

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 MICHEL W. VALENTINE, State Bar No. 153078  
Supervising Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-1034  
Facsimile: (213) 897-2804  
6  
Attorneys for Complainant  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. 3197

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

**STATEMENT OF ISSUES**

16 Respondent.  
17

18 Complainant alleges:

19 **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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1 **STATUTORY PROVISIONS**

2 3. Section 118, subdivision (b), of the Code provides, in pertinent part, that  
3 the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of  
4 jurisdiction to proceed with a disciplinary action during the period within which the license may  
5 be renewed, restored, reissued or reinstated.

6 4. Section 490 of the Code provides, in pertinent part, that a board may  
7 suspend or revoke a license on the ground that the licensee has been convicted of a crime  
8 substantially related to the qualifications, functions, or duties of the business or profession for  
9 which the license was issued..

10 5. Section 480 states, in pertinent part:

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

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

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

21 **REGULATORY PROVISIONS**

22 6. California Code of Regulations, title 16, section 1770, states:

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

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Substantially Related Crime)**

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

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

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Dishonesty)**

18 8. Respondent's application is subject to denial under section 480,  
19 subdivision (a)(2), of the Code, on the grounds of unprofessional conduct, in that Respondent  
20 committed acts which constitute Dishonesty. Complainant now refers to and incorporates all the  
21 allegations contained in the first cause for discipline, as set forth above.

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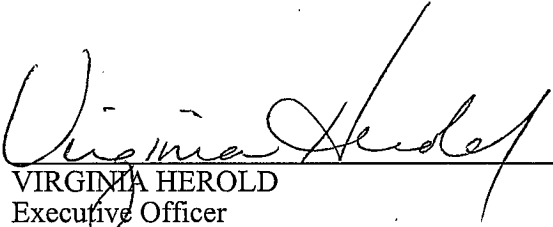
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PRAYER

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

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

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