

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

In the Matter of the Accusation Against:

Case No. 3963

GUSTAVO CASILLAS
4221 E. McKenzie Avenue
Fresno, CA 93702

Pharmacy Technician License No. TCH 87998

Respondent.

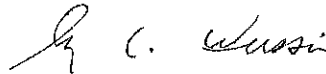
DECISION AND ORDER

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 October 15, 2012.

It is so ORDERED on September 14, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
 Attorney General of California
 2 ARTHUR D. TAGGART
 Supervising Deputy Attorney General
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 Deputy Attorney General
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 7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3963

12 **GUSTAVO ANDREW CASILLAS**
 4221 E. McKenzie Avenue
 13 Fresno, CA 93702

OAH No. 2011110472

**STIPULATED SETTLEMENT AND
 DISCIPLINARY ORDER**

14 **Pharmacy Technician License No. TCH**
 15 **87998**

16 Respondent.

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

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
 22 She brought this action solely in her official capacity and is represented in this matter by Kamala
 23 D. Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney
 24 General.

25 2. Gustavo Andrew Casillas (Respondent) is represented in this proceeding by attorney
 26 Jeffrey Hammerschmidt, whose address is: Hammerschmidt Broughton Law Corporation, 2445
 27 Capitol Street, Suite 150, Fresno, CA 93721
 28

1 10. Respondent agrees that his Pharmacy Technician License is subject to discipline and
2 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
3 below.

4 RESERVATION

5 11. The admissions made by Respondent herein are only for the purposes of this
6 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
7 licensing agency is involved, and shall not be admissible in any other criminal or civil
8 proceeding.

9 CONTINGENCY

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

19 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
20 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
21 effect as the originals.

22 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
23 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
26 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
27 writing executed by an authorized representative of each of the parties.
28

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

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 87998 issued to
6 Respondent Gustavo Andrew Casillas (Respondent) is revoked. However, the revocation is
7 stayed and Respondent is placed on probation for four (4) years on the following terms and
8 conditions.

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

10 Respondent shall be automatically suspended from working as a pharmacy technician until
11 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides
12 satisfactory proof of certification to the board. Respondent shall not resume working as a
13 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
14 year shall be considered a violation of probation. Respondent shall not resume working as a
15 pharmacy technician until notified by the board.

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

24 Subject to the above restrictions, respondent may continue to own or hold an interest in any
25 licensed premises by the board in which he holds an interest at the time this decision becomes
26 effective unless otherwise specified in this order.

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

28 //

1 **2. Obey All Laws**

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

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

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

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

16 **3. Report to the Board**

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

25 **4. Interview with the Board**

26 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
27 with the board or its designee, at such intervals and locations as are determined by the board or its
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 **5. Cooperate with Board Staff**

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

7 **6. Notice to Employers**

8 During the period of probation, respondent shall notify all present and prospective
9 employers of the decision in case number 3963 and the terms, conditions and restrictions imposed
10 on respondent by the decision, as follows:

11 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
12 respondent undertaking any new employment, respondent shall cause his direct supervisor,
13 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
14 tenure of employment) and owner to report to the board in writing acknowledging that the listed
15 individual(s) has/have read the decision in case number 3963 and the terms and conditions
16 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
17 supervisor(s) submit timely acknowledgement(s) to the board.

18 If respondent works for or is employed by or through a pharmacy employment service,
19 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
20 of the terms and conditions of the decision in case number 3963 in advance of the respondent
21 commencing work at each pharmacy. A record of this notification must be provided to the board
22 upon request.

23 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
24 (15) days of respondent undertaking any new employment by or through a pharmacy employment
25 service, respondent shall cause his direct supervisor with the pharmacy employment service to
26 report to the board in writing acknowledging that he has read the decision in case number 3963
27 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
28 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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,
5 part-time, temporary or relief service or pharmacy management service as a pharmacy
6 technician or in any position for which a pharmacy technician license is a requirement
7 or criterion for employment, whether the respondent is considered an employee,
8 independent contractor or 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 \$ 1,800.00. Respondent may
12 make quarterly payment upon written approval from the Board or its designee. There shall be no
13 deviation from this schedule absent prior written approval by the board or its designee. Failure to
14 pay costs by the deadline(s) as directed shall be considered a violation of probation.

15 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
16 reimburse the board its costs of investigation and prosecution.

17 **8. Probation Monitoring Costs**

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

22 **9. Status of License**

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

26 If respondent's pharmacy technician license expires or is cancelled by operation of law or
27 otherwise at any time during the period of probation, including any extensions thereof due to
28 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all

1 terms and conditions of this probation not previously satisfied.

2 **10. License Surrender While on Probation/Suspension**

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

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

17 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
18 **Employment**

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

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

26 **12. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.

1 Any month during which this minimum is not met shall toll the period of probation, i.e., the
2 period of probation shall be extended by one month for each month during which this minimum is
3 not met. During any such period of tolling of probation, respondent must nonetheless comply
4 with all terms and conditions of probation.

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

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

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

18 13. Violation of Probation

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

24 If respondent violates probation in any respect, the board, after giving respondent notice
25 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
26 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
27 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
28 a petition to revoke probation or an accusation is filed against respondent during probation, the

1 board shall have continuing jurisdiction, and the period of probation shall be automatically
2 extended until the petition to revoke probation or accusation is heard and decided.

3 **14. Completion of Probation**

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

6 **15. No Ownership of Licensed Premises**

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

14 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

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

23 **17. Random Drug Screening**

24 Respondent, at his own expense, shall participate in random testing, including but not
25 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
26 screening program as directed by the board or its designee. Respondent may be required to
27 participate in testing for the entire probation period and the frequency of testing will be
28 determined by the board or its designee. At all times respondent shall fully cooperate with the

1 board or its designee, and shall, when directed, submit to such tests and samples for the detection
2 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
3 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
4 of probation. Upon request of the board or its designee, respondent shall provide documentation
5 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
6 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
7 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
8 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
9 shall be considered a violation of probation and shall result in the automatic suspension of work
10 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
11 board in writing.

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

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

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

25 18. Notification of Departure

26 Prior to leaving the probationary geographic area designated by the board or its designee for
27 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
28 writing of the dates of departure and return. Failure to comply with this provision shall be

1 considered a violation of probation.

2 **19. Abstain from Drugs and Alcohol Use**

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

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 16 discussed it with my attorney, Jeffrey Hammerschmidt. I understand the stipulation and the effect
 17 it will have on my Pharmacy Technician License. I enter into this Stipulated Settlement and
 18 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 19 Decision and Order of the Board of Pharmacy.

20
 21 DATED: 7/10/12 *Gustavo Andrew Casillas*
 22 GUSTAVO ANDREW CASILLAS
 Respondent

23 I have read and fully discussed with Respondent Gustavo Andrew Casillas the terms and
 24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
 25 I approve its form and content.

26
 27 DATED: 7-10-12 *Jeffrey Hammerschmidt*
 28 Jeffrey Hammerschmidt
 Attorney for Respondent

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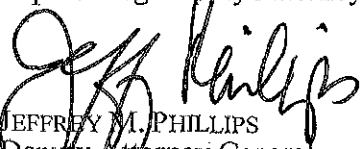
ENDORSEMENT

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: 7/26/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

SA2011100115
Stipulation.rtf

Exhibit A

Accusation No. 3963

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
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6 Telephone: (916) 324-6292
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7 *Attorneys for Complainant*

8 **BEFORE THE**
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13 **GUSTAVO ANDREW CASILLAS**
4221 E. MCKENZIE AVE.
14 **FRESNO, CA 93702**

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 87998**

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about January 13, 2009, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 87998 to Gustavo Andrew Casillas (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on July 31, 2012, unless renewed.

26 //

27 //

28

JURISDICTION

3. Section 4300 of the Business and Professions Code ("Code") states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

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

4. 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.

STATUTORY PROVISIONS

5. Code section 4301 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.

...

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

4 (l) The conviction of a crime substantially related to the qualifications,
5 functions, and duties of a licensee under this chapter. The record of conviction of a
6 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
7 States Code regulating controlled substances or of a violation of the statutes of this
8 state regulating controlled substances or dangerous drugs shall be conclusive
9 evidence of unprofessional conduct. In all other cases, the record of conviction shall
10 be conclusive evidence only of the fact that the conviction occurred. The board may
11 inquire into the circumstances surrounding the commission of the crime, in order to
12 fix the degree of discipline or, in the case of a conviction not involving controlled
13 substances or dangerous drugs, to determine if the conviction is of an offense
14 substantially related to the qualifications, functions, and duties of a licensee under this
15 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
16 contendere is deemed to be a conviction within the meaning of this provision. The
17 board may take action when the time for appeal has elapsed, or the judgment of
18 conviction has been affirmed on appeal or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent order under
20 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
21 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
22 dismissing the accusation, information, or indictment.

23 COST RECOVERY

24 6. Code section 125.3 states, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

7. Respondent is subject to discipline pursuant to Code section 4301, subdivision (l), on
the grounds of unprofessional conduct, in that Respondent has been convicted of the following
crimes that are substantially related to the qualifications, functions, and duties of a registered
pharmacy technician:

a. On August 3, 2009, in the Superior Court, County of Fresno, California, in the matter
entitled *People vs. Gustavo Andrew Casillas*, Case No. M0900183, Respondent was convicted by
the court following his plea of no contest (e.g. "nolo contendere") to a violation of Vehicle Code
section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a
misdemeanor. The circumstances of the crime are that on May 23, 2009, Respondent was

1 arrested for driving under the influence of alcohol, following a traffic collision. Respondent's
2 blood alcohol level measured .10%. On or about April 25, 2010, Respondent violated probation
3 by being arrested for a second DUI offense, as more particularly set forth in subparagraph b,
4 below.

5 b. On September 21, 2010, in the Superior Court, County of Fresno, California, in the
6 matter entitled *People vs. Gustavo Andrew Casillas*; Case No. M1001068, Respondent was
7 convicted by the court following his plea of no contest to a violation of Vehicle Code section
8 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a misdemeanor. The
9 circumstances of the crime are that on May 25, 2010, Respondent was arrested for driving under
10 the influence of alcohol, following a traffic stop. Respondent's blood alcohol level measured
11 .12%. On or about June 6, 2010, Respondent violated probation by being arrested for a third DUI
12 offense, as more particularly set forth in subparagraph c, below.

13 c. On September 21, 2010, in the Superior Court, County of Fresno, California, in the
14 matter entitled *People vs. Gustavo Andrew Casillas*, Case No. M10919724, Respondent was
15 convicted by the court following his plea of no contest to a violation of Vehicle Code section
16 23152, subdivision (a) (driving under the influence of alcohol), a misdemeanor. The
17 circumstances of the crime are that on June 6, 2010, Respondent was arrested for driving under
18 the influence of alcohol, following a traffic stop. Respondent's blood alcohol level measured
19 .156 and .148%, respectively.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Use of Alcoholic Beverages to an Extent or Manner
22 Dangerous or Injurious to Himself or Others)**

23 8. Respondent is subject to discipline pursuant to Code section 4301, subdivision (h), on
24 the grounds of unprofessional conduct, in that on or about May 23, 2009, April 25, 2010, and
25 June 6, 2010, Respondent used alcoholic beverages to an extent or in a manner dangerous or
26 injurious to himself or others as more particularly set forth in paragraph 7, subparagraphs a
27 through c, above.

28 //

1 THIRD CAUSE FOR DISCIPLINE

2 (Multiple Convictions Involving the Use of Alcoholic Beverages)

3 9. Respondent is subject to discipline pursuant to Code section 4301, subdivision (k), on the
4 grounds that he has been convicted of more than one misdemeanor involving the use,
5 consumption, or self-administration of alcoholic beverages, as more particularly set forth in
6 paragraph 7, subparagraphs a through c, above.

7
8 PRAYER

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

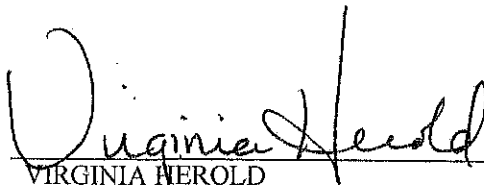
11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 87998
12 issued to Gustavo Andrew Casillas;

13 2. Ordering Gustavo Andrew Casillas to pay the Board of Pharmacy the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Business and Professions
15 Code section 125.3; and,

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

17
18
19 DATED: _____

9/23/11



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

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS