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10	STATE OF ÇA	ALIFORNIA	
11		Case No. 5571	
1Ż	Against:		
13		STATEMENT OF ISSUES	
14	Designated Representative Applicant		
15	Respondent.		
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18	Complainant alleges:		
19	PART	<u>'IES</u>	
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 13, 2014, the Board of Pharmacy, Department of Consumer		
23	Affairs received an application for a Designated Representative license from Richard Stiefel		
24	("Respondent"). On or about July 11, 2014, Richard Stiefel certified under penalty of perjury to		
25	the truthfulness of all statements, answers, and representations in the application. The Board		
26	denied the application on May 29, 2015.		
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	JURISDICTION	
	3. This Statement of Issues is brought before the Board of Pharmacy ("Board"),	
	Department of Consumer Affairs, under the authority of the following laws. All section reference	
	are to the Business and Professions Code unless otherwise indicated.	
	STATUTORY PROVISIONS	
	4. Section 480 of the Code states:	
(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:		
	(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.	
	(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.	
	(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.	
	(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.	
(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.		
	(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.	
	(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.	
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	STATEMENT OF ISSUES (RICHARD STIEFE	

5. Section 4301 of the C	ode states:
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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:

(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) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall 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.

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California Code of Regulations, title 16, section 1770, states:

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

## FIRST CAUSE FOR DENIAL OF APPLICATION

## (Conviction of Crimes)

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Respondent's application is subject to denial under Code section 480(a)(1) in that on

27 or about March 25, 1999, in a criminal proceeding entitled *The State of Florida v. Richard Stiefel* 

28 in Dade County, State of Florida, Case Number 99-6963, Respondent pled guilty to two counts of

1	violating Florida Statute section 893.13(1)(a), felonies. The circumstances are that on or about	
2	February 25, 1999, Respondent possessed with the intent to sell, manufacture or deliver a	
3	controlled substance, to wit: Flunitrazepam. Respondent possessed 30 pills of Flunitrazepam,	
4	which is also known as Rohypnol, in his vehicle and 10 pills of Flunitrazepam in his bedroom.	
5	SECOND CAUSE FOR DENIAL OF APPLICATION	
6	(Committed Acts Which If Done By A Licentiate - Violation of Controlled Substances Law)	
7	8. Respondent's application is subject to denial under Code section 480(a)(3)(A) in	
8	conjunction with Code section 4301(j), in that Respondent committed acts which if done by a	
9	licentiate of the profession would constitute grounds for discipline under Code section 4301(j)	
10	(violation of any of the statutes of this state, of any other state, or of the United States regulating	
11	controlled substances and dangerous drugs), as set forth above in paragraph 7.	
1Ż	THIRD CAUSE FOR DENIAL OF APPLICATION	
13	(Committed Acts Which If Done By A Licentiate – Conviction of Crimes)	
14	9. Respondent's application is subject to denial under Code section 480(a)(3)(A) in	
15	conjunction with Code section 4301(I), in that Respondent committed acts which if done by a	
16	licentiate of the profession would constitute grounds for discipline under Code section 4301(l)	
17	(conviction of a crime substantially related to the qualifications, functions and duties of a licensee),	
18	as set forth above in paragraph 7.	
19	PRAYER	
20	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
21	and that following the hearing, the Board of Pharmacy issue a decision:	
22	1. Denying the application of Richard Stiefel for a Designated Representative license;	
ż3	2. Taking such other and further action as deemed necessary and proper.	
24	DATED: 12/21/15 Vigine Herda	
25	VIRGINIA NEROLD Executive Officer Board of Pharmacy	
26	Department of Consumer Affairs State of California	
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