

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
4 State Bar No. 207108
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
Against:

Case No. 3950

12 **JENNIFER PALAD CABIDA**
13 9624 Madison Ave., Apt. A
14 Southgate, CA 90280

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 May 19, 2010, the Board of Pharmacy (Board) received an application
21 for an Applicant for Pharmacy Technician Registration from Jennifer Palad Cabida,
22 (Respondent). On or about March 25, 2010, Respondent certified under penalty of perjury to the
23 truthfulness of all statements, answers, and representations in the application. The Board denied
24 the application on August 18, 2010.

25 **JURISDICTION**

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

1 **STATUTORY PROVISIONS**

2 4. Section 480 states, in pertinent part:

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

5 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
6 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
7 board is permitted to take following the establishment of a conviction may be taken when the
8 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
9 an order granting probation is made suspending the imposition of sentence, irrespective of a
10 subsequent order under the provisions of Section 1203.4 of the Penal Code.

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

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

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

18

19 "(c) A board may deny a license regulated by this code on the ground that the applicant
20 knowingly made a false statement of fact required to be revealed in the application for the
21 license."

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

24 6. Section 4301 states, in pertinent part:

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

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

28

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

4 ...

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

7

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

25

26 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable
28

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.”

3 **REGULATORY PROVISION**

4 7. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 **(Conviction of Crimes)**

13 8. Respondent's application is subject to denial under Code section 480, subdivision
14 (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, in that
15 Respondent was convicted of crimes substantially related to the qualifications, functions, or
16 duties of a pharmacy technician, as follows:

17 a. On or about January 5, 2005, Respondent pled guilty to one misdemeanor count of
18 violating Health and Safety Code section 11364 [possession of narcotic paraphernalia] in the
19 criminal proceeding entitled *The People of the State of California v. Jennifer Palad Cabida*
20 (Super. Ct. Los Angeles County, 2005, No. 4SB09697). The Court deferred entry of judgment
21 for eighteen (18) months. On or about March 25, 2005, the Court terminated deferred entry of
22 judgment and sentenced Respondent to serve 180 days in Los Angeles County Jail. The
23 circumstances surrounding the conviction are that on or about December 15, 2004, during a
24 narcotics investigation by the Los Angeles Police Department at The Plaza Hotel in Torrance,
25 officers found Respondent and 5 others in a hotel room with a large amount of narcotics and
26 narcotic paraphernalia in plain sight. While searching through Respondent's purse, an officer
27 found a purple eye-glass holder containing a glass drug pipe. Respondent was arrested.

28

1 b. On or about February 3, 2004, Respondent was convicted on her plea of nolo
2 contendere to one misdemeanor count of violating Vehicle Code section 4462.5 [displaying
3 invalid vehicle registration] in the criminal proceeding entitled *The People of the State of*
4 *California v. Jennifer Palad Cabida* (Super. Ct. Los Angeles County, 2004, No. 4SB00030). The
5 Court placed Respondent on 2 years of summary probation, with terms and conditions. On March
6 25, 2005, the Court sentenced Respondent to serve 180 days in Los Angeles County Jail for
7 violating the terms and conditions of probation. The circumstances surrounding the conviction
8 are that on or about November 30, 2003, Respondent unlawfully displayed on a vehicle, or
9 presented to peace officer, any registration car, identification card, temporary receipt, license
10 plate, or permit not issued for such vehicle or not otherwise lawfully used with intent to avoid
11 compliance with vehicle registration requirements.

12 c. On or about June 27, 2002, Respondent was convicted on her guilty plea to two
13 felony counts of violating Penal Code section 470, subdivision (d) [forgery] in the criminal
14 proceeding entitled *The People of the State of California v. Jennifer Palad Cabida* (Super. Ct.
15 Los Angeles County, 2002, No. BA227632). On the first count, the Court sentenced Respondent
16 to serve 180 days in Los Angeles County Jail and placed her on 3 years formal probation, with
17 terms and conditions. On the second count, on or about August 12, 2002, the Court sentenced
18 Respondent to serve 60 days in Los Angeles county Jail and placed her on 3 years formal
19 probation with terms and conditions, to run concurrent with the prior sentence. On March 12,
20 2003, Respondent admitted to probation violation and was ordered to serve 3 days in jail among
21 other terms. Her probation was revoked and reinstated. On or about January 23, 2004,
22 Respondent admitted to probation violation and was ordered to serve an additional 7 days in jail
23 among other terms. Her probation was reinstated. On or about May 20, 2005, Respondent
24 admitted to probation violation, and was ordered to serve an additional 16 days in jail among
25 other terms. On or about March 12, 2010, the two counts were reduced to misdemeanors and
26 dismissed pursuant to Penal Code section 1203.4 The circumstances surrounding the conviction
27 are that on or between November 2, 2001 and November 21, 2001, Respondent with the intent to
28 defraud, falsely made, altered, forged, and counterfeited, uttered, published, passed, and

1 attempted or offered to pass, as true and genuine, a check written on the account of J.C., knowing
2 the same to be false, altered, forged, and counterfeited. In addition, on or between November 2,
3 2001 and December 28, 2001, Respondent with the intent to defraud, falsely made, altered,
4 forged and counterfeited, uttered published, passed, and attempted to offer to pass, as true and
5 genuine, a check written on the account of C.C and K.V., knowing the same to be false, altered,
6 forged and counterfeited.

7 d. On or about July 10, 2002, Respondent was convicted of her plea of nolo contendere
8 to one misdemeanor count of violating Penal Code section 666 [petty theft with a prior] in the
9 criminal proceeding entitled *The People of the State of California v. Jennifer Palad Cabida*
10 (Super. Ct. Los Angeles County, 2002, No. 2SB01746). The Court sentenced Respondent to serve
11 60 days in Los Angeles County Jail and placed her on 3 years of summary probation, with terms
12 and conditions. On or about December 2, 2003, February 3, 2004, and February 16, 2005,
13 Respondent admitted to probation violations. On or about March 25, 2005, the Court ordered
14 Respondent to serve 180 days in Los Angeles County Jail to run concurrent with Case No.
15 1SB08213. The circumstances surrounding the conviction are that on or about February 7, 2002,
16 Respondent removed clothing items from Nordstrom without paying for them.

17 e. On or about July 10, 2002, Respondent was convicted on her plea of nolo contendere
18 to one misdemeanor count of violating Penal Code section 666 [petty theft with a prior] in the
19 criminal proceeding entitled *The People of the State of California v. Jennifer Palad Cabida*
20 (Super. Ct. Los Angeles County, 2002, No. 1SB08213). The Court sentenced Respondent to
21 serve 90 days in Los Angeles County Jail and placed her on 3 years probation, with terms and
22 conditions. On or about February 3, 2004 and February 16, 2005, Respondent admitted to
23 probation violations. On or about March 25, 2005, the Court ordered Respondent to serve 180
24 days in Los Angeles County Jail. The circumstances surrounding the conviction are that on or
25 about October 16, 2001, Respondent removed clothing items from Mervyns without paying for
26 them.

27 f. On or about July February 17, 1998, Respondent was convicted of her plea of nolo
28 contendere to one misdemeanor count of violating Penal Code section 484 [petty theft] in the

1 criminal proceeding entitled *The People of the State of California v. Jennifer Palad Cabida*
2 (Super. Ct. Los Angeles County, 1998, No. 8SB01057). The Court sentenced Respondent to
3 serve 1 day in Los Angeles County Jail and placed her on 3 years probation, with terms and
4 conditions. The circumstances surrounding the conviction are that on or about January 17, 1998,
5 while employed at Sears Roebuck & Co., Respondent admitted to stealing approximately \$3,500
6 from her employer's cash registry since approximately October of 1998.

7 g. On or about November 13, 1996, Respondent was convicted of her plea of nolo
8 contendere to one misdemeanor count of violating Penal Code section 484 [petty theft] in the
9 criminal proceeding entitled *The People of the State of California v. Jennifer Palad Cabida*
10 (Super. Ct. Los Angeles County, 1996, No. 6CM09288). The Court sentenced Respondent to
11 serve 1 day in Los Angeles County Jail and placed her on 12 months probation, with terms and
12 conditions. The circumstances surrounding the conviction are that on or about September 25,
13 1996, Respondent removed items from Super K-Mart without paying for them.

14 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

16 9. Respondent's application is subject to denial under Code section 480, subdivision
17 (a)(2), in that Respondent committed dishonest acts, fraud, or deceit with the intent to
18 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
19 reference incorporates, the allegations set forth above in paragraph 8, subparagraphs (b) through
20 (g), inclusive, as though set forth fully.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Knowingly Made a False Statement of Fact)**

23 10. Respondent application is subject to denial under Code section 480, subdivision (c),
24 in that on or about March 25, 2010, Respondent knowingly made a false statement of fact by
25 failing to disclose six additional convictions on her application for licensure. Complainant refers
26 to, and by this reference incorporates, the allegations set forth in paragraph 8, subparagraphs (a)
27 through (g) inclusive, as though set forth fully.

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1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

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

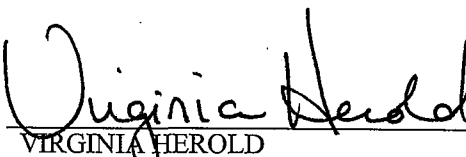
3 11. Respondent's application is subject to denial under Code section 480, subdivisions
4 (a)(3)(A) and (a)(3)(B), in conjunction with Code section 4301, subdivisions (f), (j), (l) and (o), in
5 that Respondent committed acts which if done by a licentiate of the business and profession,
6 would be grounds for suspension or revocation of her license. Complainant refers to, and by this
7 reference incorporates, the allegations set forth above in paragraph 8, subparagraphs (a) and (g),
8 inclusive, as though set forth fully.

9 **PRAYER**

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

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

15
16 DATED: 8/15/11



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

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