

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

In the Matter of the Statement of Issues Against:

Case No. 5193

MARKQUISTE NATHANIEL MORGAN
601 R Avenue, Apt. #14
National City, CA 91950

OAH No. 2014100135

Pharmacy Technician Registration Applicant

Respondent.

DECISION AND ORDER

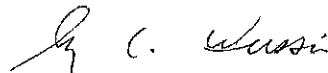
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 28, 2015.

It is so ORDERED on January 21, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

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Attorney General of California
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

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

Case No. 5193

OAH No. 2014100135

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal Analyst.

23 2. Markquiste Nathaniel Morgan ("Respondent") is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On or about October 18, 2013, Respondent filed an application dated October 14,
26 2013, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.

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1 **JURISDICTION**

2 4. Statement of Issues No. 5193 was filed before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
4 Issues and all other statutorily required documents were properly served on Respondent on
5 August 18, 2014. A copy of Statement of Issues No. 5193 is attached as Exhibit A and
6 incorporated herein by reference.

7 **ADVISEMENT AND WAIVERS**

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Statement of Issues No. 5193. Respondent has also carefully read, and understands the effects of
10 this Stipulated Settlement and Disciplinary Order.

11 6. Respondent is fully aware of his legal rights in this matter, including the right to a
12 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
13 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
14 the right to present evidence and to testify on his own behalf; the right to the issuance of
15 subpoenas to compel the attendance of witnesses and the production of documents; the right to
16 reconsideration and court review of an adverse decision; and all other rights accorded by the
17 California Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 **CULPABILITY**

21 8. Respondent admits the truth of each and every charge and allegation in Statement of
22 Issues No. 5193.

23 9. Respondent agrees that his application for a Pharmacy Technician Registration is
24 subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the
25 Disciplinary Order below.

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1 **CONTINGENCY**

2 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
10 not be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
12 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
13 signatures thereto, shall have the same force and effect as the originals.

14 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

20 13. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that upon completion of all requirements for licensure, that a
25 Pharmacy Technician Registration will be issued to Respondent Markquiste Nathaniel Morgan
26 and immediately revoked. The revocation will be stayed and the Respondent placed on three (3)
27 years probation on the following terms and conditions.

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1 **1. Certification Prior to Resuming Work**

2 Respondent shall be automatically suspended from working as a pharmacy technician until
3 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides
4 satisfactory proof of certification to the board. Respondent shall not resume working as a
5 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
6 year shall be considered a violation of probation. Respondent shall not resume working as a
7 pharmacy technician until notified by the board.

8 During suspension, respondent shall not enter any pharmacy area or any portion of any
9 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
10 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
11 devices or controlled substances are maintained. Respondent shall not do any act involving drug
12 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
13 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
14 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
15 substances. Respondent shall not resume work until notified by the board.

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises by the board in which he holds an interest at the time this decision becomes
18 effective unless otherwise specified in this order.

19 Failure to comply with this suspension shall be considered a violation of probation.

20 **2. Obey All Laws**

21 Respondent shall obey all state and federal laws and regulations.

22 Respondent shall report any of the following occurrences to the board, in writing, within
23 seventy-two (72) hours of such occurrence:

- 24 an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws
27 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 criminal complaint, information or indictment

- 1 a conviction of any crime
- 2 discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's pharmacy technician registration or which is related to
- 4 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
- 5 billing, or charging for any drug, device or controlled substance.

6 Failure to timely report any such occurrence shall be considered a violation of probation.

7 **3. Report to the Board**

8 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
9 designee. The report shall be made either in person or in writing, as directed. Among other
10 requirements, respondent shall state in each report under penalty of perjury whether there has
11 been compliance with all the terms and conditions of probation. Failure to submit timely reports
12 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
13 in submission of reports as directed may be added to the total period of probation. Moreover, if
14 the final probation report is not made as directed, probation shall be automatically extended until
15 such time as the final report is made and accepted by the board.

16 **4. Interview with the Board**

17 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
18 with the board or its designee, at such intervals and locations as are determined by the board or its
19 designee. Failure to appear for any scheduled interview without prior notification to board staff,
20 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
21 the period of probation, shall be considered a violation of probation.

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the board's inspection program and with the board's
24 monitoring and investigation of respondent's compliance with the terms and conditions of his
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Notice to Employers**

27 During the period of probation, respondent shall notify all present and prospective
28 employers of the decision in case number 5193 and the terms, conditions and restrictions imposed

1 on respondent by the decision, as follows:

2 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
3 respondent undertaking any new employment, respondent shall cause his direct supervisor,
4 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
5 tenure of employment) and owner to report to the board in writing acknowledging that the listed
6 individual(s) has/have read the decision in case number 5193 and the terms and conditions
7 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
8 supervisor(s) submit timely acknowledgement(s) to the board.

9 If respondent works for or is employed by or through a pharmacy employment service,
10 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
11 of the terms and conditions of the decision in case number 5193 in advance of the respondent
12 commencing work at each pharmacy. A record of this notification must be provided to the board
13 upon request.

14 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
15 (15) days of respondent undertaking any new employment by or through a pharmacy employment
16 service, respondent shall cause his direct supervisor with the pharmacy employment service to
17 report to the board in writing acknowledging that he has read the decision in case number 5193
18 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
19 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

20 Failure to timely notify present or prospective employer(s) or to cause that/those
21 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
22 probation.

23 "Employment" within the meaning of this provision shall include any full-time,
24 part-time, temporary or relief service or pharmacy management service as a pharmacy
25 technician or in any position for which a pharmacy technician license is a requirement
26 or criterion for employment, whether the respondent is considered an employee,
27 independent contractor or volunteer.

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1 **7. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 board each and every year of probation. Such costs shall be payable to the board on a schedule as
4 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
5 be considered a violation of probation.

6 **8. Status of License**

7 Respondent shall, at all times while on probation, maintain an active, current pharmacy
8 technician license with the board, including any period during which suspension or probation is
9 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

10 If respondent's pharmacy technician license expires or is cancelled by operation of law or
11 otherwise at any time during the period of probation, including any extensions thereof due to
12 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
13 terms and conditions of this probation not previously satisfied.

14 **9. License Surrender While on Probation/Suspension**

15 Following the effective date of this decision, should respondent cease work due to
16 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
17 respondent may tender his pharmacy technician license to the board for surrender. The board or
18 its designee shall have the discretion whether to grant the request for surrender or take any other
19 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
20 license, respondent will no longer be subject to the terms and conditions of probation. This
21 surrender constitutes a record of discipline and shall become a part of the respondent's license
22 history with the board.

23 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
24 license to the board within ten (10) days of notification by the board that the surrender is
25 accepted. Respondent may not reapply for any license, permit, or registration from the board for
26 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
27 applicable to the license sought as of the date the application for that license is submitted to the
28 board.

1 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the board in writing within ten (10) days of a change in name, residence
7 address and mailing address, or phone number.

8 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
9 phone number(s) shall be considered a violation of probation.

10 **11. Tolling of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar
13 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
14 the period of probation shall be extended by one month for each month during which this
15 minimum is not met. During any such period of tolling of probation, respondent must
16 nonetheless comply with all terms and conditions of probation.

17 Should respondent, regardless of residency, for any reason (including vacation) cease
18 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in
19 California, respondent must notify the board in writing within ten (10) days of cessation of work
20 and must further notify the board in writing within ten (10) days of the resumption of the work.
21 Any failure to provide such notification(s) shall be considered a violation of probation.

22 It is a violation of probation for respondent's probation to remain tolled pursuant to the
23 provisions of this condition for a total period, counting consecutive and non-consecutive months,
24 exceeding thirty-six (36) months.

25 "Cessation of work" means calendar month during which respondent is not
26 working for at least forty (40) hours as a pharmacy technician, as defined in Business
27 and Professions Code section 4115. "Resumption of work" means any calendar
28 month during which respondent is working as a pharmacy technician for at least forty

1 (40) hours as a pharmacy technician as defined by Business and Professions Code
2 section 4115.

3 **12. No Ownership of Licensed Premises**

4 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
6 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
7 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
8 days following the effective date of this decision and shall immediately thereafter provide written
9 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
10 documentation thereof shall be considered a violation of probation.

11 **13. Community Services Program**

12 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
13 Board or its designee, for prior approval, a community service program in which Respondent
14 shall provide free health-care related services on a regular basis to a community or charitable
15 facility or agency for at least 32 hours per year for the first two years of probation. Within thirty
16 (30) days of Board approval thereof, Respondent shall submit documentation to the Board
17 demonstrating commencement of the community service program. A record of this notification
18 must be provided to the Board upon request. Respondent shall report on progress with the
19 community service program in the quarterly reports. Failure to timely submit, commence, or
20 comply with the program shall be considered a violation of probation.

21 **14. Violation of Probation**

22 If a respondent has not complied with any term or condition of probation, the board shall
23 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
24 all terms and conditions have been satisfied or the board has taken other action as deemed
25 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
26 to impose the penalty that was stayed.

27 If respondent violates probation in any respect, the board, after giving respondent notice
28 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
2 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
3 a petition to revoke probation or an accusation is filed against respondent during probation, the
4 board shall have continuing jurisdiction, and the period of probation shall be automatically
5 extended until the petition to revoke probation or accusation is heard and decided.

6 **15. Completion of Probation**

7 Upon written notice by the board indicating successful completion of probation,
8 respondent's pharmacy technician license will be fully restored.

9 **ACCEPTANCE**

10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
11 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
12 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
13 to be bound by the Decision and Order of the Board of Pharmacy.

14
15 DATED: 12/15/14 Markuste Morgan
16 MARKQUISTE NATHANIEL MORGAN
17 Respondent

18 **ENDORSEMENT**

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Pharmacy.

21 Dated: 12/15/14 Respectfully submitted,
22 KAMALA D. HARRIS
23 Attorney General of California
24 GREGORY J. SALUTE
25 Supervising Deputy Attorney General
26 Amanda Dodds
27 AMANDA DODDS
28 Senior Legal Analyst
Attorneys for Complainant

SD2014707202

Exhibit A

Statement of Issues No. 5193

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 5193

13 **MARKQUISTE NATHANIEL MORGAN**

STATEMENT OF ISSUES

14 **Pharmacy Technician Registration**
15 **Applicant**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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 October 18, 2013, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for a Pharmacy Technician Registration from Markquiste
24 Nathaniel Morgan (Respondent). On or about October 14, 2013, Markquiste Nathaniel Morgan
25 certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on March 19, 2014.

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

4. Section 4300, subdivision (c) of the Code states: "The board may refuse a license to any applicant guilty of unprofessional conduct."

STATUTORY PROVISIONS

5. Section 475 of the Code states:

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

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

(2) Conviction of a crime.

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

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

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. 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 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.

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

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

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 7. Section 482 of the Code states:

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

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

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

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or to
26 suspend or revoke a license or otherwise take disciplinary action against a person who
27 holds a license, upon the ground that the applicant or the licensee has been convicted
28 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:

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(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

....

(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.

....

REGULATORY PROVISIONS

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

(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the 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 facility
3 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
4 Professions Code, a crime or act shall be considered substantially related to the
5 qualifications, functions or duties of a licensee or registrant if to a substantial degree
6 it evidences present or potential unfitness of a licensee or registrant to perform the
7 functions authorized by his license or registration in a manner consistent with the
8 public health, safety, or welfare.

9 **FIRST CAUSE FOR DENIAL OF APPLICATION**

10 **(January 26, 2009 Criminal Conviction for Burglary)**

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

16 a. On or about January 26, 2009, in a criminal proceeding entitled *People of the*
17 *State of California vs. Marquiste Nathaniel Morgan*, in San Diego County Superior Court, case
18 number CE278837, Respondent was convicted on his plea of guilty to violating Penal Code
19 section 459, burglary, a felony reduced to a misdemeanor pursuant to Penal Code section 17b. As
20 a result of the plea agreement, the court dismissed additional counts of violating Penal Code
21 section 476, forgery of financial institution paper, and Penal Code section 475, subdivision (c),
22 possessing a completed check/money order with the intent to defraud, felonies.

23 b. As a result of the conviction, on or about January 26, 2009, the court granted
24 Respondent summary probation for three years. Respondent was ordered to submit to a Fourth
25 Amendment waiver, pay fees and fines, and stay away from the victims.

26 c. The facts that led to the conviction are that on or about December 17, 2007, the
27 San Diego County Sheriff's Department received a complaint from the office manager of an
28 electrical contractor in Lakeside. She reported that she had been notified by the contractor's
bank on December 10, 2007 regarding possible check fraud involving the contractor's payroll
account. The bank provided copies of four checks. Three checks were in the amount of \$837.42
each made payable to either Dawane Tousant or Dywane Tousant. The fourth check in the

1 amount of \$790.59 was made payable to Markquiste Morgan. The office manager stated the
2 checks did not resemble the contractor's checks, however, they had the correct payroll account
3 number. The office manager's signature had also been forged. On December 17, 2007, the office
4 manager was contacted by the owner of a security company who stated he was also a victim of
5 check fraud. He discovered that a fraudulent check for \$632.85 in the name of his company was
6 cashed by "Dywane Tousant" at a check cashing shop. Upon contacting the former owner of the
7 shop, it was learned that Dywane Tousant also went by the name "Markquis Morgan." In a
8 subsequent investigation, Respondent stated that he obtained the checks from a friend whom he
9 would not identify, and he admitted to cashing the checks because he needed the money.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Commission of a Dishonest Act)**

12 13. Respondent's application for registration as a pharmacy technician is subject to denial
13 under sections 480, subdivision (a)(2) of the Code for unprofessional conduct in that in or around
14 December 2007, Respondent committed acts of dishonesty, fraud and deceit with the intent to
15 substantially benefit himself, as described in paragraph 12, above.

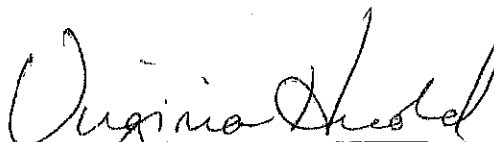
16 **PRAYER**

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

- 19 1. Denying the application of Markquiste Nathaniel Morgan for a Pharmacy Technician
20 Registration;
- 21 2. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: _____

8/8/14



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

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