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8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10  
11 In the Matter of the Accusation Against:

Case No. 1H 2013 479

12 **VLADISLAV BAKAL, RCP**  
13 **2725 Chicory Lane**  
**Palmdale, CA 93551**

**DEFAULT DECISION**  
**AND ORDER**

14 **Respiratory Care Practitioner License No.**  
15 **RCP 15457**

[Gov. Code, §11520.]

16  
17 Respondent.

18  
19 FINDINGS OF FACT

20 1. On or about December 18, 2013, Complainant Stephanie Nunez, in her official  
21 capacity as the Executive Officer of the Respiratory Care Board of California (Board), filed  
22 Accusation No. 1H 2013 479 against Vladislav Bakal, RCP (Respondent) before the Board.

23 2. On or about August 26, 1992, the Board issued Respiratory Care Practitioner License  
24 Number RCP 15457 to Respondent. This license was valid and inactive at all times relevant to  
25 the charges brought in said Accusation and will expire on May 31, 2014, unless renewed. A copy  
26 of the Certificate of Licensure is attached as Exhibit A, and is incorporated herein by reference.

27 3. On or about December 18, 2013, the Board, served by Certified and First Class  
28

1 Mail a copy of the Accusation No. 1H 2013 479, Statement to Respondent, Notice of Defense,  
2 Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, and Manual  
3 of Model Disciplinary Orders to Respondent's address of record with the Board, which was and is  
4 2725 Chicory Lane, Palmdale, CA 93551. A copy of the Accusation, the related documents, and  
5 Declarations of Service are attached as Exhibit B, and are incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c).

8 5. Government Code section 11506 states, in pertinent part:

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

13 6. California Government Code section 11520 states, in pertinent part:

14 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
15 agency may take action based upon the respondent's express admissions or upon other evidence  
16 and affidavits may be used as evidence without any notice to respondent."

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
19 1H-2013-479.

20 8. Pursuant to its authority under Government Code section 11520, the Board finds  
21 Respondent is in default and finds that based on Business and Professions Code sections 3750,  
22 subdivision (d), 3750.5, subdivisions (b) and (d), 3752, and California Code of Regulations, title  
23 16, section 1399.370, subdivision (c), Respondent's license is subject to discipline in that he was  
24 convicted of a crime substantially related to the qualifications, functions and duties of a  
25 respiratory care practitioner, and that Respondent used alcoholic beverages to an extent or in a  
26 manner dangerous or injurious to himself or to others, and that impaired his ability to conduct  
27 with safety the practice authorized by his license. A certified copy of the conviction documents  
28 are attached as Exhibit C, and it is incorporated herein by reference. The Board will take action

1 without further hearing and, based on Respondent's express admissions by way of default and the  
2 evidence before it, contained in Exhibits A, B, and C, and finds that the allegations in Accusation  
3 No. 1H 2013 479 are true.

4 9. The Board further finds that pursuant to Business and Professions Code section  
5 3753.5, the costs of investigation and enforcement prayed for in Accusation No. 1H-2013-479  
6 total \$1,390.00, based on the Certification of Costs contained in Exhibit D.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Vladislav Bakal, RCP has  
9 subjected his Respiratory Care Practitioner License Number RCP 15457 to discipline.

10 2. A copy of Accusation No. 1H-2013-476, related documents, and Declaration of  
11 Service are attached.

12 3. The agency has jurisdiction to adjudicate this case by default.

13 4. The Board is authorized to revoke Respondent's Respiratory Care Practitioner  
14 License based upon the following violations alleged in the Accusation:

15 a. On or about August 27, 2013, Respondent was convicted of violating Vehicle  
16 Code section 23152, subdivision (b) [driving while having a .08% or higher blood alcohol  
17 content] which is substantially related to the practice of respiratory care, in violation of  
18 Business & Professions Code sections 3750, subdivision (d), 3750.5, subdivisions (b) and  
19 (d), 3752, and California Code of Regulations, title 16, section 1399.370, subdivision (c).

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1 ORDER

2 **IT IS SO ORDERED THAT** Respiratory Care Practitioner License Number RCP 15457  
3 heretofore issued to Vladislav Bakal RCP, is revoked.

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

8 If Respondent ever files an application for relicensure or reinstatement in the State of  
9 California, the Board shall treat it as a petition for reinstatement of a revoked license.

10 Respondent must comply with all the laws, regulations and procedures for reinstatement of a  
11 revoked license in effect at the time the petition is filed.

12 Respondent is ordered to reimburse the Respiratory Care Board the amount of \$1,390.00  
13 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not  
14 relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's  
15 Respiratory Care Practitioner License may not be renewed or reinstated unless all costs ordered  
16 under Business and Professions Code section 3753.5 have been paid.

17 This Decision shall become effective on June 27, 2014.

18 **IT IS SO ORDERED** May 28, 2014.

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21 Original signed by:

22 CHARLES B. SPEARMAN, MEd, RCP, RRT  
23 PRESIDENT, RESPIRATORY CARE BOARD  
24 DEPARTMENT OF CONSUMER AFFAIRS  
25 STATE OF CALIFORNIA  
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28

**Exhibit B**

**Accusation No. 1H 2013 479**

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Case No. 1H 2013 479

12 **VLADISLAV BAKAL, RCP**  
13 **2725 Chicory Lane**  
**Palmdale, CA 93551**

**A C C U S A T I O N**

14 **Respiratory Care Practitioner License No.**  
15 **RCP 15457**

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Respiratory Care Board of California (Board), Department of  
22 Consumer Affairs.

23 2. On or about August 26, 1992, the Board issued Respiratory Care Practitioner License  
24 Number 15457 to Vladislav Bakal (Respondent). This license was valid and inactive at all times  
25 relevant to the charges brought herein and will expire on May 31, 2014, unless renewed.

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JURISDICTION

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

5       4.     Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter  
6 referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory  
7 Care Practice Act]."

8       5.     Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke  
9 licenses to practice respiratory care as provided in this chapter."

10       6.     Section 3750 of the Code states:  
11 "The board may order the denial, suspension or revocation of, or the imposition of  
12 probationary conditions upon, a license issued under this chapter, for any of the following causes:

13             ". . .

14             "(d) Conviction of a crime that substantially relates to the qualifications,  
15 functions, or duties of a respiratory care practitioner. The record of conviction or a  
16 certified copy thereof shall be conclusive evidence of the conviction.

17             ". . . . "

18       7.     Section 3750.5 of the Code states:  
19 "In addition to any other grounds specified in this chapter, the board may deny, suspend,  
20 place on probation, or revoke the license of any applicant or licenseholder who has done any of  
21 the following:

22             ". . .

23             "(b) Used any controlled substance as defined in Division 10 (commencing with Section  
24 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2  
25 (commencing with Section 4015) of Chapter 9 of this code, or alcoholic beverages, to an extent or  
26 in a manner dangerous or injurious to himself or herself, or to others, or that impaired his or her  
27 ability to conduct with safety the practice authorized by his or her license.

28             ". . .

1           "(d) Been convicted of a criminal offense involving the consumption or self-administration  
2 of any of the substances described in subdivisions (a) and (b), or the possession of, or falsification  
3 of a record pertaining to, the substances described in subdivision (a), in which event the record of  
4 the conviction is conclusive evidence thereof.

5           ". . . . "

6           8.     Section 3752 of the Code states:

7           "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
8 charge of any offense which substantially relates to the qualifications, functions, or duties of a  
9 respiratory care practitioner is deemed to be a conviction within the meaning of this article. The  
10 board shall order the license suspended or revoked, or may decline to issue a license, when the  
11 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when  
12 an order granting probation is made suspending the imposition of sentence, irrespective of a  
13 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or  
14 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
15 dismissing the accusation, information, or indictment."

16           9.     California Code of Regulations, title 16, section 1399.370, states:

17           "For the purposes of denial, suspension, or revocation of a license, a crime or act shall be  
18 considered to be substantially related to the qualifications, functions or duties of a respiratory care  
19 practitioner, if it evidences present or potential unfitness of a licensee to perform the functions  
20 authorized by his or her license or in a manner inconsistent with the public health, safety, or  
21 welfare. Such crimes or acts shall include but not be limited to those involving the following:

22           ". . .

23           "(c) Commission of an act or conviction of a crime involving driving under the  
24 influence or reckless driving while under the influence.

25           ". . . . "

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1 COST RECOVERY

2 10. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board, the board or  
4 the administrative law judge may direct any practitioner or applicant found to have committed a  
5 violation or violations of law or any term and condition of board probation to pay to the board a  
6 sum not to exceed the costs of the investigation and prosecution of the case. A certified copy of  
7 the actual costs, or a good faith estimate of costs where actual costs are not available, signed by  
8 the official custodian of the record or his or her designated representative shall be prima facie  
9 evidence of the actual costs of the investigation and prosecution of the case."

10 11. Section 3753.7 of the Code states:

11 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include  
12 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative,  
13 filing, and service fees."

14 12. Section 3753.1 of the Code states:

15 "(a) An administrative disciplinary decision imposing terms of probation may include,  
16 among other things, a requirement that the licensee-probationer pay the monetary costs associated  
17 with monitoring the probation. "

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction of a Crime)

20 13. Respondent's license is subject to disciplinary action under Code sections 3750,  
21 subdivision (d), 3750.5, subdivision (d), and California Code of Regulations, title 16, section  
22 1399.370, subdivision (c), in that Respondent was convicted of a crime substantially related to the  
23 qualifications, functions and duties of a respiratory care practitioner. The circumstances are as  
24 follows:

25 14. On or about June 19, 2013, a Los Angeles County Deputy Sheriff responded to a  
26 report of a non-injury traffic collision. Respondent was reversing his vehicle in a Trader Joe's  
27 parking lot in Palmdale, California, when he collided with another vehicle. Respondent was  
28 wearing a blue shirt, blue pants (medical scrubs), and white shoes. While talking with

1 Respondent, the deputy sheriff smelled the odor of alcohol emitting from his breath.  
2 Respondent's eyes were bloodshot, droopy, and watery, his speech was incoherent and slurred,  
3 and he appeared to be lethargic. He admitted that he had been drinking 12 ounces of Firestone  
4 beer. The deputy sheriff administered field sobriety tests which Respondent failed to successfully  
5 perform and complete. The deputy sheriff arrested Respondent for driving under the influence of  
6 alcohol or drugs, in violation of Vehicle Code section 23152, subdivision (a). Respondent was  
7 transported to the Palmdale Police Station where he submitted to a breath test. His blood alcohol  
8 content measured .33% and .34%. The deputy sheriff additionally charged Respondent with  
9 driving while having a .08% or higher blood alcohol content, in violation of Vehicle Code section  
10 23152, subdivision (b).

11 15. On or about July 15, 2013, in the matter entitled *The People of the State of California*  
12 *vs. Vladislav Bakal*, in Los Angeles County Superior Court Case No. 3AV04825, Respondent  
13 was charged with driving under the influence of alcohol or drugs, in violation of Vehicle Code  
14 section 23152, subdivision (a), a misdemeanor (Count 1); driving while having a .08% or higher  
15 blood alcohol content, in violation of Vehicle Code section 23152, subdivision (b), a  
16 misdemeanor (Count 2); and failure to furnish proof of financial responsibility, in violation of  
17 Vehicle Code section 16028, subdivision (c), an infraction. It was further alleged as to Counts 1  
18 and 2, that Respondent's concentration of blood alcohol was 0.15 percent by weight or more,  
19 within the meaning of Vehicle Code section 23578.

20 16. On or about August 27, 2013, Respondent pled nolo contendere to driving while  
21 having a .08% or higher blood alcohol content in violation of Vehicle Code section 23152,  
22 subdivision (b), as charged in Count 2 of the complaint. He admitted the special allegation  
23 pursuant to Vehicle Code section 23578, and the Court found it to be true. Respondent was  
24 placed on probation for three years under the following terms and conditions:

- 25 a. Serve 3 days in county jail;
- 26 b. Pay fines in the amount of \$1,927.00 or serve 13 days in county jail, or perform  
27 13 days of graffiti removal;

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- 1 c. Complete a 9-month licensed first offender alcohol and drug education and
- 2 counseling program;
- 3 d. Make restitution to the victim;
- 4 e. Attend 24 alcoholics anonymous meetings at the rate of one time per week;
- 5 f. Complete the victim impact program of Mothers Against Drunk Driving;
- 6 g. Install a vehicle ignition interlock device as ordered by the DMV;
- 7 h. Complete a Hospital and Morgue Program; and
- 8 i. Comply with standard terms and conditions of DUI probation.

9 The Court dismissed Counts 1 and 3 of the complaint due to plea negotiations.

10 The Court found that Respondent's blood alcohol content test showed a BAC of .33%.

11 SECOND CAUSE FOR DISCIPLINE

12 (Use of Alcohol in a Dangerous Manner)

13 17. Respondent's license is subject to disciplinary action under Code section 3750.5,  
14 subdivision (b), in that Respondent used alcoholic beverages to an extent or in a manner  
15 dangerous or injurious to himself or to others, and that impaired his ability to conduct with safety  
16 the practice authorized by his license. The facts and circumstances in the First Cause for  
17 Discipline are incorporated here by reference.

18 PRAYER

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

21 1. Revoking or suspending Respiratory Care Practitioner Number RCP 15457 issued to  
22 Vladislav Bakal;

23 2. Ordering Vladislav Bakal to pay the Board the costs of the investigation and  
24 enforcement of this case, and if placed on probation, the costs of probation monitoring; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: December 18, 2013

Original Signed by Liane Freels for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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