



**California State Board of Pharmacy**  
 1625 N. Market Blvd, N219, Sacramento, CA 95834  
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 www.pharmacy.ca.gov

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: <u>John Cacas</u>	Case No. <u>SI 5003</u>
Address of Record: <u>23101 W. 135<sup>th</sup> AVE.</u> <u>SAN LEANDRO, CAL. 94577</u>	

RECEIVED BY CALIF  
 BOARD OF PHARMACY  
 2014 NOV -6 AM 11:04

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. SI 5003, I hereby request to surrender my pharmacy technician license, License No. 132418. 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.

*John Cacas*  
 Applicant's Signature

*J. Herold*  
 Executive Officer's Approval

11-05-2014  
 Date

11/6/14  
 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. 5003

**JOHN MICHAEL CACAS**

2310 West 135<sup>th</sup> Avenue  
San Leandro, CA 94577

OAH No. 2014061008

Pharmacy Technician Registration Applicant

Respondent.

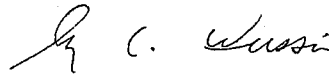
**DECISION AND ORDER**

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 September 16, 2014.

It is so ORDERED on September 9, 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 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

10 In the Matter of the Statement of Issues Against:  
11 **JOHN MICHAEL CACAS**  
12 **Applicant for Pharmacy Technician License**  
13 Respondent.

Case No. 5003

OAH No. 2014061008

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
16 interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs, the parties  
17 hereby agree to the following Stipulated Settlement and Disciplinary Order to be submitted to the  
18 Board for approval and adoption as the final disposition of the Statement of Issues.

19 PARTIES

20 1. Virginia Herold ("Complainant"), Executive Officer, Board of Pharmacy, brought this  
21 action solely in her official capacity and is represented herein by Kamala D. Harris, Attorney  
22 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

23 2. John Michael Cacas ("Respondent") is representing himself in this proceeding and  
24 has chosen not to exercise his right to be represented by counsel.

25 3. On or about April 8, 2013, Respondent filed an Application for Registration as a  
26 Pharmacy Technician dated April 4, 2013 with the Board of Pharmacy. The Board denied the  
27 application on or about August 23, 2013.

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JURISDICTION

4. Statement of Issues No. 5003 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 May 13, 2014. A copy of Statement of Issues No. 5003 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands, the charges and allegations in Statement of Issues No. 5003. Respondent has also carefully read, and understands the effects of, this Stipulated Settlement and Disciplinary Order.

6. 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.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 5003. Respondent agrees that his application for a 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

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

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that, upon satisfaction of statutory and regulatory requirements for issuance thereof, a Pharmacy Technician License shall be issued to Respondent John Michael Cacas and shall be immediately revoked. The revocation shall be stayed and Respondent is placed on probation for three (3) years (unless extended), on the following terms and conditions.

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

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

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

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

16           **2. Report to the Board**

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

25           **3. Obey All Laws**

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

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

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

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

12       **4. Interview with the Board**

13       Upon receipt of reasonable prior notice, respondent shall appear in person for interviews

14       with the board or its designee, at such intervals and locations as are determined by the board or its

15       designee. Failure to appear for any scheduled interview without prior notification to board staff,

16       or failure to appear at two (2) or more scheduled interviews with the board or its designee during

17       the period of probation, shall be considered a violation of probation.

18       **5. Cooperate with Board Staff**

19       Respondent shall cooperate with the board's inspection program and with the board's

20       monitoring and investigation of respondent's compliance with the terms and conditions of his

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

22       **6. Notification of a Change in Employment, Name, Address, or Phone**

23       Respondent shall notify the board in writing within ten (10) days of any change of

24       employment. Said notification shall include the reasons for leaving, the address of the new

25       employer, the name of the supervisor and owner, and the work schedule if known. Respondent

26       shall further notify the board in writing within ten (10) days of a change in name, residence

27       address, mailing address, or phone number. Failure to timely notify the board of any change in

28       employer, name, address, or phone number shall be considered a violation of probation.

1           **7. Status of License**

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

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

9           **8. Employment Requirement: Tolling of Probation**

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

16          Should respondent, regardless of residency, for any reason (including vacation) cease  
17 working as a pharmacy technician for a minimum of ten (10) hours per calendar month in  
18 California, respondent must notify the board in writing within ten (10) days of cessation of work  
19 and must further notify the board in writing within ten (10) days of the resumption of the work.  
20 Any 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 work" means a calendar month during which respondent is not  
25 working for at least ten (10) hours as a pharmacy technician, as defined in Business  
26 and Professions Code section 4115. "Resumption of work" means any calendar  
27 month during which respondent is working for at least ten (10) hours as a pharmacy  
28 technician as defined by Business and Professions Code section 4115.



1           **9. Notice to Employers**

2           During probation, respondent shall notify all present and prospective employers of the  
3 decision in case number 5003 and the terms, conditions and restrictions imposed, as follows:

4           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
5 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
6 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
7 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
8 individual(s) has/have read the decision in case number 5003 and the terms and conditions  
9 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or  
10 supervisor(s) submit timely acknowledgement(s) to the board.

11           If respondent works for or is employed by or through a pharmacy employment service,  
12 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
13 of the terms and conditions of the decision in case number 5003 in advance of commencing work  
14 at each pharmacy. A record of this notification must be provided to the board upon request.

15           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
16 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
17 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
18 report to the board in writing acknowledging that he or she has read the decision in case number  
19 5003 and the terms and conditions imposed thereby. It shall be respondent's responsibility to  
20 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

21           Failure to timely notify present or prospective employer(s) or to cause employer(s) to  
22 submit timely acknowledgements to the board shall be considered a violation of probation.

23           "Employment" within the meaning of this provision shall include any full-time,  
24 part-time, temporary or relief service or pharmacy management service as a pharmacy  
25 technician or in any position for which a pharmacy technician license is a requirement  
26 or criterion for employment, whether the respondent is considered an employee,  
27 independent contractor or volunteer.

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1           **10. Work Site Monitor**

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

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

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

20           **12. Abstain from Drugs and Alcohol Use**

21           Respondent shall completely abstain from the possession or use of alcohol, controlled  
22 substances, dangerous drugs and their associated paraphernalia except when a drug is lawfully  
23 prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of  
24 the board or its designee, respondent shall provide documentation from the licensed practitioner  
25 that the prescription for the drug was legitimately issued and is a necessary part of the treatment  
26 of the respondent. Failure to timely provide such documentation shall be considered a violation  
27 of probation. Respondent shall ensure that he is not in the same physical location as individuals  
28 who are using illicit substances even if respondent is not personally ingesting the drugs.

1 Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
2 not supported by the documentation timely provided, and/or any physical proximity to persons  
3 using illicit substances, shall be considered a violation of probation.

4 **13. Random Drug Screening**

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

20 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
21 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or other  
22 distributor of drugs), any drug manufacturer, or any other location where dangerous drugs or  
23 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
24 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
25 manage, administer, or assist any licensee of the board. Respondent shall not direct, control or  
26 perform any aspect of pharmacy practice. Respondent shall not have access to or control  
27 ordering, manufacturing or dispensing of dangerous drugs or devices or controlled substances.

28 Failure to comply with any such suspension shall be considered a violation of probation.

1           **14. Notification of Departure**

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

6           **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

7           If respondent has a confirmed positive test for alcohol or any drug not lawfully prescribed  
8 by a licensed practitioner as part of a documented medical treatment, within five (5) days of  
9 notification thereof respondent shall begin regular attendance at a recognized and established  
10 substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics  
11 Anonymous, etc.) that has been approved by the board or its designee, attending at least one  
12 group meeting per week unless otherwise directed by the board or its designee. Thereafter,  
13 respondent shall continue regular attendance and submit signed and dated documentation  
14 confirming attendance with each quarterly report for the duration of probation. Failure to attend  
15 or submit documentation thereof shall be considered a violation of probation.

16           **16. Prescription Coordination and Monitoring of Prescription Use**

17           Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
18 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
19 physician assistant, or psychiatrist of respondent's choice, who shall be aware of respondent's  
20 prior use of methamphetamine, alcohol, and marijuana, and who will coordinate and monitor any  
21 prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.  
22 The approved practitioner shall be provided with a copy of the board's Accusation and decision.

23           A record of this notification must be provided to the board upon request. Respondent shall  
24 sign a release authorizing the practitioner to communicate with the board about respondent's  
25 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist  
26 shall report to the board on a quarterly basis for the duration of probation regarding respondent's  
27 compliance with this condition. If any substances considered addictive have been prescribed, the  
28 report shall identify a program for the time limited use of any such substances.

1 The board may require that the single coordinating physician, nurse practitioner, physician  
2 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive  
3 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,  
4 respondent shall notify the board immediately and, within thirty (30) days of ceasing, submit the  
5 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of  
6 respondent's choice to the board or its designee for its prior approval.

7 Failure to timely submit the selected practitioner or replacement practitioner to the board  
8 for approval, or to ensure the required reporting thereby on the quarterly reports, shall be  
9 considered a violation of probation.

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

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

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

#### 24 **17. Probation Monitoring Costs**

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

1           **18. 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 discretion whether to grant the request for surrender or take any other  
6 appropriate action. Upon formal acceptance of the surrender, respondent will no longer be  
7 subject to the terms and conditions of probation. This surrender constitutes a record of discipline  
8 and shall become a part of the respondent's license history with the board.

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

14           **19. Violation of Probation**

15           If respondent has not complied with any term or condition of probation, the board shall  
16 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
17 all terms and conditions have been satisfied or the board has taken other action as deemed  
18 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
19 to impose the penalty that was stayed. If respondent violates probation in any respect, the board,  
20 after giving respondent notice and an opportunity to be heard, may revoke probation and carry out  
21 the disciplinary order that was stayed.

22           If a petition to revoke probation or an accusation is filed against respondent during  
23 probation, the board shall have continuing jurisdiction, and the period of probation shall be  
24 automatically extended until the petition to revoke probation or accusation is heard and decided.

25           **20. Completion of Probation**

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

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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 Application for Registration as a Pharmacy Technician, and my subsequently-issued 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: 7-24-14   
JOHN MICHAEL CACAS  
Respondent

ENDORSEMENT

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

Dated: Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General  
  
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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 Application for Registration as a Pharmacy Technician, and my subsequently-issued 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: \_\_\_\_\_

JOHN MICHAEL CACAS  
Respondent

ENDORSEMENT

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

Dated: 7/24/2014

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

  
JOSHUA A. ROOM  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Statement of Issues No. 5003**

1 KAMALA D. HARRIS  
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7  
8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:  
13 **JOHN MICHAEL CACAS**  
14 **Applicant for Pharmacy Technician License**  
Respondent.

Case No. 5003

**STATEMENT OF ISSUES**

15  
16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
20 2. On or about April 8, 2013, the Board of Pharmacy, Department of Consumer Affairs  
21 received an Application for Registration as a Pharmacy Technician from John Michael Cacas  
22 (Respondent). On or about April 4, 2013, Respondent certified under penalty of perjury as to the  
23 truthfulness of all statements, answers, and representations in the application. The Board denied  
24 the application on or about August 23, 2013.

25 JURISDICTION

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

1                                            STATUTORY AND REGULATORY PROVISIONS

2            4.     Section 4300, subdivision (c), of the Code states in pertinent part:

3            “(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
4 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
5 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
6 may issue the license subject to any terms or conditions not contrary to public policy . . . .”

7            5.     Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is  
8 defined to include, but not be limited to, any of the following:

9            (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
11 whether the act is a felony or misdemeanor or not.

12            (g) Knowingly making or signing any certificate or other document that falsely represents  
13 the existence or nonexistence of a state of facts.

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

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

22            (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
23 of a licensee under this chapter.

24            6.     Section 480 of the Code states, in pertinent part:

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

1 “(1) Been convicted of a crime. . . . Any action which a board is permitted to take following  
2 the establishment of a conviction may be taken . . . irrespective of a subsequent order under the  
3 provisions of Section 1203.4 of the Penal Code.

4 “(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially  
5 benefit himself or another, or substantially injure another; or

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

8 “The board may deny a license pursuant to this subdivision only if the crime or act is  
9 substantially related to the qualifications, functions or duties of the . . . [license].”

10 . . .

11 “(c) A board may deny a license regulated by this code on the ground that the applicant  
12 knowingly made a false statement of fact required to be revealed in the application . . . .”

13 7. California Code of Regulations, title 16, section 1770, states:

14 “For the purpose of denial, suspension, or revocation of a personal or facility license  
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
18 licensee or registrant to perform the functions authorized by his license or registration in a manner  
19 consistent with the public health, safety, or welfare.”

20 FACTUAL/PROCEDURAL BACKGROUND

21 8. On or about April 4, 2013, Respondent signed his Application for Registration as a  
22 Pharmacy Technician and included affidavit, certifying under penalty of perjury the truth and  
23 accuracy of all statements, answers, and representations therein. That Application includes seven  
24 yes/no questions on pages 2 and 3 which are preceded by the instruction: **You must provide a**  
25 **written explanation for all affirmative answers indicated below. Failure to do so may result**  
26 **in this application being deemed incomplete and being withdrawn.**

27 Question 7 of this series of questions in the Application then asks:  
28

1 Have you ever been convicted of any crime in any state, the USA and its territories, military  
2 court or foreign country? Check the box next to "Yes" if you have ever been convicted or plead  
3 guilty to any crime. "Conviction" includes a plea of no contest and any conviction that has been  
4 set aside or deferred pursuant to Sections 1000 or 1203.4 of the Penal Code, including infractions,  
5 misdemeanors, and felonies. You do not need to report a conviction for an infraction with a fine  
6 of less than \$300 unless the infraction involved alcohol or controlled substances. You must,  
7 however, disclose any convictions in which you entered a plea or no contest and any convictions  
8 that were subsequently set aside or deferred pursuant to sections 1000 or 1203.4 of the Penal  
9 Code. Check the box next to "NO" if you have not been convicted of a crime. You may wish to  
10 provide the following information in order to assist the processing of your application:  
11 descriptive explanation of the circumstances surrounding the conviction (i.e. dates and location of  
12 incident and all circumstances surrounding the incident.) If documents were purged by the  
13 arresting agency and/or court, a letter of explanation from these agencies is required. **Failure to**  
14 **disclose a disciplinary action or conviction may result in the license being denied or revoked**  
15 **for falsifying the application. Attach additional sheets if necessary.**

16 9. Respondent checked the box for "No" in response to Question 7. He did not attach  
17 any statement of explanation of this response to his application materials.

18 10. A subsequent criminal records check for Respondent revealed several arrests and  
19 convictions between 1996 and 2007. A letter was sent to Respondent by Board staff inquiring  
20 about these apparent arrests and convictions, seeking Respondent's explanation of same, and also  
21 an explanation of his failure to disclose this criminal history with the original application.

22 11. In response, on or about July 15, 2013, Respondent sent a letter back to the Board in  
23 which he confirmed the following prior criminal convictions:

24 a. On or about November 5, 1996, in Alameda County Superior Court Case No. 317519,  
25 Respondent was convicted of violating Health and Safety Code section 11377, subdivision (a)  
26 (Possession of Controlled Substance), a misdemeanor. Respondent explained this conviction as  
27 resulting from his "doing dope" with a friend, and having "picked up a little dope" for another  
28 friend, at which time he was arrested while in possession of crystal methamphetamine.

1           b.     On or about October 8, 1999, in Alameda County Superior Court Case No. 337978,  
2 Respondent was convicted of violating Penal Code section 273.6, subdivision (a) (Violation of  
3 Court Protective Order), a misdemeanor. Respondent explained this conviction as resulting from  
4 an altercation or series of altercations between Respondent and his aunt's "sugar daddy," which  
5 culminated in Respondent violating a court-issued protective order.

6           c.     On or about August 16, 2000, in Alameda County Superior Court Case No. 343330,  
7 Respondent was convicted of violating Penal Code section 242 (Battery), a misdemeanor. This  
8 conviction Respondent explained as resulting from a fight with his mother's boyfriend.

9           d.     On or about October 21, 2002, in Alameda County Superior Court Case No. 358675,  
10 Respondent was convicted of violating Vehicle Code section 23103 (Reckless Driving), a  
11 misdemeanor. Respondent explained this conviction as resulting from his having "had one drink"  
12 while visiting his boss, then stopping at a gas station while on the way home, after which he  
13 "burned out" while leaving the gas station and "lost control" of his vehicle.

14           e.     On or about September 2, 2005, in Alameda County Superior Court Case No.  
15 NM349432A, Respondent was convicted of violating Vehicle Code section 14601.5, subdivision  
16 (a) (Driving While License Suspended or Revoked), a misdemeanor. Respondent explained this  
17 conviction as relating to an occasion on which he and another person were smoking **marijuana** at  
18 a job site, after which Respondent "got stuck at an intersection with a red light," got pulled over  
19 by police, "was loaded," and was driving with a suspended license.

20           f.     On or about February 6, 2006, in Alameda County Superior Court Case No. 388527,  
21 Respondent was convicted of violating Vehicle Code section 14601.1, subdivision (a) (Driving  
22 While License Suspended or Revoked), a misdemeanor. Respondent explained his conviction as  
23 resulting from an illegal U-turn he performed with a "car full of my kids."

24           g.     On or about February 16, 2007, in Alameda County Superior Court Case No. 399961,  
25 Respondent was convicted of violating Penal Code section 647, subdivision (f) (Disorderly  
26 Conduct, Under Influence of Alcohol/Drug), a misdemeanor. Respondent explained this  
27 conviction as resulting from his consuming two pitchers of beer and being stopped by police  
28 while walking. The police report states that Respondent was in possession of **methamphetamine**.

1 12. As explanation for his failure to disclose, Respondent stated in his letter his belief that  
2 the convictions in Case Nos. 317519, 337978, 343330, 358675, and 399961 “were expunged in  
3 court,” and were therefore “erased from” his record. He further stated his belief that Case Nos.  
4 NM349432A and 388527 were “taken care of” at the time with time served and/or a plea.

5 13. Board staff were able to confirm that the conviction in Case No. 399961 had been the  
6 subject of an Order for Dismissal under Penal Code section 1203.4, issued on or about September  
7 28, 2012, which Order contained the following standard language: “The defendant is required to  
8 disclose the above conviction in response to any direct question contained in any questionnaire or  
9 application for public office or for licensure by any state or local agency . . .”

10 FIRST CAUSE FOR DENIAL OF APPLICATION

11 (Conviction of Substantially Related Crime(s))

12 14. Respondent's application is subject to denial under the following section(s) of the  
13 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and  
14 California Code of Regulations, title 16, section 1770, for conviction of a substantially related  
15 crime or crimes, in that between in or about 1996 and in or about 2007, as described above in  
16 paragraph 11, Respondent suffered up to seven (7) substantially related convictions.

17 SECOND CAUSE FOR DENIAL OF APPLICATION

18 (Conviction of Alcohol or Drug-Involved Crimes)

19 15. Respondent's application is subject to denial under the following section(s) of the  
20 Code: 480(a)(3) by reference to 4301(k); and/or 4300(c) by reference to 4301(k), in that, as  
21 described in paragraph 11 above, Respondent was convicted of more than one misdemeanor  
22 involving the use or consumption of an alcoholic beverage or a dangerous drug.

23 THIRD CAUSE FOR DENIAL OF APPLICATION

24 (Self-Administration of Controlled Substance; Dangerous or Injurious Use of Alcohol/Drug)

25 16. Respondent's application is subject to denial under the following section(s) of the  
26 Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as  
27 described in paragraph 11 above, Respondent self-administered a controlled substance and/or  
28 made dangerous or injurious use of alcohol and/or a dangerous drug.

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FOURTH CAUSE FOR DENIAL OF APPLICATION

(Dishonesty in Application Material(s))

17. Respondent's application is subject to denial under the following section(s) of the Code: 480(c); 480(a)(2); 480(a)(3) by reference to 4301(f) and/or (g); and/or 4300(c) by reference to 4301(f) and/or (g) in that, as described in paragraphs 8-13 above, Respondent was dishonest and/or falsely represented and/or made false statement(s) of fact regarding the nature, status, and/or significance of the elements of his criminal history, in his application materials.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

18. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8 through 17 above, Respondent engaged in unprofessional conduct.

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 John Michael Cacas for a pharmacy technician license;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 5/13/14

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

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