

By *Paul Sanchez*

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8 **BEFORE THE**
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 11 2014 30

12 **MARY ANN ROSE**

13 **21103 Old Ranch Court**
14 **Salinas, CA 93908**

ACCUSATION

15 **Speech-Language Pathologist License No.**
16 **SP 6997**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Paul Sanchez (Complainant) brings this Accusation solely in his official capacity as
22 the Executive Officer of the Speech-Language Pathology and Audiology and Hearing Aid
23 Dispensers Board, Department of Consumer Affairs (Board).

24 2. On or about March 11, 1988, the Board issued Speech-Language Pathologist License
25 Number SP 6997 to Mary Ann Rose (Respondent). The Speech-Language Pathologist License
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 July 31, 2017, unless renewed.

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JURISDICTION

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

4. Section 2530.1 of the Code states:

"The Legislature finds and declares that the practice of speech-language pathology and audiology and hearing aid dispensing in California affects the public health, safety, and welfare and there is a necessity for those professions to be subject to regulation and control."

5. Section 2531.02 of the Code states:

"Protection of the public shall be the highest priority for the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

6. Section 2533 of the Code states:

"The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

"(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.

"..."

"(c)(2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely;

"..."

(e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

...

1 (4) ... The record of the conviction shall be conclusive evidence of unprofessional
2 conduct.”

3 7. Section 2533.1 of the Code states:

4 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
5 charge substantially related to the qualifications, functions, and duties of a speech-language
6 pathologist or audiologist is deemed to be a conviction within the meaning of this article. The
7 board may order a licensee be disciplined or denied a license as provided in Section 2533 when
8 the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or
9 when an order granting probation is made suspending the imposition of sentence irrespective of a
10 subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
11 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
12 dismissing the accusation, information or indictment."

13 9. California Code of Regulations, Title 16, Section 1399.156.1 states:

14 "For the purposes of denial, suspension or revocation of a license or registration pursuant to
15 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be
16 substantially related to the qualifications, functions or duties of a person holding a license under
17 the Act if to a substantial degree it evidences present or potential unfitness of a person holding a
18 license to perform the function authorized by his or her license or registration in a manner
19 consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be
20 limited to those involving the following:

21 (a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22 violation of, or conspiring to violate any provision or term of the Act.

23 (b) Conviction of a crime involving fiscal dishonesty.”

24 10. California Code of Regulations, Title 16, Section 1399.156 provides in pertinent
25 part:

26 Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited
27 to the following:

28 “...”

1 (h) Failure to report to the board within 30 days any of the following:

2 "..."

3 (2) The arrest of the licensee.

4 (3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no
5 contest, of any felony or misdemeanor.

6 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Substantially Related Convictions)

13 12. Respondent is subject to disciplinary action under sections 2533(a), 2533(2), 2533(4),
14 and 2533.1, and California Code of Regulations, Title 16, Section 1399.156.1 in that she has
15 substantially related convictions. The circumstances are as follows:

16 13. On or about March 5, 2014, at approximately 9:05 p.m., Officer J. Skeen received a
17 report of a non-injury collision at Hidden Valley Lake Community in Lake County. Officer
18 Skeen arrived on scene and identified Respondent by her California driver's license. Officer
19 Skeen immediately noticed the odor of alcohol emitting from Respondent. He also noted that she
20 was groggy, disoriented, her speech was slurred, and her eyes were glassy.

21 14. Respondent admitted that she was the driver of a Black BMW X5 and that she was at
22 fault for hitting a parked car. She stated that she drank three to four (3-4) beers prior to driving.
23 She was on her way to the Twin Pines Casino. She could not explain why she was in the Hidden
24 Valley area. After the collision she got out of her vehicle and fell down and hit her face.

25 15. Officer Skeen administered a series of field sobriety tests (FSTs). During the tests,
26 Respondent was unable to stand with her feet on a line and could not begin the test. She was very
27 unsteady and the test was stopped for her safety. Officer Skeen took two preliminary alcohol
28 screening (PAS) tests and the results were .330% and .336%.

1 16. Based on Respondent's objective symptoms of intoxication, FSTs and PAS results,
2 Officer Skeen arrested Respondent for driving under the influence of alcohol.

3 17. A blood sample was obtained from Respondent and the results were .37% blood
4 alcohol content.

5 18. On or about, April 16, 2014, a criminal complaint titled *People of the State of*
6 *California v. Mary Ann Rose*, case no. CR 935637 was filed in Lake County Superior Court.
7 Count 1 charged a misdemeanor violation of Vehicle Code section 23152(a) (driving under the
8 influence of alcohol). Count 2 charged a misdemeanor violation of Vehicle Code section
9 23152(b) (driving while having .08 percent or more of alcohol in the blood.) The complaint
10 further alleged that she was previously convicted of driving under the influence on August 5,
11 2013 in Monterey County. The complaint contained a special allegation that as to Counts 1 and
12 2, Respondent had a blood alcohol content of .15 percent or more.

13 19. On or about, November 3, 2014, Respondent was convicted upon her no contest plea
14 as to Count 2 of the Complaint for violating Vehicle Code section 23152(b) (driving while having
15 .08 percent or more of alcohol in the blood). Respondent admitted the prior DUI conviction.

16 20. Respondent was sentenced to three years (3) probation and required to complete a
17 Multiple Offender Drinking Driver Program. She was also sentenced to thirty (30) days in
18 County Jail. She was ordered to pay fines and assessments, and to submit to and complete a
19 chemical test if stopped for driving under the influence.

20 21. On or about July 29, 2013, at approximately 3:26 p.m., Officer P. Ramos was
21 dispatched to the Crossroads Shopping Center in Monterey County because of a report of a
22 possible drunk driver. While en route, the Officer was advised that an intoxicated elderly female
23 driving a black BMW, who had been parked in front of Rio Grill, was now leaving.

24 22. Upon arrival, Officer Ramos observed the black BMW parked in the parking lot
25 across from Rio Grill. The vehicle was parked straddling 4 parking stalls. Officer Ramos
26 approached the vehicle and observed an elderly female later identified as Respondent lying in the
27 backseat of the vehicle. While speaking to Respondent, Officer Ramos observed that her speech
28 was slurred and that she was emitting a strong odor of alcohol from her person.

1 23. Respondent admitted that she had two (2) glasses of wine at the Rio Grill. A witness
2 who reported the incident to the police, stated that while she was working at a nearby business,
3 she heard two females arguing outside the business. The witness looked outside and observed
4 Respondent arguing with a young female. The witness stated that she heard the young female tell
5 Respondent to not drive because she had too much to drink.

6 The witness observed Respondent get into the black BMW and pull out of the parking stall
7 in front of the Rio Grill. The witness stated that as Respondent pulled out of the stall she almost
8 hit a parked vehicle. Respondent then drove across the parking lot and parked where Officer
9 Ramos had located her. The witness observed Respondent exit the driver side of the vehicle. The
10 witness also observed that she urinated in the parking lot near her car before entering the back
11 seat of the vehicle.

12 24. California Highway Patrol Officer Alameda responded to the scene and conducted his
13 own investigation. Officer Alameda subsequently arrested Respondent for driving under the
14 influence of alcohol.

15 25. On or about, August 2, 2013, a criminal complaint titled *People of the State of*
16 *California v. Mary Rose*, case no. MS314193A was filed in Monterey County Superior Court.
17 Count 1 charged a misdemeanor violation of Vehicle Code section 23152(a) (driving under the
18 influence of alcohol). Count 2 charged a misdemeanor violation of Vehicle Code section
19 23152(b) (driving while having .08 percent or more of alcohol in the blood.) The complaint
20 contained a special allegation that as to Counts 1 and 2, Respondent had a blood alcohol content
21 of .15 percent or more.

22 26. On or about, September 5, 2013, Respondent was convicted upon her nolo contendere
23 plea as to Count 2 of the Complaint for violating Vehicle Code section 23152(b) (driving while
24 having .08 percent or more of alcohol in the blood). Respondent admitted the special allegation
25 that as to Count 2, Respondent had a blood alcohol content of .15 percent or more.

26 27. Respondent was sentenced to five (5) years probation and required to complete a nine
27 (9) month alcohol program. She was sentenced to thirty (30) days in county jail. She was
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1 ordered to pay fines and assessments, and to submit to and complete a chemical test if stopped for
2 driving under the influence.

3 28. On or about, January 11, 2003, Respondent was arrested for driving under the
4 influence of alcohol. Respondent admitted that she had three (3) glasses of wine before driving
5 and that the alcohol interfered with her ability to drive safely. She admitted that while she was
6 impaired she was involved in a car accident and her fifteen (15) year old daughter received a
7 scratch on her arm as a result of the accident.

8 29. On or about, February 13, 2003, Respondent was convicted upon her nolo contendere
9 plea for violating Vehicle Code section 23153(b) (driving while having .08 percent or more of
10 alcohol in the blood and causing an injury).

11 30. Respondent was sentenced to five (5) years probation and required to complete a
12 First Offender Alcohol Program. She was sentenced to thirty (30) days in county jail. She was
13 ordered to pay fines and assessments, and to submit to and complete a chemical test if stopped for
14 driving under the influence.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Use of Alcoholic Beverage to an Extent or in a Manner Dangerous to the Licensee, Any other
17 Person or the Public)

18 31. Respondent is subject to disciplinary action under section 2533 (b)(2) in that she has
19 used alcoholic beverages, to an extent or in a manner dangerous or injurious to herself or to
20 others. The circumstances are as follows:

21 32. On or about, September 3, 2014, Respondent was arrested for driving under the
22 influence of alcohol. On or about, April 13, 2015, a criminal complaint titled *People of the State*
23 *of California v. Mary Ann Rose*, case no. MS326115A was filed in Monterey County Superior
24 Court. Count 1 charged a misdemeanor violation of Vehicle Code section 23152(a) (driving
25 under the influence of alcohol). Count 2 charged a misdemeanor violation of Vehicle Code
26 section 23152(b) (driving while having .08 percent or more of alcohol in the blood.) The
27 complaint alleged an enhancement as to both Counts 1 and 2 for violating Vehicle Code section
28 23540 (prior DUI within 10 years of Vehicle Code section 23152 conviction) and an

1 enhancement for violating Vehicle Code section 23556(b)(4) (blood alcohol in excess of .20
2 percent).

3 33. On or about, December 27, 2014, at approximately 3:40 p.m., Detective M. Davis and
4 Officer Guevarar were dispatched to 21103 Old Ranch Court in Salinas, California in regards to a
5 report of a domestic dispute between a mother and daughter.

6 34. While at the residence, Officer Guevarar received notification that medical personnel
7 had been dispatched for a medical emergency regarding a female, who was injured. The injured
8 female was later identified as Respondent. Witnesses had seen Respondent walking in the trail
9 behind her residence and fall and injure her face. Officer Guevarar walked over to the trail and
10 made contact with Respondent. He observed that her upper lip was split, she was bleeding from
11 her mouth area, her jacket was soaked in blood, and her face was covered in dry blood.

12 35. Respondent admitted to Officer Guevarar that she had a couple of beers and had
13 tripped. Officer Guevarar could smell the strong odor of alcohol coming from her person and her
14 speech was slurred, and she was incoherent. She could not maintain her balance and she kept
15 trying to get up. Officer Guevarar determined that she was unable to care for her personal safety
16 while in a public place. Respondent was transferred via ambulance to a medical center due to the
17 severity of her injuries.

18 36. Officer Guevarar conducted a records check on Respondent and noted that she was on
19 active probation in Monterey County for driving under the influence of alcohol and that her terms
20 of probation included abstaining from alcohol use.

21 37. On or about, April 1, 2015, a criminal complaint titled *People of the State of*
22 *California v. Mary Ann Rose*, case no. MS329586A was filed in Monterey County Superior
23 Court. Count 1 charged a misdemeanor violation of Penal Code Section 647(f) (public
24 intoxication).

25 **THIRD CAUSE FOR DISCIPLINE**
26 (Substantially Related Acts)

27 38. Respondent is subject to disciplinary action under section 2533, including 2533(e).
28 The circumstances are as follows:

1 **September 3, 2014**

2 39. On or about, September 3, 2014, Respondent was arrested for unlawfully taking
3 personal property from Star Market in Monterey County. On or about, April 13, 2015, a criminal
4 complaint titled *People of the State of California v. Mary Ann Rose*, case no. MS326115A was
5 filed in Monterey County Superior Court. Count 3 charged a misdemeanor violation of Penal
6 Code section 484(a) (petty theft). Case no. MS326115A is pending before the Monterey County
7 Superior Court.

8 **June 17, 2015**

9 40. On or about June 17, 2015, Officer Leono was dispatched to 21103 Old Ranch Court
10 in Salinas, California because of a report of a missing person. The reporting party, Respondent's
11 daughter, advised that she owned a black Land Rover and that her mother, had a suspended
12 driver's license, and was driving the Land Rover without her permission. Respondent's daughter
13 explained that Respondent had found the spare key to her vehicle. Respondent's daughter was
14 concerned that Respondent was going to drive drunk in her vehicle and kill someone.

15 42. Officer Leono conducted a warrants and probation check and discovered that
16 Respondent was on probation for driving under the influence and that her license was suspended.
17 Her conditions for release required that she abstain from alcohol use and not drive without a valid
18 driver's license.

19 43. On or about June 18, 2015, at approximately 9:14 a.m., Deputy A. Johnson,
20 responded to 1880 Ranchito Del Rio Drive, Salinas, California where an off duty officer had
21 reported a black Land Rover associated with a missing person parked in front of that address.
22 Deputy Johnson contacted the person sitting in the driver's seat of the vehicle and identified the
23 person as Respondent. Deputy Johnson observed Respondent take a mouthful of mouth wash as
24 he contacted her.

25 44. Officer Leono arrived at the scene a few minutes later. Respondent informed Officer
26 Leono that she had driven to Phil's Fish market and had a dinner and a glass of wine on the night
27 before. Respondent denied having consumed any alcohol in the morning or possessing any
28 alcohol. However, Deputy Johnson obtained a full Stella Artois beer and an empty beer can from

1 Respondent. The Deputy also obtained a water bottle filled with green mouth wash from
2 Respondent.

3 45. Officer Leano detected a strong smell of alcohol emitting from Respondent's breath.
4 Officer Leano subsequently arrested Respondent for driving on a suspended license and violation
5 of probation.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct)

8 46. Respondent is subject to disciplinary action under section 2533 and California Code
9 of Regulations, Title 16, Section 1399.156(h)(2) and (h)(3) in that she failed to notify the Board
10 of her arrests and convictions within thirty (30) days, as more particularly alleged in Paragraphs
11 12-45, which are hereby incorporated by reference and realleged as if fully set forth herein.

12 **DISCIPLINE CONSIDERATIONS**

13 47. To determine the degree of discipline, if any, to be imposed on Respondent,
14 Complainant alleges that on or about September 9, 2010, in a prior action, the Speech-Language
15 Pathology and Audiology and Hearing Aid Dispensers Board issued Citation Number
16 112010000048 for failing to comply with renewal requirements and ordered Respondent to pay a
17 \$200.00 fine. That Citation is now final and is incorporated by reference as if fully set forth.

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20 **PRAYER**

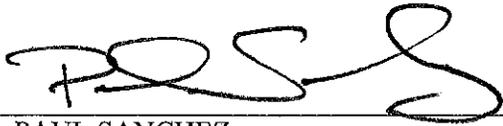
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Speech-Language Pathology and Audiology and Hearing Aid
23 Dispensers Board issue a decision:

- 24 1. Revoking or suspending Speech-Language Pathologist License Number SP 6997,
25 issued to Mary Ann Rose;
- 26 2. Ordering Mary Ann Rose to pay the Speech-Language Pathology and Audiology and
27 Hearing Aid Dispensers Board the reasonable costs of the investigation and enforcement of this
28 case, pursuant to Business and Professions Code section 125.3;

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

DATED: August 12, 2015



PAUL SANCHEZ
Executive Officer
Speech-Language Pathology and Audiology and Hearing
Aid Dispensers Board
Department of Consumer Affairs
State of California
Complainant