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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 **DAVID TAM LA**
13 **9320 Landsdowne Drive**
14 **Stockton, CA 95210**
15 **Pharmacy Technician License Applicant**
Respondent.

Case No. 4226
STATEMENT OF ISSUES

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about July 19, 2011, the Board of Pharmacy, Department of Consumer Affairs
21 received an application for a Pharmacy Technician License from David Tam La (Respondent).
22 On or about July 12, 2011, David Tam La certified under penalty of perjury to the truthfulness of
23 all statements, answers, and representations in the application. The Board denied the application
24 on December 15, 2011.

25 JURISDICTION

26 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 480 of the Business and Professions Code provides, in pertinent part, that a
2 board may deny a license if the applicant has been convicted of a crime substantially related to
3 the qualifications, functions or duties of the business or profession for which application is made,
4 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
5 by a licentiate would be grounds for suspension or revocation of a license, or has knowingly made
6 a false statement of fact required to be revealed in the application.

7 5. Section 4300 of the Code states in pertinent part:

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

12 6. Section 4301 of the Code states in pertinent part:

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

17 "(f) of the Business and Professions Code provides, in pertinent part, that
18 a board may discipline a license if the licentiate has committed any act
19 involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the
20 act is committed in the course of relations as a licensee or otherwise, and
21 whether the act is a felony or misdemeanor or not.

22 "(l) The conviction of a crime substantially related to the
23 qualifications, functions, and duties of a licensee under this chapter. The
24 record of conviction of a violation of Chapter 13 (commencing with
25 Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating
27 controlled substances or dangerous drugs shall be conclusive evidence of
28 unprofessional conduct. In all other cases, the record of conviction shall

1 be conclusive evidence only of the fact that the conviction occurred. The
2 board may inquire into the circumstances surrounding the commission of
3 the crime, in order to fix the degree of discipline or, in the case of a
4 conviction not involving controlled substances or dangerous drugs, to
5 determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A
7 plea or verdict of guilty or a conviction following a plea of nolo
8 contendere is deemed to be a conviction within the meaning of this
9 provision.”

10 DRUGS

11 7. Marijuana is a Schedule I controlled substance as designated by Health and Safety
12 Code section 11054(d)(13).

13 FIRST CAUSE FOR DENIAL OF APPLICATION

14 (Conviction of Crime)

15 8. Respondent's application is subject to denial under section 480 subdivision (a)(1), and
16 section 4300, subdivision (c) as it interacts with section 4301, subdivision (l), in that on or about
17 October 21, 2011, in a criminal proceeding entitled People v. Tam Nancy La, William La,
18 Richard Minh La and David Charles La, in Santa Clara County Superior Court, Case Number
19 CC959080, Respondent was convicted by plea of nolo contendere of violating Penal Code section
20 32 (accessory to a felony), a misdemeanor. The circumstances are as follows:

21 a. During the months of September and October 2009, law enforcement observed
22 Tam and William La, along with their sons Richard and David, entering and leaving three
23 locations in Stockton and Saratoga, California. A search of these premises on or about October
24 22, 2009, revealed approximately 1,138 marijuana plants, 2 pounds of processed marijuana, and a
25 large amount of equipment being used in the cultivation of marijuana. They also observed that
26 power was being diverted from the P G & E system to one of the premises. As a result,
27 Respondent, his brother Richard, and his parents, Tam Nancy La and William La, were arrested.

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