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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
13 Against:

Case No. 3687

14 **DARCELLE SHRONA BANKS**
15 **3603 W. Hidden Ln. #120**
16 **Rolling Hills Estates, CA 90274**
17 **Pharmacy Technician Registration**
18 **Application**

STATEMENT OF ISSUES

19 Respondent.

20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about February 25, 2009, the Board of Pharmacy, Department of Consumer
25 Affairs received an application for a Pharmacy Technician Registration Application from
26 Darcelle Shrona Banks (Respondent). On or about February 22, 2009, Darcelle Shrona Banks
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on March 18, 2010.

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JURISDICTION

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

5 4. Section 4301 of the Code states, in pertinent part:

6 "The board shall take action against any holder of a license who is guilty of unprofessional
7 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

8 Unprofessional conduct shall include, but is not limited to, any of the following:

9

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

13

14 "(l) The conviction of a crime substantially related to the qualifications, functions, and
15 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
17 substances or of a violation of the statutes of this state regulating controlled substances or
18 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
19 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
20 The board may inquire into the circumstances surrounding the commission of the crime, in order
21 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
22 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
23 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
24 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
25 of this provision. The board may take action when the time for appeal has elapsed, or the
26 judgment of conviction has been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
28 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.

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

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

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

12 6. Section 480 of the Business and Professions Code provides, in pertinent part, that a
13 board may deny a license if the applicant has been convicted of a crime substantially related to
14 the qualifications, functions or duties of the business or profession for which application is made,
15 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
16 by a licentiate would be grounds for suspension or revocation of a license, or has knowingly made
17 a false statement of fact required to be revealed in the application.

18 **REGULATORY PROVISIONS**

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

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

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Substantially Related Conviction)

8. Respondent is subject to disciplinary action under sections 480 and 4301, subdivision (l), of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a licensed pharmacy technician in that on or about April 20, 2005, after pleading guilty, Respondent was convicted of one felony count of violating Title 18, United States Code section 371 [conspiracy to commit offense or to defraud United States], in the criminal proceeding entitled *United States of America v. Darcell Banks* (C.D. Ca., 2005, No. 2:04-cr-01170-AHM-2). The Court placed Respondent on two (2) years probation and ordered her to pay a fine.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Dishonest Acts)

9. Respondent is subject to disciplinary action under section 4301, subdivision (f), on the grounds of unprofessional conduct in that on or about April 20, 2005, Respondent was convicted for her commission of a dishonest and fraudulent act. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 8, as though set forth fully.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Acts Warranting License Denial)

10. Respondent's application is subject to denial under section
Respondent is subject to disciplinary action under section 4301, subdivision (p), in that Respondent engaged in actions or conduct that warrant denial of a license. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 8, as though set forth fully.

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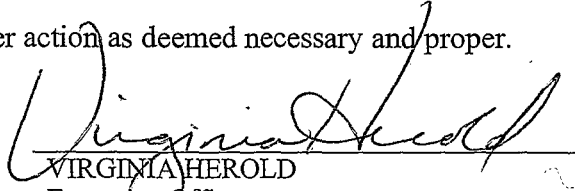
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PRAYER

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

1. Denying the application of Darcelle Shrona Banks for a Pharmacy Technician Registration Application;
2. Taking such other and further action as deemed necessary and proper.

DATED: 12/7/11



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

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