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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
Against:
12 **EDWIN ELI BAZARGANFARD**
13
14 Intern Pharmacist Registration
15 Respondent.

Case No. 4485

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the California State Board of Pharmacy.

21 2. On or about August 24, 2012, the California State Board of Pharmacy (Board)
22 received an application for registration as an Intern Pharmacist from Edwin Eli Bazarganfard
23 (Respondent). On or about August 20, 2012, Respondent certified under penalty of perjury to the
24 truthfulness of all statements, answers, and representations in the application. The Board denied
25 the application on September 21, 2012.

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1 (b) Notwithstanding any other provision of law, a board may exercise any authority to
2 discipline a licensee for conviction of a crime that is independent of the authority granted under
3 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
4 of the business or profession for which the licensee's license was issued.

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

11 6. Section 4300 provides that every license issued by the Board is subject to discipline,
12 including suspension or revocation.

13 7. Section 4301 states, in pertinent part:

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

17

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

21

22 (l) The conviction of a crime substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
28 The board may inquire into the circumstances surrounding the commission of the crime, in order

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

11 12 **REGULATORY PROVISIONS**

13 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:
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 21 **FIRST CAUSE FOR DENIAL OF APPLICATION**

22 **(Conviction of a Substantially Related Crime)**

23 9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
24 conjunction with Cal. Code of Regs. title 16 section 1770 in that Respondent was convicted of a
25 crime substantially related to the qualifications, functions, and duties of an intern pharmacist.

26 a. On or about December 15, 2011, after pleading nolo contendere, Respondent
27 was convicted of one misdemeanor count of violating Penal Code section 664-487, subdivision
28 (a) [attempted grand theft] in the criminal proceedings entitled *The People of the State of*

1 *California vs. Edwin Bazarganfard* (Super. Ct. Los Angeles County, 2011, No. LA068578). The
2 Court placed Respondent on 36 months probation with terms and conditions. Respondent was
3 ordered to perform 40 days of Cal Trans work program.

4 b. The circumstances underlying the conviction occurred on or about
5 June 22, 2011. Respondent submitted false evidence in support of a restitution claim for three (3)
6 stolen cell phones to the Los Angeles County District Attorney's Office (LADAO). LADAO
7 Investigators interviewed witness S.N.¹, manager of a cell phone store where Respondent alleged
8 that he purchased two of the cell phones. When confronted with the receipts that Respondent
9 submitted to LADAO in support of the restitution claims, S.N. was unable to produce an original
10 store copy of the same receipts. In addition, S.N. could not explain why Respondent's receipts
11 contained no store information or appeared identical. LADAO Investigators also interviewed
12 witness A.T.², manager of another cell phone store where Respondent alleged that he purchased
13 one of the cell phones stolen. When confronted with the receipt provided by Respondent in
14 support of the restitution claim, A.T. "immediately identified that receipt as fraudulent."
15

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Dishonest Acts, Fraud, or Deceit)**

18 10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in
19 that Respondent committed an act involving moral turpitude, dishonesty fraud, deceit, or
20 corruption with the intent to substantially benefit himself, or substantially injure another.
21 Complainant refers to, and by this reference incorporates, the allegations set forth above in
22 paragraph 9, subparagraphs a – b, inclusive, as though set forth fully herein.

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27 ¹ Witness initials are used in order to protect confidentiality.

28 ² Witness initials are used in order to protect confidentiality.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Warranting Denial of a License)**

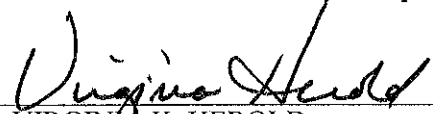
3 11. Respondent's application is subject to denial under sections 480, subdivision
4 (a)(3)(A), 490, subdivision (a), 4301, subdivision (f) and 4301, subdivision (l) in conjunction with
5 Cal. Code of Regs. title 16, section 1770 in that Respondent committed acts which if done by a
6 licentiate would be grounds for suspension or revocation of his license. Complainant refers to,
7 and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs a
8 – b, inclusive, as though set forth fully herein.

9
10 **PRAYER**

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

- 13 1. Denying the application of Edwin Eli Bazarganfard for an Intern Pharmacist
14 Registration; and
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: 5/9/13

17 
18 VIRGINIA K. HEROLD
19 Executive Officer
20 California State Board of Pharmacy
21 State of California
22 Complainant

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