

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 ANTONIO LOPEZ, JR.  
Deputy Attorney General  
4 State Bar Number 206387  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2536  
6 Facsimile: (213) 897-2804

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. 3773

13 **ULISES IVAN SANTAMARIA**  
11702 Vanport Avenue  
14 Lake View Terrace, CA 91342

**STATEMENT OF ISSUES**

15 Pharmacy Technician Applicant.

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 18, 2008, the Board of Pharmacy (Board) received an application  
22 for Registration as a Pharmacy Technician from Ulises Ivan Santamaria (Respondent). On or  
23 about April 8, 2008, Respondent certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 April 1, 2010. On or about June 15, 2010, the Board received a letter from Respondent,  
26 requesting a hearing to appeal the denial of his application.

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1           6.    Section 4300, subdivision (c), states, in pertinent part:

2           "The board may refuse a license to any applicant guilty of unprofessional conduct. The  
3 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
4 guilty of unprofessional conduct and who has met all other requirements for licensure. . . ."

5           7.    Section 4301 states, in pertinent part:

6           "The board shall take action against any holder of a license who is guilty of unprofessional  
7 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

9           . . . .

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

13          . . . .

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

19          . . . .

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

22          “(k) The conviction of more than one misdemeanor or any felony involving the use,  
23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
24 combination of those substances.

25          “(l) The conviction of a crime substantially related to the qualifications, functions, and  
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
28 substances or of a violation of the statutes of this state regulating controlled substances or

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

14 . . . .

15 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
17 federal and state laws and regulations governing pharmacy, including regulations established by  
18 the board or by any other state or federal regulatory agency.

### 19 REGULATORY PROVISIONS

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

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

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1 **CONTROLLED SUBSTANCES**

2 9. "Methamphetamine", is a Schedule II controlled substance as designated by Health  
3 and Safety Code Section 11055, subdivision (d)(2) and is categorized as dangerous drug pursuant  
4 to Business and Professions Code Section 4022.

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(Convictions of Substantially-Related Crimes)**

7 10. Respondent's application is subject to denial under sections 480, subdivision (a)(1),  
8 4300, subdivision (c), and 4301, subdivision (l), in conjunction with California Code of  
9 Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent  
10 was convicted of crimes substantially related to the qualifications, functions or duties of a  
11 registered pharmacy technician. The circumstances are as follows:

12 a. On or about March 26, 2008, after pleading *nolo contendere*, Respondent was  
13 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
14 [driving a vehicle while having a 0.8% and more, by weight, of alcohol content in his blood], in  
15 the criminal proceeding entitled *The People of the State of California v. Ulises Ivan Santamaria*  
16 (Super. Ct. Los Angeles County, 2008, No. 8AV02726). Respondent was sentenced to 3 days in  
17 the Los Angeles County Jail, placed on probation for a period of 3 years, and fined. The  
18 circumstances surrounding the conviction are that on or about January 27, 2008, two California  
19 Highway Patrol Officers were dispatched to assist Los Angeles County Sheriff's Deputies with a  
20 possible Driving under the Influence investigation. The Deputies observed a parked vehicle  
21 behind a building on private property by itself with a man asleep in the driver's seat. The  
22 Deputies awoke the man and identified him to be the Respondent. Respondent was observed to  
23 be unsteady and confused as he stepped out of the vehicle. Respondent had signs and symptoms  
24 of alcohol intoxication, with the odor of alcohol emitting from his breath, and vomit on the  
25 driver's side seat, door, and floor. Respondent was given and explained the Field Sobriety Tests,  
26 and failed to perform the tests. Respondent submitted to a preliminary alcohol screening breath  
27 test device (PAS) that detected the presence of alcohol in his system, with two readings of  
28 0.142% and 0.151%.



1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Violate Drug Laws)**

3 13. Respondent's application is subject to denial under sections 4300, subdivision (c),  
4 and 4301, subdivision (j), in that Respondent committed acts of unprofessional conduct violating  
5 Health and Safety Code section 11550, when he illegally possessed the controlled substance  
6 methamphetamine as follows:

7 a. On or about April 1, 2003, after pleading *nolo contendere*, Respondent was convicted  
8 of one misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)  
9 [possession of a controlled substance] and placed on deferred entry of judgment for a period of 2  
10 years in the criminal proceeding entitled *The People of the State of California v. Ulises Ivan*  
11 *Santamaria* (Super. Ct. Los Angeles County, 2003, No. GA052521). The circumstances  
12 surrounding the conviction are that on or about February 28, 2003, two Los Angeles Sheriff's  
13 Department Officers were on patrol and stopped Respondent during a routine traffic stop for  
14 having a broken front headlight. Respondent was observed to have rapid speech, sweat on his  
15 forehead, very anxious, and dilated eyes that had no reaction to light. During a search of  
16 Respondent's vehicle, the officer found an eye glass case in the driver side front door pocket  
17 containing a clear plastic baggie of methamphetamine.

18 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Acts Involving Moral Turpitude, Dishonesty, Corruption, or Deceit)**

20 14. Respondent's application is subject to denial under sections 480, subdivision (a)(2)  
21 and 4300, subdivision (c), and section 4301, subdivision (f), on the grounds of unprofessional  
22 conduct, in that Respondent committed acts involving moral turpitude, dishonesty, corruption, or  
23 deceit. Complainant refers to and by this reference incorporates the allegations set forth above in  
24 paragraphs 10-13, inclusive, as though set forth fully.

25 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

26 **(Unprofessional Conduct)**

27 15. Respondent's application is subject to denial under sections 4300, subdivision (c),  
28 and section 4301, subdivision (o), on the grounds of unprofessional conduct, in that Respondent

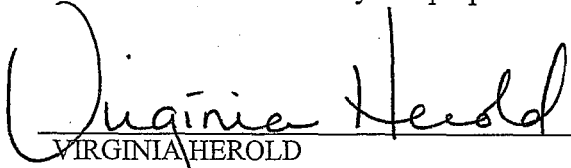
1 committed acts and was convicted of crimes that violated the pharmacy act. Complainant refers  
2 to and by this reference incorporates the allegations set forth above in paragraphs 10-14,  
3 inclusive, as though set fully.

4 **PRAYER**

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

- 7 1. Denying the application of Ulises Ivan Santamaria for Registration as a Pharmacy  
8 Technician; and  
9 2. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: 6/23/11



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

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