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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. 5150

12 **MARCELO MONELA**
13 **aka MARCELO OBIANO MUNILA II**
14 **Applicant for Pharmacy Technician License**
15 Respondent.

STATEMENT OF ISSUES

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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 2. On or about August 2, 2013, the Board of Pharmacy, Department of Consumer
23 Affairs, received an application for registration as a pharmacy technician from Marcelo Monela
24 aka Marcelo Obiano Munila II (Respondent). On or about July 29, 2013, Respondent certified
25 under penalty of perjury the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on January 7, 2014.

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1 c. Article 92 (violation of a lawful general order), in that on various occasions between
2 November 2000 and October 2003, in Okinawa, Japan, Respondent violated a lawful general
3 order by operating a private business from his assigned bachelor enlisted quarters without proper
4 authorization.

5 d. Article 134 in that:

6 i. In or around October 2003, in Okinawa, Japan, Respondent wrongfully
7 endeavored to impede an investigation by influencing the testimony of another individual during
8 an investigation of the case *United States v. Marcelo Monela* by offering that individual the sum
9 of \$3,000 if the individual would testify falsely by accepting full blame for the theft of electronic
10 merchandise stolen by Respondent from the AAFES.

11 ii. Between August and September 2003, in Okinawa, Japan, Respondent wrongfully
12 solicited an individual to receive and conceal stolen electronic merchandise of a value greater
13 than \$500 belonging to the AAFES.

14 iii. On various occasions between March 2000 and October 2003, in Okinawa, Japan,
15 Respondent wrongfully solicited numerous individuals to buy and receive stolen electronic
16 merchandise of a value greater than and less than \$500 belonging to the AAFES by offering to
17 sell those individuals the stolen merchandise at a discounted rate.

18 Respondent was ordered to be confined for six (6) years and ordered to pay a \$50,000 fine.

19 9. On or about December 3, 2007, in a criminal proceeding entitled *People v. Marcelo*
20 *Monela*, Case Number 531357, in Alameda County Superior Court, Respondent was convicted by
21 his plea of nolo contendere of violating Penal Code section 487, subdivision (a) (grand theft of
22 personal property), a felony. Imposition of sentence was suspended and Respondent was ordered
23 to serve three (3) years probation and pay a fine and fees. The circumstances of Respondent's
24 conviction are as follows:

25 a. On seven separate occasions between June 30, 2007, and July 12, 2007, Respondent,
26 while employed at a Target store in Albany, California, engaged in the following conduct:
27 (1) Respondent stole various items from the store; and (2) Respondent took various items from
28 the store and then returned those items for cash using receipts for the same products that

1 Respondent had previously purchased. The total loss to Target as a result of Respondent's theft
2 and fraudulent returns was \$3,932.51.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction of Substantially Related Crime(s))**

5 10. Respondent's application is subject to denial under the following section(s) of the
6 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(f) and
7 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
8 crime or crimes, in that on or about December 9, 2004, and/or on or about December 3, 2007, as
9 described above in paragraphs 8 and 9, Respondent suffered substantially related conviction(s).

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud, and/or Deceit)**

12 11. Respondent's application is subject to denial under the following section(s) of the
13 Code: 480(a)(2); 480(a)(3) by reference to 4301(f); and/or 4300(c) by reference to 4301(f) and
14 California Code of Regulations, title 16, section 1770, in that between March 2000 and October
15 2003, and between June 30, 2007, and July 12, 2007, as described above in paragraphs 8 and 9,
16 Respondent committed acts involving moral turpitude, dishonesty, fraud, and/or deceit.

17 **THIRD CAUSE FOR DENIAL OF APPLICATION**

18 **(Unprofessional Conduct)**

19 12. Respondent's application is subject to denial under the following section(s) of the
20 Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described
21 above in paragraphs 8 and 9, Respondent engaged in unprofessional conduct.

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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 of Pharmacy issue a decision:

1. Denying the application of Marcelo Monela aka Marcelo Obiano Munila II to be a pharmacy technician;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 8/12/14 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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