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7  
8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

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

Case No. 1H 2008 607

12 **SEFERINO LOUIE AGUERO**  
13 **1947 N. Cindy Street**  
**Visalia, CA 93291**

**STATEMENT OF ISSUES**

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15  
16 Applicant/Respondent.

17  
18 Complainant alleges:

19 PARTIES

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

23 2. On or about February 10, 2009, the Respiratory Care Board of California, Department  
24 of Consumer Affairs received an application for a Respiratory Care Practitioner License from  
25 Seferino Louie Aguero (Respondent). On or about August 9, 2008, Seferino Louie Aguero  
26 certified under penalty of perjury to the truthfulness of all statements, answers, and  
27 representations in the application. The Board denied the application on August 10, 2009.

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1 "In any order issued in resolution of a disciplinary proceeding before the board, the board or  
2 the administrative law judge may direct any practitioner or applicant found to have committed a  
3 violation or violations of law or any term and condition of board probation, to pay to the board a  
4 sum not to exceed the costs of the investigation and prosecution of the case."

5 11. Section 3753.7 of the Code states:

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

9 12. Section 3753.1 of the Code states:

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

### 13 FIRST CAUSE FOR DENIAL OF APPLICATION

14 (Substantially related convictions)

15 13. Respondent's application is subject to denial under code sections 3750(d), 3752 and  
16 CCR 1399.370 based on his 2001 conviction for conspiracy and bank fraud and his 1995  
17 conviction for public intoxication. The circumstances are as follows:

#### 18 2001 conviction

19 14. On or about April 18, 2001, a criminal complaint titled *United States of America vs.*  
20 *Andres Alarcon-Simi, Duane Cortez Perry, and Seferino Louie Agüero III*, case no. A01-0032-CR  
21 was filed in the United States District Court, Alaska District. On or about June 9, 2000,  
22 Respondent was involved in a conspiracy to forge credit card convenience checks obtained from a  
23 garbage dumpster in Anchorage, Alaska. Between July 31, 2000 and September 30, 2000, one or  
24 more co-conspirators deposited forged checks on three occasions into Respondent's bank  
25 account. Respondent subsequently withdrew the fraudulently deposited funds.

26 15. Respondent was charged with violating 18 United States Code (U.S.C.) section 371  
27 [conspiracy] and four counts of violating 18 U.S.C. 1344 and 18. U.S.C. 2 [bank fraud]. On June  
28 26, 2001, Respondent was convicted of violating 18 U.S.C. section 371 and one count of

1 violating 18 U.S.C. 1344 and 18 U.S.C. 2. He was sentenced to eleven months in federal prison  
2 with three years supervised release.

3 1995 Public Intoxication offense (Penal Code section 647(f))

4 16. On or about April 6, 1995, in Municipal Court, San Pedro Judicial District, Los  
5 Angeles County, Respondent was convicted on his plea of nolo contendere of violating Penal  
6 Code section 647(f), public intoxication.

7 17. On April 6, 1995, Respondent was sentenced to three years probation and ordered to  
8 pay fines or serve jail time or do community service. On July 5, 1995, a bench warrant issued  
9 and probation was revoked because Respondent was not in compliance. On August 29, 1995, the  
10 Court found Respondent in violation of probation for failure to pay fines or do community  
11 service. The Court revoked probation, then reinstated it. The bench warrant was recalled. He  
12 was ordered to serve four days in jail. On October 21, 1996, Respondent was not present in court.  
13 The Court found that he failed to pay restitution fines and attorney fees. He was assessed \$250.00  
14 and referred to the Franchise Tax Board.

15 18. Therefore, Respondent's application is subject to denial based on his substantially-  
16 related convictions in 2001 for bank fraud and conspiracy, and in 1995 for public intoxication.  
17 These convictions are in violation of code sections 3750(d), 3752 and CCR 1399.370(a).

18 SECOND CAUSE FOR DENIAL OF APPLICATION

19 (Dishonest Act)

20 19. Paragraphs 14 through 17 are incorporated herein.

21 20. Respondent's application is subject to denial under code section 3750(j) and CCR  
22 1399.370(b) in that his 2001 conviction for violating 18 U.S.C.371 [conspiracy] and 18 U.S.C.  
23 1344/U.S.C. 2 [bank fraud] constitutes dishonest acts.

24 THIRD CAUSE FOR DENIAL OF APPLICATION

25 (Possession/Use of a controlled substance)

26 21. Paragraphs 14 through 17 are incorporated herein.

27 22. Respondent's application is subject to denial under code sections 3750.5(a)  
28 [possession of a controlled substance] and 3750.5(b) [use of a controlled substance] in that while

1 he was on federal criminal probation in 2003, he tested positive for controlled substances on  
2 multiple occasions. The circumstances are as follows:

3 23. On or about September 22, 2003, in the United States District Court, District of  
4 Alaska, an amended judgment in criminal case A01-0032-03-CR was filed charging Respondent  
5 with violations of probation. At that time, Respondent admitted that on March 12, 2003, May 8,  
6 2003, May 29, 2003, June 3, 2003, June 11, 2003, July 8, 2003, and July 10, 2003, he tested  
7 positive for controlled substances. As a result of these violations, he was sentenced to five  
8 months in federal prison.

9 24. Therefore, Respondent's application is subject to denial based on his positive test  
10 results for controlled substances on seven occasions in 2003. Said test results are in violation of  
11 code sections 3750.5(a) [obtained, possessed or used a controlled substance] and 3750.5(b) [used  
12 a controlled substance in a manner dangerous to self or others.]

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Respiratory Care Board issue a decision:

16 1. Denying the application of Seferino Louie Aguerro for a Respiratory Care Practitioner  
17 License;

18 2. Directing Seferino Louie Aguerro to pay the Respiratory Care Board of California the  
19 costs of the investigation and enforcement of this case, and if placed on probation, the costs of  
20 probation monitoring;

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

22 DATED: March 1, 2010

23 Original signed by Liane Freels for:  
24 STEPHANIE NUNEZ  
25 Executive Officer  
26 Respiratory Care Board of California  
27 Department of Consumer Affairs  
28 State of California  
*Complainant*

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