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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 Statement of Issues
12 Against:

Case No. 4596

13 **ERIC WAYNE WADDLE**

STATEMENT OF ISSUES

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

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

19 2. On or about September 25, 2012, the Board of Pharmacy (Board) received an
20 application for a Pharmacy Technician Registration from Eric Wayne Waddle (Respondent). On
21 or about September 24, 2012, Respondent certified under penalty of perjury to the truthfulness of
22 all statements, answers, and representations in the application. The Board denied the application
23 on January 30, 2013.

24 **JURISDICTION**

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

28 ///

1 **STATUTORY PROVISIONS**

2 4. Section 480 states, in pertinent part:

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

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

11 ...

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

14

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

22

23 **REGULATORY PROVISIONS**

24 6. California Code of Regulations, title 16, section 1770 states, in pertinent part:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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 **(Conviction of a Crime)**

5 7. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
6 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
7 convicted of a crime that, to a substantial degree, evidenced a present or potential unfitness to
8 perform the functions of a licensed pharmacy technician in a manner consistent with the public
9 health, safety, or welfare, as follows.

10 8. On or about November 25, 2009, in the criminal proceeding entitled *The People of*
11 *the State of California v. Eric Wayne Waddle* (Super. Ct. Kern County, 2009, No. BF129576A),
12 Respondent entered a plea of guilty and was convicted of one felony count of violating Vehicle
13 Code section 2800.2 [operating vehicle with intent to evade peace officer]. Respondent was
14 sentenced to nine (9) months in jail and placed on probation for a period of three (3) years.

15 9. The circumstances surrounding the conviction are that on or about October 1, 2009,
16 Respondent was arrested following a police chase in which a stolen vehicle he was operating
17 crashed through a fence and into a field. The vehicle in question had been "car-jacked" minutes
18 before the police chase and resulting collision. After crashing the stolen vehicle, Respondent
19 attempted to flee on foot but was caught by officers of the Bakersfield Police Department.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(False Statement)**

22 10. Respondent's application is subject to denial under section 480, subdivision (a)(3), in
23 conjunction with section 4301, subdivision (g), in that Respondent knowingly made or signed a
24 document that falsely represented the existence or nonexistence of a state of facts, as follows.

25 11. In conjunction with his application for licensure, Respondent submitted a letter to the
26 Board with the stated purpose of detailing the specific circumstances of the conviction set forth
27 above in paragraphs 7 through 9. In said correspondence, received by the Board on or about
28 December 18, 2012, Respondent falsely represented that he had been a passenger in the stolen

1 vehicle rather than the operator of said vehicle. Complainant refers to, and by this reference
2 incorporates, the allegations set forth above in paragraphs 7 through 9, as though set forth fully
3 herein.

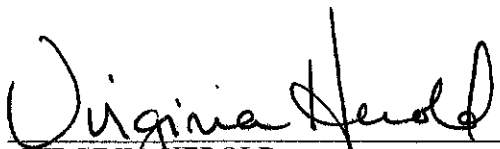
4 **PRAYER**

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 Eric Wayne Waddle for a Pharmacy Technician
8 Registration; and
9 2. Taking such other and further action as deemed necessary and proper.

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DATED: 10/21/13



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

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