

1. EDMUND G. BROWN JR.
Attorney General of California
2. FRANK H. PACOE
Supervising Deputy Attorney General
3. JOSHUA A. ROOM
Deputy Attorney General
4. State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5. San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6. Facsimile: (415) 703-5480
Attorneys for Complainant

7
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. 3772

13 **JOHANN REGINDIN DIANAND**
14 **1490 Nelson Court**
15 **Santa Clara, CA 95054**

STATEMENT OF ISSUES

Applicant for Pharmacy Technician License

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 April 22, 2009, the Board of Pharmacy, Department of Consumer Affairs
21 received an Application for Registration as a Pharmacy Technician from Johann Regindin
22 Dianand (Respondent). On or about February 4, 2009, Respondent certified under penalty of
23 perjury as to the truthfulness of all statements, answers, and representations in the application.
24 The Board denied the application on April 13, 2010.

25 JURISDICTION

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

STATUTORY AND REGULATORY PROVISIONS

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4. Section 4300, subdivision (c), of the Code states:

“(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy”

5. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is defined to include, but not be limited to, any of the following:

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

6. Section 480 of the Code 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:

“(1) Been convicted of a crime. . . . Any action which a board is permitted to take following the establishment of a conviction may be taken . . . irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

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

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

“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 . . . [license].”

“(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application”

1 7. California Code of Regulations, title 16, section 1770, states:
2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare."
8

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Conviction of Substantially Related Crime(s))

11 8. Respondent's application is subject to denial under the following section(s) of the
12 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
13 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
14 crime, in that on or about April 17, 1997, in a case titled *People v. Johann Hanuman Dianand*,
15 Case No. 196132 and/or C9615966 in Santa Clara County Municipal Court, Respondent was
16 convicted of violating (1) Penal Code section 243.4(a) (Sexual battery), a felony, and (2) Penal
17 Code section 261.5(b) (Unlawful sexual intercourse with a minor), a misdemeanor, as follows:

18 a. On or about November 19, 1996, based on an incident on or about November
19 10, 1996 during which Respondent was alleged to have touched the genitals of an unlawfully
20 restrained minor, and had intercourse with that minor, Respondent was charged in Case No.
21 C9615966 with violating (1) (1) Penal Code section 243.4(a) (Sexual battery), a felony, and (2)
22 Penal Code section 261.5(b) (Unlawful sexual intercourse with a minor), a misdemeanor.

23 b. On or about April 17, 1997, in Case No. 196132 and/or C9615966, Respondent
24 pleaded nolo contendere to both counts charged.

25 c. On or about June 3, 1997, the imposition of sentence was suspended in favor of
26 a period of formal probation of three (3) years, on terms and conditions including one (1) year in
27 county jail or on work/school furlough (19 days CTS), sex offender registration pursuant to Penal
28 Code section 290, a psychological evaluation, no contact with the victim, and fines and fees.

1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (Conviction of Substantially Related Crime(s))

3 9. Respondent's application is subject to denial under the following section(s) of the
4 Code: 480(a)(1); 480(a)(3) by reference to 4301(1); and/or 4300(c) by reference to 4301(1) and
5 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
6 crime, in that on or about September 27, 1999, in a consolidated case titled *People v. Johann*
7 *Hanuman Dianand*, Case No(s). E9809256 and/or C9930413 n Santa Clara County Superior
8 Court, Respondent was convicted of violating (1) Penal Code section(s) 484/487(b)(3) (Grand
9 theft by employee or agent – over \$400.00), a felony, (2) Penal Code section 484e(d) (Acquire or
10 retain another's access card account information without consent for fraudulent use), a felony, (3)
11 Penal Code section(s) 459/460(b) (Burglary – 2nd degree), a felony, and (4) Penal Code
12 section(s) 459/460(b) (Burglary – 2nd degree), a felony, with an enhancement pursuant to Penal
13 Code section 12022.1 for committing the burglaries while out on bail, as follows:

14 a. On or about December 21, 1998, based on incidents on or about November 18,
15 1998 and December 2, 1998 during which Respondent was alleged to have taken clothing or other
16 items from his employer (Macy's) of a value exceeding \$400.00, Respondent was charged in
17 Case No. E9809256 with violating Penal Code section(s) 484/487(b)(3) (Grand theft by employee
18 or agent – over \$400.00), a felony. On some date subsequent to this initial filing, a second charge
19 was added for violating Penal Code section 484e(d) (Acquire or retain another's access card
20 account information without consent for fraudulent use), a felony.

21 b. On or about June 7, 1999, based on incidents on or about May 8, 1999 during
22 which Respondent was alleged to have broken into two separate vehicles with the intention of
23 committing theft, Respondent was charged in Case No. C9930413 with violating (1) Penal Code
24 section(s) 459/460(b) (Burglary – 2nd degree), a felony, and (2) Penal Code section(s) 459/460(b)
25 (Burglary – 2nd degree), a felony, with an enhancement pursuant to Penal Code section 12022.1
26 for committing the burglaries while out on bail for the charges brought in Case No. E9809256.

27 c. On or about September 27, 1999, in a proceeding for Case No(s). E9809256
28 and C9930413, Respondent pleaded nolo contendere to all counts and admitted the enhancement.

1 d. On or about December 16, 1999, Respondent was sentenced on all four counts
2 and the enhancement, and also for a violation of probation in Case No. 196132, to a state prison
3 term of two (2) years and eight (8) months (3 days CTS), to be followed by a period of parole of
4 three (3) years, restitution to Macy's of \$1,623.99, a restitution fine of \$1,600.00, and another
5 restitution fine of \$1,600.00 suspended unless parole were to be subsequently revoked.

6 e. On or about May 1, 2001, Respondent was released from custody to parole. On
7 or about May 1, 2005, Respondent was discharged from parole.

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9 THIRD CAUSE FOR DENIAL OF APPLICATION

10 (Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

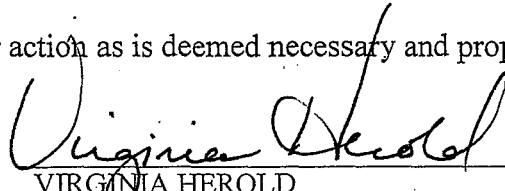
11 10. Respondent's application is subject to denial under the following section(s) of the
12 Code: 480(a)(2); 480(a)(3) by reference to 4301(f); and/or 4300(c) by reference to 4301(f), in
13 that, as described in paragraphs 8 and/or 9 above, Respondent engaged in conduct involving
14 moral turpitude, dishonesty, fraud, deceit, or corruption.

15
16 PRAYER

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

- 19 1. Denying the application of Johann Regindin Dianand to be a Pharmacy Technician;
20 2. Taking such other and further action as is deemed necessary and proper.

21 DATED: 9/23/10


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

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