

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

In the Matter of the Accusation Against:

Case No. 4229

MIGUEL ECKERT
4150 41ST Street #11
San Diego, CA 82105

Pharmacy Technician Registration No.
TCH 99796

Respondent.

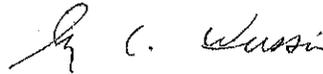
DECISION AND ORDER

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 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

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11
12 Case No. 4229

13 In the Matter of the Accusation Against:

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **MIGUEL PRADO ECKERT**
4150 41st Street #11
San Diego, CA 92105

15 **Pharmacy Technician Registration No.**
99796

16 Respondent.
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding 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 Nicole R. Trama, Deputy Attorney
24 General.

25 2. Miguel Prado Eckert (Respondent) is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.

27 3. On or about May 19, 2010, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. 99796 to Miguel Prado Eckert (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 4229 and expired on May 31, 2012.

3 **JURISDICTION**

4 4. Accusation No. 4229 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 12, 2012.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 4229 is attached as Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 4229. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 4229, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
25 Registration No. 99796 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue
27 an order accepting the surrender of his Pharmacy Technician Registration without further process.
28

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and surrender, without notice to or
5 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
6 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
7 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
8 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

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

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

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

ORDER

22
23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. 99796, issued to
24 Respondent Miguel Prado Eckert, is surrendered and accepted by the Board of Pharmacy.

25 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
26 of the surrendered license by the Board shall constitute the imposition of discipline against
27 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
28 Respondent's license history with the Board of Pharmacy.

1 2. Respondent shall lose all rights and privileges as a pharmacy technician in California
2 as of the effective date of the Board's Decision and Order.

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

5 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
6 California, the Board shall treat it as a new application for licensure. Respondent must comply
7 with all the laws, regulations and procedures for licensure in effect at the time the application or
8 petition is filed, and all of the charges and allegations contained in Accusation No. 4229 shall be
9 deemed to be true, correct and admitted by Respondent when the Board determines whether to
10 grant or deny the application or petition.

11 5. Respondent shall satisfy all requirements applicable to that license as of the date the
12 application is submitted to the board, including, but not limited to certification by a nationally
13 recognized body prior to the issuance of a new license. Respondent is required to report this
14 surrender as disciplinary action.

15 6. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$3,070.00 prior to issuance of a new or reinstated license.

17 7. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 4229 shall be deemed to
20 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
21 other proceeding seeking to deny or restrict licensure.

22 8. Respondent shall not apply for licensure or petition for reinstatement for three (3)
23 years from the effective date of the Decision and Order.

Exhibit A

Accusation No. 4229

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. COOK
Deputy Attorney General
4 State Bar No. 263607
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11 Case No. 4229

12 In the Matter of the Accusation Against:

13 **MIGUEL PRADO ECKERT**
14 **4150 41st Street #11**
San Diego, CA 92105

A C C U S A T I O N

15 **Pharmacy Technician Registration No.**
16 **99796**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about May 19, 2010, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number 99796 to Miguel Prado Eckert (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on May 31, 2012, unless renewed.

27 ///

28 ///

1 and the board may inquire into the circumstances surrounding the commission of
2 the crime in order to fix the degree of discipline or to determine if the conviction is
3 substantially related to the qualifications, functions, and duties of the licensee in
4 question.

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

7 9. Section 4060 of the Code states:

8 No person shall possess any controlled substance, except that furnished to a
9 person upon the prescription of a physician, dentist, podiatrist, optometrist,
10 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
11 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
12 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
13 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
14 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
15 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
16 section shall not apply to the possession of any controlled substance by a
17 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
18 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
19 practitioner, or physician assistant, when in stock in containers correctly labeled
20 with the name and address of the supplier or producer.

21 Nothing in this section authorizes a certified nurse-midwife, a nurse
22 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
23 stock of dangerous drugs and devices.

24 10. Section 4301 of the Code states:

25 The board shall take action against any holder of a license who is guilty of
26 unprofessional conduct or whose license has been procured by fraud or
27 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
28 is not limited to, any of the following:

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

.....
(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

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

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REGULATORY PROVISIONS

11. 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.

12. California Code of Regulations, title 16, section 1769, states:

.....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for 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.

1 COST RECOVERY

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

6 DRUG

7 14. Cocaine is a Schedule II controlled substance as designated by Health and Safety
8 Code section 11055(b)(6), and is a dangerous drug pursuant to Business & Professions Code
9 section 4022.

10 15. Methamphetamine is a Schedule II controlled substance as designated by Health and
11 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
12 Code section 4022.

13 FIRST CAUSE FOR DISCIPLINE

14 **(July 21, 2011 Conviction for Importation of a Controlled Substance on June 8, 2011)**

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

18 a. On or about July 21, 2011, in a criminal proceeding entitled *United States of*
19 *America v. Miguel Prado Eckert*, in the United States District Court, Southern District of
20 California, case number 11CR2856-IEG, Respondent was convicted on his plea of guilty for
21 violation of Title 21, United States Code, Sections 952 and 960, knowingly and intentionally
22 importing 2.26 kilograms of cocaine, a Schedule II Controlled Substance, into the United States
23 from a place outside thereof.

24 b. The facts that led to the convictions are that on or about June 8, 2011, at
25 approximately 2054 hours, Respondent and his male passenger sought admission from the
26 Republic of Mexico into the United States at the San Ysidro Port of Entry. Respondent was the
27 driver of the vehicle. Respondent provided the Customs & Border Protection Officer (CBPO)
28 with a valid I-551 card bearing his name and photo. During the inspection, the CBPO noticed

1 that Respondent was avoiding eye contact. The vehicle was then referred to the secondary lot for
2 further inspection. A CBPO conducted a pat down of Respondent and felt hard items on each of
3 the sides of his stomach. The hard items were packages taped on each side of Respondent's
4 stomach. A presumptive test of the contents of both packages revealed a positive reaction to the
5 presence of cocaine. A total of two packages weighing 2.26 kilograms were removed from
6 Respondent. A pat down of Respondent's passenger also revealed packages taped on each side of
7 the passenger's stomach. A presumptive test of the contents of both packages that were taped to
8 the passenger's stomach revealed a positive reaction to the presence of methamphetamine and
9 weighed a total of 1.22 kilograms. Both Respondent and his passenger admitted knowledge of
10 transporting the narcotics that were taped to their stomachs.

11 c. As a result of his conviction, on or about November 1, 2011, Respondent was
12 sentenced to four years of supervised release, required to submit to random drug testing as
13 determined by the court, and ordered not to enter or reside in the Republic of Mexico without
14 written permission from the court or probation officer.

15 SECOND CAUSE FOR DISCIPLINE

16 **(Unprofessional Conduct- Violating State Laws Regulating Controlled Substances)**

17 17. Respondent is subject to disciplinary action for unprofessional conduct under section
18 4301(j) of the Code in that on or about June 8, 2011, Respondent illegally possessed and imported
19 a controlled substance into California in violation of Code section 4060 and Title 21, United
20 States Code, Sections 952 and 960, as set forth above in paragraph 16, incorporated herein by
21 reference.

22 PRAYER

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

25 1. Revoking or suspending Pharmacy Technician Registration Number 99796, issued to
26 Miguel Prado Eckert;

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2. Ordering Miguel Prado Eckert 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: 6/1/12



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

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4150 41st Street #11
San Diego, CA 92105

Pharmacy Technician Registration No.
99796

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 _____.

It is so ORDERED _____.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

MIGUEL PRADO ECKERT
4150 41st Street #11
San Diego, CA 92105