

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JENNIFER S. CADY  
Supervising Deputy Attorney General  
3 KEVIN W. BUSH, State Bar No. 210322  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2544  
6 Facsimile: (213) 897-2804

7 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 **HARBANS SINGH**  
1115 S. Fairfax Ave. #11  
Los Angeles, CA 90019  
14  
15 Pharmacy Technician Registration  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Respondent.

Case No. 3014  
OAH No.  
**DEFAULT DECISION  
AND ORDER**  
[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about January 5, 2007, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Statement of Issues No. 3014 against Harbans Singh (Respondent) before the Board of Pharmacy.
2. On or about February 14, 2005, Respondent filed an application dated December 23, 2003, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.
3. On or about September 26, 2005, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about October 26, 2005, Respondent appealed the Board's denial of his application and requested a hearing.
4. On or about January 16, 2007, Anna A. Carpenter, an employee of the

1 Department of Justice, served by Certified and First Class Mail a copy of the Statement of Issues  
2 No. 3014, Statement to Respondent, Notice of Defense, Request for Discovery, and Notice from  
3 Respondent/Applicant to Respondent's address on the application form, which was and is:

4 1115 S. Fairfax Ave. #11

5 Los Angeles, CA 90019

6 A copy of the Statement of Issues, the related documents, and Declaration of Service are  
7 attached as exhibit A, and are incorporated herein by reference.

8           5. Service of the Statement of Issues was effective as a matter of law under  
9 the provisions of Government Code section 11505, subdivision (c).

10           6. On or about February 13, 2007, Respondent filed a Notice of Defense. A  
11 is attached hereto as exhibit "B," and are incorporated herein by reference.

12           7. On or about March 11, 2007, Respondent filed a Notice of Withdrawal of  
13 Request for Hearing waving his right to a hearing on the merits of the Statement of Issues.  
14 Attached as exhibit C, and incorporated herein by reference, is a copy of said notice.

15           8. Business and Professions Code section 118 states, in pertinent part:

16           “(a) The withdrawal of an application for a license after it has been filed with a  
17 board in the department shall not, unless the board has consented in writing to such withdrawal,  
18 deprive the board of its authority to institute or continue a proceeding against the applicant for  
19 the denial of the license upon any ground provided by law or to enter an order denying the license  
20 upon any such ground.”

21           9. Government Code section 11506 states, in pertinent part:

22           “(c) The respondent shall be entitled to a hearing on the merits if the respondent  
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
24 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
25 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

26           10. California Government Code section 11520 states, in pertinent part:

27           “(a) If the respondent either fails to file a notice of defense or to appear at the  
28 hearing, the agency may take action based upon the respondent's express admissions or upon

1 other evidence and affidavits may be used as evidence without any notice to respondent; and  
2 where the burden of proof is on the respondent to establish that the respondent is entitled to the  
3 agency action sought, the agency may act without taking evidence.”

4 11. Pursuant to its authority under Government Code section 11520, the Board  
5 finds Respondent is in default. The Board will take action without further hearing and, based on  
6 Respondent's express admissions by way of default and the evidence before it, contained in  
7 exhibits A, B and C, finds that the allegations, and each of them, in Statement of Issues No. 3014  
8 are true.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Harbans Singh has  
11 subjected his application for a Pharmacy Technician Registration to denial.

12 2. Service of Statement of Issues No. 3014 and related documents was proper  
13 and in accordance with the law.

14 3. The agency has jurisdiction to adjudicate this case by default.

15 4. The Board of Pharmacy is authorized to deny Respondent's application for  
16 licensure based upon the following violations alleged in the Statement of Issues:

17 a. Respondent has subjected his application for a Pharmacy  
18 Technician Registration to denial under sections 4300, subdivision (c) and 480 subdivisions  
19 (a)(1) and (a)(2), as defined in California Code of Regulations, title 16, section 1770, in that on  
20 or about December 2, 2003, Respondent was convicted, on a plea of nolo contendere, to one  
21 count of violating Penal Code section 484e(d), a felony (Acquisition Access Card, Defraud) in  
22 the Superior Court of the State of California, County of Los Angeles, Central District, Case No.  
23 BA252520, in the case entitled *People of the State of California v. Harbans Singh*.

24 b. Moreover, On April 21, 1997, Respondent was convicted on a plea  
25 of guilty to one count of violating Penal Code section 487(A), a felony (Grand Theft by  
26 Embezzlement) in the Superior Court of the State of California, County of Los Angeles,  
27 Northeast District, Case No. GA029443, in the case entitled *People of the State of California v.*  
28 *Harbans Singh*.

1 ORDER

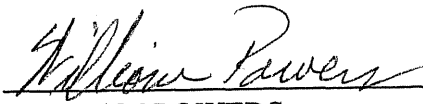
2 IT IS SO ORDERED that the application of Respondent Harbans Singh is hereby  
3 denied.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
8 statute.

9 This Decision shall become effective on June 20, 2007.

10 It is so ORDERED May 21, 2007

11 BOARD OF PHARMACY  
12 DEPARTMENT OF CONSUMER AFFAIRS  
13 STATE OF CALIFORNIA

14 By   
15 WILLIAM POWERS  
16 Board President

15 DOJ docket number:LA2006601241  
16 60205506.wpd

17 Attachments:

- 18 Exhibit A: Statement of Issues No.3014, Related Documents, and Declaration of Service  
19 Exhibit B: Notice of Defense  
20 Exhibit C: Withdrawal of Request to Hearing

Exhibit A  
Statement of Issues No. 3014,  
Related Documents, and Declaration of Service

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JENNIFER S. CADY  
Supervising Deputy Attorney General  
3 KEVIN W. BUSH, State Bar No. 210322  
Deputy Attorney General  
4 California Department of Justice  
300 South Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2544  
6 Facsimile: (213) 897-2804  
7 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:

Case No. 3014

12 HARBANS SINGH  
13 1115 South Fairfax Ave., #11  
14 Los Angeles, CA 90019

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia K. Herold, (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Interim Executive Officer of the Board of Pharmacy.

21 2. On or about February 14, 2005, the Board of Pharmacy received an  
22 application for Registration as a Pharmacy Technician Registration from Harbans Singh  
23 (Respondent). On or about December 23, 2004, Harbans Singh certified, under penalty of  
24 perjury, to the truthfulness of all statements, answers, and representations in the application. The  
25 Board of Pharmacy denied the application on September 26, 2005.

26 JURISDICTION

27 3. This Statement of Issues is brought before the Board of Pharmacy (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

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

4 “(c) The board may refuse a license to any applicant guilty of unprofessional  
5 conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a  
6 license who is guilty of unprofessional conduct and who has met all other requirements for  
7 licensure.

8 5. Section 480 of the Code states:

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

11 “(1) Been convicted of a crime. A conviction within the meaning of this section  
12 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action  
13 which a board is permitted to take following the establishment of a conviction may be taken  
14 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,  
15 or when an order granting probation is made suspending the imposition of sentence, irrespective  
16 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

17 “(2) Done any act involving dishonesty, fraud or deceit with the intent to  
18 substantially benefit himself or another, or substantially injure another; or

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

21 “The board may deny a license pursuant to this subdivision only if the crime or act  
22 is substantially related to the qualifications, functions or duties of the business or profession for  
23 which application is made.

24 “(b) Notwithstanding any other provision of this code, no person shall be denied a  
25 license solely on the basis that he has been convicted of a felony if he has obtained a certificate of  
26 rehabilitation under Section 4852.01 and following of the Penal Code or that he has been  
27 convicted of a misdemeanor if he has met all applicable requirements of the criteria of  
28 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering

1 the denial of a license under subdivision (a) of Section 482.”

2 6. California Code of Regulations, title 16, section 1770, states:

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

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Conviction of a Substantially Related Crime)

11 7. Respondent is subject to disciplinary action under sections 4300,  
12 subdivision (c) and 480, subdivision (a)(1) of the Code as defined in California Code of  
13 Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially  
14 related to the qualifications, functions, or duties of a pharmacy technician. The circumstances are  
15 as follows:

16 a. On or about December 2, 2003, Respondent was convicted on a plea of  
17 nolo contendere to one count of violating Penal Code section 484e(d), a felony (Acquisition  
18 Access Card, Defraud) in the Superior Court of the State of California, County of Los Angeles,  
19 Central District, Case No. BA252520, in the case entitled *People of the State of California v.*  
20 *Harbans Singh*.

21 b. The circumstances surrounding the conviction are that from on or about  
22 October 23, 2002 and November 22, 2002, while working at a Shell Gas station, Respondent  
23 acquired and retained possession of access card account information with respect to an access  
24 card validly issued to another person, without the cardholder's and issuer's consent, with intent  
25 to use it fraudulently.

26 c. On April 21, 1997, Respondent was convicted on a plea of guilty to one  
27 count of violating Penal Code section 487(A), a felony (Grand Theft by Embezzlement) in the  
28 Superior Court of the State of California, County of Los Angeles, Northeast District, Case No.



1 GA029443, in the case entitled *People of the State of California v. Harbans Singh*.

2 d. The facts and circumstances surrounding the conviction are that on and  
3 between January 1, 1996 and August 11, 1996, while working at a 7-11 store, Respondent took  
4 money and personal property which totaled more than four hundred dollars (\$400.00).

5 SECOND CAUSE FOR DENIAL OF APPLICATION

6 (Committed Acts Involving Dishonesty)

7 8. Respondent's application is subject to denial under sections 4300,  
8 subdivision(c) and 480, subdivision (a)(2), in that Respondent committed acts involving  
9 dishonesty. The circumstances are as follows:

10 a. On or about December 2, 2002 and November 22, 2002, Respondent used  
11 another person's credit card without the person's permission, as more fully set forth in paragraph  
12 7, above.

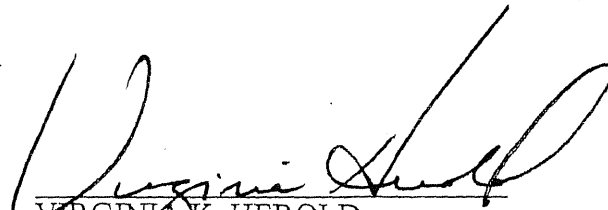
13 b. On and between January 1, 1996 and August 11, 1996, Respondent took  
14 money and personal property, as more fully set forth in paragraph 7, above.

15 PRAYER

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

- 18 1. Denying the application of Harbans Singh for a Pharmacy Technician  
19 Registration;  
20 2. Taking such other and further action as deemed necessary and proper.

21 DATED: 1/5/07



22  
23 VIRGINIA K. HEROLD  
24 Interim Executive Officer  
25 Board of Pharmacy  
26 State of California  
27 Complainant

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

In the Matter of the Statement of Issues: **Harbans Singh**

Board of Pharmacy Case No: 3014

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On January 16, 2007, I served the attached **Statement of Issues, Statement to Respondent, Respondent/Applicant's Notice of Designation of Counsel (2 copies), Respondent/Applicant's Notice of Withdrawal of Request for Hearing (2 copies), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Statement of Issues, Statement to Respondent, Respondent/Applicant's Notice of Designation of Counsel (2 copies), Respondent/Applicant's Notice of Withdrawal of Request for Hearing (2 copies), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

**Harbans Singh**  
**1115 South Fairfax Ave., #11**  
**Los Angeles, CA 90019**  
**Cert #7001 0360 0003 6710 5872**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 16, 2007, at Los Angeles, California.

Anna A. Carpenter  
Declarant

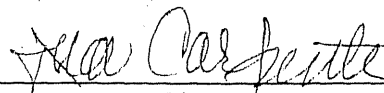
  
Signature

Exhibit B  
Notice of Defense

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

HARBANS SINGH

Respondent.

Case No. 3014

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Statement of Issues; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Notice from Respondent / Applicant, and Complainant's Request for Discovery.

I hereby request a hearing to permit me to present my defense to the charges contained in the Statement of Issues.

DATED: 02.07.07

Respondent's Name

HARBANS SINGH

Respondent's Signature

Harbans Singh

Respondent's Mailing Address

1115 S. FAIRFAX AVE. # 11

City, State and Zip Code

LOS ANGELES, CA 90019

Respondent's Telephone Number

323-939-7790

**Check appropriate box:**

I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

\_\_\_\_\_

Counsel's Mailing Address

\_\_\_\_\_

City, State and Zip-Code

\_\_\_\_\_

Counsel's Telephone Number

\_\_\_\_\_

I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Statement of Issues may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

Exhibit C  
Withdrawal of Request to Hearing

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

HARBANS SINGH

Respondent.

Case No. 3014

**RESPONDENT / APPLICANT'S  
NOTICE OF WITHDRAWAL OF  
REQUEST FOR HEARING**

In accordance with California Code of Regulation, title 1, section 1014(c), a party withdrawing a request for hearing, shall immediately notify the Office of Administrative Hearings and all parties. I understand that a hearing will be held upon the charges made in the Statement of Issues unless I notify the Board of Pharmacy that I do not want the hearing previously requested on the denial of my Pharmacy Technician Registration application.

IF YOU WISH TO WITHDRAW YOUR NOTICE OF DEFENSE OR REQUEST FOR A HEARING, PLEASE DO SO BY DATING AND SIGNING BELOW AND DELIVERING OR MAILING THIS FORM TO:

**Kevin W. Bush  
Deputy Attorney General  
Ronald Reagan Building  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013**

TO THE BOARD OF PHARMACY:

I, the undersigned Respondent in this proceeding, hereby acknowledge receipt of a copy of the Statement of Issues; the Statement to Respondent; Respondent/Applicant's Notice of Withdrawal of Request for Hearing (2 copies).

I withdraw my Notice of Defense.

Date: 03-11-07

Harbans Singh  
Signature

Harbans Singh  
Print Name