

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

In the Matter of the Accusation Against:

Case No. 3548

JASON P. GONZALES
1100 Industrial Blvd. D27
Chula Vista, CA 91911

Pharmacy Technician Registration No.
TCH 30137

Respondent.

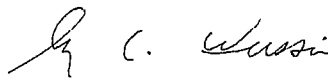
DECISION AND ORDER

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 August 25, 2010.

It is so ORDERED on July 26, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

11 In the Matter of the Accusation Against:

Case No. 3548

12 **JASON P. GONZALES**
13 **1100 Industrial Blvd D27**
14 **Chula Vista, CA 91911**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **Pharmacy Technician Registration No.**
16 **TCH 30137**

17 Respondent.

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

21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Edmund
24 G. Brown Jr., Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
25 General.

26 2. Jason P. Gonzales (Respondent) is representing himself in this proceeding and has
27 chosen not to exercise his right to be represented by counsel.

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- 1 an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3 substances laws
- 4 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 5 criminal complaint, information or indictment
- 6 a conviction of any crime
- 7 discipline, citation, or other administrative action filed by any state or federal agency
- 8 which involves Respondent's Pharmacy Technician Registration or which is related
- 9 to the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
- 10 billing, or charging for any drug, device or controlled substance.

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

12 **3. Report to the Board**

13 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its

14 designee. The report shall be made either in person or in writing, as directed. Among other

15 requirements, Respondent shall state in each report under penalty of perjury whether there has

16 been compliance with all the terms and conditions of probation. Failure to submit timely reports

17 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

18 in submission of reports as directed may be added to the total period of probation. Moreover, if

19 the final probation report is not made as directed, probation shall be automatically extended until

20 such time as the final report is made and accepted by the board.

21 **4. Interview with the Board**

22 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews

23 with the Board or its designee, at such intervals and locations as are determined by the Board or

24 its designee. Failure to appear for any scheduled interview without prior notification to Board

25 staff, or failure to appear at two (2) or more scheduled interviews with the Board or its designee

26 during the period of probation, shall be considered a violation of probation.

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1 **5. Cooperate with Board Staff**

2 Respondent shall cooperate with the Board's inspection program and with the Board's
3 monitoring and investigation of respondent's compliance with the terms and conditions of his
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **6. Notice to Employers**

6 During the period of probation, Respondent shall notify all present and prospective
7 employers of the decision in case number 3548 and the terms, conditions and restrictions imposed
8 on Respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
12 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
13 individual(s) has/have read the decision in case number 3548 and the terms and conditions
14 imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
15 supervisor(s) submit timely acknowledgement(s) to the Board.

16 If Respondent works for or is employed by or through a pharmacy employment service,
17 Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
18 of the terms and conditions of the decision in case number 3548 in advance of the Respondent
19 commencing work at each pharmacy. A record of this notification must be provided to the Board
20 upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
22 (15) days of Respondent undertaking any new employment by or through a pharmacy
23 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
24 service to report to the Board in writing acknowledging that he has read the decision in case
25 number 3548 and the terms and conditions imposed thereby. It shall be Respondent's
26 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
27 acknowledgment(s) to the Board.

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1 Failure to timely notify present or prospective employer(s) or to cause that/those
2 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of
3 probation.

4 "Employment" within the meaning of this provision shall include any full-time, part-time,
5 temporary or relief service or pharmacy management service as a pharmacy technician or in any
6 position for which a pharmacy technician registration is a requirement or criterion for
7 employment, whether the respondent is considered an employee, independent contractor or
8 volunteer.

9 **7. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, Respondent shall pay to the
11 Board its costs of investigation and prosecution in the amount of \$2,700.00. Respondent shall
12 make said payments as follows: \$50.00 per month due and payable on the first day of each month
13 following the effective date of the adoption by the Board of this Order, until the full amount is
14 paid. There shall be no deviation from this schedule absent prior written approval by the Board
15 or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation
16 of probation.

17 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
18 reimburse the Board its costs of investigation and prosecution.

19 **8. Probation Monitoring Costs**

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

24 **9. Status of Registration**

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

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

5 **10. Registration Surrender While on Probation/Suspension**

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

14 Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician
15 registration to the Board within ten (10) days of notification by the Board that the surrender is
16 accepted. Respondent may not reapply for any license, permit, or registration from the Board for
17 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
18 applicable to the registration sought as of the date the application for that registration is submitted
19 to the Board.

20 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
21 **Employment**

22 Respondent shall notify the Board in writing within ten (10) days of any change of
23 employment. Said notification shall include the reasons for leaving, the address of the new
24 employer, the name of the supervisor and owner, and the work schedule, if known. Respondent
25 shall further notify the Board in writing within ten (10) days of a change in name, residence
26 address and mailing address, or phone number.

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

1 12. **Tolling of Probation**

2 Except during periods of suspension, Respondent shall, at all times while on probation, be
3 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
4 Any month during which this minimum is not met shall toll the period of probation, i.e., the
5 period of probation shall be extended by one month for each month during which this minimum is
6 not met. During any such period of tolling of probation, Respondent must nonetheless comply
7 with all terms and conditions of probation.

8 Should Respondent, regardless of residency, for any reason (including vacation) cease
9 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
10 Respondent must notify the Board in writing within ten (10) days of cessation of work and must
11 further notify the Board in writing within ten (10) days of the resumption of the work. Any
12 failure to provide such notification(s) shall be considered a violation of probation.

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

16 "Cessation of work" means calendar month during which Respondent is not working for at
17 least 40 hours as a pharmacy technician, as defined in Business and Professions Code section
18 4115. "Resumption of work" means any calendar month during which Respondent is working as
19 a pharmacy technician for at least 40 hours as a pharmacy technician as defined by Business and
20 Professions Code section 4115.

21 13. **Violation of Probation**

22 If Respondent has not complied with any term or condition of probation, the Board shall
23 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
24 until all terms and conditions have been satisfied or the Board has taken other action as deemed
25 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
26 to impose the penalty that was stayed.

27 If Respondent violates probation in any respect, the Board, after giving Respondent notice
28 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
2 violation thereof may lead to automatic termination of the stay and/or revocation of the
3 registration. If a petition to revoke probation or an accusation is filed against Respondent during
4 probation, the Board shall have continuing jurisdiction, and the period of probation shall be
5 automatically extended until the petition to revoke probation or accusation is heard and decided.

6 **14. Completion of Probation**

7 Upon written notice by the Board indicating successful completion of probation,
8 Respondent's pharmacy technician registration will be fully restored.

9 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

10 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
11 attendance at a recognized and established substance abuse recovery support group in California,
12 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board
13 or its designee. Respondent must attend at least one group meeting per week unless otherwise
14 directed by the Board or its designee. Respondent shall continue regular attendance and submit
15 signed and dated documentation confirming attendance with each quarterly report for the duration
16 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
17 probation.

18 **16. Random Drug Screening**

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

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

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

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

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

20 **17. Work Site Monitor**

21 Within ten (10) days of the effective date of this decision, Respondent shall identify a work
22 site monitor, for prior approval by the Board, who shall be responsible for supervising respondent
23 during working hours. Respondent shall be responsible for ensuring that the work site monitor
24 reports in writing to the Board quarterly. Should the designated work site monitor determine at
25 any time during the probationary period that Respondent has not maintained sobriety, he shall
26 notify the Board immediately, either orally or in writing as directed. Should Respondent change
27 employment, a new work site monitor must be designated, for prior approval by the Board, within
28 ten (10) days of commencing new employment. Failure to identify an acceptable initial or

1 replacement work site monitor, or to ensure quarterly reports are submitted to the Board, shall be
2 considered a violation of probation.

3 18. Notification of Departure

4 Prior to leaving the probationary geographic area designated by the Board or its designee
5 for a period greater than twenty-four (24) hours, Respondent shall notify the Board verbally and
6 in writing of the dates of departure and return. Failure to comply with this provision shall be
7 considered a violation of probation.


8 19. Abstain from Drugs and Alcohol Use

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

20 ACCEPTANCE

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

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26 DATED: 6/13/0



JASON P. GONZALES
Respondent

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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: 6/15/10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3548

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2 LINDA K. SCHNEIDER
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3 DAVID E. HAUSFELD
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Attorneys for Complainant

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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3548

12 **JASON P. GONZALES**

13 **1100 Industrial Blvd D27**
14 **Chula Vista, CA 95023**

15 **Pharmacy Technician Registration No.**
16 **TCH 30137**

A C C U S A T I O N

17 Respondent.

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19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 24 2. On or about July 30, 1999, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 30137 to Jason P. Gonzales (Respondent). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on April 30, 2010, unless renewed.

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(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.

....

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . [T]he record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty; or dismissing the accusation, information, or indictment.

....

REGULATORY PROVISIONS

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.

1 10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

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

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or
10 offense(s).

11 (4) Whether the licensee has complied with all terms of parole,
12 probation, restitution or any other sanctions lawfully imposed against
13 the licensee.

14 (5) Evidence, if any, of rehabilitation submitted by the licensee.

15 COSTS

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

20 FIRST CAUSE FOR DISCIPLINE

21 (January 28, 2004 Criminal Conviction for DUI on October 13, 2003)

22 12. Respondent has subjected his license to disciplinary action under sections 490 and
23 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime that is
24 substantially related to the qualifications, functions, and duties of a pharmacy technician. The
25 circumstances are as follows.

26 13. On or about January 28, 2004, in a criminal proceeding entitled *People of the State of*
27 *California v. Jason Patrick Gonzales*, in San Diego County Superior Court, case number
28 S181201, Respondent was convicted on his plea of guilty of violating Vehicle Code section
23152, subdivision (b), driving a vehicle while having a blood alcohol content in excess of .08

1 percent, a misdemeanor. Respondent's plea included an enhancement under Vehicle Code
2 section 23578 in that his blood alcohol content was in excess of .20 percent.

3 14. As a result of the conviction, on or about January 28, 2004, Respondent was
4 sentenced to five years summary probation, completion of a six month First Offender Alcohol
5 Program, 5 days in a Public Service Program and payment of fees and fines.

6 15. The facts that led to the conviction were that on or about October 13, 2003,
7 Respondent unlawfully drove a motor vehicle while having a blood alcohol content by weight in
8 excess of .08 percent, to wit, .27 percent.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

11 16. Respondent has subjected his license to disciplinary action under section 4301,
12 subdivision (h) of the Code in that on or about October 13, 2003, as described in the First Cause
13 for Discipline, above, Respondent used alcoholic beverages to an extent or in a manner that was
14 potentially dangerous or injurious to himself and to others in that he operated a motor vehicle
15 while impaired by alcohol. Such unprofessional conduct posed a significant threat to public
16 safety.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offense)**

19 17. Respondent has subjected his license to disciplinary action under section 4301,
20 subdivision (k) of the Code in that on or about October 13, 2003, as described in the First Cause
21 for Discipline, above, Respondent was convicted of a criminal offense involving the consumption
22 and/or self-administration of alcohol, which constitutes unprofessional conduct.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(July 16, 2007 Criminal Conviction for DUI with Bodily Injury on June 7, 2007)**

25 18. Respondent has subjected his license to disciplinary action under sections 490 and
26 4301, subdivision (l) of the Code, in that Respondent was convicted of a crime that is
27 substantially related to the qualifications, functions, and duties of a pharmacy technician. The
28 circumstances are as follows.

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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offense)

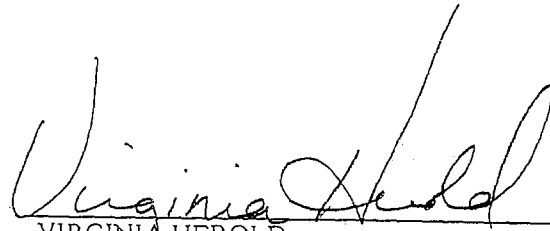
23. Respondent has subjected his license to disciplinary action under section 4301, subdivision (k) of the Code in that on or about June 7, 2007, as described in the Fourth Cause for Discipline, above, Respondent was convicted of a criminal offense involving the consumption and/or self-administration of alcohol, which constitutes unprofessional conduct.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 30137, issued to Jason P. Gonzales.
2. Ordering Jason P. Gonzales 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: 2/3/10



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

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