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7	E-mail: Geoffrey.Allen@doj.ca.gov Attorneys for Complainant
8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	
12	In the Matter of the Statement of Issues Case No. 4289
13	GREGORY LEE RAND
14	P.O. Box 2304 North Highlands, California 95660
15	Respondent.
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17	Comulainant allegaa
18	Complainant alleges:
19	PARTIES
20	1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21	2. On or about August 1, 2011, the Board of Pharmacy, Department of Consumer
22	Affairs received an Application for Registration as a Pharmacy Technician (Application) from
23	Gregory Lee Rand (Respondent). On or about July 28, 2011, Respondent certified under penalty
24	of perjury to the truthfulness of all statements, answers, and representations in the application.
25	The Board denied the Application on December 20, 2011.
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	STATEMENT OF ISSUES

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. Code section 4300, in pertinent part, states:
6	(a) Every license issued may be suspended or revoked.
7	(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found
8	guilty, by any of the following methods:
9	(1) Suspending judgment.(2) Placing him or her upon probation.
10	(3) Suspending his or her right to practice for a period not exceeding one year.(4) Revoking his or her license.
1.1	(5) Taking any other action in relation to disciplining him or her as the board in
12	its discretion may deem proper.
13.	(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
14	applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any
15	terms or conditions not contrary to public policy, including, but not limited to, the following:
16	(1) Medical or psychiatric evaluation.
17	(2) Continuing medical or psychiatric treatment.(3) Restriction of type or circumstances of practice.
18	(4) Continuing participation in a board-approved rehabilitation program.
19	(5) Abstention from the use of alcohol or drugs.(6) Random fluid testing for alcohol or drugs.
20	(7) Compliance with laws and regulations governing the practice of pharmacy.
21	(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of
22	probation. Upon satisfactory completion of probation, the board shall convert the
23	probationary certificate to a regular certificate, free of conditions.
24	(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
25	Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the
26	superior court pursuant to Section 1094.5 of the Code of Civil Procedure.
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5. Code section 4301, in pertinent part, 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.

(1) 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 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.

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6. Code section 480, in pertinent part, states:

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

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment 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.

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

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

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

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

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

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

8. Section 125.3 of the Code states, 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

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

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Conviction)

9. Respondent's application is subject to denial under Code sections 480, subds. (a)(1) and (a)(3); 4300, subd. (c); and 4301, subd. (l) in that Respondent has been convicted of the following crimes that are substantially related to the qualifications, functions, and duties of a licensed pharmacy technician:

a. On or about April 4, 2006, in a criminal proceeding entitled *People v. Gregory Rand* in Sacramento County Superior Court, Case Number 06M02813, Respondent was convicted by plea of nolo contendere of violating Penal Code section 647(b) (prostitution), a misdemeanor.

The circumstances are that on or about February 22, 2006, Respondent solicited Officer J.
 Mezzanares of the Sacramento Police Department to engage in an act of prostitution.

b. On or about May 6, 2002, in a criminal proceeding entitled *People v. Gregory Lee Rand, Sr.* in Sacramento County Superior Court, Case Number 02T01751, Respondent was
convicted by plea of nolo contendere of violating Vehicle Code section 23152(a) (driving while
under the influence of alcohol), a misdemeanor. The circumstances are that on or about April 4,
2002, Respondent drove a motor vehicle while having a blood alcohol level of 0.10%.

c. On or about May 28, 1998, in a criminal proceeding entitled *People v. Gregory Lee Rand, Sr.* in Sacramento County Superior Court, Case Number 98M06693, Respondent was
convicted by plea of nolo contendere of violating Penal Code section 647(b) (prostitution), a
misdemeanor. The circumstances are that on or about May 8, 1998, Respondent solicited a
woman to engage in an act of prostitution.

d. ` On or about February 2, 1984, in a criminal proceeding entitled The State of Ohio v. 13 Gregory Rand in the Court of Common Pleas, State of Ohio, Hamilton County, Case Number 14 B834294, Respondent was convicted by a verdict of guilty of violating Section 2911.02 of the 15 Ohio Revised Code (robbery), a felony. The circumstances are that on or about November 16, 16 1983, Respondent stole retail merchandise and in fleeing immediately thereafter used, or 17 threatened to immediately use force against Martin Scheff. Respondent was sentenced to a 18 minimum term of eight years and a maximum term of fifteen years in the Ohio Penitentiary, 19 Columbus, Ohio. 20

On or about February 1, 1982, in a criminal proceeding entitled The State of Ohio v. 21 e. Gregory Lee Rand in the Court of Common Pleas, State of Ohio, Hamilton County, Case Number 22 B814763, Respondent was convicted by plea of no contest of violating Section 2911.02 of the 23 Ohio Revised Code (robbery), a felony. The circumstances are that on or about November 4, 24 1981, Respondent stole personal property and in fleeing immediately thereafter used, or 25 threatened to immediately use force against Janice R. Ayers. Respondent was sentenced to a 26 minimum term of two years and a maximum term of fifteen years in the Ohio State Reformatory, 27 Mansfield, Ohio. 28

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1	SECOND CAUSE FOR DENIAL OF APPLICATION
2	(Act involving Moral Turpitude, Dishonesty, Fraud or Deceit)
3	10. Respondent's application is subject to denial under Code sections 480, subds. (a)(1),
4	(a)(2) and (a)(3); 4300, subd. (c); and 4301, subd. (h) in that Respondent engaged in acts
5	involving moral turpitude, dishonesty, fraud or deceit. The circumstances are detailed above in
6	paragraph 9.
7	PRAYER
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9	and that following the hearing, the Board of Pharmacy issue a decision:
10	1. Denying the Application of Gregory Lee Rand for Registration as a Pharmacy
11	Technician; and,
12	2. Taking such other and further action as deemed necessary and proper.
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14	DATED: 5/28/12 (Juginia Herold
15	VIRGINA HEROLD Executive Officer
16	Board of Pharmacy Department of Consumer Affairs
17	State of California Complainant
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	6 STATEMENT OF ISSUES