

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

In the Matter of the Accusation Against:

Case No. 5177

**STEVEN YALE SZEKULA
7924 Alpine View Drive
Roseville, CA 95747
Pharmacy Technician Registration No. TCH
126288**

Respondent.

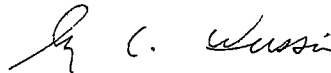
DECISION AND ORDER

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 May 13, 2015.

It is so ORDERED on May 6, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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Attorney General of California
2 KENT HARRIS
Supervising Deputy Attorney General
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

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16 **Pharmacy Technician Registration No. TCH**
126288

Respondent.

STIPULATED SURRENDER OF
LICENSE AND ORDER

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

19 PARTIES

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

24 2. Steven Yale Szekula (Respondent) is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about December 31, 2012, the Board of Pharmacy issued Pharmacy
27 Technician Registration No. TCH 126288 to Steven Yale Szekula (Respondent). The Pharmacy
28

1 Technician Registration was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 5177 and will expire on February 29, 2016, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5177 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 September 8, 2014.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 5177 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. 5177. 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. 5177, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
25 Registration No. TCH 126288 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.
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CONTINGENCY

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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 Portable Document Format (PDF) and facsimile
12 copies of this Stipulated Surrender of License and Order, including Portable Document Format
13 (PDF) and facsimile signatures thereto, shall have the same force and effect as 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

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 126288,
24 issued to Respondent Steven Yale Szekula, is surrendered and accepted by the Board of
25 Pharmacy.

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

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

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

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the
9 laws, regulations and procedures for licensure in effect at the time the application or petition is
10 filed, and all of the charges and allegations contained in Accusation No. 5177 shall be deemed to
11 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
12 the application or petition.

13 5. Respondent may not re-apply for licensure for three years from the effective date of
14 this decision.

15 6. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$2,215.50 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. 5177 shall be deemed
20 to 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.

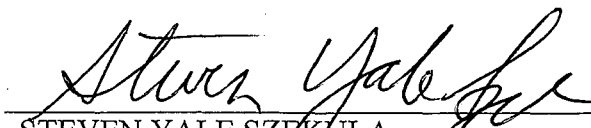
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ACCEPTANCE

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

DATED: 3/25/15


STEVEN YALE SZEKULA
Respondent


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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 4/1/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KENT HARRIS
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5177

1 KAMALA D. HARRIS
2 Attorney General of California
3 KENT D. HARRIS
4 Supervising Deputy Attorney General
5 ELENA L. ALMANZO
6 Deputy Attorney General
7 State Bar No. 131058
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19 **STEVEN YALE SZEKULA**
20 7924 Alpine View Drive
21 Roseville, California 95747

ACCUSATION

22 **Pharmacy Technician Registration**
23 **No. TCH 126288**

24 Respondent.

25 Virginia Herold ("Complainant") alleges:

26 **PARTIES**

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

Pharmacy Technician Registration

29 2. On or about December 31, 2012, the Board issued Pharmacy Technician Registration
30 Number TCH 126288 to Steven Yale Szekula ("Respondent"). The Pharmacy Technician
31 Registration was in full force and effect at all times relevant to the charges brought herein and
32 will expire on February 29, 2016, unless renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

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

9 (4) Revoking his or her license.

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

12 4. Code section 4300.1 states:

13 The expiration, cancellation, forfeiture, or suspension of a board-issued license
14 by operation of law or by order or decision of the board or a court of law, the
15 placement of a license on a retired status, or the voluntary surrender of a license by a
16 licensee shall not deprive the board of jurisdiction to commence or proceed with any
17 investigation of, or action or disciplinary proceeding against, the licensee or to render
18 a decision suspending or revoking the license.

17 **STATUTORY PROVISIONS**

18 5. Code section 4301 states, in pertinent part:

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

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

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

26 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
27 abetting the violation of or conspiring to violate any provision or term of this chapter
28 or of the applicable federal and state laws and regulations governing pharmacy,
including regulations established by the board or by any other state or federal
regulatory agency

1 6. Code section 4060 states, in pertinent part:

2 No person shall possess any controlled substance, except that furnished to a
3 person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
6 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
7 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
8 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
9 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

7 7. Health and Safety Code section 11350(a), states:

8 Except as otherwise provided in this division, every person who possesses (1)
9 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
10 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
11 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
12 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
13 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
14 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
15 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)
16 of Section 1170 of the Penal Code.

13 **COST RECOVERY**

14 8. Code section 125.3 provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 **DRUGS**

21 9. *Methamphetamine* is a Schedule II controlled substance as designated by Health and
22 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Code section 4022.

23 10. *Oxazepam* is a Schedule IV controlled substance as designated by Health and Safety
24 Code section 11057(d)(23), and is a dangerous drug pursuant to Code section 4022.

25 11. *Temazepam* is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057(d)(29), and is a dangerous drug pursuant to Code section 4022.

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1 **BACKGROUND**

2 12. At all times relevant to the charges brought herein, Respondent was employed as a
3 registered pharmacy technician at Walmart Pharmacy #10-5230, located at 3460 El Camino
4 Avenue, Sacramento, California ("Walmart").

5 13. On or about May 15, 2013, a Walmart employee brought a wallet to Walmart's "lost
6 and found". The wallet was opened to determine ownership and a small bag containing a white
7 powdery substance fell out. Respondent was identified as the owner of the wallet and
8 acknowledged losing it, but denied having knowledge of the bag containing the white substance
9 found inside. The following day Respondent tested positive for oxazepam, methamphetamine,
10 and temazepam. He was terminated from his employment at Walmart on May 21, 2013.

11 14. Respondent admitted that he has been a recovering alcoholic and drug addict his
12 whole life and that methamphetamine was his drug of choice. Respondent could not explain the
13 presence of oxazepam or temazepam in his drug test results, nor did he produce a valid
14 prescription for those drugs. He stated that the "false positive or in realty a 'positive' testing for
15 methamphetamine" could have been caused by "spending time around people who were still
16 using".

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Self-Administration of Controlled Substances)

19 15. Respondent is subject to disciplinary action pursuant to Code section 4301(h), for
20 unprofessional conduct, in that in on or around May 15, 2013, Respondent self-administered
21 methamphetamine, oxazepam, and temazepam.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Violation of State Laws Regulating Controlled Substances)

24 16. Respondent is subject to disciplinary action pursuant to Code section 4301(j), for
25 unprofessional conduct, in that on or around May 15, 2013, Respondent possessed
26 methamphetamine, oxazepam, and temazepam, as set forth in paragraphs 12 and 14, above,
27 without a valid prescription from a physician, dentist, podiatrist, optometrist, veterinarian, or
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1 naturopathic doctor, in violation of Code section 4060 and Health and Safety Code
2 section 11350(a).

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Violation of the Pharmacy Law)

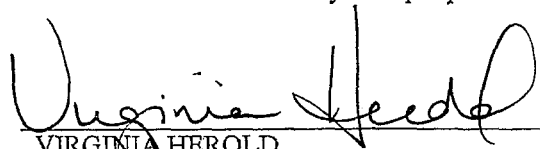
5 17. Respondent is subject to disciplinary action pursuant to Code section 4301(o), for
6 unprofessional conduct, in that in on or around May 15, 2013, Respondent violated or attempted
7 to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code
8 section 4000, et seq.), specifically, Code section 4060, as set forth in paragraph 15, above.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 126288,
13 issued to Steven Yale Szekula;
- 14 2. Ordering Steven Yale Szekula to pay the Board of Pharmacy the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3; and,
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 8/14/14


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

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