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

11 In the Matter of the Statement of Issues
Against:
12 **TALIKA NIKKEL MALIKA COBBS**
13
14 **Pharmacy Technician License Applicant**
15 Respondent.

Case No. 6082

16 **STATEMENT OF ISSUES**

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18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Statement of Issues solely in her official capacity as the
21 Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

22 2. On or about May 16, 2016, the Board received an application for a Pharmacy
23 Technician License from Talika Nikkel Malika Cobbs ("Respondent"). On or about May 5, 2016,
24 Talika Nikkel Malika Cobbs certified under penalty of perjury to the truthfulness of all statements,
25 answers, and representations in the application. The Board denied the application on January 27,
26 2017.

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1 **JURISDICTION**

2 3. Pursuant to Business and Professions Code ("Code") section 485, subdivision (b), on
3 or about January 27, 2017, Respondent's application was denied and he was notified of the right
4 to a hearing to appeal that denial.

5 4. On or about February 21, 2017, Respondent requested a hearing to appeal the denial
6 of her application.

7 **STATUTORY PROVISIONS**

8 5. Section 480 of the Code states:

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

11 (1) Been convicted of a crime. A conviction within the meaning of this
12 section means a plea or verdict of guilty or a conviction following a plea of nolo
13 contendere. Any action that a board is permitted to take following the establishment of
14 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.

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

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

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

20 ...

21 (d) A board may deny a license regulated by this code on the ground that the
22 applicant knowingly made a false statement of fact that is required to be revealed in
the application for the license.

23 6. Section 4301 of the Code states:

24 The board shall take action against any holder of a license who is guilty of
25 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

26 (a) Procurement of a license by fraud or misrepresentation.

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

4 (g) The conviction of a crime substantially related to the qualifications, functions,
5 and duties of a licensee under this chapter. The record of conviction of a violation of
6 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
7 regulating controlled substances or of a violation of the statutes of this state regulating
8 controlled substances or dangerous drugs shall be conclusive evidence of
9 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
10 evidence only of the fact that the conviction occurred. The board may inquire into the
11 circumstances surrounding the commission of the crime, in order to fix the degree of
12 discipline or, in the case of a conviction not involving controlled substances or
13 dangerous drugs, to determine if the conviction is of an offense substantially related to
14 the qualifications, functions, and duties of a licensee under this chapter. A plea or
15 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
16 conviction within the meaning of this provision. The board may take action when the
17 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
18 or when an order granting probation is made suspending the imposition of sentence,
19 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
20 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
21 setting aside the verdict of guilty, or dismissing the accusation, information, or
22 indictment.

23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of this chapter
25 or of the applicable federal and state laws and regulations governing pharmacy,
26 including regulations established by the board or by any other state or federal
27 regulatory agency. . . .

28 **FIRST CAUSE FOR DENIAL OF APPLICATION**

(Substantially Related Criminal Conviction)

7. Respondent's application is subject to denial under Code section 480,
subdivision (a)(1), in that on or about August 20, 2014, in a criminal proceeding entitled *People v.*
Talika Nikkelmaliak Cobbs (Santa Clara County Super. Ct., Case No. B1472822), Respondent
was convicted by the court on her plea of nolo contendere to violating Penal Code section 484,
subdivision (f)(a) (uttering or attempting to use a counterfeit access card), a felony. The
imposition of Respondent's sentence was suspended and three (3) years formal probation was
granted. The circumstances are as follows: On or about May 19, 2014, a Palo Alto Police
Department ("PADP") officer responded to a report of a petty theft at a retail department store
where Respondent was being held by the loss prevention office. Respondent attempted to

1 purchase some merchandise with an alleged counterfeit card. The sales associate at the store
2 observed that the card had scratch marks and appeared to have been physically altered in that the
3 account number on the card should be in black printed numbers and not embossed. Sixteen cards
4 were found in Respondent's purse all of which appeared to have been altered and Respondent's
5 name appeared to be embossed on the cards. During the PADP officer's investigation, he found
6 additional merchandise on Respondent from other retailers. It was determined that Respondent
7 made other fraudulent purchases at other retailers. Respondent admitted that she got the cards
8 herself and stated that she "kinda sort of" knew the cards were fraudulent and altered.

9 **SECOND CAUSE FOR DENIAL OF APPLICATION**

10 **(Committed Acts which if Done by a Licentiate)**

11 8. Respondent's application is subject to denial under Code section 480,
12 subdivision (a)(3)(A) in that Respondent committed acts that if done by a licentiate would be
13 grounds for discipline, as follows:

14 a. Respondent was convicted of a crime substantially related to the qualifications,
15 functions and duties of a pharmacy technician, as more particularly set forth above in paragraph 7,
16 which is grounds for discipline under Code section 4301, subdivision (d).

17 b. Respondent committed acts involving dishonesty and fraud, as more particularly set
18 forth above in paragraph 7 and below in paragraph 9, which is grounds for discipline under Code
19 section 4301, subdivision (f).

20 c. Respondent violated terms of the Pharmacy Law, as more particularly set forth above
21 in subparagraph a and b of paragraph 8 and below in paragraph 9, which are grounds for discipline
22 under Code section 4301, subdivision (o).

23 **THIRD CAUSE FOR DENIAL OF APPLICATION**

24 **(Falsification of an Application)**

25 9. Respondent's application is subject to denial under Code section 480, subdivision (d),
26 in that on or about May 5, 2016, Respondent knowingly made a false statement of fact required to
27 be revealed in the application for licensure, in that Respondent answered "No" to question number
28 8 on the application for licensure that stated:

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Have you ever been convicted of, or pleaded guilty or nolo contendere/no contest to, any crime, in any state, the United States or its territories, a military court, or any foreign country? Include any felony or misdemeanor offense, and any infraction involving drugs or alcohol with a fine of \$500 or more. You must disclose a conviction even if it was: (1) later dismissed or expunged pursuant Penal Code section 1203.4 et seq., or an equivalent release from penalties and disabilities provision from a non-California jurisdiction, or (2) later dismissed or expunged pursuant to Penal Code section 1201 et seq., or an equivalent post-conviction drug treatment diversion dismissal provision from a non-California jurisdiction. Failure to answer truthfully and completely may result in the denial of your application. . . .

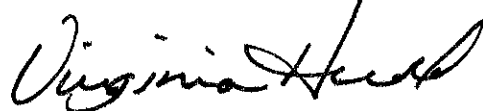
In fact, Respondent was convicted on August 20, 2014, for attempting to use a counterfeit access card, as more particularly set forth above in paragraph 7.

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 Talika Nikkel Malika Cobbs for a Pharmacy Technician License;
2. Taking such other and further action as deemed necessary and proper.

DATED: 5/27/17



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

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