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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. 5598

12 **DARIN LOUIS FREEMAN JR.**
1150 N. Willow Avenue, Apt F1
13 Rialto, CA 92376

STATEMENT OF ISSUES

14 Pharmacy Technician License Applicant

15 Respondent.

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, Department of Consumer Affairs.

21 2. On or about March 16, 2015, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician License from Darin Louis Freeman
23 (Respondent). On or about March 9, 2015, Darin Louis Freeman certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on August 14, 2015.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

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

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

15 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
16 benefit himself or herself or another, or substantially injure another.

17 "(3)

18 "(A) Done any act that if done by a licentiate of the business or profession in question,
19 would be grounds for suspension or revocation of license.

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

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

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1 5. Section 490 states, in pertinent part:

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

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

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

16 6. Section 4300, subdivision (c), states, in pertinent part, that "[t]he board may refuse a
17 license to any applicant guilty of unprofessional conduct. . . ."

18 7. Section 4301 states, in pertinent part:

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

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

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

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1 b. On or about May 11, 2010, in the criminal matter entitled *The People of the State of*
2 *California v. Darin Louis Freeman, Jr.* (Super. Ct. San Bernardino County, 2010, No.
3 938657DF), Respondent was convicted of driving without a valid driver's license, a violation of
4 California Vehicle Code section 12500, subdivision (a), a misdemeanor. The Court placed
5 Respondent on probation for twelve months. The circumstances underlying the conviction are
6 that on or about February 8, 2010, Respondent was stopped for driving a vehicle without license
7 plates, and did not have a valid driver's license.

8 c. On or about March 24, 2010, in the criminal matter entitled *The People of the State of*
9 *California v. Darin L. Freeman* (Super. Ct. Los Angeles County, 2009, No. 9CP11669),
10 Respondent was convicted of driving under the influence of alcohol and/or drugs, a violation of
11 California Vehicle Code section 23152, subdivision (a), a misdemeanor. Respondent further
12 admitted to having sustained two prior convictions for driving under the influence. The Court
13 sentenced Respondent to serve one-hundred thirty-three days in jail, placed him on probation for
14 forty-eight months, ordered him to complete an eighteen-month Multiple Offender Treatment
15 Program, ordered him to complete the Hospital and Morgue Program, and ordered him to
16 complete the Mothers Against Drunk Driving Victim Impact Program. The circumstances
17 underlying the conviction are that on or about August 5, 2009, Respondent drove while under the
18 influence of alcohol and/or drugs.

19 d. On or about August 27, 2008, in the criminal matter entitled *The People of the State*
20 *of California v. Darin L. Freeman* (Super. Ct. Los Angeles County, 2008, No. 8MP10644),
21 Respondent was convicted of driving under the influence of alcohol and/or drugs, a violation of
22 California Vehicle Code section 23152, subdivision (a), a misdemeanor. The Court sentenced
23 Respondent to serve twenty days in jail, placed him on probation for thirty-six months, and
24 ordered him to complete a nine-month First Offender Treatment Program. The circumstances
25 underlying the conviction are that on or about August 25, 2008, Respondent drove while under
26 the influence of alcohol and/or drugs.

27 e. On or about June 13, 2006, in the criminal matter entitled *The People of the State of*
28 *California v. Darin Louis Freeman, Jr.* (Super. Ct. Orange County, 2006, No. 06WF1329),

1 Respondent was convicted of assault/battery, a violation of California Penal Code section
2 240/242, a misdemeanor. The Court sentenced Respondent to serve forty-eight days in jail, placed
3 him on probation for thirty-six months, and issued him a firearm restriction. The circumstances
4 underlying the conviction are that on or about May 13, 2006, Respondent was involved in a street
5 fight with six others, four males B.D., J.S., C.C.M. and C.S.M. and two females R.H. and L.C.,
6 all ganging up on another male, A.P.

7 f. On or about August 23, 2005, in the criminal matter entitled *The People of the State*
8 *of California v. Darin L. Freeman* (Super. Ct. Los Angeles County, 2005, No. FLC03519)
9 Respondent was convicted of violating California Penal Code section 32, accessory to a felony, a
10 misdemeanor. The Court placed Respondent on probation for thirty-six months and ordered him
11 to complete twenty days Cal Trans duty. On or about December 9, 2008, the Court dismissed the
12 conviction pursuant to Penal Code section 1203.4. The circumstances underlying the conviction
13 are that on or about July 7, 2005, Respondent committed a "purse snatch" from an elderly female
14 victim by dragging her to the ground, thereby causing swelling to her left hand and abrasions on
15 both arms.

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Dishonesty in Application Documents)**

18 10. Respondent's application is subject to denial under section 480, subdivision (c), in
19 that on or about March 9, 2015, Respondent knowingly made a false statement of fact required to
20 be revealed in his application for licensure by certifying under penalty of perjury to the accuracy
21 of all statements in the application in that he failed to disclose the March 1, 2011 conviction for
22 driving with a suspended license/DUI. The conviction is reference in paragraph 9(a) above and
23 incorporated herein by this reference.

24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

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

26 11. Respondent's application is subject to denial under section 480, subdivision (a)(2), in
27 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
28 substantially benefit himself and / or substantially injure another. Respondent was dishonest in

1 his written statement to the Board, stating that he has not had any convictions since March 2010.
2 When in fact, on March 1, 2011 he did suffer a conviction for the violation of Vehicle Code
3 Section 14601.2(a). Additionally, Complainant refers to and by this reference incorporates the
4 allegations set forth above in paragraphs 9 and 10, inclusive, as though set forth fully.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Conduct Warranting License Discipline)**

7 12. Respondent's application is subject to denial under section 480, subdivisions
8 (a)(3)(A)(B), in conjunction with California Code of Regulations, title 16, section 1770, in that
9 Respondent committed substantially related acts, which if done by a licensee would be grounds
10 for discipline. Complainant refers to and by this reference incorporates the allegations set forth
11 above in paragraphs 9 and 10, inclusive, as though set forth fully. Respondent violated sections,
12 as follows:

13 a. Sections 490, 4300 and 4301, subdivision (l), on the grounds of unprofessional
14 conduct, in that Respondent sustained criminal convictions.

15 b. Sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in
16 that Respondent committed acts involving moral turpitude; dishonesty, fraud, deceit, or
17 corruption.

18 c. Sections 4300 and 4301, subdivision (g), on the grounds of unprofessional conduct, in
19 that Respondent knowingly signed his application for licensure falsely represented his criminal
20 conviction history.

21 d. Section 4301, subdivision (h), on the grounds of unprofessional conduct in that
22 Respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious
23 to himself and to the public.

24 e. Section 4301, subdivision (k), on the grounds of unprofessional conduct in that
25 Respondent was convicted of more than one misdemeanor involving the use, consumption, or
26 self-administration of an alcoholic beverage.

27 13. Respondent's application is further subject to denial under section 480, subdivisions
28 (a)(3) in that Respondent applied for and was previously been denied licensure by the Board. He

1 did not provide any mitigating evidence of rehabilitation for the Board to consider with his new
2 pharmacy technician application. Moreover, on February 25, 2011, Respondent was arrested and
3 charged with a violation of misdemeanor Penal Code Section 422 (Criminal Threats).

4 **DISCIPLINARY CONSIDERATIONS**

5 14. In order to determine the degree of discipline, if any to be imposed on Respondent,
6 Complainant alleges, as follows:

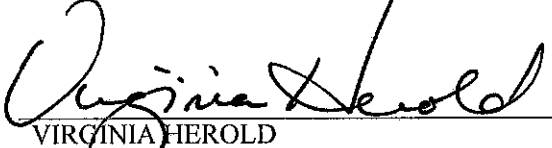
7 a. On or about December 10, 2009, Respondent submitted an Application for
8 Registration as a Pharmacy Technician with the California State Board of Pharmacy, Department
9 of Consumer Affairs. On May 26, 2011, the application was denied, and Respondent requested a
10 hearing. Following a hearing *In the Matter of the Statement of Issues Against: DARIN LOUIS*
11 *FREEMAN, JR.* Case No. 4165, OAH 2012070001, the Board issued a decision wherein,
12 effective April 5, 2013, the application of Darin Freeman Jr., for registration as a Pharmacy
13 Technician was denied. The circumstances for the denial included Respondent's criminal
14 convictions and his failure to disclose all of the convictions on his application.

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 Darin Louis Freeman Jr.'s Pharmacy Technician License Application; and
19 2. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 1/25/16


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

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