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

12 In the Matter of the Accusation Against:

Case No. 7606

13 **ERIC GOMEZ ZAFRA**
14 **235 West Aviation Rd. #14**
Fallbrook, CA 92028

DEFAULT DECISION AND ORDER

15 **Pharmacy Technician Registration No. TCH**
16 **166938**

[Gov. Code, §11520]

17 Respondent.

18 **FINDINGS OF FACT**

19 1. On or about December 4, 2023, Complainant Anne Sodergren, in her official capacity
20 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs,
21 filed Accusation No. 7606 against Eric Gomez Zafra (Respondent) before the Board. (Accusation
22 attached as Exhibit A.)

23 2. On or about May 22, 2018, the Board issued Pharmacy Technician Registration No.
24 TCH 166938 to Respondent. The Pharmacy Technician Registration expired on April 30, 2022,
25 and has not been renewed.

26 3. On or about December 7, 2023, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. 7606, Statement to Respondent, Notice of Defense, Request
28 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is: 235 Aviation Rd. #14, Fallbrook, CA 92028.

4 4. On or about January 4, 2024, Respondent was served all of the same documents
5 outlined in the preceding paragraph at the address for Respondent which was: 235 West Aviation
6 Rd. #14, Fallbrook, CA 92028.

7 5. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
9 124.

10 6. Government Code section 11506, subdivision (c) states, in pertinent part:

11 The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense . . . and the notice shall be deemed a specific denial of all
13 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
14 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
15 discretion may nevertheless grant a hearing.

16 7. The Board takes official notice of its records and the fact that Respondent failed to
17 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
18 waived his right to a hearing on the merits of Accusation No. 7606.

19 8. California Government Code section 11520, subdivision (a) states, in pertinent part:

20 If the respondent either fails to file a notice of defense . . . or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 finds that the charges and allegations in Accusation No. 7606, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

10. The Board finds that the actual costs for Investigation and Enforcement are \$3,341.25
as of March 20, 2024.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Eric Gomez Zafra has subjected his Pharmacy Technician Registration No. TCH 166938 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of substantially related crimes; he was convicted of discharging a firearm, a felony, and he was convicted of driving recklessly, a misdemeanor.

b. Respondent is subject to disciplinary action under section 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about May 15, 2021, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or the public.

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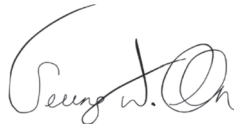
ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 166938, issued to Respondent Eric Gomez Zafra, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p. m. on May 23, 2024.

It is so ORDERED on April 23, 2024.



Seung W. Oh, Pharm. D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

DEFAULT ZAFRA.DOCX
DOJ Matter ID:SD2023802278

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
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4 State Bar No. 174721
600 West Broadway, Suite 1800
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7606

14 **ERIC GOMEZ ZAFRA**
235 West Aviation Rd., #14
15 Fallbrook, CA 92028

ACCUSATION

16 **Pharmacy Technician Registration No. TCH**
166938

17 Respondent.
18

19 **PARTIES**

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

22 2. On or about May 22, 2018, the Board issued Pharmacy Technician Registration
23 Number TCH 166938 to Eric Gomez Zafra (Respondent). The Pharmacy Technician Registration
24 expired on April 30, 2022, and has not been renewed.

25 **JURISDICTION**

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

1 4. Section 4300 states:

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

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

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

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

8 (4) Revoking his or her license.

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

11 (c) The board may refuse a license to any applicant guilty of unprofessional
12 conduct. The board may, in its sole discretion, issue a probationary license to any
13 applicant for a license who is guilty of unprofessional conduct and who has met all
 other requirements for licensure. The board may issue the license subject to any
 terms or conditions not contrary to public policy, including, but not limited to, the
 following:

14 (1) Medical or psychiatric evaluation.

15 (2) Continuing medical or psychiatric treatment.

16 (3) Restriction of type or circumstances of practice.

17 (4) Continuing participation in a board-approved rehabilitation program.

18 (5) Abstention from the use of alcohol or drugs.

19 (6) Random fluid testing for alcohol or drugs.

20 (7) Compliance with laws and regulations governing the practice of pharmacy.

21 (d) The board may initiate disciplinary proceedings to revoke or suspend any
22 probationary certificate of licensure for any violation of the terms and conditions of
23 probation. Upon satisfactory completion of probation, the board shall convert the
 probationary certificate to a regular certificate, free of conditions.

24 (e) The proceedings under this article shall be conducted in accordance with
25 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
26 Government Code, and the board shall have all the powers granted therein. The
 action shall be final, except that the propriety of the action is subject to review by the
 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

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REGULATORY PROVISIONS

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

(a) For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the practice, profession, or occupation that may be performed under the license type sought or held if to a substantial degree it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board will consider the following criteria:

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may be performed under the license type sought or held.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, those which:

(1) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, governing the practice of pharmacy.

(2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

COST RECOVERY

9. Section 125.3 states, 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, with failure of the licensee to comply subjecting the license to not being renewed or

1 reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
2 stipulated settlement.

3 **FACTUAL ALLEGATIONS**

4 10. On or about May 15, 2021, at approximately 1:07 a.m., a deputy from the San Diego
5 County Sheriff's Department was dispatched to investigate a report of approximately 10
6 discharges of a firearm in a residential area of the City of Fallbrook. Someone called in and
7 reported that they heard gunshots. Upon arriving to investigate the report, the deputy heard a loud
8 noise which turned out to be a Toyota Prius slamming on the brakes. Assisting officers
9 conducted a high-risk incident stop of the vehicle. The male occupant, later determined to be
10 Respondent, failed to follow directions to exit the vehicle and tried to flee the scene. After
11 multiple attempts, deputies finally arrested Respondent. A deputy detected a strong odor of
12 alcohol coming from Respondent's breath and person, his speech was slurred, and his eyes were
13 red and watery. Assisting officers searched the vehicle and found a Glock 17 9 mm under the
14 driver's seat, an empty magazine round, two expended 9 mm shell casings, and one live 9 mm
15 shell casing. Respondent declined to perform any field sobriety tests. A warrant for a blood test
16 was obtained, blood was drawn at 04:30 am, and the test came back with a result of .086 percent.

17 11. On January 25, 2022, in a criminal matter entitled *The People of the State of*
18 *California v. Eric Zafra Gomez*, case number CN423721, Respondent was charged with two
19 counts: (1), Penal Code section 246.5, subdivision (a), discharging a firearm, a felony; and (2)
20 Vehicle Code section 23103.5, driving reckless, a misdemeanor.

21 12. As a result of the conviction, Respondent was ordered to serve formal probation for
22 two (2) years, committed to jail for 21 days, with credit of 21 days for time served, and ordered to
23 pay fines, fees and restitution.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Criminal Conviction of a Substantially Related Crime)**

26 13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
27 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
28 Respondent was convicted of a crime substantially related to the qualifications, functions or

1 duties of a pharmacy technician in that he was convicted of a felony for discharging a firearm and
2 driving reckless, a misdemeanor. Complainant refers to, and by this reference incorporates, the
3 allegations set forth above in paragraph 11, as though fully set forth herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 14. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
7 the grounds of unprofessional conduct, in that on or about May 15, 2021, Respondent used
8 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or
9 the public. Complainant refers to, and by this reference incorporates, the allegations set forth
10 above in paragraphs 10 and 12, as though fully set forth herein.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 166938,
15 issued to Eric Gomez Zafra;
- 16 2. Ordering Eric Gomez Zafra to pay the Board the reasonable costs of the investigation
17 and enforcement of this case, pursuant to Code section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.
- 19
- 20

21 DATED: 12/4/2023

22 Sodergren,
23 Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.12.04 13:00:02 -08'00'

24 ANNE SODERGREN
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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