1	KAMALA D. HARRIS	
2	Attorney General of California LINDA K. SCHNEIDER	
3	Senior Assistant Attorney General MARC D. GREENBAUM	
4	Supervising Deputy Attorney General State Bar No. 138213	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 897-2579 Facsimile: (213) 897-2804	
7	Attorneys for Complainant	
8	ВЕГО	RE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10		CALIFORNIA
11	In the Matter of the Statement of Issues	Case No. 5747
12	Against:	0450 1101 0 7 17
13	HAKYUNG KIM	STATEMENT OF ISSUES
14	Intern Pharmacist Registration Applicant	
15		
13	Respondent.	
16	Respondent.	
	Respondent.	
16	Respondent. Complainant alleges:	
16 17	Complainant alleges:	RTIES
16 17 18	Complainant alleges:	RTIES gs this Statement of Issues solely in her official
16 17 18 19	Complainant alleges:	gs this Statement of Issues solely in her official
16 17 18 19 20	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of	gs this Statement of Issues solely in her official
16 17 18 19 20 21	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer
16 17 18 19 20 21 21	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of 2. On or about September 14, 2015, the	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer rmacist Registration from Hakyung Kim
16 17 18 19 20 21 22 23	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of 2. On or about September 14, 2015, the Affairs received an application for an Intern Pha	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer rmacist Registration from Hakyung Kim akyung Kim certified under penalty of perjury to
16 17 18 19 20 21 22 23 24	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of 2. On or about September 14, 2015, the Affairs received an application for an Intern Phat (Respondent). On or about August 18, 2015, Ha	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer rmacist Registration from Hakyung Kim akyung Kim certified under penalty of perjury to
16 17 18 19 20 21 22 23 24 25	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of 2. On or about September 14, 2015, the Affairs received an application for an Intern Phate (Respondent). On or about August 18, 2015, Hatthe truthfulness of all statements, answers, and respondents.	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer rmacist Registration from Hakyung Kim akyung Kim certified under penalty of perjury to
16 17 18 19 20 21 22 23 24 25 26	Complainant alleges: PAF 1. Virginia Herold (Complainant) bring capacity as the Executive Officer of the Board of 2. On or about September 14, 2015, the Affairs received an application for an Intern Phate (Respondent). On or about August 18, 2015, Hatthe truthfulness of all statements, answers, and redenied the application on December 3, 2015.	gs this Statement of Issues solely in her official f Pharmacy, Department of Consumer Affairs. Board of Pharmacy, Department of Consumer rmacist Registration from Hakyung Kim akyung Kim certified under penalty of perjury to

JURISDICTION

- 3. This Statement of Issues is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 4. Section 118, subdivision (a) states:
- "(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground."
 - 5. Section 4300 of the Code states, in pertinent part:
- "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:
 - "(1) Medical or psychiatric evaluation.
 - "(2) Continuing medical or psychiatric treatment.
 - "(3) Restriction of type or circumstances of practice.
 - "(4) Continuing participation in a board-approved rehabilitation program.
 - "(5) Abstention from the use of alcohol or drugs.
 - "(6) Random fluid testing for alcohol or drugs.
 - "(7) Compliance with laws and regulations governing the practice of pharmacy.
- "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions."

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STATUTORY PROVISIONS

6. Section 480 of the Code 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, 1203.4a, or 1203.41 of the Penal Code.

. . .

"(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."

7. Section 4301 of the Code 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:

. . .

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

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"(I) 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."

CONTROLLED SUBSTANCES

8. Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(13).

FACTUAL ALLEGATIONS

- 9. On or about October 26, 2009, in Case No. 9PK07103 in Los Angeles County Superior Court, Respondent was charged with possessing one ounce of marijuana or less (Health & Saf. Code, § 11357, subd. (b)). On or about December 29, 2009, the court dismissed the case. The underlying circumstances are that on or about October 16, 2009, Los Angeles County Sheriff's Department officer observed Respondent in a vehicle in a park after hours, smelled marijuana emanating from the vehicle, searched Respondent's wallet, and found a substance resembling marijuana in the wallet.
- 10. On or about May 6, 2014, in *People v. Hakyung Kim*, Case No. 3480715HK in San Bernardino County Superior Court, the court convicted Respondent of possession of one ounce of marijuana or less (Health & Saf. Code, § 11357, subd. (b)) and fined him \$510. Respondent paid the fine in full. The underlying circumstances are that on or about May 24, 2014, the San

4	Demanding Count Charles D. A. S. I.D. I. C.	
1	Bernardino County Sheriff's Department cited Respondent for possessing one ounce or less of	
2	marijuana.	
3	FIRST CAUSE FOR DENIAL OF APPLICATION	
4	(Conviction of a Crime) (Bus. & Prof. Code, § 480, subd. (a)(1))	
5	11. Respondent's application for an Intern Pharmacist Registration is subject to denia	
6	because he has been convicted of a crime. (Bus. & Prof. Code, § 480, subd. (a)(1).) The	
7	circumstances are set forth in paragraph 9, above.	
8	one and all form in paragraph 7, above.	
9	SECOND CAUSE FOR DENIAL OF APPLICATION (Unprofessional Conduct: Violation of a Statute Regulating Controlled Substances)	
10	(Bus. & Prof. Code, §§ 480, subd. (a)(3), 4301, subd. (j); Health & Saf. Code, § 11054, subd. (d)(13))	
11	12. Respondent's application for an Intern Pharmacist Registration is subject to denia	
12	because he engaged in unprofessional conduct by violating a statute regulating controlled	
13	substances. (Bus. & Prof. Code, § 480, subd. (a)(3), 4301, subd. (j); Health & Saf. Code, §	
14	11054, subd. (d)(13)).) The circumstances are set forth in paragraphs 8 and 9, above.	
15	THIRD CAUSE FOR DENIAL OF APPLICATION (Unprofessional Conduct: Conviction of a Substantially Related Crime) (Bus. & Prof. Code, §§ 480, subd. (a)(3), 4301, subd. (l); Health & Saf. Code, § 11054, subd.	
16 17		
18	13. Respondent's application for an Intern Pharmacist Registration is subject to denia	
19	because he engaged in unprofessional conduct by being convicted of a substantially related crime	
20	involving a controlled substance. (Bus. & Prof. Code, § 480, subd. (a)(3), 4301, subd. (l); Health	
21	& Saf. Code, § 11054, subd. (d)(13)).) The circumstances are set forth in paragraphs 8 and 9	
22	above.	
23	<u>PRAYER</u>	
24	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this	
25	Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:	
26	1. Denying the application of Hakyung Kim for a Intern Pharmacist Registration; and	
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1	2. Taking such other and further action as deemed necessary and proper.
2	That I have the
3	DATED: 7/19/16 Ougine Hulel
4	VIRGINIA HEROLD Executive Officer
5	Board of Pharmacy Department of Consumer Affairs State of California
6	State of California Complainant
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