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7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
Against:

Case No. 3738

12 **RUBY JEAN WILLIAMS**
13 12750 Hickory Avenue
14 Victorville, CA 92395

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about December 22, 2009, the Board of Pharmacy (Board) received an
22 application for registration as a Pharmacy Technician from Ruby Jean Williams (Respondent).

23 On or about December 15, 2009, Respondent certified under penalty of perjury to the truthfulness
24 of all statements, answers, and representations in the application. The Board denied the
25 application on May 3, 2010.

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JURISDICTION

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3. This Statement of Issues 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 480 states, in pertinent part:

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

....

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

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

5. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest. This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

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

7. Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional

1 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

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4 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
5 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
6 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
7 to the extent that the use impairs the ability of the person to conduct with safety to the public the
8 practice authorized by the license.

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10 "(j) The violation of any of the statutes of this state, of any other state, or of the United
11 States regulating controlled substances and dangerous drugs."

12

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

14 **8. CONTROLLED SUBSTANCE**

15 "Methamphetamine," is a schedule II controlled substance as defined in Health and Safety
16 code section 11055(d)(2) and is categorized as a dangerous drug pursuant to section 4022 of the
17 Code.

18 **CAUSE FOR DENIAL OF APPLICATION**

19 **(Acts Warranting Denial of Licensure)**

20 5. Respondent's application is subject to denial under sections 4301, subdivision (p) and
21 480; subdivision (a)(3)(A) and (B), in that Respondent committed acts which if done by a
22 licentiate would be grounds for suspension or revocation of his license, as follows.

23 a. On or about March 16, 2006, during a parole compliance check by the San
24 Bernardino Sheriff's Department of Dennis M., Respondent was contacted. While speaking to
25 Respondent, she displayed signs and symptoms of being under the influence of a controlled
26 narcotic substance (CNS) stimulant. Respondent had severe eyelid flutter, a white coated tongue,
27 and an elevated pulse. She admitted to the police officer that she had just used methamphetamine.

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1 Respondent was subsequently arrested for, a violation of Health and Safety Code section 11550,
2 subdivision (a) (under the influence of a controlled narcotic substance).

3 b. Respondent used and was under the influence of a controlled narcotic substance, to
4 wit: Methamphetamine, in violation of section 4301, subdivisions (h) and (j).

5 **PRAYER**

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

- 8 1. Denying the application of Respondent for Registration as a Pharmacy Technician;
9 2. Taking such other and further action as deemed necessary and proper.

10 DATED: 11/2/10



11 VIRGINIA HEROLD
12 Executive Officer
13 Board of Pharmacy
14 Department of Consumer Affairs
15 State of California
16 Complainant

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