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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:
12 **CARLOS MORALES**
13 5495 Cadbury Road
Whittier, CA 90601
14
15 Pharmacy Technician License Application
16 Respondent.

Case No. 4169

STATEMENT OF ISSUES

17
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 (Board).

23 2. On or about September 13, 2010, the Board received a Pharmacy Technician License
24 Application from Carlos Morales (Respondent). On or about September 13, 2010, Carlos
25 Morales, Jr. certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on June 7, 2011.

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JURISDICTION

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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 4. Section 480 states:

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

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

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

16 "(3)

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

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

22 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
23 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
24 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
25 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
26 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
27 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
28 Section 482.

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

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

5 8. Respondent's application is subject to denial under sections 480, subdivisions
6 (a)(1)(2)(3)(A) and (B), in conjunction with California Code of Regulations, title 16, section
7 1770, in that Respondent was convicted of crimes substantially related to the qualifications,
8 functions or duties of a registered pharmacy technician, as follows:

9 a. On or about November 9, 2006, after pleading guilty, Respondent was convicted of
10 one felony count of violating Penal Code section 530.5(a) [identity theft] in the criminal
11 proceeding entitled *The People of the State of California v. Carlos Morales, Jr.* (Super. Ct. Los
12 Angeles County, 2006, No. VA093741). The Court sentenced Respondent to 546 days in jail and
13 placed him on two (2) years probation. The circumstances underlying the conviction occurred on
14 or about September 14, 2005, and Respondent was arrested.

15 b. On or about October 25, 2005, after pleading guilty, Respondent was convicted of
16 one felony count, Count 2, violating Penal Code section 496(a) [receiving stolen property], and
17 two misdemeanor counts, Count 6, violating Penal Code section 148.9(a) [false representation to
18 peace officer], and Count 7, violating Penal Code section 148(a)(1) [resist and obstruct officer] in
19 the criminal proceeding entitled *The People of the State of California v. Carlos Morales Jr.*
20 (Super. Ct. Orange County, 2005, No. 05CF2975FA). The Court sentenced Respondent to two
21 (2) years in prison. The circumstances occurred on or about September 15, 2005, and Respondent
22 was arrested.

23 c. On or about December 2, 2004, after pleading guilty, Respondent was convicted of
24 one felony count of violating Penal Code section 529 [false personation of another] in the
25 criminal proceeding entitled *The People of the State of California v. Carlos Morales* (Super. Ct.
26 Los Angeles County, 2004, No. VA085980). The Court sentenced Respondent to 16 months in
27 prison. The circumstances underlying the conviction occurred on or about November 6, 2004,
28 and Respondent was arrested.

1 d. On or about November 4, 2003, after pleading guilty, Respondent was convicted of
2 three felony counts, Count 1, for violating Penal Code section 664-487(a) [attempted grand theft
3 of personal property from Ben Bridge Jewelers], Count 4, for violating Penal Code section
4 530.5(a) [identity theft], and Count 5, for violating Penal Code section 459 [second degree
5 commercial burglary] in the criminal proceeding entitled *The People of the State of California v.*
6 *Carlos Morales Jr.* (Super. Ct. Los Angeles County, 2003, No. VA078979). The Court sentenced
7 Respondent to 16 months in prison. The circumstances underlying the conviction occurred on or
8 about July 12, 2003, and Respondent was arrested.

9 e. On or about June 12, 2002, after pleading guilty, Respondent was convicted of one
10 felony count of violating Penal Code section 496(a) [receiving stolen property] in the criminal
11 proceeding entitled *The People of the State of California v. Carlos Morales Jr.* (Super. Ct. Los
12 Angeles County, 2002, No. VA069807). The court sentenced Respondent to two (2) years in
13 prison. The circumstances underlying the conviction occurred on or about February 23, 2002,
14 and Respondent was arrested.

15 f. On or about September 28, 1999, after pleading guilty, Respondent was convicted of
16 one felony count of violating Health and Safety Code section 11370.1(a) [possession of a
17 controlled substance with a firearm] in the criminal proceeding entitled *The People of the State of*
18 *California v. Carlos Morales Jr.* (Super. Ct. Los Angeles County, 1999, No. VA055105). The
19 Court sentenced Respondent to two (2) years in prison, and ordered him to register as a narcotic
20 offender. The circumstances underlying the conviction occurred on or about July 19, 1999, and
21 Respondent was arrested.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Dishonesty in Application Documents)**

24 9. Respondent's application is subject to denial under section 480, subdivision (c), in
25 that on or about September 13, 2010, Respondent knowingly made a false statement of fact
26 required to be revealed in his application for licensure by answering "No" to question No. 6. On
27 or about February 3, 2011, after a Board request, Respondent replied with a written explanation

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1 for his criminal history, and failed to provide the board with pertinent court documents or arrest
2 reports. Question 6¹ asks:

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

13 **THIRD CAUSE FOR DENIAL OF APPLICATION**

14 **(Unprofessional Conduct)**

15 10. Respondent's application is subject to denial under sections 4300, subdivision (c), and
16 4301, subdivisions (f), (g) and / or (l), in that Respondent committed acts of unprofessional
17 conduct. Complainant refers to and by this reference incorporates the allegations set forth above
18 in paragraphs 8 and 9, inclusive, as though set forth fully.

19 **PRAYER**

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

- 22 1. Denying Carlos Morales' Pharmacy Technician License Application; and

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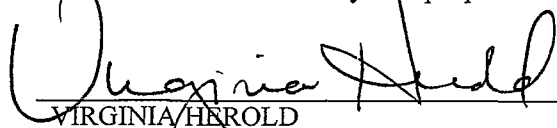
27 _____
28 ¹ Quoted parts of the application include original bolded text.

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

DATED:

2/22/12



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

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