

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

In the Matter of the Accusation Against:

STEVEN DOUGLAS ASHE  
2090 Magnolia, Apt. #8  
Long Beach, CA 90806

---

Case No.: S-381

OAH No.: L2008010092

**DECISION AND ORDER**

The attached proposed Decision of the Administrative Law Judge is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on May 10, 2008.

It is so ORDERED April 30, 2008.

Original signed by: \_\_\_\_\_

LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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

In the Matter of the Statement of Issues Against:

**STEVEN DOUGLAS ASHE,**

Respondent.

Case No. S-381

OAH No. L2008010092

**PROPOSED DECISION**

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on March 4, 2008, in Los Angeles.

Abraham M. Levy, Deputy Attorney General, represented Complainant.

Steven Douglas Ashe (Respondent) was present and represented himself.

The record was closed and the matter was submitted for decision at the conclusion of the hearing.

**FACTUAL FINDINGS**

*Parties and Jurisdiction*

1. On September 14, 2005, the Respiratory Care Board (Board), Department of Consumer Affairs, State of California, received an application for a respiratory care practitioner license from Respondent.
2. The Board denied Respondent's application on March 1, 2007.
3. On March 13, 2007, Respondent submitted a written request for a hearing regarding the denial of his license application.
4. On June 5, 2007, Stephanie Nunez (Complainant) brought the Statement of Issues solely in her official capacity as the Executive Officer of the Board, seeking affirmation of the denial of Respondent's application for a license, based on Respondent's convictions described below.

### *Respondent's Convictions*

5. (A) On January 10, 1992, in Los Angeles County Municipal Court, case number 91L11551, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving with an .08 per cent or higher blood alcohol level, a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on probation for three years under various terms and conditions, including that he serve 48 hours in county jail (with credit for 48 hours), pay a fine and assessments totaling \$1,062.00, and complete a three-month licensed (first offender) alcohol counseling program.

(C) The circumstances underlying this conviction were that, on October 25, 1991, a police officer made an enforcement stop after he observed Respondent commit a traffic violation. When Respondent exited his vehicle, he displayed signs of being under the influence of alcohol. Respondent failed to successfully complete field sobriety tests. Breath tests indicated Respondent's blood alcohol level was .18 per cent and .17 per cent.

(D) Pursuant to California Code of Regulations, title 16, section 1399.370, subdivision (b), this conviction is substantially related to the qualifications, functions or duties of a respiratory care practitioner, because it was for the crime of driving under the influence of alcohol, which evidences present or potential unfitness to perform the functions authorized by a license or in a manner inconsistent with the public health.<sup>1</sup>

6. (A) On August 24, 1995, in Los Angeles County Municipal Court, case number 95M07037, Respondent was convicted, upon his plea of nolo contendere, of violating Penal Code section 415, disturbing the peace, a misdemeanor.

(B) Imposition of sentence was suspended and Respondent was placed on probation for one year and was ordered to pay a fine of \$250.00.

(C) The circumstances underlying this conviction were that, on April 17, 1995, police officers responded to a domestic disturbance incident involving Respondent. The officers observed Respondent arguing loudly with his wife, who was seated in a vehicle along with their young daughter. Respondent leaned into the vehicle, grasped his daughter's wrist, and pulled on her arm in an attempt to extract her from the vehicle. Respondent disregarded the officers' commands to release his daughter, who was by then screaming. The officers restrained Respondent by wrestling him to the ground and handcuffing him. Respondent was inebriated at the time of this incident.

---

<sup>1</sup> This regulation states that a crime "involving driving under the influence or reckless driving while under the influence" shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner.

(D) It was not established that this conviction is substantially related to the qualifications, functions or duties of a respiratory care practitioner. It was not proven that Respondent caused another bodily injury or that he attempted to do so at any time. Therefore, this conviction does not qualify as a substantially related crime pursuant to Business and Professions Code section 3752.5.<sup>2</sup> Moreover, this conviction does not involve any of the crimes specifically enumerated in California Code of Regulations, title 16, section 1399.370, nor does it, overall, evidence present or potential unfitness to perform the functions authorized by a license or in a manner inconsistent with the public health.

7. (A) On December 11, 1995, in Los Angeles County Municipal Court, case number 95M04966, Respondent was convicted, upon his plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving with an .08 per cent or higher blood alcohol level, a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on probation for three years under various terms and conditions, including that he serve 48 hours in county jail, pay fines, assessments and restitution totaling \$1,535.00, and complete an eighteen-month licensed (second offender) counseling alcohol program. Respondent's driver's license was restricted for one year.

(C) The circumstances underlying this conviction were that, on November 9, 1995, a deputy sheriff responded to a call that Respondent was not moving in his vehicle, which was parked on a street facing the wrong way. The deputy sheriff found Respondent asleep inside his vehicle with a half-full 24-ounce can of beer between his legs. The deputy observed that Respondent exhibited signs of intoxication. Respondent failed to successfully complete field sobriety tests.

(D) Pursuant to California Code of Regulations, title 16, section 1399.370, subdivision (b), this conviction is substantially related to the qualifications, functions or duties of a respiratory care practitioner, because it was for the crime of driving under the influence of alcohol, which evidences present or potential unfitness to perform the functions authorized by a license or in a manner inconsistent with the public health.

8. (A) On April 12, 1996, in Los Angeles County Municipal Court, case number 6CR08169, Respondent was convicted, upon his plea of nolo contendere, of violating Penal Code section 415, disturbing the peace, a misdemeanor.

(B) Respondent was ordered to serve one day in county jail (with credit for one day).

---

<sup>2</sup> This statute states that "a crime involving bodily injury or attempted bodily injury shall be considered a crime substantially related to the qualifications, functions or duties of a respiratory care practitioner."

(C) The circumstances underlying this conviction were that, on January 26, 1996, police officers made an enforcement stop after they observed a vehicle being driven at a high rate of speed. Respondent, who was a passenger, exited the vehicle and started screaming and swearing at the police officers. Respondent held a jacket in his hand which he placed on the front seat of the vehicle. The officers retrieved the jacket and found an open bottle of whiskey. Respondent was issued a citation for drinking alcohol while in a motor vehicle on a highway. He signed the citation, swore at the officers and pushed two of them away with his hands. Respondent was inebriated at the time of this incident.

(D) It was not established that this conviction is substantially related to the qualifications, functions or duties of a respiratory care practitioner. Respondent did not cause bodily injury to either officer, nor was it established that it was his intent to do so by pushing the officers out of his way. Therefore, this conviction does not qualify as a substantially related crime pursuant to Business and Professions Code section 3752.5. Moreover, this conviction does not involve any of the crimes specifically enumerated in California Code of Regulations, title 16, section 1399.370. Respondent was cited only for drinking while in a car, not for driving the car while under the influence. Overall, this conviction does not evidence an unfitness to perform licensed functions or a propensity to do so in a manner inconsistent with the public health.

9. (A) On May 3, 2006, in Los Angeles County Superior Court, case number 6BF02267, Respondent was convicted, upon his plea of nolo contendere, of violating Penal Code section 245, subdivision (a)(1), assault with a deadly weapon, a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on probation for three years under various terms and conditions, including that he serve nine days in county jail (with credit for nine days), pay a fine of \$100.00 plus an assessment of \$20.00, perform 11 days of community service (Cal Trans) and complete a 52-week domestic violence counseling program. A protective order as to the victim of Respondent's crime was also issued. It was not established whether Respondent has paid his fine yet. He has not yet completed the domestic violence program.

(C) The circumstances underlying this conviction occurred the morning of April 27, 2006. Respondent became embroiled in an argument with his girlfriend. Both were employed as mental health care workers at College Hospital. Their dispute impacted their work site such that Respondent and his girlfriend were asked to leave the hospital before completing their shifts. Later that day, Respondent arranged to return his girlfriend's cell phone to her at the parking lot of the hospital. They quickly renewed their argument upon her arrival; she remaining seated in her car and Respondent stood outside. Respondent ultimately threw his girlfriend's cell phone in her direction. The cell phone hit a window of her car and broke into several pieces. Respondent's girlfriend drove away from the scene. Respondent chased her in his vehicle and ended up colliding with her vehicle nearby the hospital in the parking lot of a Home Depot, causing minor damage to her car.

(D) Pursuant to Business and Professions Code section 3752.5, this conviction is substantially related to the qualifications, functions or duties of a respiratory care practitioner, because it involved Respondent's attempt to inflict bodily injury on another, which evidences present or potential unfitness to perform the functions authorized by a license or in a manner inconsistent with the public health.<sup>3</sup>

### *Respondent's Background and Rehabilitation*

10. Respondent is 43 years old. He recently divorced his wife of many years. He has a 17-year-old daughter from that marriage. Respondent has dedicated himself to the pursuit of obtaining a respiratory care practitioner license because his mother died of a respiratory ailment. He is also interested in this vocation because he likes to care for people. Respondent disclosed the above-described convictions on his application.

11. Respondent's convictions from 1992 through 1996 are attributable, in large part, to his alcoholism. Respondent believes his drinking problem was exacerbated by a turbulent marriage with his former wife. Respondent appears to have gained the upper-hand on his drinking problem. By his account, he has been sober since no later than 1997. Respondent's testimony is somewhat corroborated by the lack of any conviction involving alcohol use since his conviction in April of 1996 for disturbing the peace. Respondent previously attended Alcoholics Anonymous (AA) meetings for 1.5 years after his second driving under the influence conviction and participated in counseling for 6 months. He does not currently attend AA meetings or participate in any other 12-step program; he uses his spirituality and frequent church attendance for support. Respondent believes his divorce has also eliminated many of the stressors that contributed to his alcohol abuse. Respondent avoids other such stressors by taking better care of himself and associating with people who have a positive attitude.

12. Respondent is not currently employed. He has in the past been employed as a certified nurse assistant and as a mental health care worker. Respondent testified that his nurse assistant certification was recently revoked due to his drinking problems. Respondent was fired from his job as a mental health care worker at College Hospital as a result of the events leading to his assault with a deadly weapon conviction. In 2002, Respondent completed his degree in respiratory therapy at the Concorde Career Institute.

---

<sup>3</sup> Pursuant to Penal Code section 240, assault is defined as "an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another." Pursuant to Penal Code section 245, subdivision (a)(1), assault with a deadly weapon is "an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury . . ." Therefore, based on the elements of the crime for which Respondent was convicted, it was established that he attempted to inflict bodily injury on his girlfriend.

## LEGAL CONCLUSIONS

1. *Burden of Proof.* As an applicant for a license, Respondent bears the burden of proving in this matter that he meets the requirements for the issuance of the requested license. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205.)

2. *Cause for Denial of the Application* (Conviction of Substantially Related Crimes). Respondent's application is subject to denial under Business and Professions Code sections 3750, subdivision (d), 3752, 3752.5, and 3732, subdivision (b), and California Code of Regulations, title 16, section 1399.370, in that Respondent was convicted of crimes in 1992 (driving with an .08 per cent or higher blood alcohol level), December 1995 (driving with an .08 per cent or higher blood alcohol level), and 2006 (assault with a deadly weapon), that are substantially related to the qualifications, functions and duties of a respiratory care practitioner. (Factual Findings 5, 7, and 9.)

3. *Disposition.* Pursuant to California Code of Regulations, title 16, section 1399.372, the Board shall consider specific criteria in evaluating the rehabilitation of an applicant convicted of substantially related crimes in determining his or her eligibility for a license. In this case, the rehabilitation criteria of regulation section 1399.372 is applied to Respondent as follows:

(a) The nature and severity of the act(s) or offense(s). This criterion is in Respondent's favor, in that his crimes were not serious, did not involve actual injury to another person and only minor property damage in one instance.

(b) The total criminal record. This criterion weighs against Respondent, in that he has a record of at least five convictions ranging from 1992 through 2006.

(c) The time that has elapsed since the commission of the act(s) or offense(s). This criterion weighs against Respondent, in that his last conviction is recent, from which he is currently on probation.

(d) Compliance with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against such person. This criterion has mixed application. On one hand, Respondent successfully completed the terms of his probations from his first four convictions; on the other hand, he remains on probation from his 2006 conviction, and he failed to establish that he has successfully completed the substantive terms of that probation, such as paying the fine or completing the domestic violence program.

(e) Evidence of any subsequent act(s) or crime(s) committed. This criterion is in Respondent's favor, in that it was not established that he has engaged in any misconduct subsequent to his 2006 conviction.

(f) Any other evidence of rehabilitation submitted that is acceptable to the board, including: (1) successful completion of respiratory care courses with a "C" or better, as determined by the institution; (2) active continued attendance or successful completion or rehabilitative programs such as 12-step recovery programs or psychotherapy counseling; and (3) letters relating to the quality of practice signed under penalty of perjury from licensed health care providers responsible for the supervision of his/her work. This criterion is not in Respondent's favor. He did not submit any letters from others attesting to his skills in the health care field, not did he provide proof of his grades in his respiratory care courses. Respondent does not currently attend AA meetings or participate in a 12-step program. Overall, while Respondent established dramatic improvement in addressing the drinking problem that led to his first four convictions, he did not offer sufficient evidence of rehabilitation of an anger-management problem that was on the periphery of some of his first four convictions and was more directly involved in his 2006 conviction.

(g) Statements, letters, attestations of good moral character, or references relating to character, reputation, personality, marital/family status, or habits shall not be considered rehabilitation unless they relate to quality of practice as listed in section (f). No such letters were presented.

On balance, Respondent failed to meet his burden of proving satisfactory rehabilitation. While Respondent is making encouraging progress, particularly in his battle against alcoholism, his 2006 conviction demonstrates an anger-management issue that needs further resolution. Respondent correctly points out that he has matured late in life. Should he continue making progress in his maturation process, and be able to demonstrate satisfactory rehabilitation, he may be a viable candidate for licensure in the future. At this time, however, it was not established that Respondent's being issued a probationary license would be consistent with the public health, safety or welfare. Since Complainant neither requested costs or presented evidence of the same, no order of cost reimbursement is made herein. (Factual Findings 1-12.)

#### ORDER

The application of Steven Douglas Ashe for a respiratory care practitioner license is denied.

Dated: April 3, 2008



ERIC SAWYER

Administrative Law Judge

Office of Administrative Hearings

Statement of Issues No. S-381

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 E. A. JONES, III, State Bar No. 71375  
Deputy Attorney General  
4 ELAINE GYURKO  
Senior Legal Analyst  
5 California Department of Justice  
300 So. Spring Street, Suite 1702  
6 Los Angeles, CA 90013  
Telephone: (213) 897-4944  
7 Facsimile: (213) 897-9395

8 Attorneys for Complainant

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

13 In the Matter of the Statement of Issues Against:

Case No. S-381

14 STEVEN DOUGLAS ASHE  
2090 Magnolia Apt. #8  
Long Beach, California 90806

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

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

22 2. On or about September 14, 2005, the Board received an application for a  
23 Respiratory Care Practitioner License from Steven Douglas Ashe (Respondent). On or about  
24 September 12, 2005, respondent certified under penalty of perjury to the truthfulness of all  
25 statements, answers, and representations in the application. The Board denied the application on  
26 March 1, 2007.

27 JURISDICTION

28 3. This Statement of Issues is brought before the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code (Code)  
2 unless otherwise indicated.

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

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

8 6. Section 3732, subdivision (b) of the Code states:

9 "The board may deny an application, or may order the issuance of a license  
10 with terms and conditions, for any of the causes specified in this chapter for  
11 suspension or revocation of a license, including, but not limited to, those causes  
12 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

13 7. Section 3750 of the Code states:

14 “The board may order the denial, suspension or revocation of, or the  
15 imposition of probationary conditions upon, a license issued under this chapter, for  
16 any of the following causes:

17 “. . .

18 “(d) Conviction of a crime that substantially relates to the qualifications,  
19 functions, or duties of a respiratory care practitioner. The record of conviction or a  
20 certified copy thereof shall be conclusive evidence of the conviction.

21 “. . .”

22 8. Section 3752 of the Code states:

23 “A plea or verdict of guilty or a conviction following a plea of nolo  
24 contendere made to a charge of any offense which substantially relates to the  
25 qualifications, functions, or duties of a respiratory care practitioner is deemed to be  
26 a conviction within the meaning of this article. The board shall order the license  
27 suspended or revoked, or may decline to issue a license, when the time for appeal  
28 has elapsed, or the judgment of conviction has been affirmed on appeal or when an

1 order granting probation is made suspending the imposition of sentence,  
2 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing  
3 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or  
4 setting aside the verdict of guilty, or dismissing the accusation, information, or  
5 indictment.”

6 9. Section 3752.5 of the Code states:

7 “For purposes of Division 1.5 (commencing with Section 475), and this  
8 chapter [the Respiratory Care Practice Act], a crime involving bodily injury or  
9 attempted bodily injury shall be considered a crime substantially related to the  
10 qualifications, functions, or duties of a respiratory care practitioner.”

11 10. California Code of Regulations, Title 16, section 1399.370, states:

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

18 “ . . .

19 “(c) Conviction of a crime involving driving under the influence or reckless  
20 driving while under the influence.

21 “. . . .”

#### 22 COST RECOVERY

23 11. Section 3753.5, subdivision (a) of the Code states:

24 "In any order issued in resolution of a disciplinary proceeding before the  
25 board, the board or the administrative law judge may direct any practitioner or  
26 applicant found to have committed a violation or violations of law to pay to the  
27 board a sum not to exceed the costs of the investigation and prosecution of the  
28 case."

1           12.     Section 3753.7 of the Code states:

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

5           13.     Section 3753.1, subdivision (a) of the Code states:

6                     "An administrative disciplinary decision imposing terms of probation may  
7 include, among other things, a requirement that the licensee-probationer pay the  
8 monetary costs associated with monitoring the probation."

9  
10                                     CAUSE FOR DENIAL OF APPLICATION

11   (Conviction of a Crime)

12           14.     Respondent's application is subject to denial under Code sections  
13 3750, subdivision (d), 3752, 3752.5 and California Code of Regulations, Title 16, section  
14 1399.370, subdivision (c), in conjunction with section 3732, subdivision (b), in that  
15 respondent was convicted of crimes substantially related to the qualifications, functions  
16 and duties of a respiratory care practitioner. The circumstances are as follows:

17   May 3, 2006 Conviction

18           A.     On or about April 27, 2006, Los Angeles County deputy sheriffs  
19 responded to a domestic disturbance call. The victim, who was Respondent's  
20 girlfriend, told the deputies that Respondent had assaulted her at their worksite,  
21 College Hospital. Earlier in her shift, respondent had harassed her at work and  
22 took her cell phone. Later in her shift, Respondent threw the cell phone at his  
23 girlfriend's vehicle. She drove away, fearing for her safety. Respondent chased  
24 her with his vehicle and intentionally collided with her vehicle in an attempt to  
25 stop her. Respondent grabbed her hair while she was driving, violently pulled her  
26 head backwards and then left the scene. Torrance police officers were notified, and  
27 they detained Respondent at his residence until the deputy sheriffs arrived. Upon  
28 questioning, Respondent admitted that he threw his girlfriend's cell phone at her

1 vehicle, and that his vehicle came into contact with her vehicle. Respondent was  
2 arrested.

3 B. On or about May 2, 2006, in Los Angeles County Superior Court,  
4 Complaint No. 6BF02267, Respondent was charged with assault with a deadly  
5 weapon, in violation of Penal Code section 245, subdivision (a)(1), a misdemeanor  
6 (Count 1) and vandalism, in violation of Penal Code section 594, subdivision (a), a  
7 misdemeanor (Count 2).

8 C. On or about May 3, 2006, Respondent was convicted upon his plea  
9 of nolo contendere to assault with a deadly weapon (Count 1). He was placed on  
10 probation for three years on a number of terms and conditions, among others: serve  
11 9 days in county jail (with credit for 9 days), pay a fine of \$100.00 plus an  
12 assessment of \$20.00, perform 11 days of Cal Trans and complete a 52-week  
13 domestic violence program. Count 2 of the complaint was dismissed.

14 April 12, 1996 Conviction

15 D. On or about January 26, 1996, Los Angeles police officers made an  
16 enforcement stop after they observed a vehicle being driven at a high rate of speed.  
17 Respondent, who was a passenger, exited the vehicle and started screaming and  
18 swearing at the police officers. Respondent held a jacket in his hand which he  
19 placed on the front seat of the vehicle. The officers retrieved the jacket and found  
20 an open bottle of whiskey. Respondent was issued a citation for drinking alcohol  
21 while in a motor vehicle on a highway. He signed the citation, swore at the  
22 officers and pushed them away. Respondent was arrested for battery.

23 E. On or about February 15, 1996, in Los Angeles County Municipal  
24 Court Complaint No. 6CR08169, Respondent was charged with violence, in  
25 violation of Penal Code section 242-243, a misdemeanor (Count 1).

26 F. On or about April 12, 1996, the complaint was amended to add  
27 disturbing the peace, in violation of Penal Code section 415, a misdemeanor  
28 (Count 2). On or about April 12, 1996, Respondent was convicted upon his plea of

1 nolo contendere to disturbing the peace (Count 2). He was ordered to serve one  
2 day in county jail (with credit for one day). Count 1 of the complaint was  
3 dismissed.

4 December 11, 1995 Conviction

5 G. On or about November 9, 1995, a Los Angeles County deputy  
6 sheriff responded to a call that Respondent was not moving in his vehicle which  
7 was parked on a street facing the wrong way. The deputy sheriff found Respondent  
8 asleep inside his vehicle with a half-full 24-ounce can of beer between his legs.  
9 The deputy observed that he exhibited signs of intoxication. He failed to  
10 successfully complete the field sobriety tests. Respondent was arrested.

11 H. On or about November 30, 1995, in Los Angeles County Municipal  
12 Court Complaint No. 95M04966, Respondent was charged with driving under the  
13 influence of alcohol, in violation of Vehicle Code section 23152, subdivision(a), a  
14 misdemeanor (Count 1) and driving with .08% or higher blood alcohol level (with  
15 the allegation that his blood alcohol level was .20 percent or higher), in violation of  
16 Vehicle Code section 23152, subdivision (b), a misdemeanor (Count 2).

17 I. On or about December 11, 1995, Respondent was convicted upon  
18 his plea of nolo contendere to driving with .08% or higher blood alcohol level  
19 (Count 2). He was placed on probation for three years on a number of terms and  
20 conditions, among others: serve 48 hours in county jail, pay fines, assessments and  
21 restitution in the amount of \$1,535.00 and complete an eighteen-month licensed  
22 second offender alcohol program. His license was restricted for one year. Count 1  
23 of the complaint was dismissed.

24 August 24, 1995 Conviction

25 J. On or about April 17, 1995, Gardena police officers responded to a  
26 domestic disturbance incident. They observed Respondent yelling at his wife, who  
27 was seated in a vehicle, along with his daughter. Respondent leaned into the  
28 vehicle, grasped his daughter's wrist, and violently yanked her arm in an attempt to

1 extract her from the vehicle. Respondent disregarded the officers' commands to  
2 release his daughter who was screaming. The officers restrained Respondent by  
3 wrestling him to the ground and handcuffing him. While searching Respondent,  
4 the officers found a plastic bag containing a green leafy substance resembling  
5 marijuana protruding from his pocket.

6 K. On or about July 29, 1995, in Los Angeles County Municipal  
7 Court Complaint No. 95M07037, Respondent was charged with possession of  
8 under one ounce of marijuana, in violation of Health and Safety Code section  
9 11357, subdivision (b), a misdemeanor (Count 1).

10 L. On or about August 24, 1995, the complaint was amended to add  
11 disturbing the peace, in violation of Penal Code section 415, a misdemeanor  
12 (Count 2). On or about August 24, 1995, Respondent was convicted upon his plea  
13 of nolo contendere to disturbing the peace (Count 2). He was placed on probation  
14 for one year and was ordered to pay a fine of \$250.00. Count 1 of the complaint  
15 was dismissed.

16 January 10, 1992 Conviction

17 M. On or about October 25, 1991, a Long Beach police officer made an  
18 enforcement stop after he observed Respondent commit a traffic violation. When  
19 Respondent exited his vehicle, he displayed signs of being under the influence of  
20 alcohol. He failed to successfully complete the field sobriety tests. The results of  
21 his breath tests indicated his blood alcohol level was .18% and .17%.

22 N. On or about October 29, 1991, in Los Angeles County Municipal  
23 Court Complaint No. 91L11551, Respondent was charged with driving under the  
24 influence of alcohol, in violation of Vehicle Code section 23152, subdivision(a), a  
25 misdemeanor (Count 1), driving with .08% or higher blood alcohol level, in  
26 violation of Vehicle Code section 23152, subdivision (b), a misdemeanor (Count  
27 2), and driving with a suspended license, in violation of Vehicle Code section  
28 14601.1(a), a misdemeanor (Count 3).

