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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
12 Against:
13 **JAMILA ZAKIYA KILLINGSWORTH**
14 **Pharmacy Technician Registration**
15 **Applicant**
16 Respondent.

Case No. 4288
STATEMENT OF ISSUES

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 2. On or about July 6, 2011, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacy Technician Registration from Jamila Zakiya
23 Killingsworth (Respondent). On or about June 22, 2011, Jamila Zakiya Killingsworth certified
24 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on December 12, 2011.
- 26 3. In a disciplinary action entitled "*In the Matter of the Accusation Against Jamila*
27 *Killingsworth,*" Case No. 3113, the Board of Pharmacy (Board) issued a decision, effective May
28

1 9, 2008, in which Respondent's Pharmacy Technician License was voluntarily surrendered. A
2 copy of that decision is attached as Exhibit A and is incorporated by reference.

3 JURISDICTION

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

7 5. Section 4300 of the Code states:

8 ...

9 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
10 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
11 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
12 may issue the license subject to any terms or conditions not contrary to public policy, including,
13 but not limited to, the following:

14 "(1) Medical or psychiatric evaluation.

15 "(2) Continuing medical or psychiatric treatment.

16 "(3) Restriction of type or circumstances of practice.

17 "(4) Continuing participation in a board approved rehabilitation program.

18 "(5) Abstention from the use of alcohol or drugs.

19 "(6) Random fluid testing for alcohol or drugs.

20 "(7) Compliance with laws and regulations governing the practice of pharmacy."

21 STATUTORY/REGULATORY PROVISIONS

22 6. Section 4301 of the Code states:

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

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

26 ...

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

4 ...

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

10 ...

11 "(j) The violation of any of the statutes of this state, or any other state, or of the United
12 States regulating controlled substances and dangerous drugs.

13 ...

14 "(l) The conviction of a crime substantially related to the qualifications, functions, and
15 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
17 substances or of a violation of the statutes of this state regulating controlled substances or
18 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
19 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
20 The board may inquire into the circumstances surrounding the commission of the crime, in order
21 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
22 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
23 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
24 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
25 of this provision. The board may take action when the time for appeal has elapsed, or the
26 judgment of conviction has been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
28 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.

3 ...

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

8 "(p) Actions or conduct that would have warranted denial of a license."

9 7. Section 480 of the Code states:

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

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

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

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

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

25 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
26 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
27 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
28 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has

1 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
2 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
3 Section 482.”

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

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. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
12 drug or dangerous device except upon the prescription of an authorized prescriber.

13 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
14 controlled substance, except that furnished upon a valid prescription/drug order.

15 11. Health and Safety Code section 11170 provides that no person shall prescribe,
16 administer, or furnish a controlled substance for himself or herself.

17 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
18 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
19 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
20 or subterfuge; or (2) by the concealment of a material fact.

21 13. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any
22 person to possess marijuana or concentrated cannabis.

23 14. Health and Safety Code section 11359 makes it unlawful for any person to possess
24 marijuana for sale.

25 15. Health and Safety Code section 11360, in pertinent part, makes it unlawful for any
26 person to transport, import into this state, sell, furnish, administer, give away, to offer to
27 transport, import into this state, sell, furnish, administer, or give away, or to attempt to import into
28 this state or transport, any marijuana.

1 DRUGS

2 16. Marijuana is a hallucinogenic drug. It is a Schedule I controlled substance as
3 designated by Health and Safety Code section 11054, subdivision (d)(13), and a dangerous drug
4 as designated by Business and Professions Code section 4022.

5 FIRST CAUSE FOR DENIAL OF APPLICATION

6 (Conviction of Substantially Related Crimes)

7 17. Respondent's application for licensure as a pharmacy technician is subject to denial
8 under Code section 480, subdivision (a)(1) in that she was convicted of crimes substantially
9 related to the qualifications, functions, or duties of a pharmacy technician, as follows:

10 A. On or about June 12, 2006, in the Superior Court of California, Solano County, Case
11 No. FCR227049, entitled *People v. Jamila Z. Killingsworth*, Respondent was convicted by plea of
12 nolo contendere of: (1) violating Health and Safety Code section 11360, subdivision (b)
13 (transporting marijuana for sale), a misdemeanor; and (2) violating Vehicle Code section 23103.5
14 (reckless driving), a misdemeanor. Respondent was placed on probation for a period of three
15 years on terms and conditions including 30 days in county jail with two days credit for time
16 served, fines and fees, search and seizure conditions, alcohol testing upon demand, alcohol
17 education, and abstention.

18 The factual circumstances surrounding the crimes are that on or about August 29, 2005,
19 Respondent was stopped by a Suisun City Police Officer for driving a vehicle at an unsafe speed
20 above the speed limit. During the traffic stop, in response to questioning by the officer,
21 Respondent revealed that she was in possession of 22 baggies containing marijuana. Respondent
22 admitted to purchasing marijuana at a cannabis club for her own personal use and to sell to
23 friends and associates. Respondent also admitted to consuming three beers prior to driving.

24 SECOND CAUSE FOR DENIAL OF APPLICATION

25 (Unprofessional Conduct – Acts involving Moral Turpitude, Dishonesty, Fraud,
26 Deceit or Corruption)

27 18. Respondent's application for licensure as a pharmacy technician is subject to denial
28 under Code sections 4301, subdivision (f) and 480, subdivision (a)(2), in that Respondent

1 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in
2 paragraph 17, above.

3 THIRD CAUSE FOR DENIAL OF APPLICATION

4 (Unprofessional Conduct Unlawful Self-Administration of Controlled Substance)

5 19. Respondent's application for licensure as a pharmacy technician is subject to denial
6 under Code sections 4301, subdivisions (h), (j), and (o), and 480, subdivision (a)(3), and/or
7 Health and Safety Code section 11170, in that Respondent unlawfully furnished and/or
8 administered marijuana to herself, as set forth in paragraph 17, above.

9 FOURTH CAUSE FOR DENIAL OF APPLICATION

10 (Unprofessional Conduct - Unlawful Furnishing of Dangerous Drug)

11 20. Respondent's application for licensure as a pharmacy technician is subject to denial
12 under Code sections 4301, subdivisions (j), and (o) and 4059, in that Respondent unlawfully
13 furnished and/or conspired to furnish, and/or assisted in or abetted the furnishing of marijuana to
14 friends and/or associates, as set forth in paragraph 17, above.

15 FIFTH CAUSE FOR DENIAL OF APPLICATION

16 (Unprofessional Conduct - Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

17 21. Respondent's application for licensure as a pharmacy technician is subject to denial
18 under Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11173,
19 subdivision (a), in that Respondent unlawfully obtained marijuana by fraud, deceit,
20 misrepresentation, subterfuge, or concealment of material facts, as set forth in paragraph 17,
21 above.

22 SIXTH CAUSE FOR DENIAL OF APPLICATION

23 (Unprofessional Conduct - Unlawful Possession of Controlled Substance)

24 22. Respondent's application for licensure as a pharmacy technician is subject to denial
25 under Code sections 4301, subdivisions (j) and (o) and 4060, and Health and Safety Code section
26 11357, in that Respondent unlawfully possessed, conspired to possess, and/or assisted in or
27 abetted the possession of marijuana, as set forth in paragraph 17, above.

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SEVENTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct - Unlawful Possession for Sale of Controlled Substance)

23. Respondent's application for licensure as a pharmacy technician is subject to denial under Code section 4301, subdivisions (j) and/or (o) and Health and Safety Code section 11359, in that Respondent unlawfully possessed, conspired to possess, and/or assisted in or abetted the possession for sale of marijuana, as set forth in paragraph 17, above.

EIGHTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct - Unlawful Transport of Controlled Substance)

24. Respondent's application for licensure as a pharmacy technician is subject to denial under Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11360, in that Respondent unlawfully transported, conspired to transport, and/or assisted in or abetted the transportation of marijuana, as set forth in paragraph 17, above.

NINTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct - Unprofessional Conduct)

25. Respondent's application for licensure as a pharmacy technician is subject to denial under Code section 4300, in that Respondent engaged in unprofessional conduct not becoming the profession of pharmacy, as set forth in paragraph 17, above.

TENTH CAUSE FOR DENIAL OF APPLICATION

(Conduct Warranting Denial of License)

26. Respondent's application for licensure as a pharmacy technician is subject to denial under Code section 4301, subdivision (p), in that Respondent engaged in conduct that would have warranted denial of a license, as described in paragraph 17, above.

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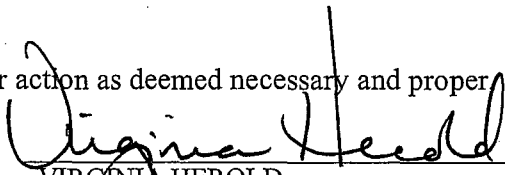
PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged here,
and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Jamila Zakiya Killingsworth for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper

DATED:

6/13/12



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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 3113

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JAMILA KILLINGSWORTH
2807 Roosevelt Avenue
Richmond, CA 94804

Pharmacy Technician
Registration No. TCH 50820

Respondent.

Case No. 3113

OAH No. N2007120567

DECISION AND ORDER

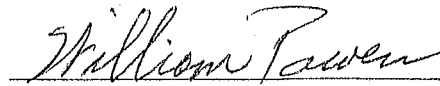
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 9, 2008.

It is so ORDERED April 10, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS

Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1299
Facsimile: (415) 703-5480

6 Attorneys for Complainant
7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 JAMILA KILLINGSWORTH
2807 Roosevelt Avenue
12 Richmond, CA 94804

13 Pharmacy Technician
14 Registration No. TCH 50820

15 Respondent.

Case No. 3113

OAH No. N2007120567

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 In the interest of a prompt and speedy resolution of this matter, consistent with the
17 public interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
19 submitted to the Board for approval and adoption as the final disposition of the Accusation.
20

21 PARTIES

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
23 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Joshua A.
25 Room, Deputy Attorney General.

26 2. Jamila Killingsworth (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

28 ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 First Amended Accusation No. 3113, agrees cause exists for discipline and hereby surrenders her
4 Pharmacy Technician Registration No. TCH 50820 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the
6 Board to issue an order accepting the surrender of her Registration without further process.

7
8 10. This stipulation shall be subject to approval by the Board of Pharmacy.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board may
10 communicate directly with the Board regarding this stipulation and surrender, without notice to
11 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
12 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
13 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
14 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for
15 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
16 shall not be disqualified from further action by having considered this matter.

17
18 OTHER MATTERS

19 11. The parties understand and agree that facsimile copies of this Stipulated
20 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
21 and effect as the originals.

22 12. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Board may, without further notice or formal proceeding, issue and enter the
24 following Order:

25 ORDER

26 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH
27 50820, issued to Respondent Jamila Z. Killingsworth (Respondent), is surrendered and accepted
28 by the Board of Pharmacy.

1 13. The surrender of Respondent's Pharmacy Technician Registration and the
2 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a
4 part of Respondent's license history with the Board.

5 14. Respondent shall lose all rights and privileges as a Pharmacy Technician
6 in California as of the effective date of the Board's Decision and Order.

7 15. Respondent shall cause to be delivered to the Board her License, wall and
8 pocket license certificate(s), on or before the effective date of the Decision and Order.

9 16. Respondent may not apply, reapply, or petition for any licensure or
10 registration of the Board for three (3) years from the effective date of the Decision and Order.

11 17. Respondent understands and agrees that if she ever applies for licensure or
12 petitions for reinstatement in the State of California, the Board shall treat it as a new application
13 for licensure. Respondent must comply with all laws, regulations and procedures for licensure in
14 effect at the time an application or petition is filed, and all the charges and allegations contained
15 in First Amended Accusation No. 3113 shall be deemed to be true, correct and admitted by
16 Respondent when the Board determines whether to grant or deny the application or petition.

17 18. Should Respondent ever apply or reapply for a new license or certification,
18 or petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in First Amended Accusation No. 3113
20 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
21 of Issues or any other proceeding seeking to deny or restrict licensure.

22 19. Respondent shall pay the Board its costs of investigation and enforcement
23 in the amount of \$3,000.00 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2-21-08



JAMILA KILLINGSWORTH
Respondent


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 2/25/08

EDMUND G. BROWN JR., Attorney General
of the State of California

FRANK H. PACOE
Supervising Deputy Attorney General



JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

Exhibit A

First Amended Accusation No. 3113

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 JAMILA Z. KILLINGSWORTH
1424 Contra Costa Avenue
13 San Pablo, CA 94806
14 Pharmacy Technician
Registration No. TCH 50820

Respondent.

Case No. 3113

OAH No. N2007120567

FIRST AMENDED ACCUSATION

17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about October 1, 2003, the Board of Pharmacy issued Pharmacy
22 Technician Registration Number TCH 50820 to Jamila Z. Killingsworth (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on November 30, 2008, unless renewed.

25 JURISDICTION

- 26 3. This Accusation 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 4011 of the Code provides that the Board shall administer and
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the
5 Board may be suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license
10 that is not renewed within three years following its expiration may not be renewed, restored, or
11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section
12 4402(e) of the Code provides that any other license issued by the Board may be canceled by the
13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion
14 may not be reissued but will instead require a new application to seek reissuance.

15 STATUTORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
17 take action against any holder of a license who is guilty of "unprofessional conduct," defined to
18 include, but not be limited to, any of the following:

19 ...
20 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
21 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
22 otherwise, and 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
25 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
26 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
27 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
28 the public the practice authorized by the license.

1
2 “(j) The violation of any of the statutes of this state or of the United States
3 regulating controlled substances and dangerous drugs.

4
5 “(l) The conviction of a crime substantially related to the qualifications, functions,
6 and duties of a licensee under this chapter. . . .

7
8 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
9 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
10 applicable federal and state laws and regulations governing pharmacy, including regulations
11 established by the board.

12 8. California Code of Regulations, title 16, section 1770, provides that a
13 crime or act shall be considered substantially related to the qualifications, functions or duties of a
14 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
15 licensee or registrant to perform the functions authorized by his license or registration in a
16 manner consistent with the public health, safety, or welfare.

17 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
18 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

19 10. Section 4060 of the Code provides, in pertinent part, that no person shall
20 possess any controlled substance, except that furnished upon a valid prescription/drug order.

21 11. Health and Safety Code section 11170 provides that no person shall
22 prescribe, administer, or furnish a controlled substance for himself or herself.

23 12. Health and Safety Code section 11173, subdivision (a), provides that no
24 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
25 the administration of or prescription for controlled substances, (1) by fraud, deceit,
26 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

27 13. Health and Safety Code section 11357, in pertinent part, makes it unlawful
28 for any person to possess **marijuana** or concentrated cannabis.

1 14. Health and Safety Code section 11359 makes it unlawful for any person to
2 possess **marijuana** for sale.

3 15. Health and Safety Code section 11360, in pertinent part, makes it unlawful
4 for any person to transport, import into this state, sell, furnish, administer, give away, to offer to
5 transport, import into this state, sell, furnish, administer, or give away, or to attempt to import
6 into this state or transport, any **marijuana**.

7 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

8 16. Section 4021 of the Code states:
9 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
10 with Section 11053) of Division 10 of the Health and Safety Code.”

11 17. Section 4022 of the Code states, in pertinent part:
12 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
13 self-use, except veterinary drugs that are labeled as such, and includes the following:

14 (a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
15 without prescription,’ ‘Rx only,’ or words of similar import.

16 ...
17 (c) Any other drug or device that by federal or state law can be lawfully
18 dispensed only on prescription or furnished pursuant to Section 4006.”

19 18. **Marijuana** is a Schedule I controlled substance as designated by Health
20 and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and
21 Professions Code section 4022. It is a hallucinogenic drug.

22 COST RECOVERY

23 19. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licentiate found to have committed a violation of
25 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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1 FACTUAL BACKGROUND

2 20. On or about August 29, 2005, Respondent was driving her automobile and
3 was stopped by Suisun City Police for driving at an unsafe speed/above the speed limit. During
4 the traffic stop, in response to questioning by the officer(s), Respondent revealed that she was in
5 possession of 22 baggies of **marijuana** located under the driver's seat of the vehicle.

6 21. After a police search of the vehicle found a larger plastic bag containing
7 22 smaller plastic baggies containing approximately 17 grams of what was later confirmed to be
8 **marijuana**, Respondent explained to the officer(s): that she had purchased the **marijuana** at a
9 cannabis club in Berkeley using a medical marijuana (cannabis club) card; that every so often she
10 would purchase approximately an ounce of **marijuana** from the club to sell to friends/associates;
11 that she did so using her medical marijuana card and the club did not know about her resales; that
12 she sold the **marijuana** as a side job in order to supplement her income; and that she smoked the
13 **marijuana** herself on an occasional basis, up to approximately once per week.

14 22. Respondent also admitted to earlier consumption of three (3) beers. After
15 Respondent failed a field sobriety test, she was placed under arrest on suspicion of driving under
16 the influence (Vehicle Code, § 23152, subd. (a)), a misdemeanor, possessing **marijuana** for sale
17 (Health and Safety Code, § 11359), a felony, transporting **marijuana** for sale (Health and Safety
18 Code, § 11360, subd. (a)), a felony, and unsafe speed (Vehicle Code, § 22350), an infraction.

19
20 FIRST CAUSE FOR DISCIPLINE

21 (Conviction of Substantially Related Crime)

22 23. Respondent is subject to discipline under section 4301(l) of the Code by
23 reference to California Code of Regulations, title 16, section 1770, in that on or about June 12,
24 2006, in a criminal case titled *People v. Jamila Z. Killingsworth*, Case No. FCR227049 in Solano
25 County Superior Court, Respondent was convicted by plea of *nolo contendere* of: (1) violating
26 Health and Safety Code section 11360, subdivision (b) [transporting **marijuana** for sale], a
27 misdemeanor; and (2) violating Vehicle Code section 23103.5 [reckless driving], a misdemeanor.
28 The conviction was entered in the Solano County Superior Court as follows:

1 a. Following her arrest on or about August 29, 2005, described in paragraphs
2 20-22 above, on or about September 16, 2005 Respondent was charged by Felony Complaint in
3 Solano County Superior Court, Case No. FCR227049, with: (1) violating Health and Safety Code
4 section 11359 [possession of **marijuana** for sale], a felony; (2) violating Health and Safety Code
5 section 11360, subdivision (b) [transportation of not more than 28.5 grams of **marijuana** other
6 than concentrated cannabis], a misdemeanor; and (3) violating Vehicle Code section 23152,
7 subdivision (a) [driving under the influence of alcohol or drugs], a misdemeanor;

8 b. On or about June 12, 2006, the Complaint was amended on motion of the
9 District Attorney to add a fourth count, for (4) violating Vehicle Code section 23103.5 [reckless
10 driving], a misdemeanor. On that same date, Respondent pleaded *nolo contendere* to counts (2)
11 and (4), both misdemeanors. Counts (1) and (3) were dismissed pursuant to the plea.

12 c. On or about June 12, 2006, based on her *nolo contendere* plea the Superior
13 Court found Respondent guilty, accepted her plea as free and voluntary, and found a factual basis
14 for the plea and waiver of rights. Imposition of sentence was suspended and Respondent was
15 placed on summary probation for a period of three (3) years on terms and conditions including 30
16 days in county jail (or alternative monitoring) with 2 days credit for time served, fines and fees,
17 search and seizure conditions, alcohol testing upon demand, alcohol education, and abstention.

18 SECOND CAUSE FOR DISCIPLINE

19 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

20 24. Respondent is subject to discipline under section 4301(f) of the Code in
21 that, as described in paragraphs 20-23 above, Respondent committed acts involving moral
22 turpitude, dishonesty, fraud, deceit, or corruption.

23 THIRD CAUSE FOR DISCIPLINE

24 (Unlawful Self-Administration of Controlled Substance)

25 25. Respondent is subject to discipline under section 4301(h), (j), and/or (o) of
26 the Code, section 4059 of the Code, and/or Health and Safety Code section 11170, in that
27 Respondent, as described in paragraphs 20-23 above, unlawfully furnished and/or administered
28 to herself unknown quantities of **marijuana**, a controlled substance and dangerous drug.

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FOURTH CAUSE FOR DISCIPLINE

(Unlawful Furnishing of Dangerous Drug)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or section 4059 of the Code, in that Respondent, as described in paragraphs 20-23 above, unlawfully furnished and/or conspired to furnish, and/or assisted in or abetted the furnishing of unknown quantities of **marijuana**, a controlled substance and dangerous drug.

FIFTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 18-22 above, obtained unknown quantities of **marijuana**, a controlled substance, by fraud, deceit, misrepresentation, subterfuge, or concealment of material fact.

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

28. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, section 4060 of the Code, and/or Health and Safety Code section 11357, in that Respondent, as described in paragraphs 20-23 above, unlawfully possessed, conspired to possess, and/or assisted in or abetted the possession of unknown quantities of **marijuana**.

SEVENTH CAUSE FOR DISCIPLINE

(Unlawful Possession for Sale of Controlled Substance)

29. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11359, in that Respondent, as described in paragraphs 20-23 above, unlawfully possessed, conspired to possess, and/or assisted in or abetted the possession for sale of unknown quantities of **marijuana**.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Unlawful Transport of Controlled Substance)

3 30. Respondent is subject to discipline under section 4301(j) and/or (o) of the
4 Code, and/or Health and Safety Code section 11360, in that Respondent, as described in
5 paragraphs 20-23 above, unlawfully transported, conspired to transport, and/or assisted in or
6 abetted the transportation of unknown quantities of **marijuana**.

7 NINTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

9 31. Respondent is subject to disciplinary action under section 4301 of the
10 Code in that Respondent, by way of the conduct described in paragraphs 20-30 above, engaged in
11 "unprofessional conduct" not becoming the profession of pharmacy.

12
13 PRAYER

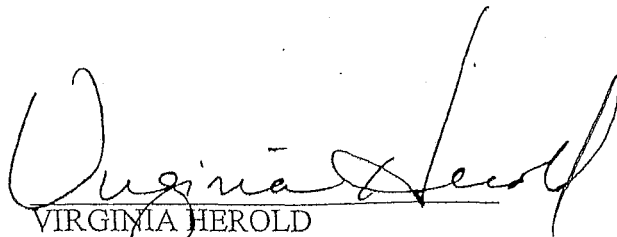
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

16 A. Revoking or suspending Pharmacy Technician Registration Number TCH
17 50820, issued to Jamila Killingsworth (Respondent);

18 B. Ordering Respondent to pay the Board reasonable costs of investigation
19 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

20 C. Taking such other and further action as is deemed necessary and proper.

21 DATED: 1/15/08

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25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant