

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

In the Matter of the Statement of Issues Against:

Case No. 4154

**WINDY VANG
2869 Pixie Drive
Stockton, CA 95203**

Applicant for Pharmacy Technician License

Respondent.

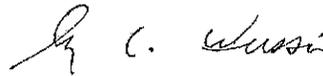
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 19, 2012.

It is so ORDERED on October 19, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

12 **In the Matter of the Statement of Issues Against:**

13 **WINDY C. VANG**
14 **2869 Pixie Drive**
Stockton, CA 95203

15 **Pharmacy Technician License**

16 **Respondent.**
17

Case No. 4154

OAH No. 2012010024

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Patrick M. Kenady, Deputy Attorney
24 General.

25 2. Respondent Windy C. Vang (Respondent) is representing herself in this proceeding
26 and has chosen not to exercise her right to be represented by counsel.

27 3. On or about March 2, 2011, Respondent filed an application dated February 24, 2012,
28 with the Board of Pharmacy to obtain a Pharmacy Technician License.

1 licensing agency is involved, and shall not be admissible in any other criminal or civil
2 proceeding.

3 CONTINGENCY

4 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
8 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
9 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
10 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
11 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
12 not be disqualified from further action by having considered this matter.

13 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
14 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
15 effect as the originals.

16 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
19 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
20 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
21 writing executed by an authorized representative of each of the parties.

22 15. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that upon certification of all statutory and regulatory
27 requirements for issuance of a license, a license shall be issued to Respondent Windy C. Vang
28

1 and immediately revoked, the order of revocation is stayed and the Respondent is placed on
2 probation for five (5) years upon the following terms and conditions:

3 **1. Certification Prior to Resuming Work**

4 Respondent shall be automatically suspended from working as a pharmacy technician until
5 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
6 satisfactory proof of certification to the board. Respondent shall not resume working as a
7 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
8 year shall be considered a violation of probation. Respondent shall not resume working as a
9 pharmacy technician until notified by the board.

10 During suspension, respondent shall not enter any pharmacy area or any portion of any
11 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
12 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
13 devices or controlled substances are maintained. Respondent shall not do any act involving drug
14 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
15 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
16 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
17 substances. Respondent shall not resume work until notified by the board.

18 Subject to the above restrictions, respondent may continue to own or hold an interest in any
19 licensed premises by the board in which she holds an interest at the time this decision becomes
20 effective unless otherwise specified in this order.

21 Failure to comply with this suspension shall be considered a violation of probation.

22 **2. Obey All Laws**

23 Respondent shall obey all state and federal laws and regulations.

24 Respondent shall report any of the following occurrences to the board, in writing, within
25 seventy-two (72) hours of such occurrence:

- 26 an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
28 substances laws;

- 1 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
2 criminal complaint, information or indictment;
- 3 a conviction of any crime;
- 4 discipline, citation, or other administrative action filed by any state or federal agency
5 which involves respondent's pharmacy technician license or which is related to the
6 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
7 or charging for any drug, device or controlled substance.

8 Failure to timely report any such occurrence shall be considered a violation of probation.

9 **3. Report to the Board**

10 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
11 designee. The report shall be made either in person or in writing, as directed. Among other
12 requirements, respondent shall state in each report under penalty of perjury whether there has
13 been compliance with all the terms and conditions of probation. Failure to submit timely reports
14 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
15 in submission of reports as directed may be added to the total period of probation. Moreover, if
16 the final probation report is not made as directed, probation shall be automatically extended until
17 such time as the final report is made and accepted by the board.

18 **4. Interview with the Board**

19 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
20 with the board or its designee, at such intervals and locations as are determined by the board or its
21 designee. Failure to appear for any scheduled interview without prior notification to board staff,
22 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
23 the period of probation, shall be considered a violation of probation.

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the board's inspection program and with the board's
26 monitoring and investigation of respondent's compliance with the terms and conditions of her
27 probation. Failure to cooperate shall be considered a violation of probation.

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1 **6. Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 4154 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 4154 and the terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
11 supervisor(s) submit timely acknowledgement(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 4154 in advance of the respondent
15 commencing work at each pharmacy. A record of this notification must be provided to the board
16 upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause her direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that she has read the decision in case number 4154
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time,
27 part-time, temporary or relief service or pharmacy management service as a pharmacy
28 technician or in any position for which a pharmacy technician license is a requirement

1 or criterion for employment, whether the respondent is considered an employee,
2 independent contractor or volunteer.

3 **7. Probation Monitoring Costs**

4 Respondent shall pay any costs associated with probation monitoring as determined by the
5 board each and every year of probation. Such costs shall be payable to the board on a schedule as
6 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
7 be considered a violation of probation.

8 **8. Status of License**

9 Respondent shall, at all times while on probation, maintain an active, current pharmacy
10 technician license with the board, including any period during which suspension or probation is
11 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

12 If respondent's pharmacy technician license expires or is cancelled by operation of law or
13 otherwise at any time during the period of probation, including any extensions thereof due to
14 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
15 terms and conditions of this probation not previously satisfied.

16 **9. License Surrender While on Probation/Suspension**

17 Following the effective date of this decision, should respondent cease work due to
18 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
19 respondent may tender her pharmacy technician license to the board for surrender. The board or
20 its designee shall have the discretion whether to grant the request for surrender or take any other
21 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
22 license, respondent will no longer be subject to the terms and conditions of probation. This
23 surrender constitutes a record of discipline and shall become a part of the respondent's license
24 history with the board.

25 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
26 license to the board within ten (10) days of notification by the board that the surrender is
27 accepted. Respondent may not reapply for any license, permit, or registration from the board for
28 three (3) years from the effective date of the surrender. Respondent shall meet all requirements

1 applicable to the license sought as of the date the application for that license is submitted to the
2 board.

3 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
4 **Employment**

5 Respondent shall notify the board in writing within ten (10) days of any change of
6 employment. Said notification shall include the reasons for leaving, the address of the new
7 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
8 shall further notify the board in writing within ten (10) days of a change in name, residence
9 address and mailing address, or phone number.

10 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
11 phone number(s) shall be considered a violation of probation.

12 **11. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacy technician in California for a minimum of ten (10) hours per calendar
15 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
16 the period of probation shall be extended by one month for each month during which this
17 minimum is not met. During any such period of tolling of probation, respondent must
18 nonetheless comply with all terms and conditions of probation.

19 Should respondent, regardless of residency, for any reason (including vacation) cease
20 working as a pharmacy technician for a minimum of ten (10) hours per calendar month in
21 California, respondent must notify the board in writing within ten (10) days of cessation of work
22 and must further notify the board in writing within ten (10) days of the resumption of the work.
23 Any failure to provide such notification(s) shall be considered a violation of probation.

24 It is a violation of probation for respondent's probation to remain tolled pursuant to the
25 provisions of this condition for a total period, counting consecutive and non-consecutive months,
26 exceeding thirty-six (36) months.

27 ///

28 ///

1 "Cessation of work" means calendar month during which respondent is not
2 working for at least ten (10) hours as a pharmacy technician, as defined in Business
3 and Professions Code section 4115. "Resumption of work" means any calendar
4 month during which respondent is working as a pharmacy technician for at least ten
5 (10) hours as a pharmacy technician as defined by Business and Professions Code
6 section 4115.

7 **12. Violation of Probation**

8 If a respondent has not complied with any term or condition of probation, the board shall
9 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
10 all terms and conditions have been satisfied or the board has taken other action as deemed
11 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
12 to impose the penalty that was stayed.

13 If respondent violates probation in any respect, the board, after giving respondent notice
14 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
15 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
16 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
17 a petition to revoke probation or an accusation is filed against respondent during probation, the
18 board shall have continuing jurisdiction, and the period of probation shall be automatically
19 extended until the petition to revoke probation or accusation is heard and decided.

20 **13. Completion of Probation**

21 Upon written notice by the board indicating successful completion of probation,
22 respondent's pharmacy technician license will be fully restored.

23 **14. No Ownership of Licensed Premises**

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

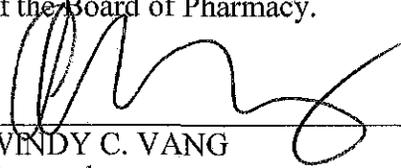
3 **15. Community Service Program**

4 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
5 Board or its designee, for prior approval, a community service program in which Respondent
6 shall provide free health-care related services on a regular basis to a community or charitable
7 facility or agency for at least fifty (50) hours per year for the first three (3) of probation. Within
8 thirty (30) days of Board approval thereof, Respondent shall submit documentation to the Board
9 demonstrating commencement of the community service program. A record of this notification
10 must be provided to the Board upon request. Respondent shall report on progress with the
11 community service program in the quarterly reports. Failure to timely submit, commence, or
12 comply with the program shall be considered a violation of probation.

13 ACCEPTANCE

14 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
15 stipulation and the effect it will have on my Pharmacy Technician License. I enter into this
16 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
17 to be bound by the Decision and Order of the Board of Pharmacy.

18 DATED: 7/20/12

19 
20 WENDY C. VANG
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: *July 24, 2012*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General



PATRICK M. KENADY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 4154

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2 ARTHUR D. TAGGART
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7 *Attorneys for Complainant*

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:

Case No. 4154

12 **WINDY C. VANG,**
13 **aka WINDY CUA VANG**

STATEMENT OF ISSUES

14 **2869 Pixie Drive**
15 **Stockton, CA 95203**

16 **Pharmacy Technician License**

17 Respondent.

18 Complainant alleges:

19 PARTIES

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

22 2. On or about March 2, 2011, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician License from Windy C. Vang, also known as
24 Windy Cua Vang (Respondent). On or about February 24, 2011, Windy C. Vang certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on June 7, 2011.

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JURISDICTION

1
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
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

6 "(a) Every license issued may be suspended or revoked.

7 ...

8 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
9 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
10 guilty of unprofessional conduct and who has met all other requirements for licensure.

11 ...

12 5. Section 4301 of the Code states:

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

16 ...

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

20 ...

21 "(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10 ...

11 6. 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
17 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
18 an order granting probation is made suspending the imposition of sentence, irrespective of a
19 subsequent order under the provisions of Section 1203.4 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 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
28 solely on the basis that he or she has been convicted of a felony if he or she has obtained a

1 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
2 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
3 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
4 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
5 Section 482.

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

9 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case.

13 8. California Code of Regulations, title 16, section 1770, states:

14 "For the purpose of denial, suspension, or revocation of a personal or facility license
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
18 licensee or registrant to perform the functions authorized by his license or registration in a manner
19 consistent with the public health, safety, or welfare."

20 9. Section 118, subdivision (b), of the Code provides that the
21 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
22 jurisdiction to proceed with a disciplinary action during the period within which the license may
23 be renewed, restored, reissued or reinstated.

24 FIRST CAUSE FOR DENIAL OF APPLICATION

25 (CRIMINAL CONVICTION)

26 10. Respondent's application is subject to denial under section 480 (A)(1) in conjunction
27 with section 4300 (c) in that on or about May 7, 2007, in a criminal proceeding entitled *People v.*
28 *Windy Cua Vang* in Superior Court of California, County of San Joaquin, Case Number

1 SM256928A, Respondent was convicted by plea of nolo contendere of violating Penal Code
2 section 487(A) (Grand Theft by Embezzlement), a misdemeanor. The circumstances are as
3 follows:

4 11. On or between January 18, 2007 and February 6, 2007, respondent, while an employee
5 of Financial Center Credit Union, did willfully and unlawfully take from said employer money
6 and personal property of a value exceeding Four Hundred Dollars (\$400.000), to wit: Cash in the
7 amount of \$8,000.

8 SECOND CAUSE FOR DENIAL OF APPLICATION

9 (DISHONESTY, FRAUD, OR DECEIT)

10 12. Respondent's application is subject to denial under section 480(A)(2) in conjunction
11 with section 4300(c) by committing theft by embezzlement as described in paragraphs 10 and 11
12 above.

13 THIRD CAUSE OF FOR DENIAL OF APPLICATION

14 (ACTS WHICH ARE GROUNDS FOR SUSPENSION OR REVOCATION)

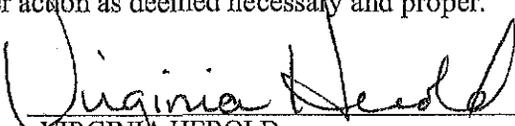
15 13. Respondent's application is subject to denial under section 480(A)(3) in conjunction
16 with section 4300(c) by committing theft by embezzlement as described in paragraphs 10 and 11
17 above.

18 PRAYER

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

- 21 1. Denying the application of Windy C. Vang for a Pharmacy Technician License;
22 2. Taking such other and further action as deemed necessary and proper.

23 DATED: 11/9/11

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

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