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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:

Case No. 5280

12 **JAMES POON**

**STATEMENT OF ISSUES**

13 **Pharmacist License Applicant**

14 Respondent.

15  
16  
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 May 19, 2014, the Board of Pharmacy, Department of Consumer Affairs  
22 received an application for a Pharmacist License from James Poon ("Respondent"). On or about  
23 April 22, 2014, James Poon certified under penalty of perjury to the truthfulness of all statements,  
24 answers, and representations in the application. The Board denied the application on June 24,  
25 2014.

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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           7.     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   FIRST CAUSE FOR DENIAL OF APPLICATION

12   (Commission of Dishonest Act)

13   (Bus. & Prof. Code, § 480, subd. (a)(2))

14           8.     Respondent’s application is subject to denial because he committed an act involving  
15 dishonesty, fraud, or deceit with the intent to substantially benefit himself or another. (Bus. &  
16 Prof. Code, § 480, subd. (a)(2).) The circumstances are as follows:

17           9.     On or about May 16, 2011, in a matter entitled “*In the Matter of the Statement of*  
18 *Issues Against James Poon*,” Case No. 3843, the Board entered a Decision and Order, effective  
19 June 1, 2011, issuing Respondent a Pharmacy Intern license, then immediately revoking that  
20 license. That Decision and Order are fully incorporated by reference.

21           10.    The revocation of Respondent’s Pharmacy Intern license was stayed subject to  
22 Respondent’s successful completion of four years of probation under numerous terms and  
23 conditions. Among the conditions of Respondent’s probation was Condition 15, which required  
24 Respondent to enroll in the Pharmacists Recovery Program (“PRP”), successfully participate in  
25 the program, and complete the treatment contract and any subsequent addendums as  
26 recommended by the PRP and approved by the Board.

27           11.    On or about April 18, 2014, in a matter entitled “*In the Matter of Petition for Early*  
28 *Termination of Probation of James Poon*” (“Petition”), Case No. 3843, the Board issued a

1 Decision granting Respondent's Petition and fully restoring his Pharmacist Intern license. The  
2 Decision is fully incorporated by reference.

3 12. On or about March 18, 2014, a quorum of the Board and Administrative Law Judge  
4 Jonathan Lew of the Office of Administrative Hearings heard Respondent's Petition. Supervising  
5 Deputy Attorney General Joshua A. Room also appeared pursuant to Government Code section  
6 11522. Respondent appeared on his own behalf and testified under oath. Respondent represented  
7 to the Board that he was willing to complete the PRP and continue with his AA program even if  
8 his probation were terminated. The Board found that Respondent demonstrated that he could be  
9 reinstated to the practice of pharmacy without risk to the public, however in making that  
10 determination and granting Respondent's Petition, the Board took into consideration and relied  
11 upon Respondent's representation that he is dedicated to his sobriety and that he intended to  
12 complete the PRP through transition. Despite Respondent's representations while under oath at  
13 the hearing, after the Board granted Respondent's Petition on April 18, 2014, Respondent  
14 withdrew from and did not complete the PRP.

15 SECOND CAUSE FOR DENIAL OF APPLICATION

16 (Commission of Any Act Involving Dishonesty, Fraud, or Deceit)  
17 (Bus. & Prof. Code, §§ 480, subd. (a)(3), 4301, subd. (f))

18 13. Respondent's application is subject to denial because he committed an act that, if  
19 done by a licentiate of the business or profession in question, would be grounds for suspension or  
20 revocation of his license. (Bus. & Prof. Code, § 480, subd. (a)(3).) Specifically, Respondent  
21 committed an act involving dishonesty, fraud, or deceit, which is substantially related to the  
22 qualifications, functions, or duties of a licensee. (Bus. & Prof. Code, § 4301, subd. (f), Cal. Code  
23 Regs., tit. 16, § 1770.) The circumstances are set forth in paragraphs 8 through 11, above.

24 DISCIPLINARY CONSIDERATIONS

25 14. Complainant alleges, by way of aggravation of any penalty to be imposed in this  
26 matter, that on or about April 30, 2006, Respondent was involved in a traffic collision which  
27 caused bodily injuries to his passengers. Respondent was arrested for, and later convicted of,  
28 driving while under the influence of an alcoholic beverage. These actions led to the June 29,

1 2010 denial of Respondent's August 3, 2009 application for a Pharmacy Intern License, and also  
2 led to the subsequent Statement of Issues filed against Respondent on January 27, 2011.

3 15. In addition, complainant alleges, by way of aggravation of any penalty to be imposed  
4 in this matter, that on or about February 28, 2010, Respondent was arrested for, and later  
5 convicted of, driving while under the influence of an alcoholic beverage. These actions led to the  
6 June 29, 2010 denial of Respondent's August 3, 2009 application for a Pharmacy Intern License,  
7 and also led to the subsequent Statement of Issues filed against Respondent on January 27, 2011.

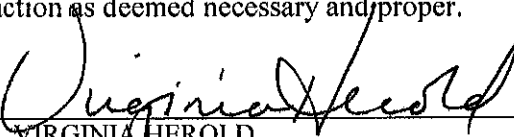
8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
10 Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:

- 11 1. Denying the application of James Poon for a Pharmacist License;  
12 2. Taking such other and further action as deemed necessary and proper.

13 DATED: \_\_\_\_\_

14 12/5/14

  
15 VIRGINIA HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

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