



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
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Received
 MAY 12 2014

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: Sergio Adano

Address of Record:
960 Domain Way
Redding, CA 96003

Case No. SI201100429600

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. SI201100429600, I hereby request to surrender my pharmacy technician license, License No. 118579. 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.

Sergio Adano
 Applicant's Signature

J. Harold
 Executive Officer's Approval

5/9/14
 Date

5/13/14
 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 Statement of Issues Against:

Case No. 4296

SERGIO ADAMO

960 Domain Way
Redding, CA 96003

Application for Pharmacy Technician
Registration

Respondent.

DECISION AND ORDER

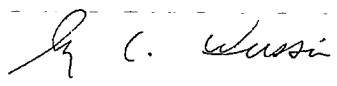
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 31, 2014.

It is so ORDERED on January 24, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
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6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
Against:

12 **SERGIO TRY ADAMO**

13
14 Respondent.

Board of Pharmacy case No. 4296

15
16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

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. Respondent Sergio Try Adamo ("Respondent") is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about August 24, 2011, Respondent filed an application dated August 17, 2011,
28 with the Board of Pharmacy to obtain a Pharmacy Technician License.

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JURISDICTION

4. Statement of Issues No. 4296 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on April 3, 2013.

5. A copy of Statement of Issues No. 4296 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 4296. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 4296.

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

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional

1 licensing agency is involved, and shall not be admissible in any other criminal or civil
2 proceeding.

3 CONTINGENCY

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

13 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
14 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
15 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

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1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacy Technician License will be issued to
3 Respondent Sergio Try Adamo and immediately revoked. The revocation will be stayed and
4 Respondent will be placed on three (3) years probation 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

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

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

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

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's 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 4296 and the terms, conditions and restrictions imposed
5 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 4296 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 4296 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 4296
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. Probation Monitoring Costs**

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

9 **8. Status of License**

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

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

17 **9. License Surrender While on Probation/Suspension**

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

26 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
27 license to the board within ten (10) days of notification by the board that the surrender is
28 accepted. Respondent may not reapply for any license, permit, or registration from the board for

1 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
2 applicable to the license sought as of the date the application for that license is submitted to the
3 board.

4 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
5 **Employment**

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

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

13 of probation, the board shall have continuing jurisdiction over respondent, and probation
14 shall automatically be extended, until all terms and conditions have been satisfied or the board
15 has taken other action as deemed appropriate to treat the failure to comply as a violation of
16 probation, to terminate probation, and to impose the penalty that was stayed.

17 If respondent violates probation in any respect, the board, after giving respondent notice
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
21 a petition to revoke probation or an accusation is filed against respondent during probation, the
22 board shall have continuing jurisdiction, and the period of probation shall be automatically
23 extended until the petition to revoke probation or accusation is heard and decided.

24 **11. Completion of Probation**

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

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1 **12. No Ownership of Licensed Premises**

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

9 **13. Tolling of Probation**

10 Except during periods of suspension, respondent shall, at all times while on probation, be
11 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
12 month during which this minimum is not met shall toll the period of probation, i.e., the period of
13 probation shall be extended by one month for each month during which this minimum is not met.
14 During any such period of tolling of probation, respondent must nonetheless comply with all
15 terms and conditions of probation.

16 Should respondent, regardless of residency, for any reason (including vacation) cease
17 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
18 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
19 must further notify the board in writing within ten (10) days of the resumption of practice. Any
20 failure to provide such notification(s) shall be considered a violation of probation.

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

24 "Cessation of practice" means any calendar month during which respondent is
25 not practicing as a pharmacist for at least _____ hours, as defined by Business
26 and Professions Code section 4000 et seq. "Resumption of practice" means any
27 calendar month during which respondent is practicing as a pharmacist for at least

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1 _____ hours as a pharmacist as defined by Business and Professions Code
2 section 4000 et seq.

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

4 If there is any positive random drug screen tests for the presence of any controlled
5 substance or alcohol during the probationary period, as described below, within thirty (30) days
6 of the positive test result, Respondent shall begin regular attendance at a recognized and
7 established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous,
8 Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent
9 must attend at least one group meeting per week unless otherwise directed by the board or its
10 designee. Respondent shall continue regular attendance and submit signed and dated
11 documentation confirming attendance with each quarterly report for the duration of probation.
12 Failure to attend or submit documentation thereof shall be considered a violation of probation.

13 **15. Random Drug Screening**

14 Respondent, at his own expense, shall participate in random testing, including but not
15 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
16 screening program as directed by the board or its designee. Respondent may be required to
17 participate in testing for the entire probation period and the frequency of testing will be
18 determined by the board or its designee. At all times respondent shall fully cooperate with the
19 board or its designee, and shall, when directed, submit to such tests and samples for the detection
20 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
21 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
22 of probation. Upon request of the board or its designee, respondent shall provide documentation
23 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
24 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
25 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
26 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
27 shall be considered a violation of probation and shall result in the automatic suspension of work
28 by respondent. Respondent may not resume work as a pharmacy technician until notified by the

1 board in writing.

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

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

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

15 **16. Work Site Monitor**

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

26 **17. Notification of Departure**

27 Prior to leaving the probationary geographic area designated by the board or its designee for
28 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in

1 writing of the dates of departure and return. Failure to comply with this provision shall be
2 considered a violation of probation.

3 **18. Abstain from Drugs and Alcohol Use**

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

15 **19. Prescription Coordination and Monitoring of Prescription Use**

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

1 single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist
2 in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any
3 reason, cease supervision by the approved practitioner, respondent shall notify the board
4 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
5 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the
6 board or its designee for its prior approval. Failure to timely submit the selected practitioner or
7 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
8 the quarterly reports, shall be considered a violation of probation.

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

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

22 During suspension, respondent shall not engage in any activity that requires the
23 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
24 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
25 designated representative for any entity licensed by the board.

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

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

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 License. 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.

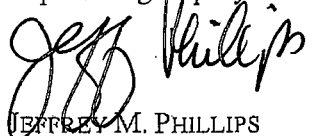
DATED: 10/23/13 
SERGIO TRY ADAMO
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated: 10/28/13

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

SA2012105739
11187862.doc

Exhibit A

Statement of Issues No. 4296

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LANCHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
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6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 4296

13 **SERGIO TRY ADAMO**

STATEMENT OF ISSUES

14 960 Domain Way
15 Redding, California 96003

16 **Pharmacy Technician Registration**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 24, 2011, the Board of Pharmacy (Board), Department of
23 Consumer Affairs received an application for Registration as a Pharmacy Technician from Sergio
24 Try Adamo (Respondent). On or about August 17, 2011, Sergio Try Adamo certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on or about February 3, 2012.

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JURISDICTION

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

STATUTORY PROVISIONS

4. Section 477 of the Code states:

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means of engage in a business or profession regulated by this code.

5. Section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant of this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

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6. 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.

7. Section 4301 states in relevant part, that:

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

....

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

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

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

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COST RECOVERY

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

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crimes)

9. Respondent's application is subject to denial under Code section 480, subdivision (a)(1), Section 493, and Section 480 subdivision (a)(3)(A) for violation of Code section 4301, subdivisions (l), in that Respondent was convicted of crimes that are substantially related to the qualifications, functions, and duties of a pharmacy technician, as follows:

10. On or about November 24, 2008, in a criminal proceeding entitled *People of the State of California v. Sergio Try Adamo*, in the Superior Court of California, County of Shasta, Case Number 08-09115, Respondent was convicted of one count of violating Vehicle Code Section 23152 (b) (driving while having a 0.08% or higher blood alcohol), a misdemeanor and one count Section 14601.2 (a) (driving when privilege suspended-prior DUI conviction), a misdemeanor. The circumstances of the crime are that on or about October 11, 2008, Respondent did willfully and unlawfully, while under the influence of an alcoholic beverage, drive a vehicle with a blood alcohol content of .21/.22.

11. On or about May 21, 2007, in a criminal proceeding entitled *People of the State of California v. Sergio Try Adamo*, in the Superior Court of California, County of Shasta, Case Number 07-00859, Respondent was convicted of one count of violating Vehicle Code Section 23152 (b) (driving while having a 0.08% or higher blood alcohol), a misdemeanor. The circumstances of the crime are that on or about January 4, 2007, Respondent did willfully and unlawfully, while under the influence of an alcoholic beverage, drive a vehicle with a blood alcohol content of .08% or higher.

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SECOND CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages in a Manner Dangerous or Injurious to Oneself or Others)

12. Respondent's application is subject to denial under Code section 480 subdivision (a)(3)(A) for violation of Code section 4301, subdivision (h), in that Respondent used alcohol beverages to the extent or in a manner as to be dangerous or injurious to oneself . . . or to any other person or to the public, as alleged in paragraphs 10 and 11.

THIRD CAUSE FOR DISCIPLINE

(Multiple Convictions)

13. Respondent's application is subject to denial under Code section 480 subdivision (a)(3)(A) for violation of Code section 4301, subdivision (k), in that Respondent has been convicted of more than one misdemeanor or any felony involving the use, consumption, or self-administration of an alcoholic beverage, as alleged in paragraphs 10 and 11.

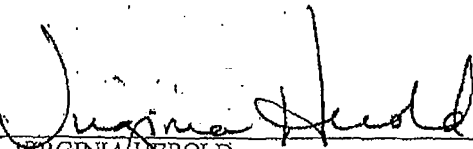
PRAYER

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. Denying the application of Sergio Try Adamo for a Pharmacy Technician Registration and,
- 2. Taking such other and further action as deemed necessary and proper.

DATED:

3/26/13



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

SA2012105739