

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Statement of Issues  
Against:

**RACHEL LEE LOUKAS**

**1012 Holbrook Court  
Yakima, WA 98902  
Pharmacist License**

Respondent.

Case No. 4160

OAH No. 2012040663

**DEFAULT DECISION AND ORDER**

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about December 5, 2011, 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. 4160 against Rachel Lee Loukas (Respondent) before the Board of Pharmacy.

2. On or about March 22, 2011, Respondent filed an application dated March 8, 2011, with the Board of Pharmacy to obtain a Pharmacist License.

1           3.     On or about July 12, 2011, the Board issued a letter denying Respondent's application  
2 for a Pharmacist License. On or about July 20, 2011, Respondent appealed the Board's denial of  
3 her application and requested a hearing.

4           4.     On or about December 9, 2011, Nancy Christenson, an employee of the Department  
5 of Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 4160,  
6 Statement to Respondent, Request for Discovery, Government Code sections 11507.5, 11507.6,  
7 and 11507.7, Notice from Respondent/Applicant, and Disciplinary Guidelines to Respondent's  
8 address on the application form, which was and is 1012 Holbrook Court, Yakima, WA 98902. A  
9 copy of the Statement of Issues is attached as exhibit A, and is incorporated herein by reference.

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

12          6.     On or about July 20, 2011, Respondent appealed the denial of her application and  
13 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's  
14 address on the application and it informed her that an administrative hearing in this matter was  
15 scheduled for November 13, 2012. Respondent failed to appear at that hearing.

16          7.     Business and Professions Code section 118 states, in pertinent part:

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

22          8.     Government Code section 11506 states, in pertinent part:

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

28          9.     California Government Code section 11520 states, in pertinent part:

              (a) If the respondent either fails to file a notice of defense or to appear at the  
hearing, the agency may take action based upon the respondent's express admissions  
or upon other evidence and affidavits may be used as evidence without any notice to  
respondent; and where the burden of proof is on the respondent to establish that the  
respondent is entitled to the agency action sought, the agency may act without taking  
evidence.



1 Montana where she was diagnosed with alcohol dependence and completed a 28 day program.  
2 Respondent was fined \$990 and placed on misdemeanor probation for 6 months.

3 d. On or about November 10, 2009, Respondent was convicted of Obstructing a  
4 Peace Officer or Other Public Servant in the Missoula Municipal Court, State of Montana, Case  
5 no. CR-2009-002501. The facts and circumstances were as follows: Between January 28, 2009  
6 and November 10, 2009, on a date unknown, respondent had a relapse and failed or refused to  
7 provide information to a peace officer.

8 e. Respondent's application is subject to denial under section 4301 (k) in that she  
9 was convicted of the crimes set forth in paragraphs "a" through "d" above, all of which involved  
10 the consumption of alcohol.

11 f. Respondent's application is subject to denial under section 4301(n) in that she  
12 was granted a conditional credential as a Pharmacist in the State of Washington by and through  
13 Agreement to Practice With Conditions No. M2010-508, dated June 10, 2010. The basis for the  
14 action was Unprofessional Conduct as defined by the laws of the State of Washington, based on  
15 the criminal convictions set forth above.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

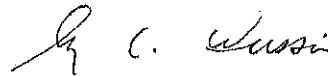
IT IS SO ORDERED that the application of Respondent Rachel Lee Loukas is hereby denied.

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

This Decision shall become effective on January 28, 2013.

It is so ORDERED ON December 28, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STANLEY C. WEISSER  
Board President

DOJ docket number:SA2011102302  
default decision\_soi\_LIC.rtf

Attachment:

Exhibit A: Statement of Issues No.4160

Exhibit A

Statement of Issues No. 4160

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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:  
12 **RACHEL LEE LOUKAS**  
13 **1012 Holbrook Ct.**  
**Yakama, WA 98902**  
14  
15 Applicant.

Case No. 4160

**STATEMENT OF ISSUES**

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 March 22, 2011, the Board of Pharmacy, Department of Consumer  
22 Affairs received an application for a Pharmacist License from Rachel Lee Loukas (Respondent).  
23 On or about March 8, 2011, Rachel Lee Loukas certified under penalty of perjury to the  
24 truthfulness of all statements, answers, and representations in the application. The Board denied  
25 the application on July 12, 2011.

JURISDICTION

1  
2         3.     This Statement of Issues is brought before the Board of Pharmacy (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code unless otherwise indicated.

5         4.     Section 4300 of the Code states in pertinent part:

6         ...

7         "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
8 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
9 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
10 may issue the license subject to any terms or conditions not contrary to public policy, including,  
11 but not limited to, the following:

12             "(1) Medical or psychiatric evaluation.

13             "(2) Continuing medical or psychiatric treatment.

14             "(3) Restriction of type or circumstances of practice.

15             "(4) Continuing participation in a board-approved rehabilitation program.

16             "(5) Abstention from the use of alcohol or drugs.

17             "(6) Random fluid testing for alcohol or drugs.

18             "(7) Compliance with laws and regulations governing the practice of pharmacy.

19         5.     Section 4301 of the Code states in pertinent part:

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

23         ...

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

...

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

"(l) 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.

...

"(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

6. 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

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

4 7. Section 480 of the Code states in pertinent part:

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

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

13 ...

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

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

19 ...

#### 20 FIRST CAUSE FOR DENIAL OF APPLICATION

21 (Criminal Convictions)

22 8. Respondent's application is subject to denial under sections 480, 4300, and 4301(h),  
23 and (l) in that she has been criminally convicted as follows:

24 a. On or about March 11, 2008, respondent was convicted of Reckless Driving in  
25 the Missoula Municipal Court, State of Montana, Case No. CR-2007-004077. The facts and  
26 circumstances were as follows:

27 On December 13, 2007, Respondent was pulled over and charged with a DUI.  
28 Respondent failed to submit to a breath test, and her drivers' license was suspended. The charge

1 was subsequently reduced to Reckless Driving. Respondent was fined \$351 and ordered to  
2 complete an alcohol assessment class, which was completed on July 9, 2008. No further  
3 treatment was ordered at that time.

4 b. On or about January 28, 2009, Respondent was convicted on her plea of Guilty  
5 of Driving Under the Influence and Driving with a Suspended License in the Missoula County  
6 Justice Court, State of Montana case no. TK-2008-0032370-T2. The facts and circumstances  
7 were as follows:

8 On October 20, 2008, Respondent was involved in an alcohol related automobile  
9 accident for which she was hospitalized. After her release from the Hospital, respondent  
10 voluntarily admitted herself to the Rimrock Foundation Treatment Center in Billings Montana  
11 where she was diagnosed with alcohol dependence and completed a 28 day program. Respondent  
12 was fined \$990 and placed on misdemeanor probation for 6 months.

13 c. On or about November 10, 2009, Respondent was convicted of Obstructing a  
14 Peace Officer or Other Public Servant in the Missoula Municipal Court, State of Montana, Case  
15 no. CR-2009-002501. The facts and circumstances were as follows:

16 Between January 28, 2009 and November 10, 2009, on a date unknown, respondent  
17 had a relapse and failed or refused to provide information to a peace officer.

#### 18 SECOND CAUSE FOR DENIAL OF APPLICATION

19 (Convictions involving consumption of alcohol)

20 9. Respondent's application is subject to denial under section 4301 (k) in that she was  
21 convicted of the crimes set forth in paragraphs 8, (a) through (c) above, all of which involved the  
22 consumption of alcohol.

#### 23 THIRD CAUSE FOR DENIAL OF APPLICATION

24 (Out-of-State discipline)

25 10. Respondent's application is subject to denial under section 4301(n) in that she was  
26 granted a conditional credential as a Pharmacist in the State of Washington by and through  
27 Agreement to Practice With Conditions No. M2010-508, dated June 10, 2010. The basis for the  
28

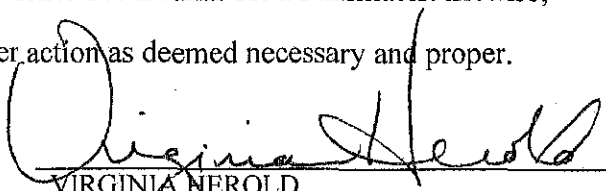
1 action was Unprofessional Conduct as defined by the laws of the State of Washington, based on  
2 the criminal convictions set forth above.

3  
4 PRAYER

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

- 7 1. Denying the application of Rachel Lee Loukas for a Pharmacist License;  
8 2. Taking such other and further action as deemed necessary and proper.

9  
10 DATED: 12/5/11

  
11 VIRGINIA HEROLD  
12 Executive Officer  
13 Board of Pharmacy  
14 Department of Consumer Affairs  
15 State of California  
16 *Complainant*

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SA2011102302  
statement of issues.rtf