



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
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STATE AND CONSUMER SERVICES AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 BOARD OF PHARMACY GOVERNOR EDMUND G. BROWN JR.

2013 MAY 13 PM 4:17

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

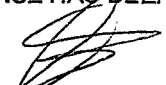
PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>GILBERT BARRON</u>	Case No. <u>AC 20114218</u>
Address of Record: <u>417 E. 26TH</u> <u>NATIONAL CITY, CA 91950</u>	

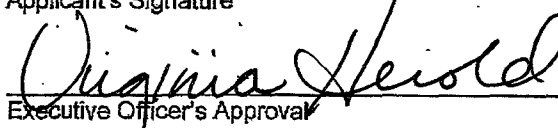
Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC20114218, I hereby request to surrender my pharmacy technician license; License No. TCH10422. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.


 Applicant's Signature

5/7/13
 Date


 Executive Officer's Approval

5/23/13
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

Case No. 4218

GILBERT BARRON
315 E. 30th Street, #G
National City, CA 91950

Pharmacy Technician Registration No.
TCH10422

Respondent.

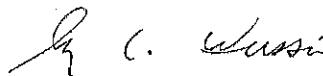
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 17, 2013.

It is so ORDERED on March 18, 2013.

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 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4218

13 **GILBERT BARRON**
14 **315 E. 30th Street, #G**
15 **National City, CA 91950**

OAH No. 2012090713

15 **Pharmacy Technician Registration No.**
16 **TCH 10422**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17 Respondent.

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
20 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
21 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
24 She brought this action solely in her official capacity and is represented in this matter by Kamala
25 D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney
26 General.

27 2. Respondent Gilbert Barron (Respondent) is representing himself in this proceeding
28 and has chosen not to exercise his right to be represented by counsel.

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

4 CONTINGENCY

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

14 12. The parties understand and agree that email and facsimile copies of this Stipulated
15 Settlement and Disciplinary Order, including email and facsimile signatures thereto, shall have
16 the same force and effect as the originals.

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

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 10422 issued
3 to Respondent Gilbert Barron (Respondent) is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for four (4) years on the following terms and conditions.

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

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

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

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

24 **2. Obey All Laws**

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

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

- 28 an arrest or issuance of a criminal complaint for violation of any provision of the

1 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
2 substances laws

- 3 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
4 criminal complaint, information or indictment
- 5 a conviction of any crime
- 6 discipline, citation, or other administrative action filed by any state or federal agency
7 which involves respondent's pharmacy technician registration or which is related to
8 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
9 billing, or charging for any drug, device or controlled substance.

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

11 **3. Report to the Board**

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

20 **4. Interview with the Board**

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

26 **5. Cooperate with Board Staff**

27 Respondent shall cooperate with the board's inspection program and with the board's
28 monitoring and investigation of respondent's compliance with the terms and conditions of his

1 probation. Failure to cooperate shall be considered a violation of probation.

2 **6. Notice to Employers**

3 During the period of probation, respondent shall notify all present and prospective
4 employers of the decision in Case Number 4218 and the terms, conditions and restrictions
5 imposed on respondent by the decision, as follows:

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
7 respondent undertaking any new employment, respondent shall cause his direct supervisor,
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
9 tenure of employment) and owner to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in Case Number 4218 and the terms and conditions
11 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
12 supervisor(s) submit timely acknowledgement(s) to the board.

13 If respondent works for or is employed by or through a pharmacy employment service,
14 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
15 of the terms and conditions of the decision in Case Number 4218 in advance of the respondent
16 commencing work at each pharmacy. A record of this notification must be provided to the board
17 upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through a pharmacy employment
20 service, respondent shall cause his direct supervisor with the pharmacy employment service to
21 report to the board in writing acknowledging that he has read the decision in Case Number 4218
22 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
23 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

27 "Employment" within the meaning of this provision shall include any full-time,
28 part-time, temporary or relief service or pharmacy management service as a pharmacy

1 technician or in any position for which a pharmacy technician license is a requirement
2 or criterion for employment, whether the respondent is considered an employee,
3 independent contractor or volunteer.

4 **7. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, respondent shall pay to the
6 board its costs of investigation and prosecution in the amount of \$2,130.00. Respondent shall
7 make said payments as follows: beginning thirty (30) days from the effective date of this
8 Decision, Respondent shall make monthly payments to the Board in the amount of \$75.00 until
9 the total amount of \$2,130.00 has been paid in full. Each installment payment is due on or before
10 the 10th day of each month. There shall be no deviation from this schedule absent prior written
11 approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be
12 considered a violation of probation.

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

15 **8. Probation Monitoring Costs**

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

20 **9. Status of License**

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

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

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

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

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

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

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

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

25 **12. Tolling of Probation**

26 Except during periods of suspension, respondent shall, at all times while on probation, be
27 employed as a pharmacy technician in California for a minimum of fifty (50) hours per calendar
28 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,

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

4 Should respondent, regardless of residency, for any reason (including vacation) cease
5 working as a pharmacy technician for a minimum of fifty (50) hours per calendar month in
6 California, respondent must notify the board in writing within ten (10) days of cessation of work
7 and must further notify the board in writing within ten (10) days of the resumption of the work.
8 Any failure to provide such notification(s) shall be considered a violation of probation.

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

12 "Cessation of work" means calendar month during which respondent is not
13 working for at least fifty (50) hours as a pharmacy technician, as defined in Business
14 and Professions Code section 4115. "Resumption of work" means any calendar
15 month during which respondent is working as a pharmacy technician for at least fifty
16 (50) hours as a pharmacy technician as defined by Business and Professions Code
17 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 **20. Prescription Coordination and Monitoring of Prescription Use**

15 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
16 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
17 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
18 history with the use of alcohol, controlled substances, and/or dangerous drugs and who will
19 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
20 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the
21 board's Accusation and Decision. A record of this notification must be provided to the board
22 upon request. Respondent shall sign a release authorizing the practitioner to communicate with
23 the board about respondent's treatment(s). The coordinating physician, nurse practitioner,
24 physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of
25 probation regarding respondent's compliance with this condition. If any substances considered
26 addictive have been prescribed, the report shall identify a program for the time limited use of any
27 such substances. The board may require that the single coordinating physician, nurse practitioner,
28 physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in

1 addictive medicine. Should respondent, for any reason, cease supervision by the approved
2 practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing
3 treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or
4 psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
5 timely submit the selected practitioner or replacement practitioner to the board for approval, or to
6 ensure the required reporting

7 If at any time an approved practitioner determines that respondent is unable to practice
8 safely or independently as a pharmacy technician, the practitioner shall notify the board
9 immediately by telephone and follow up by written letter within three (3) working days. Upon
10 notification from the board or its designee of this determination, respondent shall be
11 automatically suspended and shall not resume practice until notified by the board that practice
12 may be resumed.

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

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

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ACCEPTANCE

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

DATED:

1/16/13



GILBERT BARRON
Respondent

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:

1/16/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

SD2011801871
70663095.doc

Exhibit A

Accusation No. 4218

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4218

12 **GILBERT BARRON**
13 **315 E. 30th Street, #G**
14 **National City, CA 91950**

A C C U S A T I O N

15 **Pharmacy Technician Registration**
No. TCH 10422

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about November 5, 1993, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 10422 to Gilbert Barron (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2013, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

7 5. Section 118, subdivision (b), of the e Code provides that the suspension, expiration,
8 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

11 STATUTORY AND REGULATORY PROVISIONS

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

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

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8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. 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 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

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

20

21 (p) Actions or conduct that would have warranted denial of a license.

22

23 11. Title 16, California Code of Regulations, section 1769, states:

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

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

(2) Total criminal record.

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

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

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

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1 12. Title 16, California Code of Regulations, section 1770, states:

2 For the purpose of denial, suspension, or revocation of a personal or facility
3 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
4 Professions Code, a crime or act shall be considered substantially related to the
5 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.

6 **COST RECOVERY**

7 13. Section 125.3 of the Code states, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(April 22, 2003 Criminal Conviction for Driving Under the Influence of Alcohol**
13 **With BAC of 0.15% or More on December 21, 2002)**

14 14. Respondent is subject to disciplinary action under sections 490 and 4301,
15 subdivisions (l) of the Code in that Respondent was convicted of a crime substantially related to
16 the qualifications, functions and duties of a pharmacy technician. The circumstances are as
17 follows:

18 15. On or about April 22, 2003, in a criminal proceeding entitled *People of the State of*
19 *California vs. Gilbert Barron*, in the San Diego Superior Court, in case number SCS174337,
20 Respondent pled guilty to violating Vehicle Code section 23152(a) (driving under the influence of
21 alcohol), a misdemeanor.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(July 5, 2011 Criminal Conviction for Driving Under the Influence of Alcohol**
24 **[BAC 0.24%] on April 11, 2011)**

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

1 17. On or about July 5, 2011, in a criminal proceeding entitled *People of the State of*
2 *California vs. Gilbert Barron*, in the San Diego Superior Court, Central Division, in case number
3 CD134165, Respondent pled guilty to violating Vehicle Code section 23152(a) (driving under the
4 influence of alcohol), a misdemeanor.

5 18. The circumstances that led to the conviction are that on or about April 11, 2011, at
6 approximately 2335 hours, California Highway Patrol officers, while on routine patrol, received a
7 radio call from a dispatcher who reported a wrong-way driver on SR-94 eastbound in the
8 westbound lanes at about SR-15. The reporting party observed the vehicle (a white Ford
9 Mustang) pass I-805 traveling the wrong way and eventually pulling into the center divider. The
10 suspect vehicle was observed by the reporting party making a U-turn on the freeway and exiting
11 SR-94 westbound to 30th Street.

12 19. At approximately 2341 hours, officers located the vehicle at 30th Street and activated
13 the red emergency lights. The suspect vehicle yielded to the right shoulder on southbound 30th
14 Street at SR-94.

15 20. When officers made contact with the driver of the suspect vehicle (Respondent), they
16 detected a distinct odor of an alcoholic beverage emitting from within the vehicle and noticed the
17 driver's eyes were red and watery and the driver could not form a coherent statement. When
18 asked for his driver's license, Respondent reached into his pocket and pulled out his cell phone
19 and handed it to the officers. Respondent was asked to step out of the vehicle and had to be
20 assisted by officers as he stumbled. Respondent was asked to perform a series of field sobriety
21 tests, which he failed. Respondent did not have his driver's license on his person and gave
22 officers his name and date of birth, which came back with a description matching Respondent.
23 Respondent was asked by officers to blow into a PAS machine, which readings came back at
24 .239%, .156% and .237%. Respondent was placed under arrest and transported to the San Diego
25 County Jail where he provided a blood sample at 0031 hours which, when analyzed, indicated
26 Respondent's blood alcohol was 0.24%.

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1 21. As a result of the conviction, the Court placed Respondent on formal probation for
2 five (5) years to expire on August 30, 2016, and was committed to the custody of the Sheriff for
3 365 days, with execution of sentence suspended. Respondent was also ordered to pay various
4 fines and fees.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct – Use of Alcohol in a Manner Injurious to Oneself, to Any Other
7 Person or to the Public)**

8 22. Respondent is subject to disciplinary action under section 4301, subdivisions (h) of
9 the Code in that Respondent in that on December 21, 2002 and April 11, 2011, Respondent used
10 alcohol in a manner dangerous and injurious to himself, to any other person or to the public, as is
11 more fully detailed at paragraphs 14-21, above, which are incorporated here by reference.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Multiple Convictions Involving the Use of Alcoholic Beverages)**

14 23. Respondent has subjected his license to disciplinary action under section 4301,
15 subdivision (k) of the Code in that on or about April 22, 2003 and July 5, 2011, Respondent was
16 convicted in two separate cases on charges involving the consumption of alcoholic beverages, as
17 detailed in paragraphs 14-21, above, which are incorporated here by reference.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Committed Act Which Would Have Warranted
20 Denial of License)**

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22 24. Respondent is subject to disciplinary action under section 4301(p) of the Code in that
23 he engaged in actions or conduct that would have warranted denial of a license, as fully set forth
24 at paragraph 14-21, above, which are incorporated here by reference.

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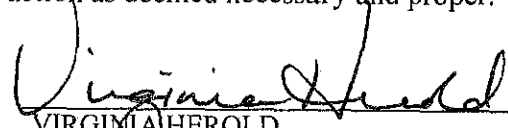
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PRAYER

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 10422, issued to Gilbert Barron;
2. Ordering Gilbert Barron 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: 7/10/12



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

SD2011801871