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7	Facsimile: (510) 622-2270 Attorneys for Complainant
8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
10	
12	In the Matter of the Statement of Issues Case No. 5444 Against:
	HIEU TRONG NGUYEN
13	Pharmacy Technician Registration STATEMENT OF ISSUES
14 15	Applicant
15 16	Respondent.
	Complainant alleges
17	Complainant alleges:
17 18	PARTIES
17 18 19	PARTIES 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
17 18 19 20	PARTIES 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
17 18 19 20 21	PARTIES Virginia Herold (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. On or about June 2, 2014, the Board of Pharmacy, Department of Consumer Affairs
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1	JURISDICTION
2	3. This Statement of Issues is brought before the Board of Pharmacy (Board),
3	Department of Consumer Affairs, under the authority of the following laws. All section references
4	are to the Business and Professions Code unless otherwise indicated.
5	4. Section 118, subdivision (a), of the Code provides, in pertinent part, that the
6	withdrawal of an application for a license after it has been filed with the Board shall not, unless the
7	Board has consented in writing to such withdrawal, deprive the Board of jurisdiction to proceed
8	against the applicant for the denial of the license upon any ground provided by law or to enter an
9	order denying the license upon any such ground.
10	STATUTORY/REGULATORY PROVISIONS
11	5. Section 480 of the Code states:
12	"(a) A board may deny a license regulated by this code on the grounds that the applicant has
13	one of the following:
14	"(1) Been convicted of a crime. A conviction within the meaning of this section means a
15	plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
16	board is permitted to take following the establishment of a conviction may be taken when the time
17	for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an
18	order granting probation is made suspending the imposition of sentence, irrespective of a
19	subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.
20	"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
21	benefit himself or herself or another, or substantially injure another.
22 .	"(3) (A) Done any act that if done by a licentiate of the business or profession in question,
23	would be grounds for suspension or revocation of license.
24	"(B) The board may deny a license pursuant to this subdivision only if the crime or act is
25	substantially related to the qualifications, functions, or duties of the business or profession for
26	which application is made.
27	• • •
28	"(d) A board may deny a license regulated by this code on the ground that the applicant
	2

1 2 knowingly made a false statement of fact required to be revealed in the application for the license."

6. 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."

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7. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within 10the department pursuant to law to deny an application for a license or to suspend or revoke a 11 12 license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the 13 qualifications, functions, and duties of the licensee in question, the record of conviction of the 14 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, 15 and the board may inquire into the circumstances surrounding the commission of the crime in order 16 to fix the degree of discipline or to determine if the conviction is substantially related to the 17 qualifications, functions, and duties of the licensee in question. 18

19 20

FACTUAL BACKGROUND

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.""

8. On or about March 18, 2011, in a criminal proceeding entitled *People of the State of California vs. Hieu Trong Nguyen*, in Alameda County Superior Court, Case No. 232461-8,
 Respondent was convicted by plea of nolo contendere of attempted extortion, a misdemeanor.
 (Penal Code, § 524.) Specifically, Respondent attempted to extort money from a victim by
 threatening to sell a video recording of the victim and him having intercourse. The court ordered
 three years conditional sentencing, one day in county jail, and to pay fines, fees and restitution.

9. On or about May 19, 2014, Respondent submitted a Pharmacy Technician Application
to the Board. In his application, Respondent specifically denied ever being convicted of any crime

1	in any state. Respondent certified under penalty of perjury to the truthfulness of all statements,
2	answers, and representations in his application.
3 4	FIRST CAUSE FOR DENIAL OF APPLICATION (Substantially Related Conviction) (Bus. & Prof. Code, § 480, subd. (a)(1).)
5	10. Respondent has subjected his application for a Pharmacy Technician Registration to
	denial in that he was convicted by plea of nolo contendere of a crime substantially related to the
6	
7	qualifications, functions, and duties of a Pharmacy Technician. (Bus. & Prof. Code, § 480, subd.
8	(a)(1).) The circumstances are set forth in paragraph 8, above.
9 10	SECOND CAUSE FOR DENIAL OF APPLICATION (Committed Acts of Dishonesty, Fraud, or Deceit) (Bus. & Prof. Code, § 480, subd. (a)(2).)
11	11. Respondent has subjected his application for a Pharmacy Technician Registration to
12	denial in that he made a false statement in his application by denying that he had ever been
13	convicted of any crime in any state. (Bus. & Prof. Code, § 480, subd. (a)(2).) The circumstances
14	are set forth in paragraphs 8 and 9, above.
15	THIRD CAUSE FOR DENIAL OF APPLICATION
16	(Committed Acts which if Done by Licensee Would be Cause for Discipline) (Bus. & Prof. Code, § 480, subd. (a)(3).)
17	12. Respondent has subjected his application for a Pharmacy Technician Registration to
18	denial in that he committed acts, which if done by a Pharmacy Technician, would constitute
19	grounds for discipline. (Bus. & Prof. Code, § 480, subd. (a)(3).) The circumstances are set forth
20	in paragraphs 8 and 9, above.
21	FOURTH CAUSE FOR DENIAL OF APPLICATION
22	(Made False Statement of Fact that is Required to be Revealed in Application) (Bus. & Prof. Code, § 480, subd. (d).)
23	13. Respondent has subjected his application for a Pharmacy Technician Registration to
24	denial in that he made a false statement of fact in his application by denying that he had ever been
25	convicted of any crime in any state. (Bus. & Prof. Code, § 480, subd. (a)(2).) The circumstances
26	are set forth in paragraphs 8 and 9, above.
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	STATEMENT OF ISSUES

1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Pharmacy issue a decision:
4	1. Denying the application of Hieu Trong Nguyen for a Pharmacy Technician
5	Registration;
6	2. Taking such other and further action as deemed necessary and proper.
7	
8	DATED: <u>9/5/15</u> <u>Uccina Led</u>
9	Executive Officer Board of Pharmacy
10	Department of Consumer Affairs State of California
11	Complainant
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	STATEMENT OF ISSUES