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

11 In the Matter of the Statement of Issues  
Against:  
12 **WINDY C. VANG,**  
13 **aka WINDY CUA VANG**  
14 **2869 Pixie Drive**  
15 **Stockton, CA 95203**  
16 **Pharmacy Technician License**  
17 Respondent.

Case No. 4154

**STATEMENT OF ISSUES**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On or about March 2, 2011, the Board of Pharmacy, Department of Consumer Affairs  
23 received an application for a Pharmacy Technician License from Windy C. Vang, also known as  
24 Windy Cua Vang (Respondent). On or about February 24, 2011, Windy C. Vang certified under  
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
26 application. The Board denied the application on June 7, 2011.
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- 28 ///

JURISDICTION

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

4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

...

"(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.

...

5. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not 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. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
4 of this provision. The board may take action when the time for appeal has elapsed, or the  
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
9 indictment.

10 ...

11 6. Section 480 of the Code states:

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

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

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

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

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

27 "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
28 solely on the basis that he or she has been convicted of a felony if he or she has obtained a

1 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
2 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
3 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
4 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
5 Section 482.

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

9 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

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

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

20 9. Section 118, subdivision (b), of the Code provides that the  
21 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of  
22 jurisdiction to proceed with a disciplinary action during the period within which the license may  
23 be renewed, restored, reissued or reinstated.

24 FIRST CAUSE FOR DENIAL OF APPLICATION

25 (CRIMINAL CONVICTION)

26 10. Respondent's application is subject to denial under section 480 (A)(1) in conjunction  
27 with section 4300 (c) in that on or about May 7, 2007, in a criminal proceeding entitled *People v.*  
28 *Windy Cua Vang* in Superior Court of California, County of San Joaquin, Case Number

1 SM256928A, Respondent was convicted by plea of nolo contendere of violating Penal Code  
2 section 487(A) (Grand Theft by Embezzlement), a misdemeanor. The circumstances are as  
3 follows:

4 11. On or between January 18, 2007 and February 6, 2007, respondent, while an employee  
5 of Financial Center Credit Union, did willfully and unlawfully take from said employer money  
6 and personal property of a value exceeding Four Hundred Dollars (\$400.000), to wit: Cash in the  
7 amount of \$8,000.

8 SECOND CAUSE FOR DENIAL OF APPLICATION  
9 (DISHONESTY, FRAUD, OR DECEIT)

10 12. Respondent's application is subject to denial under section 480(A)(2) in conjunction  
11 with section 4300(c) by committing theft by embezzlement as described in paragraphs 10 and 11  
12 above.

13 THIRD CAUSE OF FOR DENIAL OF APPLICATION  
14 (ACTS WHICH ARE GROUNDS FOR SUSPENSION OR REVOCATION)

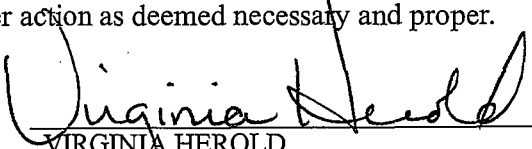
15 13. Respondent's application is subject to denial under section 480(A)(3) in conjunction  
16 with section 4300(c) by committing theft by embezzlement as described in paragraphs 10 and 11  
17 above.

18 PRAYER

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

- 21 1. Denying the application of Windy C. Vang for a Pharmacy Technician License;  
22 2. Taking such other and further action as deemed necessary and proper.

23 DATED: 11/9/11



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