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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Statement of Issues Against:
12 **JUAN JOAQUIN SORIA**
13 **Applicant for Pharmacy Technician License**
14 Respondent.

Case No. SI 5409

STATEMENT OF ISSUES

15
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 March 13, 2014, the Board of Pharmacy received a Pharmacy Technician
21 Application from Juan Joaquin Soria (Respondent). On or about March 13, 2014, Respondent
22 certified under penalty of perjury as to the truthfulness of all statements, answers, and
23 representations in the Application. The Board denied the Application on January 16, 2015.

24
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
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 STATUTORY AND REGULATORY PROVISIONS

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

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

5 “(1) Been convicted of a crime. . . . Any action which a board is permitted to take following
6 the establishment of a conviction may be taken . . . irrespective of a subsequent order under the
7 provisions of Section 1203.4 of the Penal Code.

8 “(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially
9 benefit himself or another, or substantially injure another; or

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

12 “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 . . . [license].”

14 5. Section 4300, subdivision (c), of the Code states in pertinent part:

15 “(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
16 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
17 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
18 may issue the license subject to any terms or conditions not contrary to public policy”

19 6. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is
20 defined to include, but not be limited to, any of the following:

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

24 (g) Knowingly making or signing any certificate or other document that falsely represents
25 the existence or nonexistence of a state of facts.

26 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
27 of a licensee under this chapter.

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1 7. California Code of Regulations, title 16, section 1770, states:

2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare."
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10 FIRST CAUSE FOR DENIAL OF APPLICATION

11 (Conviction of Substantially Related Crime(s))

12 8. Respondent's application is subject to denial under the following section(s) of the
13 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
14 California Code of Regulations, title 16, section 1770, for conviction of substantially related
15 crimes, based on the following two (2) substantially related convictions.

16 9. On or about July 10, 2006, in the criminal case *People v. Juan Joaquin Soria*, Case
17 No. F06903679-9 in Fresno County Superior Court, Respondent was convicted of violating
18 Health and Safety Code section 11377, subdivision (a) (Possession of Controlled Substance –
19 **methamphetamine**), a felony. The conviction was entered as follows:

20 a. On or about May 18, 2006, Respondent was the driver of a vehicle contacted by
21 police. He was discovered to have no driver's license or proof of insurance and to be in
22 possession of narcotics and drug paraphernalia.

23 b. On or about May 26, 2006, Respondent was charged by Felony Complaint in
24 Case No. F06903679-9 with violating (1) Health and Safety Code section 11377, subdivision (a)
25 (Possession of Controlled Substance – **methamphetamine**), a felony, (2) Health and Safety Code
26 section 11364 (Possession of Smoking Device/Paraphernalia), a misdemeanor, and (3) Vehicle
27 Code section 14601.1, subdivision (a) (Driving On Suspended/Revoked License), a misdemeanor.

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1 c. On or about July 10, 2006, Respondent pleaded no contest to Count (1) and was
2 convicted. The remaining counts were dismissed. Imposition of judgment was suspended and
3 Respondent was placed on formal probation for two (2) years on terms and conditions including
4 drug treatment, documented attendance at 12-step meetings, and payment of fines and fees.

5 d. On or about August 10, 2006, Respondent admitted to a violation of probation.
6 Probation was reinstated with an additional term and condition of weekly drug testing.

7 10. On or about October 23, 2007, in the criminal case *People v. Juan Joaquin Soria*,
8 Case No. BB729118 in Santa Clara County Superior Court, Respondent was convicted of
9 violating (1) Penal Code section 460, subdivision (b) (2nd Degree Burglary), a felony, and (2)
10 Health and Safety Code section 11377, subdivision (a) (Possession of Controlled Substance –
11 **methamphetamine**), a misdemeanor. The conviction was entered as follows:

12 a. In or about January 2007 through approximately March 2007, Respondent (1)
13 used, without permission, company letterhead from a company by which he was temporarily
14 employed to (2) create a false authorization for himself to use the company credit card and (3)
15 used the company credit card to make unauthorized purchases at Home Depot totaling \$3,700.00.
16 In or about June 2007, when police officer(s) arrested Respondent, and conducted a search
17 incident to arrest, they discovered on his person a small baggie of **methamphetamine**.

18 b. On or about August 30, 2007, Respondent was charged by Felony Complaint in
19 Case No. BB729118 with violating (1) Penal Code section 459-460(b) (2nd Degree Burglary), a
20 felony, (2) Penal Code section 459-460(b) (2nd Degree Burglary), a felony, (3) Penal Code section
21 459-460(b) (2nd Degree Burglary), a felony, and (4) Health and Safety Code section 11377(a)
22 (Possession of Controlled Substance – **methamphetamine**), a felony.

23 c. On or about October 23, 2007, pursuant to Penal Code section 17, count (4) was
24 reduced to a misdemeanor, and Respondent pleaded nolo contendere to and was convicted of
25 counts (1) and (4). On or about December 20, 2007, imposition of sentence was suspended and
26 Respondent was placed on formal probation for three (3) years on terms and conditions including
27 a no-contact order for the victim(s), abstention from drug or alcohol use, substance abuse
28 treatment, search and testing terms, restitution, and fines and fees.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Dishonesty)

11. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(2); 480(a)(3) by reference to 4301(f) and/or (g); and/or 4300(c) by reference to 4301(f) and/or (g) in that, as described in paragraph 10 above, Respondent was dishonest and/or falsely represented and/or made false statement(s) of fact.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

12. 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 9 through 11 above, Respondent engaged in unprofessional conduct.

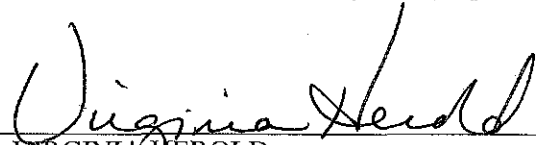
PRAYER

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 Juan Joaquin Soria for a pharmacy technician license;
2. Taking such other and further action as is deemed necessary and proper.

DATED: _____

7/22/15



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

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