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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. 5001

12 **JAMIE WILSON ASH**

STATEMENT OF ISSUES

13
14
15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about May 2, 2013, the Board of Pharmacy, Department of Consumer Affairs
21 received an application for registration as a Pharmacy Technician from Jamie Wilson Ash
22 (Respondent). On or about May 2, 2013, Jamie Wilson Ash certified under penalty of perjury to
23 the truthfulness of all statements, answers, and representations in the application. The Board
24 denied the application on August 23, 2013.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section references
28 are to the Business and Professions Code unless otherwise indicated.

1 4. Section 480 of the Code states in pertinent part:

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

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

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

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

15 5. Section 4301 of the Code states in pertinent part:

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

19 “...

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

25 “(i) The conviction of a crime substantially related to the qualifications, functions, and duties
26 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order to
4 fix the degree of discipline or, in the case of a conviction not involving controlled substances or
5 dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision...”

9 **FIRST CAUSE FOR DENIAL OF APPLICATION**

10 **(Substantially Related Criminal Convictions)**

11 6. Respondent's application is subject to denial pursuant to section 480, subdivision
12 (a)(1), in that she has been convicted of the following crimes:

13 a. On or about November 17, 2010, in a criminal proceeding entitled *People v.*
14 *Jamie Wilson Ash* in Colusa County Superior Court, Case number CR52303, Respondent was
15 convicted by plea of guilty of violating Vehicle Code section 23152(b), driving under the influence
16 of alcohol with a blood alcohol level of 0.08% by volume or greater, a misdemeanor. The
17 circumstances are that on or about October 17, 2010, a law enforcement officer observed
18 Respondent traveling at approximately 50 miles per hour in a 35 mile per hour zone. Respondent
19 was also observed swerving significantly into oncoming traffic. A breath test returned results
20 indicating that Respondent's blood alcohol level was 0.22% and 0.24% by volume.

21 b. On or about July 3, 2013, in a criminal proceeding entitled *People v. Jamie*
22 *Wilson Ash* in Colusa County Superior Court, Case number CR54876, Respondent was convicted
23 after a plea of no contest of violating Vehicle Code section 23152(b), driving under the influence
24 of alcohol with a blood alcohol level of 0.08% by volume or greater, a misdemeanor. The
25 circumstances are that on or about February 14, 2013, law enforcement officers observed
26 Respondent driving off a sidewalk with a flat tire. Respondent continued driving and swerving in
27 and out of traffic lanes. A blood test returned results indicating that Respondent's blood alcohol
28 level was 0.15% by volume.

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Which, If Done By a Licensee, Would Be Cause For Discipline)**

3 7. Respondent's application is subject to denial pursuant to section 480, subdivision
4 (a)(3)(A) in that she committed the following acts which, if done by a licensee, would be cause for
5 discipline:

6 a. Unprofessional conduct as defined by section 4301, subdivision (h), in that
7 Respondent consumed alcohol on or about October 17, 2010, and February 14, 2013, to an extent
8 or in a manner to be dangerous or injurious to herself or others. The circumstances are as set forth
9 in paragraph 6 (a) and (b), above.

10 b. Unprofessional conduct as defined by section 4301, subdivision (l), in that
11 Respondent has been convicted of substantially related crimes as set forth in paragraph 6 (a) and
12 (b), above.

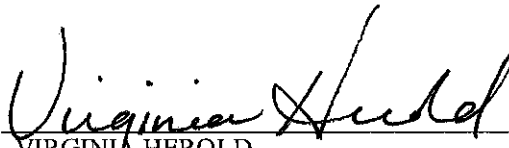
13 **PRAYER**

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 Jamie Wilson Ash for registration as a Pharmacy
17 Technician;
18 2. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: _____

4/8/14



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

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