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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 **JEFFREY RUBEN ESCANDON**  
13 **a.k.a., JEFF ESCALDON**  
14 **a.k.a., JEFF ESCANDON**  
15 3752 Harriman Avenue  
Los Angeles, CA 90032  
16 Respondent.

Case No. 3954

**STATEMENT OF ISSUES**

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 9, 2009, the Board of Pharmacy (Board) received an application  
23 for Pharmacy Technician Registration from Jeffrey Ruben Escandon, also known as Jeff  
24 Escaldon, and Jeff Escandon (Respondent). On or about February 27, 2009, Respondent certified  
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the  
26 application. The Board denied the application on June 29, 2010.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the  
3 following laws. All section references are to the Business and Professions Code unless otherwise  
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

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

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

15 . . . .

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

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

21 . . . .

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

25 5. Section 490 states, in pertinent part:

26 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
27 board may suspend or revoke a license on the ground that the licensee has been convicted of a

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1 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
2 or profession for which the license was issued.

3 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
4 discipline a licensee for conviction of a crime that is independent of the authority granted under  
5 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
6 of the business or profession for which the licensee's license was issued.

7 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
8 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
9 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
10 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
11 made suspending the imposition of sentence, irrespective of a subsequent order under the  
12 provisions of Section 1203.4 of the Penal Code."

13 6. Section 4300 provides, in pertinent part, that every license issued by the Board is  
14 subject to discipline, including suspension or revocation.

15 7. Section 4301 states, in pertinent part:

16 "The board shall take action against any holder of a license who is guilty of unprofessional  
17 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

18 Unprofessional conduct shall include, but is not limited to, any of the following:

19 . . . .

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

23 . . . .

24 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
25 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
26 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
27 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
28 practice authorized by the license.

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"(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.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(l) 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.

....

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

1 "(p) Actions or conduct that would have warranted denial of a license."  
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3 **REGULATORY PROVISIONS**

4 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

11 9. **CONTROLLED SUBSTANCES**

12 "Diazepam," is the generic name for Valium, a benzodiazepam derivative. It is a Schedule  
13 IV controlled substance as designated by Health and Safety Code section 11057,  
14 subdivision(d)(9) and is categorized as a dangerous drug pursuant to section 4022.

15 10. **DANGEROUS DRUGS**

16 "Soma," is the brand name for Carisoprodol, a muscle relaxant, and is categorized as a  
17 dangerous drug pursuant to section 4022.

18 **FIRST CAUSE FOR DENIAL OF APPLICATION**

19 **(Conviction of a Crime)**

20 11. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
21 that Respondent was convicted of crimes, as follows:

22 a. On or about June 29, 2009, after pleading nolo contendere, Respondent was convicted  
23 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving  
24 while having 0.08% and more, by weight, of alcohol in his blood] in the criminal proceedings  
25 entitled *The People of the State of California v. Jeffrey Ruben Escandon* (Super. Ct. Los Angeles  
26 County, 2009, No. 8MP14543). The Court sentenced Respondent to serve 196 hours in Los  
27 Angeles County Jail and placed him on 60 months probation, with terms and conditions. The  
28 circumstances surrounding the conviction are that on or about June 14, 2008, during a traffic stop  
by the California Highway Patrol in Los Angeles, Respondent was contacted. While speaking to

1 Respondent, the officer detected a strong odor of alcoholic beverage emitting from is vehicle. He  
2 was observed to have red, watery eyes, and slow and slurred speech. When asked if he had  
3 consumed any alcoholic beverages, Respondent stated, "4 beers." While at the scene, Respondent  
4 submitted to a Preliminary Alcohol Screening Test (PAS) that resulted in a breath-alcohol content  
5 level of 0.234% on the first reading and 0.205% on the second. During a search of Respondent's  
6 person, the officer found two tablets of Soma and two tablets of a form of Valium in  
7 Respondent's front right pocket. Respondent did not have a prescription for these tablets and  
8 they were not in a container with a label. Respondent was subsequently arrested for violating  
9 Health and Safety Code section 11350 [possession of a controlled substances], Business and  
10 Professions Code section 4060 [possession of a prescription drug without a prescription], and  
11 Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or drugs].  
12 During the booking procedure, Respondent refused to submit to a toxicology screening test.

13 b. On or about July 14, 2006, after pleading nolo contendere, Respondent was convicted  
14 of one felony count of violating Penal Code section 245, subdivision (a)(1) [assault with a deadly  
15 weapon] in the criminal proceedings entitled *The People of the State of California v. Jeff*  
16 *Escandon* (Super. Ct. San Bernardino County, 2006, No. FVI024569). The Court sentenced  
17 Respondent to serve 365 days in San Bernardino County Jail and placed him on 36 months formal  
18 probation, with terms and conditions. The circumstances surrounding the conviction are that on or  
19 about June 7, 2006, Respondent kicked in the front door of L.C.'s resident and attacked her and  
20 her son. During the attack, Respondent picked up a knife from the kitchen and ran toward L.C.  
21 and her son with it. L.C.'s son hit Respondent with a baseball bat forcing Respondent to leave  
22 from the house.

23 c. On or about February 16, 2006, after pleading nolo contendere, Respondent was  
24 convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a)  
25 [driving while driver's license is suspended or revoked] in the criminal proceedings entitled *The*  
26 *People of the State of California v. Jeffrey Escandon* (Super. Ct. Los Angeles County, 2006, No.  
27 5MT09837). The Court sentenced Respondent to serve ten days in Los Angeles County Jail and  
28 placed him on 36 months probation, with terms and conditions. The circumstances surrounding

1 the conviction are that on or about April 20, 2005, Respondent was found to be driving while his  
2 driver's license was suspended or revoked.

3 d. On or about September 16, 2004, after pleading nolo contendere, Respondent was  
4 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a)  
5 [driving under the influence of alcohol or drugs] in the criminal proceedings entitled *The People*  
6 *of the State of California v. Jeffrey Ruben Escandon* (Super. Ct. San Bernardino County, 2004,  
7 No. TVI053551). The Court sentenced Respondent to serve 29 days in San Bernardino County  
8 Jail and ordered pronouncement of Judgment withheld and a conditional and revocable release  
9 granted for a period of 36 months probation, with terms and conditions. The circumstances  
10 surrounding the conviction are that on or about April 17, 2004, during a traffic stop by the San  
11 Bernardino Sheriff's Department, Respondent was contacted. While speaking to Respondent, the  
12 officer detected a strong odor of an alcoholic beverage emitting from his breath. When asked if  
13 he had drank any alcoholic beverages, Respondent admitted to having one beer. During the  
14 booking procedure, Respondent submitted to a blood test that resulted in a blood-alcohol content  
15 level of 0.17%.

16 e. On or about May 2, 1995, after pleading nolo contendere, Respondent was convicted  
17 of one misdemeanor count of violating Penal Code section 415, subdivision (1) [fighting in a  
18 public place] in the criminal proceedings entitled *The People of the State of California v. Jeff*  
19 *Escandon* (Super. Ct. San Bernardino County, 1995, No. MVI07488). The Court sentenced  
20 Respondent to serve 3 days in San Bernardino County Jail. The circumstances surrounding the  
21 conviction are that on or about April 18, 1995, Respondent fought in a public place.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Knowingly Made a False Statement of Fact)**

24 12. Respondent application is subject to denial under section 480, subdivision (c), in that  
25 on or about February 27, 2009, Respondent knowingly made a false statement of fact by failing to  
26 disclose his 1995 conviction case against him, on his application for licensure. In addition,  
27 Respondent signed under penalty of perjury, under the laws of the State of California, that the  
28 forgoing was true and correct, on his application for licensure. Complainant refers to, and by this

1 reference incorporates, the allegations set forth in paragraph 11, subparagraphs (e), as though set  
2 forth fully.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Acts Warranting Denial of Licensure)**

5 13. Respondent's application is subject to denial under sections 4301, subdivision (p) and  
6 480, subdivisions (a)(3)A) and (a)(3)(B), in that Respondent committed acts which if done by a  
7 licentiate of the business and profession in question, would be grounds for suspension or  
8 revocation of his license as follows:

9 a. Respondent was convicted of crimes substantially related to the qualifications,  
10 functions, or duties of a pharmacy technician which to a substantial degree evidence his present  
11 or potential unfitness to perform the functions authorized by his license in a manner consistent  
12 with the public health, safety, or welfare, in violation of sections 4031, subdivision (l), and 490,  
13 in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,  
14 and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs  
15 (a) through (e), inclusive, as though set forth fully.

16 b. On or about June 7, 2006, Respondent committed acts involving moral turpitude,  
17 dishonesty, fraud, or deceit in violation of section 4301, subdivision (f). Complainant refers to,  
18 and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs  
19 (b) and (e), inclusive, as though set forth fully.

20 c. Respondent used alcoholic beverages to an extent or in a manner dangerous or  
21 injurious to himself, another person, or the public, in violation of section 4301, subdivision (h).  
22 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
23 paragraph 11, subparagraphs (a) and (d), inclusive, as though set forth fully.

24 d. Respondent was convicted of crimes involving the consumption of alcoholic  
25 beverages, in violation of section 4301, subdivision (k). Complainant refers to, and by this  
26 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs (a) and (d),  
27 inclusive, as though set forth fully.

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1 e. Respondent was found to be in possession of a controlled substance, in violation of  
2 section 4301, subdivisions (j) and (o). Complainant refers to, and by this reference incorporates,  
3 the allegations set forth above in paragraph 11, subparagraph (a), as though set forth fully.

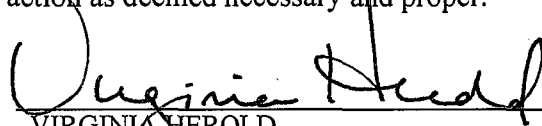
4 **PRAYER**

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

- 7 1. Denying the application of Respondent for registration as a Pharmacy Technician;  
8 and  
9 2. Taking such other and further action as deemed necessary and proper.

10 DATED: \_\_\_\_\_

6/1/12



11 VIRGINIA HEROLD  
12 Executive Officer  
13 Board of Pharmacy  
14 Department of Consumer Affairs  
15 State of California  
16 Complainant

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