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

10 In the Matter of the Statement of Issues
11 Against:

Case No. 4896

12 **DUNBAR THEOPHILUS WATSON Jr.**
13 **Applicant for Pharmacy Technician License**

STATEMENT OF ISSUES

14
15 Respondent.

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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 October 8, 2012, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician License from Dunbar Theophilus
23 Watson, Jr. (Respondent). On or about September 27, 2012, Dunbar Theophilus Watson certified
24 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on May 17, 2013.

26 **JURISDICTION**

- 27 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 **STATUTORY AND REGULATORY PROVISIONS**

3 4. Section 480 of the Code states:

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

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

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

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

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

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

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

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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 (n) The revocation, suspension, or other discipline by another state of a license to practice
12 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

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

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

21 **FIRST CAUSE FOR DENIAL OF APPLICATION**

22 (Colorado Discipline)

23 8. Respondent's application is subject to denial under Code sections 480(a)(3)(A),
24 4300(c) and 4301(n) in that Respondent has been the subject of discipline by another state. The
25 circumstances are as follows:

26 9. On or about June 15, 1999, the Colorado State Board of Pharmacy imposed discipline
27 upon Respondent's Colorado pharmacist license and placed Respondent on probation. The
28 imposition of discipline was based on the following misconduct:

- 1 a. Respondent's 1998 arrest and conviction for possession of cocaine.
- 2 b. Submission by Respondent of urine samples which were positive for drugs.
- 3 c. Respondent's admitted excessive use of cocaine.
- 4 10. On or about February 27, 2001, the Colorado State Board of Pharmacy revoked
- 5 Respondent's pharmacist license.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 (Criminal Conviction)

8 11. Respondent's application is subject to denial under Code sections 480(a)(1),
9 480(a)(3)(A), 4300(c), 4301(k) and 4301(l), in that he has been convicted of a crime substantially
10 related to the qualifications, functions, and duties of a licensee, which conviction involved the
11 use, consumption or self-administration of dangerous drugs. The circumstances are as follows:

12 12. On or about June 8, 1998, in Denver District Court case number 98CR1105,
13 Respondent was convicted of having violated Colorado Revised Statutes 18-18-405 (possession
14 of cocaine), a felony.

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 (Unlawful Possession/Use of Controlled Substances)

17 13. Respondent's application is subject to denial under Code sections 480(a)(3)(A),
18 4300(c), 4301(h) and 4301(j) in that he administered to himself a dangerous drug to the extent or
19 in a manner as to be dangerous or injurious to himself and/or to the extent that the use his ability
20 to conduct with safety to the public the practice authorized by a pharmacist or pharmacist
21 technician license, and said misconduct violated state statutes regulating controlled substances.
22 The circumstances are as follows:

23 14. On or about March 20, 1998, in the State of Colorado, Respondent possessed cocaine,
24 in violation of Colorado Revised Statutes sections 18-18-404 and 18-18-405.

25 15. On or about February, 1999, Respondent disclosed, in his application for the
26 Colorado Pharmacist Recovery Network program, that he was an excessive user of cocaine, and
27 that such excessive use resulted in impairment of Respondent's functioning.

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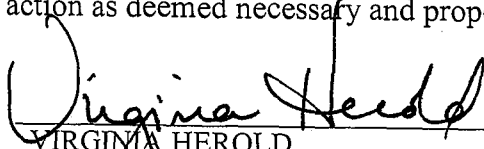
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PRAYER

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 Dunbar Theophilus Watson, Jr. for a Pharmacy Technician License;
2. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/13



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