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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues  
11 Against:

Case No. 4002

12 **STEVEN JOHN PIMENTAL**  
13 **1848 Arcane Street**  
**Simi Valley, CA 93065**  
14 **Pharmacy Technician Registration Number**  
**Applicant**

**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 June 29, 2010, the Board of Pharmacy, Department of Consumer Affairs  
22 received an application for a Pharmacy Technician Registration Number from Steven John  
23 Pimental ("Respondent"). On or about June 26, 2010, Steven John Pimental certified under  
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
25 application. The Board denied the application on January 5, 2011.

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1 **JURISDICTION**

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 ("Code") unless otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 of the Code provides, 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 (3) Done any act that if done by a licentiate of the business or profession in question, would  
11 be grounds for suspension or revocation of license..."

12 5. Section 4300, subdivision (c) of the Code provides, in pertinent part, "The board may  
13 refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole  
14 discretion, issue a probationary license to any applicant for a license who is guilty of  
15 unprofessional conduct and who has met all other requirements for licensure..."

16 6. Section 4301 of the Code provides, in pertinent part: "The board shall take action  
17 against any holder of a license who is guilty of unprofessional conduct or whose license has been  
18 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall  
19 include, but is not limited to, any of the following:

20 ...

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

26 **CONTROLLED SUBSTANCES**

27 7. **Methamphetamine** is designated as a Schedule II controlled substance by Health and  
28 Safety Code section 11055, subdivision (d)(2) and is a dangerous drug pursuant to Business and

1 Professions Code section 4022. Possession of methamphetamine is made punishable as either a  
2 felony or misdemeanor pursuant to Penal Code section 11377, subdivision (a). Being under the  
3 influence of methamphetamine is punishable as a misdemeanor, pursuant to Penal Code section  
4 11550.

5 8. Business and Professions Code section 4022 provides:

6 "Dangerous drug" or "dangerous device" means any drug or  
7 device unsafe for self-use in humans or animals, and includes the  
8 following:

9 (a) Any drug that bears the legend: "Caution: federal law  
10 prohibits dispensing without prescription," "Rx only," or words of  
11 similar import.

12 (b) Any device that bears the statement: "Caution: federal  
13 law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx  
14 only," or words of similar import, the blank to be filled in with the  
15 designation of the practitioner licensed to use or order use of the  
16 device.

17 (c) Any other drug or device that by federal or state law can  
18 be lawfully dispensed only on prescription or furnished pursuant to  
19 Section 4006."

20 9. California Health and Safety Code section 11550, subdivision (a) provides, in  
21 pertinent part:

22 "No person shall use, or be under the influence of any controlled  
23 substance which is...specified in paragraph (1) or (2) of subdivision  
24 (d) or in paragraph (3) of subdivision (e) of Section 11055... except  
25 when administered by or under the direction of a person licensed by  
26 the state to dispense, prescribe, or administer controlled substances.  
27 It shall be the burden of the defense to show that it comes within  
28 the exception. Any person convicted of violating this subdivision is  
guilty of a misdemeanor and shall be sentenced to serve a term of  
not less than 90 days or more than one year in a county jail. The  
court may place a person convicted under this subdivision on  
probation for a period not to exceed five years and, except as  
provided in subdivision (c), shall in all cases in which probation is  
granted require, as a condition thereof, that the person be confined  
in a county jail for at least 90 days. Other than as provided by  
subdivision (c), in no event shall the court have the power to  
absolve a person who violates this subdivision from the obligation  
of spending at least 90 days in confinement in a county jail."

10 10. Section 11377 of the Health and Safety Code states, in pertinent part:

11 "(a) Except as authorized by law and as otherwise provided in subdivision (b) or  
12 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of

1 Division 2 of the Business and Professions Code, every person who possesses any  
2 controlled substance which is (1) classified in Schedule III, IV, or V, and which is  
3 not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except  
4 paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph  
5 (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of  
6 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of  
7 Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or  
8 veterinarian, licensed to practice in this state, shall be punished by imprisonment  
9 in a county jail for a period of not more than one year or in the state prison.”

6  
7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(Dangerous Use of Drugs)**

9 11. Respondent's application is subject to denial under sections 480, subdivision (a)(3)  
10 and 4300, subdivision (c) of the Code, as defined by section 4301, subdivision (h) of the Code,  
11 for unprofessional conduct in that Respondent used a controlled substance, to wit,  
12 methamphetamine, in a manner dangerous to himself or the public. The circumstances are as  
13 follows:

14 12. On or about March 16, 2007, around 5:56 p.m., Officers with the Simi Valley Police  
15 Department initiated a traffic enforcement stop on Respondent's vehicle after they observed him  
16 cross the double yellow lines. Once the officers approached Respondent's vehicle, they observed  
17 Respondent was speaking rapidly, his hands were shaky, and he was rapidly shifting a piece of  
18 paper from one hand to the other. The officers initiated an evaluation of Respondent to determine  
19 if he was under the influence of a central nervous system stimulant. As a result of the testing,  
20 officers found Respondent's pulse elevated to 120 beats per minute, observed visible and  
21 pronounced carotid pulse in his neck, and noticed that his pupils were slightly dilated with a slow  
22 reaction to light. Officers determined that a drug test was necessary. Respondent, however,  
23 refused all chemical tests and ultimately, a forced blood draw was performed. Respondent's  
24 blood tested positive for methamphetamine.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
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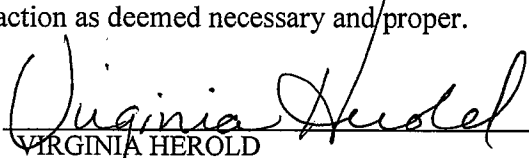
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1. Denying the application of Steven John Pimental for a Pharmacy Technician

Registration Applicant;

2. Taking such other and further action as deemed necessary and proper.

DATED: 6/2/11



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

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