

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125.  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11  
12  
13 In the Matter of the Statement of Issues Against:

Case No. 5188

14 **DIA VUE**  
15 **aka KATE VUE**

**STATEMENT OF ISSUES**

16 **Applicant for Pharmacy Technician**  
**Registration**

17 Respondent.

18  
19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Statement of Issues solely in her official capacity as the  
22 Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

23 2. On or about July 31, 2013, the Board received a Pharmacy Technician Application  
24 from Dia Vue, also known as Kate Vue ("Respondent"). On or about July 30, 2013, Respondent  
25 certified under penalty of perjury to the truthfulness of all statements, answers, and  
26 representations in the application. The Board denied the application on February 19, 2014.

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1 JURISDICTION

2 3. Pursuant to Business and Professions Code ("Code") section 485(b), on or about  
3 February 19, 2014, Respondent's application was denied and she was notified of the right to a  
4 hearing to appeal the denial.

5 4. On or about April 3, 2014, Respondent requested a hearing to appeal the denial of her  
6 application.

7 STATUTORY PROVISIONS

8 5. Business and Professions Code ("Code") section 4300 states, in pertinent part:

9 (c) The board may refuse a license to any applicant guilty of unprofessional  
10 conduct.

11 6. Code section 4301 states, in pertinent part:

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

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

17 . . . .

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

21 . . . .

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

1 7. Code section 480 states, in pertinent part:

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

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

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

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

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

### 18 FIRST CAUSE FOR DENIAL OF APPLICATION

#### 19 (Conviction of Crimes)

20 8. Respondent's application is subject to denial under Code section 480(a)(1), in that she  
21 was convicted of the following crimes that are substantially related to the qualifications, functions  
22 or duties of a pharmacy technician:

23 a. On or about January 21, 2004, in the case of *People v. Dia Vue, aka Katie Vue*,  
24 (Super. Ct. Santa Clara County, 2004, Case No. CC269682), Respondent was convicted by the  
25 Court on her plea of nolo contendere of violating Penal Code section 487(b)(3) (grant theft by  
26 employee, agent or servant), a felony. The circumstances of the crime were that between  
27 December 1, 2000, and March 26, 2001, Respondent took a check made payable to her employer  
28 in the amount of \$15,000, altered the check by making it payable to herself, and deposited it into  
her personal bank account.

a. On or about January 26, 2011, in the case of *People v. Dia Vue, aka Katie Vue*,  
(Super. Ct. Sacramento County, 2010, Case No. 10M07621), Respondent was convicted by the  
Court on her plea of nolo contendere of violating Penal Code section 484e(d) (used account data  
without consent), a misdemeanor. The circumstances of the crime were that on or about

1 November 12, 2010, Respondent stole a co-worker's purse and used the co-worker's credit card  
2 located inside the purse to purchase items by signing the card owner's name.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Dishonesty, Fraud or Deceit)**

5 9. Respondent's application is subject to denial under Code section 480(a)(2), in that  
6 Respondent committed acts involving dishonesty, fraud or deceit with the intent to substantially  
7 benefit herself, as more particularly set forth above in paragraph 8.

8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(Committed Acts Which If Done By A Licentiate)**

10 10. Respondent's application is subject to denial under Code section 480(a)(3)(A), in that  
11 she committed acts which if done by a licentiate of the profession would constitute grounds for  
12 discipline under Code section 4301(l) (conviction of a crime). The conduct described above in  
13 paragraph 8 would also constitute grounds for discipline under Code section 4301(f) (commission  
14 of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption).

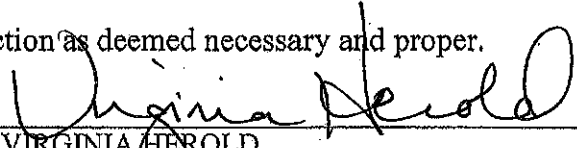
15 **PRAYER**

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

18 1. Denying the application of Dia Vue, also known as Kate Vue for a Pharmacy  
19 Technician Registration; and,

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

21 DATED: 6/14/14

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

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