

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE
Deputy Attorney General
4 State Bar No. 153078
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-1034
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

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

Case No. 3197

12 **LOLA YVETTE COOKS GEARING AKA**
13 **KARA CLARK**
7833 Iroquois Street
14 Fontana, CA 92336

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

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16 Respondent.

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18 **FINDINGS OF FACT**

19 1. On or about November 14, 2008, Complainant Virginia Herold., in her official
20 capacity as Executive Officer of the California Board of Pharmacy, Department of Consumer
21 Affairs, filed a Statement of Issues in Case No. 3197 against Lola Yvette Cooks Gearing, AKA
22 Kara Clark (Respondent) before the California Board of Pharmacy (Board).

23 2. On or about November 6, 2007, the board received an application for a Pharmacy
24 Technician Registration from the Respondent. On or about October 29, 2007, the Respondent
25 certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on February 26, 2008, based
27 upon criminal convictions that the Respondent did not disclose.

1 3. On or about November 25, 2008, Corina Talaro, an employee of the Department of
2 Justice, Office of the Attorney General, served by Certified Mail and First Class Mail a copy of
3 the Statement to Respondent, Statement of Issues in Case No. 3197, Request for Discovery;
4 Notice of Defense, and Government Code Sections 11507.5, 11507.6, and 11507.7 to
5 Respondent's address of record with the Board, which was and is:

6 7833 Iroquois Street
7 Fontana, CA 92336

8 A copy of the Statement of Issues and service documents are attached as Exhibit A, and is
9 incorporated herein by reference.

10 4. On or about January 12, 2008, Respondent filed a request for review, giving her
11 address of record as 7833 Iroquois Street, Fontana, CA 92336.

12 A copy of this request for review is attached as Exhibit B, and is incorporated herein by
13 reference.

14 5. On or about May 20, 2010, Gilda Sanchez, an employee of the Department of
15 Justice, served by Certified Mail and First Class Mail a copy of the Notice of Hearing in Case No.
16 3197, setting out the date of hearing on July 7, 2010, to Respondent's address of record with the
17 Board, which was and is:

18 7833 Iroquois Street
19 Fontana, CA 92336.

20 A copy of the Notice of Hearing and service documents are attached as Exhibit C, and is
21 incorporated herein by reference.

22 6. Service of the Statement of Issues was effective as a matter of law under the
23 provisions of Government Code section 11505, subdivision (c).

24 7. Service of the Notice of Hearing was effective as a matter of law under the
25 provisions of Government Code section 11509.

26 8. Business and Professions Code (hereinafter Code) section 118 states, in pertinent
27 part:

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1 (a) The suspension, expiration, or forfeiture by operation of law of a license issued
2 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
3 by order of a court of law, or its surrender without the written consent of the board, shall not,
4 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
5 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
6 ground provided by law or to enter an order suspending or revoking the license or otherwise
7 taking disciplinary action against the license on any such ground.

8 9. California Government Code section 11520 states, in pertinent part:

9 (a) If the respondent either fails to file a notice of defense or to appear at the hearing,
10 the agency may take action based upon the respondent's express admissions or upon other
11 evidence and affidavits may be used as evidence without any notice to respondent.

12 10. On or about July 7, 2010, at the Office of Administrative Hearings, at 9:00 a.m., the
13 hearing in the above-referenced matter was held. The ALJ opened the record and asked for the
14 appearances of the parties. Respondent failed to appear. The ALJ held the record open for
15 approximately thirty additional minutes, but Respondent still failed to appear. The ALJ found
16 that Respondent was properly served with the Notice of Hearing and the case should proceed by
17 agency default.

18 11. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on the
20 evidence on file herein, finds that the allegations in Statement of Issues in Case No. 3197 are true.

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent, Lola Yvette Cooks Gearing,
23 AKA Kara Clark, is in default.

24 2. A copy of the Statement of Issues is attached.

25 3. The agency has jurisdiction to adjudicate this case by default.

26 4. The California Board of Pharmacy is authorized to impose the order denying
27 Respondent's application for a Pharmacy Technician Registration based on the following
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1 violations alleged in the Statement of Issues:

2 a. Respondent was convicted of a substantially related crime, and is subject to denial
3 under section 475 and 480, subdivision (a)(1) of the code, in conjunction with California Code of
4 Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially
5 related to the qualifications, functions, or duties of a Pharmacy Technician applicant, as follows:

6 b. On or about April 13, 2005, Respondent was convicted by the court on a guilty
7 plea of violating Penal Code section 470(b) (forgery), a misdemeanor, in the criminal proceeding
8 entitled *The people of California v. Lola Yvette Gearing aka Kara Clark* (Super. Ct. San
9 Bernardino County, 2005, No. FWV033569). Respondent was placed on 3 years probation. On
10 November 27, 2006, the conviction was dismissed pursuant to Penal Code section 1203.4. The
11 circumstances surrounding the conviction are that on or about December 28, 2004, Respondent
12 applied for credit card at a Circuit City store using a counterfeit driver's license and a fictitious
13 name. Respondent was arrested by the San Bernardino Sheriff's Department. Exhibits
14 Certificate Criminal Conviction.
15

16 c. Respondent's applications subject to denial under section 480, subdivision (a)(2),
17 of the Code, on the grounds of unprofessional conduct, in that Respondent committed acts which
18 constitute Dishonesty. Exhibit Board's Denial.
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1 PRAYER

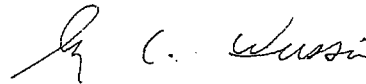
2 IT IS SO ORDERED by the California Board of Pharmacy in

3 Case No. 3197, that the application for a Pharmacy Technician registration by Respondent
4 Lola Yvette Cooks Gearing, AKA Kara Clark, is hereby denied.

5 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
6 written motion requesting that the Decision be vacated and stating the grounds relied on within
7 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
8 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
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10 This Decision shall become effective on January 7, 2011.

11 It is so ORDERED December 8, 2010.

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STANLEY C. WEISSER, BOARD PRESIDENT
16 FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

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Exhibit A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 3197

13 LOLA YVETTE COOKS GEARING AKA
14 KARA CLARK
15 aka Lola Yvette Cooks
16 aka Kara Clark
17 7833 Iroquois St.
Fontana, CA 92336
18 Pharmacy Technician Applicant

STATEMENT OF ISSUES

Respondent.

19 Complainant alleges:

PARTIES

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

23 2. On or about November 6, 2007, the Board of Pharmacy (Board), received
24 an application for a Pharmacy Technician Registration from Lola Yvette Cooks Gearing aka
25 Kara Clark (Respondent). On or about October 29, 2007, Lola Yvette Gearing certified under
26 penalty of perjury to the truthfulness of all statements, answers, and representations in the
27 application. The Board denied the application on February 26, 2008.

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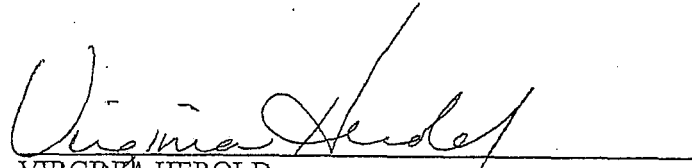
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying the application of Respondent for a Pharmacy Technician Registration Application, and

2. Taking such other and further action as deemed necessary and proper.

DATED: 11/14/08



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

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