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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:

Case No. 4285

12 **REX ALLEN HOLLOWAY**
13 **A.K.A. REX ALLEN DANGERFIELD**
14 **25 Shorthorn Street**
Patterson, CA 95363

STATEMENT OF ISSUES

15 **Pharmacy Technician Registration**

16 Respondent.

17
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 June 29, 2011, the Board of Pharmacy (Board), Department of Consumer
23 Affairs received an application for Registration as a Pharmacy Technician from Rex Allen
24 Holloway also known as Rex Allen Dangerfield (Respondent). On or about June 6, 2011, Rex
25 Allen Holloway certified under penalty of perjury to the truthfulness of all statements, answers,
26 and representations in the application. The Board denied the application on December 20, 2011.
27 By letter dated January 17, 2012 that was received by the Board on or about January 27, 2012,
28 Respondent appealed the denial of this application.

1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy, Department of Consumer
3 Affairs, under the authority of the following laws. All sections references are to the Business and
4 Professions Code unless otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 477 of the Code states:

7 As used in this division:

8 (a) "Board" includes "bureau," "commission," "committee,"
9 "department," "division," "examining committee," "program," and "agency."

10 (b) "License" includes certificate, registration or other means of engage in
a business or profession regulated by this code.

11 5. Section 480 states, in pertinent part:

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

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

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

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

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

23 (b) Notwithstanding any other provision of this code, no person shall be
24 denied a license solely on the basis that he or she has been convicted of a felony if he
or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing
with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
25 convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
26 person when considering the denial of a license under subdivision (a) of Section 482.

27 6. Section 493 of the Code states:

28 Notwithstanding any other provision of law, in a proceeding conducted

1 by a board within the department pursuant to law to deny an application for a license
2 or to suspend or revoke a license or otherwise take disciplinary action against a
3 person who holds a license, upon the ground that the applicant or the licensee has
4 been convicted of a crime substantially related to the qualifications, functions, and
5 duties of the licensee in question, the record of conviction of the crime shall be
6 conclusive evidence of the fact that the conviction occurred, but only of that fact, and
7 the board may inquire into the circumstances surrounding the commission of the
8 crime in order to fix the degree of discipline or to determine if the conviction is
9 substantially related to the qualifications, functions, and duties of the licensee in
10 question.

11 As used in this section, 'license' includes 'certificate,' 'permit,'
12 'authority,' and 'registration.'

13 7. Section 4301 states in relevant part, that:

14 The board shall take action against any holder of a license who is guilty
15 of unprofessional conduct or whose license has been procured by fraud or
16 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
17 not limited to, any of the following:

18

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

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23 (l) The conviction of a crime substantially related to the qualifications,
24 functions, and duties of a licensee under this chapter. The record of conviction of a
25 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
26 States Code regulating controlled substances or of a violation of the statutes of this
27 state regulating controlled substances or dangerous drugs shall be conclusive
28 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 or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of Crime)**

5 9. Respondent's application is subject to denial under Code section 480, subdivision
6 (a)(1), Section 493, and Section 480 subdivision (a)(3)(A) for violation of Code section 4301,
7 subdivisions (l), in that Respondent was convicted of crimes that are substantially related to the
8 qualifications, functions, and duties of a pharmacy technician, as follows:

9 10. On or about June 25, 2002, in a criminal proceeding entitled *People of the State of*
10 *California v. Rex Allen Holloway* in the Superior Court of California, County of Alameda, Case
11 Number H32154, Respondent was convicted on his plea of nolo contendere to two counts of
12 violation of Penal Code section 530.5 (a) (identity theft), a felony. The circumstances of the
13 crimes are that:

14 (a) On or about and between July 24 and September 29, 2001, Respondent willfully and
15 unlawfully obtained personal identifying information on victim B.B. and used the information for
16 an unlawful purpose and to obtain, and attempt to obtain, credit, goods, services and information
17 in the name of K.B. without consent.

18 (b) On or about October 23, 2001, Respondent willfully and unlawfully obtained
19 personal identifying information on victim W.W. and used that information for an unlawful
20 purpose and to obtain, and attempt to obtain, credit, goods, services and information in the name
21 of W.W. without consent.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Act Involving Moral Turpitude)**

24 11. Respondent's application is subject to denial under Code section 480, subdivision
25 (a)(2) and Section 480, subdivision (a)(3)(A) for violation of Section 4301, subdivision (f) in that
26 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as
27 set forth in paragraph 10.

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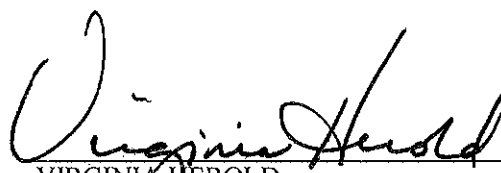
PRAYER

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

1. Denying the application of Rex Allen Holloway also known as Rex Allen Dangerfield for an Pharmacy Technician Registration and,
2. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/4/13



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

SA2012105415