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

In the Matter of the Accusation Against:	Case No. 3723
NINA RENEE ESCOTO **409 Elsinore Drive** **Vacaville, CA 95687** **Pharmacy Technician License No. TCH 47598** 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 on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY C. WEISSER
Board President

KAMALA D. HARRIS
Attorney General of California
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **NINA RENEE ESCOTO** **409 Elsinore Drive** **Vacaville, CA 95687** **Pharmacy Technician License No. TCH 47598** Respondent.	Case No. 3723 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. She is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Diann Sokoloff, Supervising Deputy Attorney General.

2. Nina Renee Escoto (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about February 19, 2003, the Board of Pharmacy issued Pharmacy Technician License Number TCH 47598 to Nina Renee Escoto (Respondent). The Pharmacy Technician

License was in full force and effect at all times relevant to the charges brought in Accusation No. 3723, and will expire on September 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 3723 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 12, 2011. A copy of Accusation No. 3723 is attached as exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the charges and allegations in Accusation No. 3723. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3723, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician License for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process.

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CONTINGENCY

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

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 47598, issued to Respondent Nina Renee Escoto is surrendered and accepted by the Board of Pharmacy.

14. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

17. Respondent understands and agrees that if she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3723 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

18. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $2,370.00 prior to issuance of a new or reinstated license.

19. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 3723 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

20. Respondent may not apply or reapply for, or petition for reinstatement of, any license, permit, or registration from the Board for three (3) years from the effective date of this Decision and Order.

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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 License. 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: 10/6/2011

NINA RENEE ESCOTO
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: 10/13/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

DIANN SOKOLOFF
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3723

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **NINA RENEE ESCOTO** **7200 Elder Creek Road** **Sacramento, CA 95824** **Pharmacy Technician License No. TCH 47598** Respondent.	Case No. 3723 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about February 19, 2003, the Board of Pharmacy issued Pharmacy Technician License Number TCH 47598 to Nina Renee Escoto (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on September 30, 2012, unless renewed.

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. Section 4300 of the Code states:

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

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration /surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402, subdivision (a), of the Code provides that any pharmacist license that is not reviewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402, subdivision (e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY AND REGULATORY PROVISIONS

6. Section 4301 of the Code states:

"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.

. . .

"(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. The record of conviction of a violation of Chapter 13

(commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 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."

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. 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 her license or registration in a manner consistent with the public health, safety, or welfare."

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COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct/Use of Alcohol in a Dangerous Manner)
(Bus. & Prof. Code § 4301(h))

10. Respondent has subjected her license to disciplinary action under section 4301, subdivision (h) in that she used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself and others. The circumstances are as follows:

11. On or about April 25, 2009, Respondent was arrested for driving under the influence of alcohol with a blood alcohol content (BAC) of over .08 percent. A Benicia Police Department police officer responded to the scene of a traffic accident where the officer identified Respondent as the driver of one of the vehicles involved in the collision. The officer smelled the odor of an alcoholic beverage emitting from Respondent's breath. Respondent admitted to consuming three to four beers that evening. Respondent failed to perform the field sobriety tests (FSTs) as demonstrated. The officer administered a Preliminary Alcohol Screening the result of which showed a BAC of .17 percent. Based on the results of the FSTs and the objective signs and symptoms of intoxication, the police officer arrested Respondent for violating Vehicle Code section 23152, subdivision (a) (DUI of a Drug or Alcohol) and section 23152, subdivision (b) (DUI with BAC over 0.08 percent).

SECOND CAUSE FOR DISCIPLINE
(Conviction)
(Bus. & Prof. Code §§ 490, 4301(l); CCR, tit. 16, §1770)

12. Respondent has subjected her license to disciplinary action under sections 490 and 4301, subdivision (l), by reference to California Code of Regulations, title 16, section 1770, for the conviction of a substantially related crime, in that on or about July 22, 2009, in *People v. Nina Renee Escoto*, Case No. VCR203556 in Solano County Superior Court, Respondent was

convicted by plea of nolo contendere of one count of violating Vehicle Code section 23152, subdivision (b) (DUI with BAC over 0.08 percent), a misdemeanor. Imposition of sentence was suspended in favor of a three year summary probation, with terms and conditions including four days in jail, completing a first offender program, and fines and fees.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct/Use of Alcohol in a Dangerous Manner)
(Bus. & Prof. Code § 4301(h))

13. Respondent has subjected her license to disciplinary action under section 4301, subdivision (h) in that she used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself and others. The circumstances are as follows:

14. On or about October 24, 2009, Respondent was arrested for driving under the influence of alcohol with a BAC of over .08 percent and for violating probation. A Benicia Police Department police officer initiated an enforcement traffic stop on Respondent's vehicle which had failed to come to a complete stop at a stop sign. The police officer smelled the odor of an alcoholic beverage on Respondent's breath. Respondent admitted to consuming a few alcoholic beverages earlier that evening. Respondent failed to perform the FSTs as demonstrated. The officer administered a Preliminary Alcohol Screening test but Respondent failed to complete the test as instructed. Based on the results of the FSTs and the objective signs and symptoms of intoxication, the officer arrested Respondent for violating Vehicle Code section 23152, subdivision (a) (DUI of a Drug or Alcohol) and section 23152, subdivision (b) (DUI with BAC over 0.08 percent). Respondent was then transferred to County Jail for booking, at which time she submitted to a blood test, the results of which later revealed that her BAC was .19 percent.

FOURTH CAUSE FOR DISCIPLINE
(Conviction)
(Bus. & Prof. Code §§ 490, 4301(l); CCR, tit. 16, §1770)

15. Respondent has subjected her license to disciplinary action under sections 490 and 4301, subdivision (l), by reference to California Code of Regulations, title 16, section 1770, for the conviction of a substantially related crime, in that on or about December 4, 2009, in *People v. Nina Renee Escoto,* Case No. VCR205295 in Solano County Superior Court, Respondent was convicted by plea of nolo contendere of one count of violating Vehicle Code section 23152,

subdivision (a) (DUI of Alcohol or Drugs), a misdemeanor. Imposition of sentence was suspended in favor of a three year summary probation, with terms and conditions including 20 days in jail, and fines and fees.

FIFTH CAUSE FOR DISCIPLINE
(Conviction of Misdemeanors Involving Alcohol)
(Bus. & Prof. Code § 4301(k))

16. Complainant realleges the allegations contained in paragraphs 12 and 15 above, and incorporates them by reference as if fully set forth.

17. Respondent has subjected her license to disciplinary action under section 4301, subdivision (k) in that she was convicted of two misdemeanors involving the consumption of alcoholic beverages.

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 License Number TCH 47598, issued to Nina Renee Escoto;

2. Ordering Nina Renee Escoto 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: 12/02/10

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

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