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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. 3384

13 SHARON LEE CHAN
4057 Robin Hill Road
14 La Canada, CA 91011

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

- 18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 20 2. On or about October 2, 2007, the Board of Pharmacy (Board) received an
21 Application for Pharmacist Licensure and Examination from Sharon Lee Chan (Respondent). On
22 or about September 12, 2007, Respondent certified under penalty of perjury to the truthfulness of
23 all statements, answers, and representations in the application. The Board denied the application
24 on March 27, 2009.
- 25 3. In a disciplinary action entitled "*In the Matter of the Accusation Against: Sharon Lee*
26 *Chan*," Case No. 2662, the Board issued a decision, effective April 25, 2004, in which
27 Respondent's Pharmacist License was surrendered. A copy of that decision is attached as Exhibit
28 A and is incorporated by reference.

1 JURISDICTION

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

5 STATUTORY PROVISIONS

6 5. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the applicant
8 has one of the following:

9

10 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
11 substantially benefit himself or herself or another, or substantially injure another.

12 (3)(A) Done any act that if done by a licentiate of the business or profession
13 in question, would be grounds for suspension or revocation of license.

14 (B) The board may deny a license pursuant to this subdivision only if the
15 crime or act is substantially related to the qualifications, functions, or duties of the business
16 or profession for which application is made."

17 6. Section 490 states:

18 "(a) In addition to any other action that a board is permitted to take against a licensee, a
19 board may suspend or revoke a license on the ground that the licensee has been convicted of a
20 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
21 or profession for which the license was issued.

22 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
23 discipline a licensee for conviction of a crime that is independent of the authority granted under
24 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
25 of the business or profession for which the licensee's license was issued.

26 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
27 conviction following a plea of nolo contendere. Any action that a board is permitted to take
28 following the establishment of a conviction may be taken when the time for appeal has elapsed, or

1 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
2 made suspending the imposition of sentence, irrespective of a subsequent order under the
3 provisions of Section 1203.4 of the Penal Code.”

4 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
5 subject to discipline, including suspension or revocation.

6 8. Section 4301 states, in pertinent part:

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

10

11 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
12 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
13 whether the act is a felony or misdemeanor or not.

14 "(g) Knowingly making or signing any certificate or other document that falsely
15 represents the existence or nonexistence of a state of facts.

16

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

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

6

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency.

11 "(p) Actions or conduct that would have warranted denial of a license."

12 **REGULATORY PROVISIONS**

13 9. California Code of Regulations, title 16, section 1770, states:

14 "For the purpose of denial, suspension, or revocation of a personal or facility license
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
18 licensee or registrant to perform the functions authorized by his license or registration in a manner
19 consistent with the public health, safety, or welfare."

20 **FIRST CAUSE FOR DENIAL OF APPLICATION**

21 **(Dishonest Acts, Fraud, or Deceit)**

22 10. Respondent's application is subject to denial under sections 4301, subdivisions (f),
23 (g), (o), and 480, subdivision (a)(2), in that on or about April 26, 2000, Respondent committed
24 dishonest acts, fraud, or deceit with the intent to substantially benefit herself, or substantially
25 injure another, by knowingly making and submitting a false claim with the California Department
26 of Insurance for the purpose of obtaining worker's compensation insurance benefits.

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1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (Acts Warranting Denial of a License)

3 11. Respondent's application is subject to denial under sections 4301, subdivision (p), and
4 480, subdivision (a)(3), in that Respondent committed acts which if done by a licentiate would be
5 grounds for suspension or revocation of her license, as follows:

6 a. On or about December 3, 2003, Respondent was convicted of a crime substantially
7 related to the qualifications, functions, or duties of a Pharmacist which to a substantial degree
8 evidence her present or potential unfitness to perform the functions authorized by her license in a
9 manner consistent with the public health, safety, or welfare, in violation of sections 490 and 4301,
10 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770.

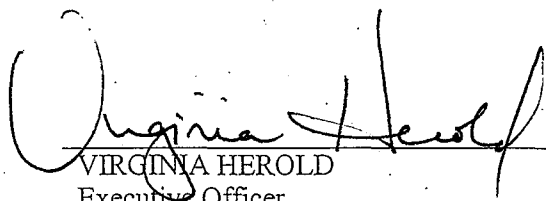
11 b. On or about April 26, 2000, Respondent committed dishonest acts, fraud, or deceit
12 with the intent to substantially benefit herself, or substantially injure another. Complainant refers
13 to, and by this reference incorporates, the allegations set forth above in paragraph 10, as though
14 set forth fully.

15 PRAYER

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

- 18 1. Denying the Application of Respondent for Pharmacist Licensure and Examination;
19 2. Taking such other and further action as deemed necessary and proper.

20 DATED: 12/8/09

21 

22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

27 LA2009603789
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jz/lena (10/23/2009)