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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. 4165

12 **DARIN LOUIS FREEMAN JR.**
13 1150 N. Willow Avenue, Apt F1
Rialto, CA 92376

STATEMENT OF ISSUES

14 Pharmacy Technician License Applicant

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about December 10, 2009, the Board received an application for a Pharmacy
23 Technician License from Darin Louis Freeman Jr. ("Respondent"). On or about October 6, 2009,
24 Darin Louis Freeman Jr. certified under penalty of perjury to the truthfulness of all statements,
25 answers, and representations in the application. The Board denied the application on May 26,
26 2011.

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

17 "(3)

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

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

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

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1 5. Section 490 states, in pertinent part:

2 "(a) In addition to any other action that a board is permitted to take against a licensee, a
3 board may suspend or revoke a license on the ground that the licensee has been convicted of a
4 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
5 or profession for which the license was issued.

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

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

16 6. Section 4300, subdivision (c), states, in pertinent part, that "[t]he board may refuse a
17 license to any applicant guilty of unprofessional conduct. . . ."

18 7. Section 4301 states, in pertinent part:

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

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

26 "(g) Knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts.

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1 "(I) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee . . . The board may inquire into the circumstances surrounding the
3 commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not
4 involving controlled substances or dangerous drugs, to determine if the conviction is of an offense
5 substantially related to the qualifications, functions, and duties of a licensee under this
6 chapter. . . ."

7 **REGULATORY PROVISION**

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

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

15 **FIRST CAUSE FOR DENIAL OF APPLICATION**

16 **(Convictions of Substantially Related Crimes)**

17 9. Respondent's application is subject to denial under sections 480, subdivisions (a)(1),
18 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
19 convicted of crimes substantially related to the qualifications, functions or duties of a registered
20 pharmacy technician, as follows:

21 a. On or about May 11, 2010, in the criminal matter entitled *The People of the State of*
22 *California v. Darin Louis Freeman, Jr.* (Super. Ct. San Bernardino County, 2010, No.
23 938657DF), Respondent was convicted of driving without a valid driver's license, a violation of
24 California Vehicle Code section 12500, subdivision (a), a misdemeanor. The Court placed
25 Respondent on probation for twelve months. The circumstances underlying the conviction are
26 that on or about February 8, 2010, Respondent was stopped for driving a vehicle without license
27 plates, and did not have a valid driver's license.

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1 b. On or about March 24, 2010, in the criminal matter entitled *The People of the State of*
2 *California v. Darin L. Freeman* (Super. Ct. Los Angeles County, 2009, No. 9CP11669),
3 Respondent was convicted of driving under the influence of alcohol and/or drugs, a violation of
4 California Vehicle Code section 23152, subdivision (a), a misdemeanor. Respondent further
5 admitted to having sustained two prior convictions for driving under the influence. The Court
6 sentenced Respondent to serve one-hundred thirty-three days in jail, placed him on probation for
7 forty-eight months, ordered him to complete an eighteen-month Multiple Offender Treatment
8 Program, ordered him to complete the Hospital and Morgue Program, and ordered him to
9 complete the Mothers Against Drunk Driving Victim Impact Program. The circumstances
10 underlying the conviction are that on or about August 5, 2009, Respondent drove while under the
11 influence of alcohol and/or drugs.

12 c. On or about August 27, 2008, in the criminal matter entitled *The People of the State*
13 *of California v. Darin L. Freeman* (Super. Ct. Los Angeles County, 2008, No. 8MP10644),
14 Respondent was convicted of driving under the influence of alcohol and/or drugs, a violation of
15 California Vehicle Code section 23152, subdivision (a), a misdemeanor. The Court sentenced
16 Respondent to serve twenty days in jail, placed him on probation for thirty-six months, and
17 ordered him to complete a nine-month First Offender Treatment Program. The circumstances
18 underlying the conviction are that on or about August 25, 2008, Respondent drove while under
19 the influence of alcohol and/or drugs.

20 d. On or about June 13, 2006, in the criminal matter entitled *The People of the State of*
21 *California v. Darin Louis Freeman, Jr.* (Super. Ct. Orange County, 2006, No. 06WF1329),
22 Respondent was convicted of assault/battery, a violation of California Penal Code section
23 240/242, a misdemeanor. The Court sentenced Respondent to serve forty-eight days in jail, placed
24 him on probation for thirty-six months, and issued him a firearm restriction. The circumstances
25 underlying the conviction are that on or about May 13, 2006, Respondent was involved in a street
26 fight with six others, four males B.D., J.S., C.C.M. and C.S.M. and two females R.H. and L.C.,
27 all ganging up on another male, A.P.

28 e. On or about August 23, 2005, in the criminal matter entitled *The People of the State*

1 of California v. Darin L. Freeman (Super. Ct. Los Angeles County, 2005, No. FLC03519)
2 Respondent was convicted of violating California Penal Code section 32, accessory to a felony, a
3 misdemeanor. The Court placed Respondent on probation for thirty-six months and ordered him
4 to complete twenty days Cal Trans duty. On or about December 9, 2008, the Court dismissed the
5 conviction pursuant to Penal Code section 1203.4. The circumstances underlying the conviction
6 are that on or about July 7, 2005, Respondent committed a "purse snatch" from an elderly female
7 victim by dragging her to the ground, thereby causing swelling to her left hand and abrasions on
8 both arms.

9 **SECOND CAUSE FOR DENIAL OF APPLICATION**

10 **(Dishonesty in Application Documents)**

11 10. Respondent's application is subject to denial under section 480, subdivision (c), in
12 that on or about October 6, 2009, Respondent knowingly made a false statement of fact required
13 to be revealed in his application for licensure by certifying under penalty of perjury to the
14 accuracy of all statements in the application and answering "No" to question No. 6, when in fact,
15 he had sustained five prior convictions, as set forth in full above in paragraph 9, subparagraphs
16 (a) through (e), inclusive, as though set forth fully. Application, question 6, states:

17 Have you ever been convicted of or pled no contest to a violation of any law of a
18 foreign country, the United States or any state laws or local ordinances? You must
19 include all misdemeanor and felony convictions, regardless of the age of the
20 conviction, including those which have been set aside under Penal Code
21 section 1203.4. Traffic violations of \$500 or less need not be reported. **If "yes,"**
attach an explanation including the type of violation, the date, circumstances,
location and the complete penalty received. In addition to this written explanation,
please provide the Board of Pharmacy with **certified copies of all pertinent court**
documents or arrest reports relating to this conviction.

22 **THIRD CAUSE FOR DENIAL OF APPLICATION**

23 **(Acts Involving Dishonesty, Fraud, or Deceit)**

24 11. Respondent's application is subject to denial under section 480, (a)(2), in that
25 Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially
26 benefit himself and / or substantially injure another. Complainant refers to and by this reference
27 incorporates the allegations set forth above in paragraphs 9 and 10, inclusive, as though set forth
28 fully.

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Conduct Warranting License Discipline)**

3 12. Respondent's application is subject to denial under section 480, subdivisions
4 (a)(3)(A)(B), in conjunction with California Code of Regulations, title 16, section 1770, in that
5 Respondent committed substantially related acts which if done by a licensee would be grounds
6 for discipline. Complainant refers to and by this reference incorporates the allegations set forth
7 above in paragraphs 9 and 10, inclusive, as though set forth fully. Respondent violated sections,
8 as follows:

9 a. Sections 490, 4300 and 4301, subdivision (l), on the grounds of unprofessional
10 conduct, in that Respondent sustained criminal convictions.

11 b. Sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in
12 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit , or
13 corruption.

14 c. Sections 4300 and 4301, subdivision (g), on the grounds of unprofessional conduct, in
15 that Respondent knowingly signed his application for licensure falsely represented his criminal
16 conviction history.

17 d. Section 4301, subdivision (h), on the grounds of unprofessional conduct in that
18 Respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious
19 to himself and to the public.

20 e. Section 4301, subdivision (k), on the grounds of unprofessional conduct in that
21 Respondent was convicted of more than one misdemeanor involving the use, consumption, or
22 self-administration of an alcoholic beverage.

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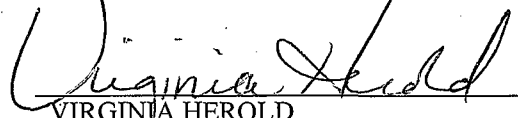
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PRAYER

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 Darin Louis Freeman Jr.'s Pharmacy Technician License Application; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 5/24/12



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

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