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7	Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CA		
11	In the Matter of the Statement of Issues Against:	Case No. 5104	
12	KWAKU YEBOAH AGYEMAN		
13	Applicant for Pharmacist License	STATEMENT OF ISSUES	
14	Respondent.	STATEMENT OF ISSUES	
15	Kespongent.		
16	Complainant alleges:		
17	<u>PARTIES</u>		
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 October 23, 2013, the Board of Pharmacy, Department of Consumer		
21	Affairs received an Application for Pharmacist Examination and Licensure from Kwaku Yeboah		
22	Agyeman (Respondent). On or about October 2, 2013, Kwaku Yeboah Agyeman certified under		
23	penalty of perjury as to the truthfulness of all statements, answers, and representations in the		
24	Application. The Board denied the Application on or about December 18, 2013.		
25	<u>JURISDICTION</u>		
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		
28	references are to the Business and Professions Code (Code) unless otherwise indicated.		

STATUTORY AND REGULATORY PROVISIONS

- 4. Section 4300, subdivision (c), of the Code states:
- "(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 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 terms or conditions not contrary to public policy"
 - 5. Section 480 of the Code states, in pertinent part:
- "(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.... Any action which a board is permitted to take following the establishment of a conviction may be taken... irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(3) 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.

"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 . . . [license]."

- 6. Section 4301 of the Code provides, in pertinent part, that "unprofessional conduct" is defined to include, but not be limited to, any of the following:
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
- (I) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.
- (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

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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."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of Substantially Related Crime(s))

- 8. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and California Code of Regulations, title 16, section 1770, in that he committed criminal acts and was convicted of a criminal offense substantially related to the qualifications, functions or duties of a pharmacist. The circumstances are as follows:
- a. On or about February 1, 2004, while a college student at Virginia Commonwealth University, Respondent and associates planned to engage in selling marijuana on the university campus. Respondent was arrested for two criminal offenses, possession of marijuana with the intent to distribute, and possession of marijuana in a school zone.
- b. On or about May 19, 2004, in Richmond City Circuit Court of Richmond, Virginia, Case No. 761GC0400084700, Respondent pleaded guilty to possession of marijuana.

SECOND CAUSE FOR DISCIPLINE

(Violation of Laws Regulating Controlled Substances and/or Pharmacy)

9. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to section 4301(j) and/or (o) of the Code; and/or 4300(c) by reference to section 4301(j) and/or (o), in that Respondent, as described in paragraph 8, violated, conspired to violate, and/or assisted in or abetted violation of laws regulating controlled substances and/or federal or state laws or regulations governing pharmacy.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

10. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8 and 9, Respondent engaged in unprofessional conduct.

OTHER CONSIDERATIONS

- 11. On or about September 30, 2008, Respondent filed an application dated September 29, 2008 with the Board of Pharmacy to obtain an Intern Pharmacist Registration. The Board of Pharmacy denied that application on or about January 14, 2009, based on the same conduct and conviction described above. Respondent appealed the denial.
- 12. On or about August 20, 2009, a Statement of Issues was filed. In or about December 2009, Respondent and his counsel agreed to / executed a Stipulated Settlement and Disciplinary Order in settlement of the Statement of Issues, whereby Respondent admitted the truth of the Statement of Issues, agreed that his application was subject to denial, and agreed to be bound by the Board's imposition of discipline in a Disciplinary Order calling for the Intern Pharmacist Registration to be issued and immediately revoked, with revocation stayed in favor of a period of probation of five (5) years, on specified terms and conditions including required enrollment or reenrollment in pharmacy school, compliance with school requirements, random drug screening, abstention from drug and alcohol use, and other terms and conditions of probation.
- 13. By Decision and Order effective December 30, 2009, the Stipulated Settlement and Disciplinary Order was adopted by the Board of Pharmacy.

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 Kwaku Yeboah Agyeman for a Pharmacist License;

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1	2. Taking such other and further action as is deemed necessary and proper.
2	DATED: 3/14/14 / hagina de la
3	VIRGINIA/HEROLD
4	Executive Officer Board of Pharmacy Department of Consumer Affairs
5	Department of Consumer Affairs State of California Complainant
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