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7 *Attorneys for Complainant*

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  
12 Against:

Case No. 5284

**STATEMENT OF ISSUES**

13 **ANDREW MITCHELL PEREZ**

14 **Pharmacy Technician Registration**  
15 **Applicant**

16 Respondent.

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 15, 2013, the Board of Pharmacy (Board) received an  
22 application for a Pharmacy Technician Registration from Andrew Mitchell Perez (Respondent).  
23 On or about September 25, 2013, Andrew Mitchell Perez 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 May 29, 2014.

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1 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
3 licensee or registrant to perform the functions authorized by his license or registration in a manner  
4 consistent with the public health, safety, or welfare."

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(Substantially-Related Criminal Conviction)**

7 7. Respondent's application is subject to denial under section 4300, subdivision (c), in  
8 conjunction with section 3401, subdivision (l), and California Code of Regulations, title 16,  
9 section 1770, in that Respondent was convicted of a crime substantially related to the  
10 qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

11 a. On or about December 3, 2013, in the criminal proceeding entitled *The State of*  
12 *California v. Andrew Mitchell Perez* (Super. Ct. Los Angeles County, 2013, No. 3DY07357),  
13 Respondent entered a plea of nolo contendere and was convicted of one misdemeanor count of  
14 violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or  
15 drugs] and one misdemeanor count of violating Vehicle Code section 14601.2, subdivision (a)  
16 [driving while driving privilege is suspended or revoked with knowledge]. Respondent was  
17 sentenced to 120 days in the Los Angeles County Jail and placed on probation for a period of 60  
18 months. The circumstances surrounding the conviction are that Respondent was stopped by the  
19 California Highway Patrol on or about October 5, 2013, after an officer observed Respondent  
20 veering back and forth between lanes on the 605 Freeway. While speaking to Respondent, the  
21 officer observed signs of possible alcohol intoxication. Respondent was asked to perform a Field  
22 Sobriety Test (FST) which he failed. Respondent then submitted to a Preliminary Alcohol  
23 Screening (P.A.S.) test that resulted in a breath-alcohol content level of 0.127% on the first  
24 reading and 0.129% on the second reading. At the time of his arrest, Respondent's driver license  
25 was suspended due to a prior conviction for driving under the influence of alcohol.

26 b. On or about June 30, 2011, in the criminal proceeding entitled *The State of California*  
27 *v. Andrew Mitchell Perez* (Super. Ct. Los Angeles County, 2011, No. 1DY03206), Respondent  
28 entered a plea of nolo contendere and was convicted of one misdemeanor count of violating

1 Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or drugs] and  
2 one misdemeanor count of violating Vehicle Code section 14601.2, subdivision (a) [driving while  
3 driving privilege is suspended or revoked with knowledge]. Respondent was sentenced to 16  
4 days in the Los Angeles County Jail and placed probation for a period of 48 months. The  
5 circumstances surrounding the conviction are that during a routine traffic stop by the Downey  
6 Police Department on or about April 26, 2011, Respondent exhibited signs of alcohol  
7 intoxication. Respondent was asked to perform a Field Sobriety Test (FST) which he failed.  
8 Respondent refused to submit to an alcohol screening. At the time of his arrest, Respondent's  
9 driver license was suspended due to a prior conviction for driving under the influence of alcohol.

10 c. On or about February 28, 2011, in the criminal proceeding entitled *The State of California v.*  
11 *Andrew Mitchell Perez* (Super. Ct. Los Angeles County, 2011, No. 1DY00465), Respondent  
12 entered a plea of nolo contendere and was convicted of one misdemeanor count of violating  
13 Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight of  
14 alcohol, in his blood]. Respondent was placed on probation for a period of 36 months. The  
15 circumstances surrounding the conviction are that on or about November 25, 2010, Respondent  
16 was arrested for driving under the influence of alcohol.

17 d. On or about February 1, 2007, in the criminal proceeding entitled *The State of*  
18 *California v. Andrew Mitchell Perez* (Super. Ct. L.A. County, 2007, No. 7CP00762), Respondent  
19 entered a plea of nolo contendere and was convicted of one misdemeanor count of violating Penal  
20 Code section 594, subdivision (a) [vandalism]. Respondent was sentenced to 5 days in the Los  
21 Angeles County Jail and placed probation for a period of 36 months. The circumstances  
22 surrounding the conviction are that on or about January 30, 2007, Respondent maliciously  
23 defaced, damaged or destroyed the personal or real property of another.

## 24 SECOND CAUSE FOR DENIAL OF APPLICATION

### 25 (Alcohol-Related Convictions)

26 8. Respondent's application is subject to denial under section 4300, subdivision (c), in  
27 conjunction with section 3401, subdivision (k), in that Respondent was convicted of more than  
28 one misdemeanor involving the consumption of alcoholic beverages. Complainant refers to, and

1 by this reference incorporates, the allegations set forth above in paragraph 7, subparagraphs a - c,  
2 as though set forth fully herein.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Dangerous Use of Alcohol)**

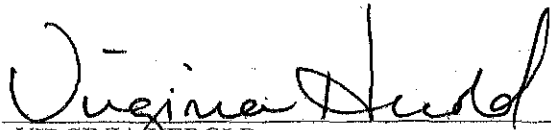
5 9. Respondent's application is subject to denial under section 4300, subdivision (c), in  
6 conjunction with section 3401, subdivision (h), in that Respondent used alcoholic beverages to  
7 the extent and/or in a manner dangerous or injurious to himself and others. Complainant refers to,  
8 and by this reference incorporates, the allegations set forth above in paragraph 7, subparagraphs a  
9 - c, as though set forth fully herein.

10 **PRAYER**

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

- 13 1. Denying the application of Andrew Mitchell Perez for a Pharmacy Technician  
14 Registration; and  
15 2. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: 2/10/15



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

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