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7	Attorneys for Complainant	,
8 9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Statement of Issues Against:	Case No. 5302
12	JONATHAN TERRELL STONE	STATEMENT OF ISSUES
13	Pharmacy Technician Registration Applicant	
14 15	Respondent.	
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16 17	Complainant alleges:	
18	<u>PARTIES</u>	
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 October 28, 2013, the Board received an application for a Pharmacy	
23	Technician Registration from Jonathan Terrell Stone (Respondent). On or about October 14,	
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 August 6, 2014.	
26	<u>JURISDICTION</u>	
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- 3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.

STATUTORY PROVISIONS

- 5. Section 480¹ 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. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.
- "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "(B) 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 business or profession for which application is made.
- "(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a

¹ This Statement of Issues is based on Code section 480 as it was in effect at the time of the denial. Section 480 was amended effective January 1, 2015, with the addition of the following language: "(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal."

certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

- "(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."
- 6. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued..
 - 7. Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

. . .

- "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- "(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

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"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to 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.
 - "(p) Actions or conduct that would have warranted denial of a license."

REGULATORY PROVISIONS

8. 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

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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

(Convictions of Substantially Related Crimes)

- 9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in that Respondent was convicted of a substantially related crimes, as follows:
- a. On or about February 17, 2011, after pleading guilty, Respondent was convicted of one felony count of violating Penal code section 186.10, subdivision (a) [money laundering] in the criminal proceeding entitled The People of the State of California v. Jonathan Stone (Super, Ct. L.A. County, 2011, No. BA376530-02). The Court ordered respondent to pay restitution to victim, Indymac Bank, in the amount of \$230,000.00, and placed him on 60 months formal probation, with terms and conditions.
- b. The circumstances surrounding the conviction are that on or about July 3, 2007, proceeds from a fraudulent sale of a house were wired to Respondent's bank account. Respondent subsequently wired money from his account to another account belonging to him. In addition Respondent was captured on video surveillance withdrawing \$30,000.00 from the original account.
- On or about March 9, 2007, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal Code section 647, subdivision (f) [disorderly conduct/public intoxication] in the criminal proceeding entitled *The People of the State of California v. Jonathan* Terrell Stone (Super. Ct. San Bernardino County, 2007, No. MWV109242). The Court placed Respondent 24 months probation, with terms and conditions
- d. The circumstances surrounding the conviction are that on or about November 26, 2006, Respondent was asked to leave the Ontario Convention Center after jumping up on the stage during a concert. Once outside, Respondent urinated on a pillar at the main entrance. An

Ontario Police Officer was called by security after Respondent refused to leave. Respondent was found slumped over in a corner. When Respondent saw the officer, he attempted to stand up, but had difficulty maintaining his balance. The officer could smell a strong smell of alcohol on his breath. He was observed to have red, watery eyes, and slurred speech. Respondent was subsequently arrested after it was determined that he could not care for his safety or the safety of others.

- e. On or about December 6, 2006, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Jonathan T. Stone* (Super. Ct. L.A. County, 2006, No. 6MP11387). The Court sentenced Respondent to serve ten days in Los Angeles County Jail and placed him on 60 months probation, with terms and conditions.
- f. The circumstances surrounding the conviction are that on or about October 28, 2006, drove a vehicle while having 0.08% or more, by weight of alcohol in his blood.
- g. On or about January 31, 2006, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving without a license] in the criminal proceeding entitled *The People of the State of California v. Jonathan Terrell Stone* (Super. Ct. L.A. County, 2006, No. 5PM09489). The Court placed Respondent on one year probation, with terms and conditions.
- h. The circumstances surrounding the conviction are that on or about December 2, 2005, Respondent drove a vehicle without a license.
- i. On or about April 27, 2004, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or drugs] and one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Jonathan Terrell Stone* (Super. Ct. San Bernardino County, 2004, No. TWV043867). The Court placed Respondent on 36 months probation, with terms and conditions.

j. The circumstance surrounding the conviction are that on or about March 5, 2004, Respondent drove a vehicle while having 0.08% or more, by weight, of alcohol in his blood.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Acts Involving Dishonesty, Fraud, or Deceit)

10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit herself, or substantially injure another. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (a) and (b), inclusive, as though set forth fully

THIRD CAUSE FOR DENIAL OF APPLICATION

(Knowingly Made a False Statement of Fact)

11. Respondent application is subject to denial under section 480, subdivision (c), in that on or about October 14, 2013, Respondent knowingly made a false statement of fact by failing to disclose four additional convictions, on his application for licensure. In addition, Respondent signed under penalty of perjury, under the laws of the State of California, that the forgoing was true and correct, on his application for licensure. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 9, subparagraphs (c) through (j), inclusive, as though set forth fully.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Acts Warranting Denial of Licensure)

- 12. Respondent's application is subject to denial under sections 4301, subdivision (p) and / or (o), and 480, subdivisions (a)(3)A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate of the business and profession in question, would be grounds for suspension or revocation of his license as follows:
- a. Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a pharmacy technician which to a substantial degree evidence his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, in violation of sections 4301, subdivision (I), and 490, in

conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (a) through (j), inclusive, as though set forth fully.

- b. Respondent committed acts involving dishonesty, fraud, or deceit, in violation of section 4301, subdivision (f). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (a) and (b), inclusive, as though set forth fully.
- c. Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or the public, in violation of section 4301, subdivision (h). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (d), (f), and (j), inclusive, as though set forth fully.
- d. Respondent sustained more than one conviction involving the consumption of alcoholic beverages, in violation of sections 4301, subdivisions (k). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (c), (e), and (i), inclusive, as though set forth fully.

PRAYER

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

- 1. Denying the application of Jonathan Terrell Stone for a Pharmacy Technician Registration; and
 - 2. Taking such other and further action as deemed necessary and proper.

DATED: 3 31 15

VIRGIMA HEROLD

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

STATEMENT OF ISSUES