

For a further, separate and second cause of action being a different offense, belonging to the same class of crimes and offenses set forth in Count I hereof, affiant further alleges that on or about 04/09/2008 at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit, violation of Subdivision (b) of Section 23152 of the California Vehicle Code was committed by the above-named defendant(s) (whose true name(s) to affiant is(are) unknown), who at the time and place last aforesaid, did willfully and unlawfully drive a vehicle with 0.08 percent or more, by weight, of alcohol in his or her blood.

The allegations of prior convictions listed in Count I of this complaint are hereby incorporated by reference as allegations of prior convictions for the purposes of this Count of the complaint.

MCI 23152(B)/29

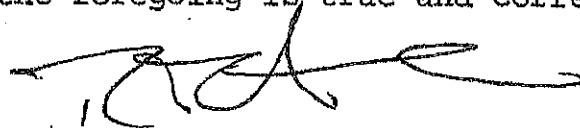
All of which is contrary to the law and against the peace and dignity of the People of the State of California. Declarant and complainant therefore prays that a warrant may be issued for the arrest of said defendant(s) and that he may be dealt with according to law.

Attached hereto and incorporated by reference as though fully set forth are written statements and reports which constitute the basis upon which I make the within allegations.

A declaration in Support of the Issuance of Such Warrant is Submitted.

Executed at Los Angeles, California, on

I declare under penalty of perjury that the foregoing is true and correct.



Declarant and Complainant

ABRAMIAN # 15253

INFORMAL DISCOVERY NOTICE

TO THE ABOVE-NAMED DEFENDANT(S) AND/OR ATTORNEY(S) FOR DEFENDANT(S):

Plaintiff, the People of the State of California, hereby requests discovery/disclosure from the defendant(s) and his or her attorney(s) in this case pursuant to Penal Code Sections 1054.3 and 1054.5.

YOU ARE HEREBY NOTIFIED that if complete disclosure is not made within 15 days of this request, plaintiff will seek -- on or before the next court date, or as soon as practicable thereafter -- a court order enforcing the provisions of Penal Code Section 1054.1, subdivisions (b) and (c). This is an ongoing request for any of the listed items which become known to the defendant(s) and his or her attorney(s) after the date of compliance.

The written statements and reports attached hereto constitute discoverable materials designated in Penal Code Section 1054.1. Any additional material discoverable pursuant to Penal Code Section 1054.1 that becomes known to plaintiff will be provided to the defense.

If, prior to or during trial, as a result of this request plaintiff obtains additional evidence or material subject to disclosure under a previous defense request or court order pursuant to Penal Code Section 1054.1, plaintiff will disclose the existence of that evidence or material within a reasonable time.

DISCOVERY MATERIALS SHOULD BE DELIVERED TO A DEPUTY CITY ATTORNEY IN TRIAL COURT ON THE FIRST TRIAL DATE.

R. COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
MISDEMEANOR SENTENCING MEMORANDUM - VEHICLE CODE

Defendant: <u>VIRGINIA GARRETT</u>		Case No. <u>80401984</u>	
Date: <u>8-2008</u>	Dep't/Div. <u>113</u>	Prosecutor: <u>KLEBAN</u>	Defense:
Judge: <u>SMALL</u>	Clerk:	Reporter:	Interpreter/Language:

As to Count 3, a violation of Vehicle Code § () 23152(a)(b) 4.23103 per 23103.6 () 14601 () 12800(a) () with admitted priors.

Arraignment For Judgment

Arraignment for judgment and time for sentencing waived. There is no legal cause why judgment should not now be pronounced.

Sentence

- Probation is denied. Defendant is to serve _____ days/hours in the Los Angeles County Jail for with consecutive concurrent with _____ days/hours actual plus _____ days GT/WT.
- Pay a fine of \$ _____ plus all applicable penalty assessments and enhancements.
- Pay all fines and assessments as set forth in paragraph 10 below.
- Execution of the foregoing sentence is suspended, on the following terms and conditions:

Conditional Sentence (PC §1203b)/Order of Probation (PC §1203a)

Suspension of sentence is suspended (ISS). With supervision by county probation officer (formal probation)

For a period of 20 months upon the following terms and conditions:

- Serve _____ days/hours in the Los Angeles County Jail, consecutive concurrent with _____ days/hours actual plus _____ days GT/WT. Time may be served in any penal institution. Time may be served on consecutive weekends of two days each beginning _____ (772) Time may be served in any city jail having actual confinement, at defendant's expense. (021) Defendant may not participate in Sheriff's home detention/EHM per PC 1203.016(e). (771) Work furlough not allowed. Last _____ days of jail time to be served in: Antelope Valley Rehabilitation Center at Agton or Warm Springs, California (827) Approved residential program _____ Program. (002)

Defendant to be released only to an authorized representative of that program and is to comply with all program terms and conditions.

If defendant leaves or is discharged from the program prior to completion, defendant is to report to court on the next court day. (013)

- Pay a fine of \$ 500 plus penalty assessments or in default thereof serve 10 additional days in County Jail, consecutive or perform _____ days of Community Labor or perform _____ days/hours of approved Community Service, with credit for _____ days actual or \$ 30 towards fine for jail time already served. Fine may be paid in monthly installments of \$ _____ (124) Defendant to report to Financial Evaluator to work out a payment plan. (163) Defendant elects jail in lieu of fine, forthwith, consecutive to all other time, credit _____ days actual plus _____ days GT/WT.

- Perform _____ days of work for Community Labor or perform _____ days/hours of approved Community Service, with credit for _____ days actual. Sign up for all work or Community Service only at a court-approved volunteer center or the clerk's office. Failure to complete court-ordered work or Community Service without excuse may result in jail. This work or Community Service is in addition to that done in lieu of the fine.

- Make restitution to victim _____ per PC §1202.40 in the sum of \$ _____ (048) In an amount to be determined at a hearing. (087) In the stipulated sum of \$ _____ (040) per any final civil judgment against you (100) Liability is admitted, but amount is disputed.

- Enroll within 21 days (or within 21 days from your release from custody) and successfully complete an approved Defendant's BAC: _____ % Refusal 12 hour 3 month (AB541) (327) 6 month (AB 768) 18 month (SB38) (328) 30 month alcohol education program. The DMV will not restore your driving privilege until you have successfully completed a licensed alcohol education program. Report to Clerk or Health Officer for program information.

- Attend _____ Alcohol Anonymous/Narcotics Anonymous meetings at the rate of _____ times per week, IN ADDITION to those required as part of the alcohol education program. (246)

- Do not drive any vehicle with any measurable amount of alcohol or drugs in your blood, or refuse to take and complete any blood alcohol/drug chemical test, any field sobriety test or any preliminary alcohol screening test when requested by any peace officer. (711)

- Do not drive a motor vehicle without a valid driver's license in your possession or without liability insurance in at least the minimum amounts required by law. (374)

- Abstain from the use of all alcoholic beverages and stay out of all places where they are a chief form of sale. (300)

- Enroll in and complete the Hospital and Marriage (H/M) Program. (471) MADD Victim Impact Program (472) _____

- The court finds that defendant presents a traffic safety or public safety risk and, per VC §13852.4 (d), disallows issuance by DMV of a restricted license. (240)

- Your driver's license is hereby ordered suspended revoked for a period of _____ months _____ years. "M" service given in open court. (283)

- You may not drive a motor vehicle unless and until your driving privilege is restored. Defendant under age 21 at time of offense.

- You are hereby declared to be a Habitual Traffic Offender for a period of _____ years. (283)

- Comply with the "Supplemental Terms of Probation - Ignition Interlock Device" regarding installation of an Ignition Interlock. (240)

- Do not own, use, possess, buy or sell any controlled substances, or associated paraphernalia, except with valid prescription, and stay away from places where users, buyers or sellers congregate. Do not associate with persons known by you to be controlled substance users or sellers, except in an authorized drug counseling program. (926)

- Submit your person and property to search and seizure at any time of the day or night, by any Probation Officer or other peace officer, with or without a warrant, probable cause or reasonable suspicion. (576)

- The vehicle with license plate _____ is, after notice and hearing, ordered impounded for _____ days per Vehicle Code § 23594(a). (699)

- The vehicle with license plate _____ is, after notice and hearing, ordered confiscated and sold per Vehicle Code § 23596(a).

- Pay all of the following (check all that apply):
 A restitution fine of \$100.00, \$ _____ per PC §1202.4(b) through (e). (098)
 A probation revocation restitution fine of \$100.00, \$ _____ per PC §1202.44, payment is stayed until probation is revoked and sentence imposed.
 A court security fee of \$20.00 per PC §1465.9(a)(1). (ADL SA-SF)
 An administrative screening fee of \$25.00 per Govt Code §29550(f). (If defendant arrested and released by arresting agency.)
 A citation processing fee of \$10.00 per Govt Code §29550(g). (If defendant arrested and cited out by the arresting agency.)
 A criminal justice administration reimbursement fee of \$ _____ payable to the local arresting agency, per Govt Code §29550.1 or Govt Code §29550.2
 All applicable alcohol assessment and program fees.

- PC 1203.4(b)(1) - 12 months probation for this offense, that will suspend to the 12 mo. probation for this program.

- Obey all laws and orders of the Court. (541) and rules and instructions of the Probation Department. (542)

- Defendant acknowledges that he/she understands and accepts the terms and conditions of probation. (021)

- Defendant ordered to pay attorney fees in the amount of \$ _____ in the amount determined by the Financial Evaluator.

- Counts/allegations 1, 2 are dismissed/striken on the People's motion pursuant to Penal Code Section 1385 as to this defendant.

Compliance Dates: Defendant is ordered to appear in person on each of the following compliance dates. (003)

Surrender for jail:	Restitution Hearing to Div/Dept. _____ At 8:30am.
Pay fines/fees in full by (Installments allowed):	POE/Proof of Completion of Alcohol Program: <u>10/1/08 8:30 AM Clerk's office</u>
Complete jail/work/s by:	Other:

understand, accept and will comply with the foregoing conditional sentence and compliance dates and will return to Court as ordered.

Defendant's Signature: _____ Attorney's Signature: _____

Defendant's Address: _____ Judge/Commissioner of the Superior Court

Defendant's Telephone: _____

(Handwritten signature: Jimmy A. Kleban)
 Judge/Commissioner of the Superior Court
 (WAS for Defendant per fee) *(Handwritten note)*
 Tahel Watan

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

VIRGINIA ILA GARRETT
249 Magellan Drive
Sarasota, FL 34243

Registered Nurse License No. 543848

Respondent.

Case No. 2010-354

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1.1. On or about January 29, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2010-354 against Virginia Ila Garrett (“Respondent”) before the Board of Registered Nursing. (Accusation attached as **Exhibit A.**)

1.2. On or about June 4, 1998, the Board of Registered Nursing (“Board”) issued Registered Nurse License No. 543848 to Respondent. The Registered Nurse License expired on March 31, 2012, and has not been renewed.

1.3. On or about June 28, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2010-354, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at

1 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
2 section 1409.1, is required to be reported and maintained with the Board, which was and is:
3 249 Magellan Drive
Sarasota, FL 34243.

4 1.4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 1.5. On or about February 23, 2010, Respondent filed a Notice of Defense.

8 1.6. On or about November 2, 2011, a hearing was held at the Office of Administrative
9 Hearings, located at 320 West Fourth Street, Suite 630, Los Angeles, CA 90013. Respondent was
10 served with the Notice of Hearing at her Florida address. Respondent failed to show.

11 1.7. California Government Code section 11520 states, in pertinent part:

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

15 1.8. Pursuant to its authority under Government Code section 11520, the Board finds
16 Respondent is in default. The Board will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on
19 file at the Board's offices regarding the allegations contained in Accusation No. 2010-354, finds
20 that the charges and allegations in Accusation No. 2010-354, are separately and severally, found
21 to be true and correct by clear and convincing evidence.

22 1.9. Taking official notice of its own internal records, pursuant to Business and
23 Professions Code ("Code") section 125.3, it is hereby determined that the reasonable costs for
24 Investigation and Enforcement is \$2,440.00 as of October 21, 2011.

25 DETERMINATION OF ISSUES

26 1.1. Based on the foregoing findings of fact, Respondent Virginia Ila Garrett has subjected
27 her Registered Nurse License No. 543848 to discipline.
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1 2. The agency has jurisdiction to adjudicate this case by default.
2 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
3 Nurse License based upon the following violations alleged in the Accusation which are supported
4 by the evidence contained in the Default Decision Evidence Packet in this case.

5 a. Respondent is subject to disciplinary action under sections 490, subdivision (b), 2761,
6 subdivisions (a), (f) of the Code for unprofessional conduct because Respondent was criminally
7 convicted of offenses substantially related to the qualifications, functions, and duties of a
8 registered nurse. The conduct is described in more particularity in Accusation No. 2010-354,
9 inclusive and herein incorporated by reference.

10 b. Respondent is subject to disciplinary action under section 2762, subdivisions (b) and
11 (c) of the Code on the grounds of unprofessional conduct because she was convicted of a crime
12 involving the use of alcohol and dangerous use of alcohol. The conduct is described in more
13 particularity in Accusation No. 2010-354, inclusive and herein incorporated by reference.

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ORDER

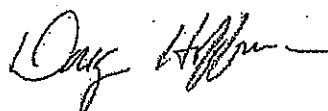
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IT IS SO ORDERED that Registered Nurse License No. 543848, heretofore issued to Respondent Virginia Ila Garrett, is revoked.

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 on January 27, 2012

It is so ORDERED December 28, 2011



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

51015372.DOC
DOJ Matter ID/LA2011601501

Attachment:
Exhibit A: Accusation

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA BARRIOS
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE
Deputy Attorney General

4 State Bar No. 153078
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 2010-354

13 VIRGINIA ILA GARRETT
17558 Hiawatha Street
Granada Hills, CA 91344

ACCUSATION

14 Registered Nurse License No. 543848

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about June 4, 1998, the Board of Registered Nursing (Board) issued Registered
24 Nurse License No. 543848 to Virginia Ila Garrett (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 March 31, 2010, unless renewed.

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AGO- - 00003

7. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct,

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

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AGO- - 00005

1 REGULATORY PROVISION

2 9. California Code of Regulations, title 16, section 1444, states:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare. . ."

7 COST RECOVERY

8 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 FIRST CAUSE FOR DISCIPLINE

13 (Criminal Convictions)

14 11. Respondent is subject to disciplinary pursuant to Code sections 490 and 2761,
15 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
16 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
17 of a licensed registered nurse, as follows:

18 a. On or about August 20, 2008, after pleading nolo contendere, Respondent was
19 convicted of one misdemeanor count of violating Vehicle Code section 23103 [wet/reckless
20 driving], in the criminal proceeding entitled *The People of the State of California v. Virginia*
21 *Garrett* (Super. Ct. Los Angeles County, 2008, No. 8VY01984). Respondent was court ordered
22 to serve 10 days in jail, pay fines totaling \$1364.00, complete a 12-hour alcohol program and
23 placed on probation for a period of 36 months with terms and conditions. The circumstances
24 surrounding the conviction are that on or about April 9, 2008, the California Highway Patrol
25 arrested Respondent for driving under the influence of an alcoholic beverage and that her
26 continued operation of a motor vehicle would be unsafe.

27 b. On or about April 1, 2004, after pleading nolo contendere, Respondent was convicted of
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1 one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having blood-
2 alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of California v.*
3 *Virginia I. Garrett* (Super. Ct. Los Angeles County, 2004, No. 4VN00660). Respondent was
4 court ordered to serve 13 days in jail, pay fines totaling \$1366.00, complete a 3-month First-
5 Offender Alcohol Counseling Program and placed on probation for a period of 36 months with
6 terms and conditions.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct)

9 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
10 subdivision (a), in conjunction with California Code of Regulations, section 1444, for
11 unprofessional conduct in connection with alcohol use and criminal convictions. Complainant
12 refers to, and by this reference incorporates, the allegations set forth above in paragraph 11,
13 subparagraphs (a) and (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Dangerous Use of Alcohol)

16 13. Respondent is subject to disciplinary action pursuant to Code section 2762,
17 subdivision (b), in that on or about April 8, 2008 and April 1, 2004, Respondent used alcohol
18 beverages to an extent or in a manner dangerous to herself, and others. Complainant refers to,
19 and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs
20 (a) and (b), as though set forth fully.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (Conviction Involving Alcohol)

23 14. Respondent is subject to disciplinary action pursuant to Code section 2762,
24 subdivision (c), in that on or about April 1, 2004, Respondent was convicted of a crime involving
25 the consumption of alcohol. Complainant refers to, and by this reference incorporates, the
26 allegations set forth above in paragraph 11, subparagraph (b), as though set forth fully.

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AGO- - 00007

P R A Y E R

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

1. Revoking or suspending Registered Nurse License No. 543848, issued to Respondent;

2. Ordering Virginia Ila Garrett to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 1/29/10

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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