Board regarding this stipulation and settlement, without notice to

1 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
2 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
3 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
4 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
5 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
6 not be disqualified from further action by having considered this matter.

7 9. The parties understand and agree that facsimile copies of this Stipulated Settlement
8 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
9 effect as the originals.

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

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

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that upon satisfaction of all statutory and regulatory
21 requirements for issuance of Registration as a Pharmacy Technician, the Registration shall be
22 issued to respondent Jason Allan Hawes and immediately revoked; the order of revocation is
23 stayed and respondent is placed on probation for three (3) years upon the following terms and
24 conditions:

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

26 Respondent shall be automatically suspended from working as a pharmacy technician
27 until he is certified as defined by Business and Professions Code section 4202(a)(4) and provides
28 satisfactory proof of certification to the board. Respondent shall not resume working as a

1 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
2 year shall be considered a violation of probation. Respondent shall not resume working as a
3 pharmacy technician until notified by the board.

4 During suspension, respondent shall not enter any pharmacy area or any portion of
5 any 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 Subject to the above restrictions, respondent may continue to own or hold an interest
13 in any licensed premises by the board in which he or she holds an interest at the time this decision
14 becomes effective unless otherwise specified in this order.

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

16 **2. Obey All Laws**

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

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

- 20 - an arrest or issuance of a criminal complaint for violation of any provision of the
- 21 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
- 22 laws
- 23 - a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 24 criminal complaint, information or indictment
- 25 - a conviction of any crime
- 26 - discipline, citation, or other administrative action filed by any state or federal agency

27 which involves respondent's registration as a pharmacy technician or which is related to the

28

1 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
2 for any drug, device or controlled substance.

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

5 **3. Report to the Board**

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

14 **4. Interview with the Board**

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

20 **5. Cooperate with Board Staff**

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

24 **6. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective
26 employers of the decision in case number 3760 and the terms, conditions and restrictions imposed
27 on respondent by the decision, as follows:

28

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15)
2 days of respondent undertaking any new employment, respondent shall cause his direct
3 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
4 respondent's tenure of employment) and owner to report to the board in writing acknowledging
5 that the listed individual(s) has/have read the decision in case number 3760 and the terms and
6 conditions imposed thereby. It shall be respondent's responsibility to ensure that his
7 employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

8 If respondent works for or is employed by or through a pharmacy employment
9 service, respondent must notify his direct supervisor, pharmacist-in-charge and owner at every
10 pharmacy of the terms and conditions of the decision in case number 3760 in advance of the
11 respondent commencing work at each pharmacy. A record of this notification must be provided
12 to the board upon request.

13 Furthermore, within thirty (30) days of the effective date of this decision, and within
14 fifteen (15) days of respondent undertaking any new employment by or through a pharmacy
15 employment service, respondent shall cause his direct supervisor with the pharmacy employment
16 service to report to the board in writing acknowledging that he or she has read the decision in case
17 number 3760 and the terms and conditions imposed thereby. It shall be respondent's
18 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
19 acknowledgment(s) to the board.

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

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

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

7. Probation Monitoring Costs

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

8. Status of License

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

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

9. License Surrender While on Probation/Suspension

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

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

1 requirements applicable to the license sought as of the date the application for that license is
2 submitted to the board.

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

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

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

12 **11. Tolling of Probation**

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

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

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

27 "Cessation of work" means calendar month during which respondent is not working
28 for at least twenty (20) hours as a pharmacy technician, as defined in Business and Professions

1 Code section 4115. "Resumption of work" means any calendar month during which respondent
2 is working as a pharmacy technician for at twenty (20) hours as a pharmacy technician as defined
3 by Business and Professions Code section 4115.

4 **12. Violation of Probation**

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

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

17 **13. Completion of Probation**

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

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

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

28 ///

1 15. **Attend Substance Abuse Recovery Relapse Prevention and Support Groups**
2 **Following Positive Drug Screening**

3 Upon one confirmed positive drug screening, Respondent shall begin regular
4 attendance at a recognized and established substance abuse recovery support group in California,
5 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
6 or its designee. Respondent must attend at least one group meeting per week unless otherwise
7 directed by the board or its designee. Respondent shall continue regular attendance and submit
8 signed and dated documentation confirming attendance with each quarterly report for the duration
9 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
10 probation.

11 16. **Random Drug Screening**

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

28

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

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

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

14 **17. Work Site Monitor**

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

25 **18. Abstain from Drugs and Alcohol Use**

26 Respondent shall completely abstain from the possession or use of alcohol, controlled
27 substances, dangerous drugs and their associated paraphernalia except when the drugs are
28 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon

1 request of the board or its designee, respondent shall provide documentation from the licensed
2 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
3 treatment of the respondent. Failure to timely provide such documentation shall be considered a
4 violation of probation. Respondent shall ensure that he or she is not in the same physical location
5 as individuals who are using illicit substances even if respondent is not personally ingesting the
6 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
7 not supported by the documentation timely provided, and/or any physical proximity to persons
8 using illicit substances, shall be considered a violation of probation.

9 **19. Community Services Program**

10 Within sixty (60) days of the effective date of this decision, respondent shall submit
11 to the board or its designee, for prior approval, a community service program in which respondent
12 shall provide free health-care related services to a community or charitable facility or agency for
13 at least 100 hours per year for the first two (2) years of probation.

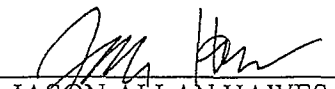
14 Within thirty (30) days of board approval thereof, respondent shall submit
15 documentation to the board demonstrating commencement of the community service program.
16 Respondent owner shall report on progress with the community service program in the quarterly
17 reports.

18 Failure to timely submit, commence, or comply with the program shall be considered
19 a violation of probation.

20 **ACCEPTANCE**

21 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
22 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

23
24 DATED: 12-08-2010



JASON ALLAN HAWES
Respondent

26 ///

27 ///

28 [signatures continue]

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

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: ~~12-08-2010~~
1-5-2011

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

LA2010503484
60567948.doc

Exhibit A

Statement of Issues No. 3760

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
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. 3760

13 **JASON ALLAN HAWES**
14 **1967 West 236th Street**
Torrance, CA 90504

STATEMENT OF ISSUES

15 **Applicant for Pharmacy Technician**
16 **Registration**

17 Respondent.

18 Complainant alleges:

19 PARTIES

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

22 2. On or about August 10, 2009, the Board of Pharmacy, Department of Consumer
23 Affairs received an Application for Registration as a Pharmacy Technician from Jason Allan
24 Hawes (Respondent). On or about July 9, 2009, Jason Allan Hawes certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on May 19, 2010.

27 ///

28 ///

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued or reinstated.

9 5. Section 480(a) states, in pertinent part:

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

12

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

15

16 6. Section 4060 states, in pertinent part:

17 "No person shall possess any controlled substance, except that furnished to a person
18 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
19 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
20 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
21 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
22 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
23 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
24 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
25 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
26 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
27 labeled with the name and address of the supplier or producer."

28 ///

1 7. Section 4301 states, in pertinent part:

2 "The board shall take action against any holder of a license who is guilty of
3 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
4 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
5 following:

6

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

12

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

15 "

16 **REGULATORY PROVISIONS**

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

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

24 **CONTROLLED SUBSTANCES**

25 9. "Ecstasy" is a controlled substance as defined in Health and Safety Code
26 section 11377(a)), and is categorized as a dangerous drug pursuant to section 4022.

27 ///

28 ///

1 10. "Marijuana" is a hallucinogenic Schedule I controlled substance as defined by
2 Health and Safety Code section 11054(d)(13) and is categorized as a dangerous drug pursuant to
3 section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 *(Use or Self-Administration of Controlled Substances)*

6 11. Respondent is subject to disciplinary action under sections 480(a)(3) and 4301;
7 subdivisions (h) and (j), in that, on or about January 3, 2009, Respondent was arrested by the
8 Torrance Police Department for being in possession of ecstasy and marijuana, controlled
9 substances. Respondent had injected three ecstasy tablets at the time he was arrested.

10 **SECOND CAUSE FOR DISCIPLINE**

11 *(Possession of a Controlled Substance without a Valid Prescription)*

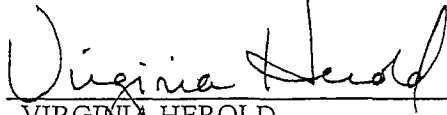
12 12. Respondent is subject to disciplinary action under sections 4301, subdivision (j)
13 and 4060, in that, on or about January 3, 2009, Respondent was found to be in possession of
14 controlled substances without valid prescriptions. The facts are that on or about January 3, 2009,
15 Respondent was arrested by the Torrance Police Department for being in possession of ecstasy
16 and marijuana, controlled substances. Respondent admitted being in possession of ecstasy
17 tablets and marijuana.

18 **PRAYER**

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

- 21 1. Denying the application of Jason Allan Hawes for a Pharmacy Technician
22 Registration; and
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 11/3/10

25 
26 VIRGINIA HEROLD
Executive Officer
Board of Pharmacy

27 Department of Consumer Affairs
State of California
28 Complainant

LA2010503484/50712340.doc