

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ, State Bar No. 141773
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2537
Facsimile: (213) 897-2804
6

7 Attorneys for Complainant

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

12 In the Matter of the Statement of Issues Against:

Case No. 3211

13 HUSSEIN DARWISH
7654 E. Woodsboro Avenue
Anaheim, CA 92807

STATEMENT OF ISSUES

14 Pharmacy Technician Applicant

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Pharmacy, Department of
21 Consumer Affairs.

22 2. On or about January 4, 2008, the Board of Pharmacy (Board) received an
23 application for a Pharmacy Technician License from Hussein Darwish (Respondent). On or
24 about December 31, 2007, 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 June 3, 2008.

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 **STATUTORY PROVISIONS**

4 4. Section 118, subdivision (b), of the Code provides that the suspension,
5 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to
6 proceed with a disciplinary action during the period within which the license may be renewed,
7 restored, reissued or reinstated.

8 5. Section 480 states, in pertinent part:

9 “(a) A board may deny a license regulated by this code on the grounds that the
10 applicant has one of the following:

11

12 “(2) Done any act involving dishonesty, fraud or deceit with the intent to
13 substantially benefit himself or another, or substantially injure another.”

14 6. Section 4301 of the Code states:

15 “The board shall take action against any holder of a license who is guilty of
16 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
17 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
18 following:

19

20 “(f) The commission of any act involving moral turpitude, dishonesty, fraud,
21 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
22 otherwise, and whether the act is a felony or misdemeanor or not.”

23 **REGULATORY PROVISIONS**

24 7. California Code of Regulations, title 16, section 1770, states:

25 “For the purpose of denial, suspension, or revocation of a personal or facility
26 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
27 Code, a crime or act shall be considered substantially related to the qualifications, functions or
28 duties of a licensee or registrant if to a substantial degree it evidences present or potential

1 unfitness of a licensee or registrant to perform the functions authorized by his license or
2 registration in a manner consistent with the public health, safety, or welfare.”

3 **CAUSE FOR DENIAL OF APPLICATION**

4 **(Unprofessional Conduct)**

5 8. Respondent’s application is subject to denial under sections 4301,
6 subdivision (f) and 480, subdivision (a)(2), of the Code, on the grounds of unprofessional
7 conduct, in that Respondent committed acts which constitute unprofessional conduct when he
8 submitted a false application for La Botica #1, that did not indicate the true owner of the
9 pharmacy and misrepresented that he was related to the prior owner on his credit application. In
10 addition, the lease agreement submitted to the Board had been altered, to indicate the prior owner
11 was the true owner of La Botica #1.

12 **AGGRAVATING CIRCUMSTANCES**

13 9. To determine the degree of discipline, if any, to be imposed on
14 Respondent, Complainant further alleges by way of aggravation that Respondent’s pharmacy
15 technician license no. 25044 and original pharmacy permit no. 42084 was disciplined by the
16 Board following the filing of an accusation in 2000 as follows:

17 a. On or about October 27, 1999, Second Amended and First Supplemental
18 Accusation No. 2098 was filed against Respondent. On or about May 6, 2000, Respondent
19 signed a Stipulation in Settlement Decision and Order in Case No. 2098. On or about August 22,
20 2000, the Board adopted the Stipulation and Order, and the Board’s Decision and Order became
21 effective on or about September 21, 2000. Pursuant to the terms of the Decision and Order
22 adopted by the Board, Respondent surrendered the original Pharmacy Permit no. 42084, and the
23 Pharmacy Technician license no. 24271 was revoked. However, said revocation was stayed and
24 Respondent was placed on probation for three (3) years. The circumstances surrounding the
25 disciplinary action are that Respondent submitted a false application for La Botica #1, that did
26 not indicate the true owner of the pharmacy and misrepresented that he was related to the prior
27 owner on his credit application. In addition, the lease agreement submitted to the Board had
28 been altered, to indicate the prior owner was the true owner of La Botica #1.

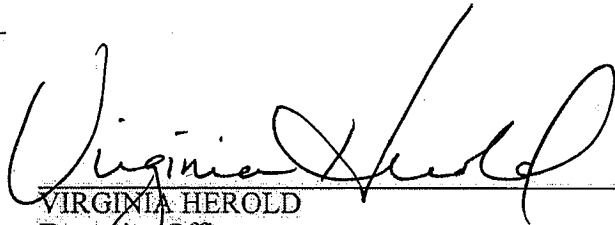
PRAYER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

1. Denying the application of Respondent for a Pharmacy Technician License, and
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/09



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2008602066
50356291.wpd