

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
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
12 Against:

Case No. 4171

13 **JONATHAN TASH FRANSCIONI**

STATEMENT OF ISSUES

14 **Pharmacy Technician License Applicant**

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 31, 2010, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician License from Jonathan Tash
23 Francioni (Respondent). On or about December 14, 2010, Respondent certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on or about June 21, 2011.

26 //

27 //

28 //

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 unless otherwise indicated.

5 4. Section 480 of the Code states:

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

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

15 ...

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

18 5. Section 490 of the Code provides that a board may suspend or revoke a license on the
19 ground that the licensee has been convicted of a crime substantially related to the qualifications,
20 functions, or duties of the business or profession for which the license was issued.

21 6. Section 4301 of the Code states that the board shall take action against any holder of a
22 license who is guilty of unprofessional conduct, that includes, but is not limited to: . . .

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

28 ...

(k) The conviction of more than one misdemeanor or any felony
involving the use, consumption, or self-administration of any dangerous drug or
alcoholic beverage, or any combination of those substances.

//

//

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Conviction of a Crime)

3 7. Respondent's application is subject to denial under sections 480, subsection (a) (1)
4 based on the following misdemeanor convictions:

5 a. On or about January 7, 2003, in a criminal proceeding entitled *People of the State*
6 *of California v. Jonathan Tash Francioni* in Stanislaus County Superior Court, Case
7 Number 1051907, Respondent was convicted by plea of guilty of violating Vehicle Code
8 section 23152(b) (driving with a blood alcohol content of 0.08 % or above), a
9 misdemeanor. The circumstances of the crime are as follows: On or about December 5,
10 2002, Respondent willfully and unlawfully drove a motor vehicle in the County of
11 Stanislaus while having a blood alcohol content of 0.18/ 0.19 percent. Respondent was 19
12 years of age at the time of his arrest.

13 b. On or about April 11, 2003, in a criminal proceeding entitled *People of the State of*
14 *California v. Jonathan Tash Francioni* in Butte County Superior Court, Case Number
15 SCR38147, Respondent was convicted by plea of guilty of violating Penal Code section
16 647(f) (public intoxication), a misdemeanor. The circumstances of the crime are as
17 follows: On or about March 19, 2003, was arrested for public intoxication by a law
18 enforcement officer employed by the Chico Police Department in Butte County.
19 Respondent was 20 years of age at the time of his arrest. Respondent was placed on
20 probation for three years and his drivers' license was suspended for one year. On or about
21 November 21, 2003, Respondent was convicted of violating Penal Code section 1203.2(a)
22 (violation of probation) for failure to complete his court-ordered work release program.
23 Respondent completed his work-release program on or about February 18, 2004.

24 c. On or about July 23, 2003, in a criminal proceeding entitled *People of the State of*
25 *California v. Jonathan Tash Francioni* in Toulumne County Superior Court, Case Number
26 CRM11811, Respondent was convicted by plea of guilty of violating Business and
27 Professions Code section 25662(a) (minor in possession of alcohol) and Penal Code section
28 148(a)(1) (resist, delay and obstruct a peace officer), a misdemeanor. The circumstances of

1 the crime are as follows: On or about June 8, 2003, Respondent was arrested by a
2 Toulumne County Sheriff's Deputy for possession of an alcoholic beverage in a public
3 place, by a minor and for willfully and unlawfully resist, delay, and obstruct a peace officer
4 attempting to discharge his duties. Respondent was twenty years old at the time of his
5 arrest.

6 d. On or about January 31, 2005, in a criminal proceeding entitled *People of the State*
7 *of California v. Jonathan Tash Francioni* in Stanislaus County Superior Court, Case
8 Number 1085780, Respondent was convicted by plea of Nolo Contendere of violating
9 Vehicle Code section 23152(a) (driving under the influence of alcohol), a misdemeanor
10 with a separate violation for a prior conviction (12/5/02), and a special enhancement for
11 driving with a blood alcohol of 0.20% or higher. The circumstances of the crime are as
12 follows: On or about December 9, 2004, Respondent willfully and unlawfully drove a
13 motor vehicle in the County of Stanislaus while having a blood alcohol content of 0.23/
14 0.21 percent. Respondent was 21 years of age at the time of his arrest.

15 e. On or about March 27, 2007, in a criminal proceeding entitled *People of the State*
16 *of California v. Jonathan Tash Francioni* in Stanislaus County Superior Court, Case
17 Number 1219686, Respondent was convicted by plea of guilty of violating Vehicle Code
18 section 23152(b) (driving with a blood alcohol content of 0.08 % or above), a misdemeanor
19 with a separate violation for prior convictions (1/7/03 and 1/31/05), and a special
20 enhancement for driving with a blood alcohol of 0.15% or higher. The circumstances of the
21 crime are as follows: On or about November 18, 2006, Respondent willfully and unlawfully
22 drove a motor vehicle in the County of Stanislaus while having a blood alcohol content of
23 0.18/ 0.19 percent.

24 SECOND CAUSE FOR DENIAL OF APPLICATION

25 (Any acts if done by Licentiate)

26 8. Respondent's application is subject to denial under section 480, subsection (a)(3)(A),
27 and sections 490 and 4301, subsection (k) in that Respondent was convicted of more than one
28 misdemeanor involving alcohol as alleged in paragraphs 7 a through 7 e, above.

1 THIRD CAUSE FOR DENIAL OF APPLICATION

2 (use of alcohol in a manner/extent dangerous to self and others)

3 9. Respondent's application is subject to denial under section 480, subsection (a)(3)(A),
4 and section 4301, subsection (h) in that Respondent used alcohol beverages to the extent or in a
5 manner dangerous or injurious to himself and/or others, as follows:

6 a. Paragraphs 7 a through 7 e are incorporated by reference.

7 b. On or about December 9, 2004, Respondent was involved in a hit and run collision
8 with another vehicle around the time that Respondent's blood alcohol content measured
9 0.23/ 0.21 percent.

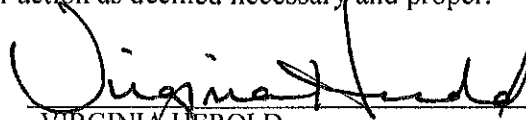
10 c. On or about January 8, 2008, Respondent was convicted of violating vehicle codes
11 sections 23222(A) (open container of alcoholic beverage), 12500(A) (driving while
12 unlicensed), and 16029 (no evidence of insurance).

13 PRAYER

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

- 16 1. Denying the application of Jonathan Tash Franscioni for a Pharmacy Technician
17 License;
18 2. Taking such other and further action as deemed necessary and proper.

19 DATED: 7/26/12



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

24 SA2011102291
25 statement of issues.rtf