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Attorneys for Complainant

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

11 In the Matter of the Statement of Issues Against:
12
13 **ERICA JOHNSON**
14 **Pharmacy Technician Registration Applicant**
15
Respondent.

Case No. 5510

**FIRST AMENDED STATEMENT OF
ISSUES**

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this First Amended Statement of Issues
20 solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of
21 Consumer Affairs.

22 2. On July 14, 2014, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a Pharmacy Technician Registration from Erica Johnson
24 (Respondent). Erica Johnson certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the undated application. The Board denied the
26 application on April 3, 2015.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (c) of the Code states:

6 The board may refuse a license to any applicant guilty of unprofessional conduct.

7 **STATUTORY PROVISIONS**

8 5. Section 475 of the Code states:

9 (a) Notwithstanding any other provisions of this code, the provisions
10 of this division shall govern the denial of licenses on the grounds of:

11 (1) Knowingly making a false statement of material fact, or
12 knowingly omitting to state a material fact, in an application for a license.

13 (2) Conviction of a crime.

14 (3) Commission of any act involving dishonesty, fraud or deceit
15 with the intent to substantially benefit himself or another, or substantially injure
16 another.

17 (4) Commission of any act which, if done by a licentiate of the
18 business or profession in question, would be grounds for suspension or revocation
19 of license.

20

21 6. Section 480 of the Code states:

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

24 (1) Been convicted of a crime. A conviction within the meaning of
25 this section means a plea or verdict of guilty or a conviction following a plea of
26 *nolo contendere*. Any action that a board is permitted to take following the
27 establishment of a conviction may be taken when the time for appeal has elapsed,
28 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 the provisions of section 1203.4 of the Penal Code.

. . . .

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

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7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under section 480; or
- (b) Considering suspension or revocation of a license under section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

9. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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

....

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

///

1 (k) The conviction of more than one misdemeanor or any felony involving
2 the use, consumption, or self-administration of any dangerous drug or alcoholic
3 beverage, or any combination of those substances.

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

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24 REGULATORY PROVISIONS

25 10. California Code of Regulations, title 16, section 1769 states:

26 (a) When considering the denial of a facility or personal license under
27 section 480 of the Business and Professions Code, the board, in evaluating the
28 rehabilitation of the applicant and his present eligibility for licensing or
registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under
consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or
crime(s) under consideration as grounds for denial under section 480 of the
Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or
crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole,
probation, restitution or any other sanctions lawfully imposed against the
applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

. . . .

1 11. California Code of Regulations, title 16, section 1770 states:

2 For the purpose of denial, suspension, or revocation of a personal or
3 facility license pursuant to Division 1.5 (commencing with section 475) of the
4 Business and Professions Code, a crime or act shall be considered substantially
5 related to the qualifications, functions or duties of a licensee or registrant if to a
6 substantial degree it evidences present or potential unfitness of a licensee or
7 registrant to perform the functions authorized by his license or registration in a
8 manner consistent with the public health, safety, or welfare.

9 **FIRST CAUSE FOR DENIAL OF APPLICATION**

10 **(October 2, 2001 Conviction for Possession of Controlled Substances on August 23, 2001)**

11 12. Respondent's application for a Pharmacy Technician Registration is subject to
12 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
13 that she was convicted of a crime that is substantially related to the qualifications, duties, and
14 functions of a registered pharmacy technician, which would also be a ground for discipline for a
15 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
16 as follows:

17 a. On October 2, 2001, in a criminal proceeding entitled *The People of the*
18 *State of California v. Erica Garcia, aka Erika Garcia*, in Riverside County Superior Court,
19 Southwest Justice Center, Case Number PEF006684, Respondent pled guilty to violating Health
20 and Safety Code section 11350, unlawful possession of controlled substances. A felony charge
21 for violation of Health and Safety Code section 11377, subdivision (a), unlawful possession of
22 methamphetamine, and misdemeanor charges for violation of Health and Safety Code sections
23 11357, subdivision (b), unlawful possession of more than 28.5 grams of marijuana and 11550,
24 subdivision (a), being under the influence of a controlled substance, were dismissed pursuant to a
25 plea bargain.

26 b. As a result of the plea, on October 2, 2001, Respondent was granted
27 deferred entry of judgment for a period not less than 18 months and not to exceed three years
28 pursuant to Penal Code section 1000 and ordered to pay fees. Respondent was also ordered to
enroll in and comply with the Diversion Program, including participating in an appropriate
education, treatment, and counseling program and provide proof of enrollment to the clerk by

1 November 1, 2001 and December 3, 2001. The court deferred entry of judgment until April 2,
2 2003. On July 19, 2002, Respondent was terminated from the Diversion Program for
3 unsatisfactory participation due to poor attendance. On August 20, 2002, the court found
4 Respondent failed to comply with the diversion program, terminated diversion and criminal
5 proceedings were resumed.

6 c. On August 20, 2002, the criminal court found Respondent eligible for the
7 Substance Abuse Program pursuant to Penal Code section 1210.1 (Proposition 36) and ordered
8 her to report to the Riverside County Mental Health Counselor for a treatment plan. The court
9 also granted formal probation for 36 months under certain terms and conditions, including no
10 possession or use of any controlled substances unless medically prescribed. On or about
11 September 19, 2002, the court revoked her probation because Respondent had not enrolled in a
12 substance abuse counseling program. On February 28, 2003, the court revoked her probation for
13 testing positive for the presence of amphetamines and methamphetamines in her system and
14 failing to appear. On April 14, 2003, Respondent was reported non-compliant with her treatment
15 program and was at risk of continuing drug use. On May 13, 2003, Respondent was referred for
16 treatment extension and probation reinstated. On August 1, 2003, Respondent was arrested as
17 detailed in paragraph 13, below. On August 7, 2003, the Court found Respondent “unamenable”
18 to substance abuse treatment and found her in violation of probation.

19 d. On September 4, 2003, a *Petition to Violate Probation pursuant to Penal*
20 *Code Section 1203.2(b)* was filed against her alleging that she violated probation because a
21 criminal complaint had been filed against her for violation of Health and Safety Code section
22 11550, subdivision (a). On September 18, 2003, the court sentenced her to successfully
23 complete a residential substance abuse treatment program while in custody, with credit for 43
24 days actually served and 20 days for good behavior. On or about November 26, 2003, the court
25 found that Respondent refused to participate in the substance abuse treatment program while in
26 custody.

27 e. On February 13, 2004, a *Petition to Violate Probation pursuant to Penal*
28 *Code Section 1203.2(b)* was filed against her alleging she violated probation because a criminal

1 complaint had been filed against her, as detailed in paragraph 14, below. On June 9, 2004,
2 Respondent was sentenced for violating Health & Safety Code section 11350 and ordered into
3 custody.

4 f. The facts that led to the conviction are that on August 23, 2001, a deputy
5 requested to search Respondent's vehicle in a location known for drug sales. Respondent
6 consented and the deputy found 1.5 grams of marijuana buds in a clear baggie in the glove
7 compartment of her vehicle and a plastic bindle containing .10 grams of methamphetamine in
8 Respondent's purse. Respondent also appeared to be under the influence of methamphetamines.

9 **SECOND CAUSE FOR DENIAL OF APPLICATION**

10 **(Act If Done By Licentiate – Dangerous Use of Drugs)**

11 13. Respondent's application for a Pharmacy Technician Registration is subject to
12 denial under Code section 480, subdivision (a)(3)(A) in that she used narcotic drugs to the extent
13 and in a manner that was dangerous and injurious to herself and to the public, which would also
14 be a ground for discipline for a registered pharmacy technician under Code section 4301,
15 subdivision (h) or to the extent that the use impaired the ability of the licensed person to conduct
16 with safety to the public the practice authorized by the license. The circumstances are as follows:

17 a. On August 1, 2003, Respondent tested positive for methamphetamine at
18 180 Nano grams per ng/mL at a checkpoint on Jefferson Street in Temecula, California.
19 Respondent's use of methamphetamine is a violation of Health and Safety Code section 11550,
20 subdivision (a), being under the influence of a controlled substance.

21 b. On January 19, 2004, while under the influence of methamphetamine,
22 Respondent operated a motor vehicle in disregard for the safety of persons and property, as
23 detailed in paragraph 14, below.

24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

25 **(June 9, 2004 Conviction for Driving Under the Influence of a Drug on January 19, 2004)**

26 14. Respondent's application for a Pharmacy Technician Registration is subject to
27 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
28 that she was convicted of crimes that are substantially related to the qualifications, duties, and

1 functions of a registered pharmacy technician, which would also be a ground for discipline for a
2 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
3 as follows:

4 a. On June 9, 2004, in a criminal proceeding entitled *The People of the State*
5 *of California v. Erica Garcia, aka Erika Garcia*, in Riverside County Superior Court, Southwest
6 Justice Center, Case Number SWF006769, Respondent pled guilty to violating Vehicle Code
7 sections 2800.2, disregard for safety, a felony, and 23152, subdivision (a), driving under the
8 influence (DUI) of a drug, a misdemeanor. Misdemeanor charges for violation of Health and
9 Safety Code section 11550, subdivision (a), being under the influence of a controlled substance,
10 and PC section 148, subdivision (a)(1), willfully resisted, delayed, or obstructed a public officer,
11 peace officer, or an emergency medical technician, were dismissed under a plea bargain.

12 b. As a result of the convictions, on June 9, 2004, Respondent was sentenced
13 to two years in state prison, 90 days in county jail and ordered to pay fines and restitution.

14 c. The facts that led to the conviction are that in the evening of January 18,
15 2004, Respondent used methamphetamines at an acquaintance's house. On January 19, 2004,
16 Respondent ran her vehicle into her parents' garage door in Temecula, California. Respondent
17 then fled the scene. While a deputy from the Riverside County Sheriff's Department was
18 interviewing Respondent's mother, Respondent passed by, waved at them and then sped away.
19 The responding deputy located Respondent and followed her. Respondent accelerated and ran a
20 red light at an intersection. Respondent ran a second red light at another intersection and a stop
21 sign, while being followed at speeds above 80 miles per hour. Another deputy later found
22 Respondent's car parked without Respondent in it. A third deputy saw Respondent running and
23 took her to the ground. Respondent fought the officers and was subsequently arrested. A deputy
24 formed the opinion that Respondent was under the influence of a CNS stimulant and could not
25 operate a motor vehicle safely.

1 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

2 **(Aug. 22, 2012 Conviction for Driving With a BAC of .08% or More on Dec. 3, 2010)**

3 15. Respondent’s application for a Pharmacy Technician Registration is subject to
4 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
5 that she was convicted of crimes that are substantially related to the qualifications, duties, and
6 functions of a registered pharmacy technician, which would also be a ground for discipline for a
7 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
8 as follows:

9 a. On August 22, 2012, in a criminal proceeding entitled *The People of the*
10 *State of California v. Erica Garcia, aka Erika Garcia, aka Erica Johnson*, in Riverside County
11 Superior Court, Southwest Justice Center, Case Number SWM1103671, Respondent pled guilty
12 to violating Penal Code section 273a, subdivision (b), child abuse and endangerment and Vehicle
13 Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08
14 percent or more, both misdemeanors. Respondent admitted and the court found true the
15 allegation that her BAC was .15 percent or more, a sentencing enhancement pursuant to Vehicle
16 Code section 23578. Respondent also admitted and the court found true the allegation that within
17 ten years of violating Vehicle Code section 23152, subdivision (a) mentioned above, on January
18 19, 2004, she committed a separate violation of Vehicle Code section 23152, subdivisions (a),
19 resulting in a conviction on June 9, 2004, in Case Number SWF006769, detailed in paragraph
20 14, above. A misdemeanor charge for violation of Vehicle Code section 23152, subdivision (a),
21 DUI with a similar enhancement, was dismissed pursuant to a plea bargain.

22 b. As a result of the convictions, on August 22, 2012, Respondent was
23 sentenced to be committed to the custody of the Riverside County Sheriff for 75 days, with credit
24 for two days actually served and two days for good behavior, with the balance to be served in the
25 work release program. Respondent was granted summary probation for 48 months subject to
26 certain terms and conditions. Respondent was ordered to enroll in a multiple offender drinking
27 driver alcohol, drug education, and counseling program and in parenting classes.

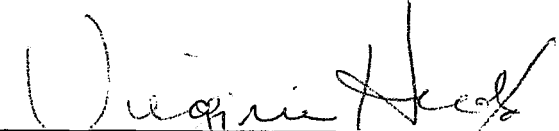
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PRAYER

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 Erica Johnson for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/15



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

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9 **BEFORE THE**
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11 In the Matter of the Statement of Issues Against:

Case No. 5510

12 **ERICA JOHNSON**

STATEMENT OF ISSUES

13 **Pharmacy Technician Registration Applicant**

14 Respondent.

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17 Complainant alleges:

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20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

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23 received an application for a Pharmacy Technician Registration from Erica Johnson
24 (Respondent). Erica Johnson certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the undated application. The Board denied the
26 application on April 3, 2015.

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12 knowingly omitting to state a material fact, in an application for a license.

13 (2) Conviction of a crime.

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15 with the intent to substantially benefit himself or another, or substantially injure
16 another.

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18 business or profession in question, would be grounds for suspension or revocation
19 of license.

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21 6. Section 480 of the Code states:

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23 that the applicant has one of the following:

24 (1) Been convicted of a crime. A conviction within the meaning of
25 this section means a plea or verdict of guilty or a conviction following a plea of
26 *nolo contendere*. Any action that a board is permitted to take following the
27 establishment of a conviction may be taken when the time for appeal has elapsed,
28 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 the provisions of section 1203.4 of the Penal Code.

. . . .

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

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The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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

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

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

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15 a licensee under this chapter. A plea or verdict of guilty or a conviction following
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6 substantial degree it evidences present or potential unfitness of a licensee or
7 registrant to perform the functions authorized by his license or registration in a
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9 **FIRST CAUSE FOR DENIAL OF APPLICATION**

10 **(October 2, 2001 Conviction for Possession of Controlled Substances on August 23, 2001)**

11 12. Respondent's application for Pharmacy Technician Registration is subject to
12 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
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20 and Safety Code (HSC) section 11350, unlawful possession of controlled substances, a felony. A
21 felony charge for violation of HSC section 11377, subdivision (a), unlawful possession of
22 methamphetamine, and misdemeanor charges for violation of HSC sections 11357, subdivision
23 (b), unlawful possession of more than 28.5 grams of marijuana and 11550, subdivision (a), being
24 under the influence of a controlled substance, were dismissed pursuant to a plea bargain.

25 b. As a result of the plea, on October 2, 2001, Respondent was granted
26 deferred entry of judgment for a period not less than 18 months and not to exceed three years
27 pursuant to Penal Code (PC) section 1000 and ordered to pay fees. Respondent was also ordered
28 to enroll in and comply with the Diversion Program and participate in an appropriate education,
treatment, and counseling program. On November 1, 2001, Respondent's entry of judgment had

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1 been deferred to April 2, 2003. On July 19, 2002, Respondent was terminated from the Diversion
2 Program for unsatisfactory participation due to poor attendance.

3 c. On August 20, 2002, in conjunction with Riverside County Superior
4 Court, Southwest Justice Center, Case Number SWM005845, Respondent was granted formal
5 probation for 36 months under certain terms and conditions, including commitment to the
6 custody of the Riverside County Sheriff for two days, with credit for two days actually served,
7 and participation in and completion of a substance abuse counseling program under PC section
8 1210.1. As of September 19, 2002, Respondent had not enrolled in a substance abuse counseling
9 program, in violation of her probation. On February 25, 2003, Respondent tested positive for
10 amphetamines and methamphetamines, in violation of her probation. On April 14, 2003,
11 Respondent was reported non-compliant with her treatment program and was at risk of
12 continuing drug use. On May 13, 2003, Respondent was referred for treatment extension. On
13 August 1, 2003, Respondent was arrested as detailed in paragraph 13, below. On August 7, 2003,
14 the Court found Respondent not amenable to substance abuse treatment and her probation
15 remained revoked.

16 d. On September 4, 2003, a *Petition to Violate Probation pursuant to Penal*
17 *Code Section 1203.2(b)* notice was filed due to Respondent's violation of the law in that on
18 September 4, 2003, a misdemeanor complaint had been filed against Respondent for violation of
19 HSC section 11550, subdivision (a). As a result of the probation violation, Respondent was
20 sentenced to successfully complete a residential substance abuse treatment (RSAT) program,
21 with credit for 43 days actually served and 20 days for good behavior. On October 6, 2003,
22 Respondent declined to undergo a RSAT program.

23 e. On February 13, 2004, a *Petition to Violate Probation pursuant to Penal*
24 *Code Section 1203.2(b)* notice was filed due to Respondent's violation of the law in that on
25 February 11, 2004, misdemeanor and felony charges had been filed against Respondent as
26 detailed in paragraph 14, below. On June 9, 2004, Respondent was convicted of misdemeanor
27 and felony charges as detailed in paragraph 14, below. As a result of the convictions, Respondent
28 was found to be on her fourth violation of her probation, had her probation revoked and

1 reinstatement denied, and was sentenced to one year and four months in state prison, with credit
2 for 263 days actually served and 130 days for good behavior, to be served concurrently with the
3 sentence in Case Number SWF006769, detailed in paragraph 14, below. Respondent was ordered
4 to pay a fine and be delivered to the California Department of Corrections at Frontera, now
5 known as the California Institution for Women.

6 f. The facts that led to the conviction are that on August 23, 2001,
7 Respondent received a small amount of "cocaine" from a friend and picked-up marijuana for
8 another friend. Respondent was parked at a gasoline station at Margarita Road in Temecula,
9 California, which had been reported as a venue for drug sales, when a deputy from the Riverside
10 County Sheriff's Department approached Respondent's car. As the deputy closed in on
11 Respondent's car, Respondent emptied a baggie into her mouth. The deputy requested to search
12 Respondent's car. Respondent consented and the deputy found 1.5 grams of marijuana buds in a
13 clear baggie in the glove compartment and a plastic bindle containing .10 grams of
14 methamphetamine in Respondent's purse. Respondent was arrested for possession of
15 methamphetamine and marijuana.

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

17 **(Act If Done By Licentiate – Dangerous Use of Drugs)**

18 13. Respondent's application for Pharmacy Technician Registration is subject to
19 denial under Code section 480, subdivision (a)(3)(A) in that she used narcotic drugs to the extent
20 and in a manner that was dangerous and injurious to herself and to the public, which would also
21 be a ground for discipline for a registered pharmacy technician under Code section 4301,
22 subdivision (h) in that the extent of the use impaired the ability of the licensed person to conduct
23 with safety to the public the practice authorized by the license. The circumstances are as follows:

24 a. On August 1, 2003, as a passenger in a car, Respondent tested positive for
25 methamphetamine at 180 nanograms per mL at a checkpoint on Jefferson Street in Temecula,
26 California. Respondent's use of methamphetamine is a violation of HSC section 11550,
27 subdivision (a), being under the influence of a controlled substance.

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1 California. Respondent fled the scene. While a deputy from the Riverside County Sheriff's
2 Department (RCSD) was interviewing Respondent's mother, Respondent passed by and waved
3 at them and then sped away. The responding deputy located Respondent on Vail Ranch Parkway
4 and followed her. Respondent accelerated and ran the red light at the intersection with Redhawk
5 Parkway. Respondent ran a second red light at the intersection of Redhawk Parkway and Wolf
6 Valley Road and a stop sign on Peppercorn Drive, while being followed at speeds above 80
7 miles per hour. Another deputy later found Respondent's car parked along Hupa Drive but
8 Respondent was not in it. A third deputy saw Respondent running and took her to the ground.
9 Respondent was arrested and taken to the RCSD Southwest Station where she took a series of
10 field sobriety tests, which she failed to perform as explained and demonstrated. Respondent
11 provided a blood sample.

12 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

13 **(Aug. 22, 2012 Conviction for Driving With a BAC of .08% or More on Dec. 3, 2010)**

14 15. Respondent's application for Pharmacy Technician Registration is subject to
15 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
16 that she was convicted of a crime that is substantially related to the qualifications, duties, and
17 functions of a registered pharmacy technician, which would also be a ground for discipline for a
18 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
19 as follows:

20 a. On August 22, 2012, in a criminal proceeding entitled *The People of the*
21 *State of California v. Erica Garcia, aka Erika Garcia, aka Erica Johnson*, in Riverside County
22 Superior Court, Southwest Justice Center, Case Number SWM1103671, Respondent pled guilty
23 of violating PC section 273a, subdivision (b), child abuse and endangerment and VC section
24 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or
25 more, both misdemeanors. Respondent admitted and the court found true the allegation that her
26 BAC was .15 percent or more, a sentencing enhancement pursuant to VC section 23578.
27 Respondent also admitted and the court found true the allegation that within ten years of
28 violating VC section 23152, subdivision (a) mentioned above, on January 19, 2004, she

1 committed a separate violation of VC section 23152, subdivisions (a), resulting in a conviction
2 on June 9, 2004, in Case Number SWF006769, detailed in paragraph 14, above. A misdemeanor
3 charge for violation of VC section 23152, subdivision (a), DUI with a similar enhancement, was
4 dismissed pursuant to a plea bargain.

5 b. As a result of the convictions, on August 22, 2012, Respondent was
6 sentenced to be committed to the custody of the Riverside County Sheriff for 75 days, with credit
7 for two days actually served and two days for good behavior, with the balance to be served in the
8 work release program. Respondent was granted summary probation for 48 months subject to
9 certain terms and conditions. Respondent was ordered to enroll in a multiple offender drinking
10 driver alcohol, drug education, and counseling program and in parenting classes.

11 c. The facts that led to the convictions are that on December 3, 2010,
12 Respondent attended her husband's graduation in San Jacinto, California. While waiting for food
13 to be served, Respondent ordered a drink or two then decided to go home. Respondent buckled
14 her daughter into a car seat and started driving. Respondent's last memory was that she was
15 driving very slowly and stopped. Respondent gained consciousness in a field in Hemet,
16 California. A responding police officer informed Respondent that somebody called police after
17 Respondent and her daughter rolled or flipped their car.

18 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Act If Done By Licentiate – Dangerous Use of Alcohol)**

20 16. Respondent's application for Pharmacy Technician Registration is subject to
21 denial under Code section 480, subdivision (a)(3)(A) in that on December 3, 2010, she used
22 alcohol to the extent and in a manner that was dangerous and injurious to herself and to the
23 public, which would also be a ground for discipline for a registered pharmacy technician under
24 Code section 4301, subdivision (h) in that the extent of the use impaired the ability of the
25 licensed person to conduct with safety to the public the practice authorized by the license.

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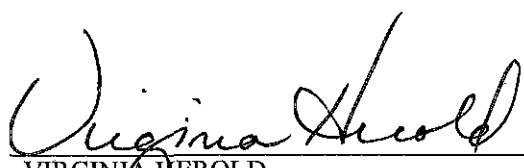
PRAYER

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 Erica Johnson for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED:

9/9/15



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

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