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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. 5156

12 **VANIA WILLEEN BANKS**

STATEMENT OF ISSUES

13 Pharmacy Technician Registration Applicant

14 Respondent.
15

16
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 (Board), Department of Consumer
21 Affairs.

22 2. On or about September 9, 2013, the Board received an application for a Pharmacy
23 Technician Registration from Vania Willeen Banks (Respondent). On or about September 4,
24 2013, Respondent certified under penalty of perjury to the truthfulness of all statements, answers,
25 and representations in the application. The Board denied the application on February 26, 2014.

26 **JURISDICTION**

27 3. This Statement of Issues is brought before the Board under the authority of the
28 following laws.

1 **STATUTORY PROVISIONS**

2 4. Business and Professions Code section 480¹ states, in pertinent part:

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

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

12 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
13 substantially 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
15 profession in question, would be grounds for suspension or revocation of license.

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

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

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

5. Section 490 states, in pertinent part:

(a) In addition to any other action that a board is permitted to take
against a licensee, a board may suspend or revoke a license on the ground that the
licensee has been convicted of a crime, if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the license
was issued.

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

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

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

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10 6. Section 4301 states, in pertinent part:

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

15 ...

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

19 ...

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

...

(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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1 **REGULATORY PROVISION**

2 7. California Code of Regulations, title 16, section 1770 states, in pertinent part:

3 For the purpose of denial, suspension, or revocation of a personal or
4 facility license pursuant to Division 1.5 (commencing with Section 475) of the
5 Business and Professions Code, a crime or act shall be considered substantially
6 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.

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(Convictions of Substantially Related Crimes)**

9 8. Respondent's application is subject to denial under Section 480, subdivision (a)(1), in
10 that Respondent was convicted of substantially related crimes as follows:

11 a. On January 6, 2012, in *People v. Venia Willeen Banks*² (Super. Ct., Rancho
12 Cucamonga Dist., San Bernardino County, 2012, No. MWV1103070), Respondent was convicted
13 of one misdemeanor count of issuing a check without sufficient funds with intent to defraud in
14 violation of Penal Code section 476. The court ordered pronouncement of judgment withheld and
15 placed Respondent on Conditional and Revocable Release for 24 months with standard terms and
16 conditions of probation. On September 30, 2013, Respondent was found to be in violation of
17 probation, and Respondent's probation was extended to September 30, 2016. The circumstances
18 leading to the conviction are that on or about July 12, 2011, Respondent entered a Chase Bank
19 and attempted to cash four fraudulent money orders of \$925 each.

20 b. On December 1, 2010, in *People v. Venia Weelen Banks*³ (Super. Ct., Rancho
21 Cucamonga Dist., San Bernardino County, 2010, No. 10556VB), Respondent was convicted of
22 one misdemeanor count of displaying an unauthorized disabled persons placard in violation of
23 Vehicle Code section 4461, subdivision (c). On December 8, 2010, the court ordered
24 pronouncement of judgment withheld and placed Respondent on Conditional and Revocable

25 ² Respondent's name in this criminal action is spelled Venia Willeen Banks, but she
26 spelled her name on her pharmacy technician application as Vania Willeen Banks. Respondent
admitted in a letter to the Board to being the Defendant in this criminal case.

27 ³ Respondent's name in this criminal action is spelled Venia Weelen Banks, but she
28 spelled her name on her pharmacy technician application as Vania Willeen Banks. Respondent
admitted in a letter to the Board to being the Defendant in this criminal case.

1 Release for 36 months with standard terms and conditions of probation. On February 2, 2012,
2 Respondent was found to be in violation of probation, and Respondent's probation was extended
3 to February 3, 2015. On September 30, 2013, Respondent was found to be in violation of
4 probation, and Respondent's probation was extended to September 30, 2016.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(Knowingly Making a False Statement of Fact)**

7 9. Respondent's application is subject to denial under Section 480, subdivision (c), in
8 that on or about September 14, 2013, Respondent knowingly made a false statement of fact to the
9 Board by failing to disclose her two criminal convictions on her pharmacy technician application.
10 On her application for registration as a pharmacy technician, Respondent answered "No" to the
11 inquiry, "Have you ever been convicted of any crime in any state, the USA and its territories,
12 military court or foreign country? Check the box next to 'Yes' if, you have ever been convicted
13 or plead guilty to any crime. 'Conviction' includes a plea of no contest and any conviction that
14 has been set aside or deferred pursuant to Section 1000 or 1203.4 of the Penal Code, including
15 infractions, misdemeanor, and felonies. . . ." Respondent signed and dated the application on
16 September 4, 2013, certifying "under penalty of perjury under the laws of the State of California
17 to the truth and accuracy of all statements, answers and representations made in [the] application,
18 including all supplementary statements." Complainant refers to, and by this reference
19 incorporates, the allegations set forth above in paragraph 8, including all subparagraphs, as though
20 set forth fully herein.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Acts Involving Dishonesty, Fraud, or Deceit)**

23 10. Respondent's application is subject to denial under Section 480, subdivision (a)(2), in
24 that on three separate occasions, Respondent committed acts involving dishonesty, fraud, or
25 deceit with the intent to substantially benefit herself, or substantially injure another. Complainant
26 refers to, and by this reference incorporates, the allegations set forth above in paragraph 8,
27 subparagraphs (a) and (b), and paragraph 9, as though set forth fully herein.

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1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Acts Warranting Denial of Licensure)**

3 11. Respondent's application is subject to denial under Sections 480, subdivision (a)(3),
4 in that Respondent committed acts, which if done by a licentiate would be grounds for suspension
5 or revocation of licensure, as follows:

6 a. Sections 4301, subdivision (l) and 490, for sustaining substantially related
7 convictions. Complainant refers to, and by this reference incorporates, the allegations set forth
8 above in paragraph 8, including all subparagraphs, as though set forth fully herein.

9 b. Section 4301, subdivision (f), for committed acts involving dishonesty, fraud,
10 or deceit. Complainant refers to, and by this reference incorporates, the allegations set forth
11 above paragraph 8, subparagraphs (a) and (b), and paragraph 9, as though set forth fully herein.

12 c. Section 4301, subdivision (o), for violating laws and regulations governing
13 pharmacy. Complainant refers to, and by this reference incorporates, the allegations set forth
14 above in paragraph 11, including subparagraphs (a) and (b).

15 **PRAYER**

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

- 18 1. Denying the application of Vania Willeen Banks for a Pharmacy Technician
19 Registration; and
20 2. Taking such other and further action as deemed necessary and proper.

21 DATED: 8/12/14

22 Virginia Herold
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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