

1 BILL LOCKYER, Attorney General
of the State of California
2 RONALD L. DIEDRICH, State Bar No. 95146
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

8

9

10

11

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

12

In the Matter of the Accusation Against:

Case No. 2495

13

FAISAL AMANATULLAH
2098 S. Fairway Drive
14 Pocatello, Idaho 83201

**DEFAULT DECISION
AND ORDER**

15

Original Pharmacist License No. RPH32468

[Gov. Code, §11520]

16

Respondent.

17

18

19

FINDINGS OF FACT

20

1. On or about December 16, 2003, Complainant Patricia F. Harris, in her
21 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of
22 Consumer Affairs, filed Accusation No. 2495 against Faisal Amanatullah ("Respondent") before
23 the Board.

24

2. On or about September 28, 1978, the Board issued Original Pharmacist
25 License Number RPH32468 to Respondent.

26

a. On or about January 9, 2002, the Yolo County Superior Court, in the case
27 of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2001, No. 010007171),
28 ordered that Respondent not practice as a pharmacist pending the resolution of the criminal

1 charges in that case. That case was the predecessor case to, and developed into, the case of
2 *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159). On or
3 about September 8, 2003, the Court in this case also ordered that Respondent not practice as a
4 pharmacist pending the resolution of the criminal charges therein.

5 b. Respondent's pharmacist license expired on August 31, 2002, and has not
6 been renewed.

7 3. On or about December 19, 2003, B. L. Hampton, an employee of the
8 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
9 2495, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and
10 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
11 with the Board, which was and is 2098 S. Fairway Drive, Pocatello, Idaho 83201. A copy of the
12 Accusation, the related documents, and Declaration of Service are attached as Exhibit A, and
13 are incorporated herein by reference.

14 4. Service of the Accusation was effective as a matter of law under the
15 provisions of Government Code section 11505, subdivision (c).

16 5. On or about January 2, 2004, Respondent was sent a letter reminding him
17 of the necessity to timely file a notice of defense and the consequences should he fail to do so.
18 On or about January 7, 2004, Respondent called Deputy Attorney General Ronald L. Diedrich
19 and informed him that he did not intend to file a notice of defense and that he understood that his
20 pharmacist license would be revoked as a consequence of that decision. On or about January 8,
21 2004, Respondent was sent a letter confirming that conversation. Copies of the January 2nd and
22 January 8th letters are attached as Exhibit B and are incorporated herein by reference.

23 6. Government Code section 11506 states, in pertinent part:

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

28 ///

1 servant). The circumstances of this conviction were that on or about November 20, 2001,
2 Respondent willfully, unlawfully and fraudulently appropriated, among other things, Viagra,
3 Vicodin, Alprazolam, and non-prescription vitamins and supplements from his employer, Rite
4 Aid Pharmacy in West Sacramento.

5 ii. Health and Safety Code section 11350, subdivision (a) (unlawful
6 possession of a controlled substance). The circumstances of this conviction were that on or about
7 November 20, 2001, Respondent unlawfully possessed a controlled substance, Hydrocodone,
8 a.k.a. Vicodin.

9 iii. Business and Professions Code section 4060 (possession of a controlled
10 substance without a valid prescription). The circumstances of this conviction were that on or
11 about November 21, 2001, Respondent unlawfully possessed a controlled substance, Prozac,
12 without a valid prescription for that controlled substance.

13 B. Respondent is also subject to disciplinary action under Business and
14 Professions Code section 4301, subdivision (f), in that Respondent committed acts involving
15 moral turpitude, dishonesty, fraud, deceit, or corruption. Respondent willfully, unlawfully and
16 fraudulently stole, among other things, Viagra, Vicodin, Alprazolam, and non-prescription
17 vitamins and supplements from his employer, Rite Aid Pharmacy in West Sacramento.

18 C. Respondent is also subject to disciplinary action under Business and
19 Professions Code section 4301, subdivision (j), in that Respondent violated statutes of this state
20 regulating controlled substances and dangerous drugs. On or about September 8, 2003,
21 Respondent was convicted in the case of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo
22 County, 2003, No. 030001159) of violating Health and Safety Code section 11350, subdivision
23 (a) (unlawful possession of a controlled substance) and Business and Professions Code section
24 4060 (possession of a controlled substance without a valid prescription).

25 ///

26 ///

27 ///

28 ///

Exhibit A
Accusation No. 2495,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 RONALD L. DIEDRICH, State Bar No. 95146
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

8

9

10

11

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

12

In the Matter of the Accusation Against:

Case No. 2495

13

FAISAL AMANATULLAH

2098 S. Fairway Drive

14

Pocatello, Idaho 83201

ACCUSATION

15

Original Pharmacist License No. RPH 32468

16

Respondent.

17

18

Complainant alleges:

19

PARTIES

20

1. Patricia F. Harris ("Complainant") brings this Accusation solely in her

21

official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of

22

Consumer Affairs.

23

2. On or about September 28, 1978, the Board of Pharmacy issued Original

24

Pharmacist License Number RPH 32468 to Faisal Amanatullah ("Respondent").

25

a. On or about January 9, 2002, the Yolo County Superior Court, in the case

26

of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2001, No. 010007171),

27

ordered that Respondent not practice as a pharmacist pending the resolution of the criminal

28

charges in that case. That case was the predecessor case to, and developed into, the case of

1 *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159). On or
2 about September 8, 2003, the Court in this case also ordered that Respondent not practice as a
3 pharmacist pending the resolution of the criminal charges therein.

4 b. Respondent's pharmacist license expired on August 31, 2002, and has not
5 been renewed.

6 JURISDICTION

7 3. This Accusation is brought before the Board under the authority of the
8 following Business and Professions Code ("Code") sections:

9 a. Code section 4300, subdivision (a), provides that "[e]very license issued
10 [by the Board] may be suspended or revoked [by the Board]."

11 b. Code section 4301 provides in pertinent part that "[t]he Board shall take
12 action against any holder of a license who is guilty of unprofessional conduct . . ."

13 4. Pursuant to Code section 4402, subdivision (d), the Board may proceed
14 with any accusation that has been filed prior to three (3) years from the date a pharmacist license
15 expired.

16 STATUTORY PROVISIONS

17 5. Code section 490 states:

18 A board may suspend or revoke a license on the ground that the
19 licensee has been convicted of a crime, if the crime is substantially
20 related to the qualifications, functions, or duties of the business or
21 profession for which the license was issued. A conviction within
22 the meaning of this section means a plea or verdict of guilty or a
23 conviction following a plea of nolo contendere. Any action which
24 a board is permitted to take following the establishment of a
25 conviction may be taken when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal, or when
27 an order granting probation is made suspending the imposition of
28 sentence, irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code.

6. Code section 4301 provides, in pertinent part:

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:

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

(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.

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

(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.

7. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction - Code §§ 490 and/or 4301, subd. (l))

8. Respondent is subject to disciplinary action under Code sections 490 and/or 4301, subdivision (l), in that Respondent was convicted of crimes which are substantially related to the qualifications, functions, or duties of a licensed pharmacist.

9. On or about September 8, 2003, in the case of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159), Respondent was convicted of the

1 following crimes, each of which is substantially related to the qualifications, functions, or duties
2 of a licensed pharmacist.

3 a. Penal Code section 503 and 508 (embezzlement by a clerk, agent or
4 servant). The circumstances of this conviction were that on or about November 20, 2001,
5 Respondent willfully, unlawfully and fraudulently appropriated, among other things, Viagra,
6 Vicodin, Alprazolam, and non-prescription vitamins and supplements from his employer, Rite
7 Aid Pharmacy in West Sacramento.

8 b. Health and Safety Code section 11350, subdivision (a) (unlawful
9 possession of a controlled substance). The circumstances of this conviction were that on or about
10 November 20, 2001, Respondent unlawfully possessed a controlled substance, Hydrocodone,
11 a.k.a. Vicodin.

12 c. Code section 4060 (possession of a controlled substance without a valid
13 prescription). The circumstances of this conviction were that on or about November 21, 2001,
14 Respondent unlawfully possessed a controlled substance, Prozac, without a valid prescription for
15 that controlled substance.

16 SECOND CAUSE FOR DISCIPLINE

17 (Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption - Code § 4301, subd. (f))

18 10. Respondent is also subject to disciplinary action under Code section 4301,
19 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
20 deceit, or corruption.

21 11. As more fully alleged in paragraph 9.a. above and incorporated herein by
22 reference, on or about November 20, 2001, Respondent willfully, unlawfully and fraudulently
23 stole, among other things, Viagra, Vicodin, Alprazolam, and non-prescription vitamins and
24 supplements from his employer, Rite Aid Pharmacy in West Sacramento.

25 ///

26 ///

27 ///

28 ///

THIRD CAUSE FOR DISCIPLINE

(Violation of Statute Regulating Controlled Substances & Dangerous Drugs. -

Code § 4301, subd. (j))

12. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated statutes of this state regulating controlled substances and dangerous drugs.

13. As more fully alleged in paragraph 9.b. above and incorporated herein by reference, on or about September 8, 2003, Respondent was convicted in the case of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159) of violating Health and Safety Code section 11350, subdivision (a) (unlawful possession of a controlled substance).

14. As more fully alleged in paragraph 9.c. above and incorporated herein by reference, on or about September 8, 2003, Respondent was convicted in the case of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159) of violating Code section 4060 (possession of a controlled substance without a valid prescription).

///

///

///

///

///

///

///

///

///

///

///

///

///

///

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

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:

A. Revoking or suspending Original Pharmacist License Number RPH 32468 issued to Faisal Amanatullah;

B. Ordering Faisal Amanatullah to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

C. Taking such other and further action as deemed necessary and proper.

DATED: 12/16/03

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

C:\DAT\Licensing\Pharmacy Board\Faisal Amanatullah\Accusation.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 RONALD L. DIEDRICH, State Bar No. 95146
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2495

12 FAISAL AMANATULLAH

STATEMENT TO RESPONDENT

13 Respondent.

[Gov. Code §§ 11503, 11505, subd. (b)]

15 TO RESPONDENT:

16 Enclosed is a copy of the Accusation that has been filed with the Board of
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is
19 delivered or mailed to the Board, represented by Deputy Attorney General Ronald L. Diedrich,
20 within fifteen (15) days after a copy of the Accusation was personally served on you or mailed
21 to you, you will be deemed to have waived your right to a hearing in this matter and the Board
22 may proceed upon the Accusation without a hearing and may take action thereon as provided by
23 law.

24 The request for hearing may be made by delivering or mailing one of the
25 enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as
26 provided in section 11506 of the Government Code, to

27 ///

28 ///

1 **Ronald L. Diedrich**
2 **Supervising Deputy Attorney General**
3 **1300 I Street, Suite 125, P.O. Box 944255**
4 **Sacramento, California 94244-2550**

5 You may, but need not, be represented by counsel at any or all stages of these
6 proceedings.

7 The enclosed Notice of Defense, if signed and filed with the Board, shall be
8 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise
9 any objection to the form of the Accusation unless you file a further Notice of Defense as
10 provided in section 11506 of the Government Code within fifteen (15) days after service of the
11 Accusation on you.

12 If you file any Notice of Defense within the time permitted, a hearing will be
13 held on the charges made in the Accusation.

14 The hearing may be postponed for good cause. If you have good cause, you are
15 obliged to notify the Office of Administrative Hearings, 560 J Street, Suite 340/360,
16 Sacramento, California 95814, within ten (10) working days after you discover the good cause.
17 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of
18 a postponement.

19 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
20 enclosed.

21 If you desire the names and addresses of witnesses or an opportunity to inspect
22 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
23 custody or control of the Board you may send a Request for Discovery to the above designated
24 Deputy Attorney General.

25 **NOTICE REGARDING STIPULATED SETTLEMENTS**

26 It may be possible to avoid the time, expense and uncertainties involved in an
27 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
28 settlement is a binding written agreement between you and the government regarding the
matters charged and the discipline to be imposed. Such a stipulation would have to be

1 approved by the Board of Pharmacy but, once approved, it would be incorporated into a final
2 order.

3 Any stipulation must be consistent with the Board's established disciplinary
4 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
5 Board's Disciplinary Guidelines will be provided to you on your written request to the state
6 agency bringing this action.

7 If you are interested in pursuing this alternative to a formal administrative
8 hearing, or if you have any questions, you or your attorney should contact Deputy Attorney
9 General Ronald L. Diedrich at the earliest opportunity.

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 Accusation Against:

FAISAL AMANATULLAH

Respondent.

Case No. 2495

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 Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

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

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

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 Accusation 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.

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

In the Matter of the Accusation Against:

FAISAL AMANATULLAH

Respondent.

Case No. 2495

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 Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

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

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

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 Accusation 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.

1 BILL LOCKYER, Attorney General
of the State of California
2 RONALD L. DIEDRICH, State Bar No. 95146
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
6 E-mail: ron.diedrich@doj.ca.gov

7 Attorneys for Complainant

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

10

11 In the Matter of the Accusation Against:

Case No. 2495

12 FAISAL AMANATULLAH

REQUEST FOR DISCOVERY

13 Respondent.

[Gov. Code § 11507.6]

14

15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California,
17 parties to an administrative hearing, including the Complainant, are entitled to certain
18 information concerning the opposing party's case. A copy of the provisions of section 11507.6
19 of the Government Code concerning such rights is included among the papers served.

20

21 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
22 ARE HEREBY REQUESTED TO:

23 1. Provide the names and addresses of witnesses to the extent known to the
24 Respondent, including, but not limited to, those intended to be called to testify at the hearing,
25 and

26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
27 the following in the possession or custody or under control of the Respondent:

28 ///

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative
4 proceeding;

5 b. A statement pertaining to the subject matter of the proceeding made by
6 any party to another party or persons;

7 c. Statements of witnesses then proposed to be called by the Respondent
8 and of other persons having personal knowledge of the acts, omissions or events which
9 are the basis for the proceeding, not included in (a) or (b) above;

10 d. All writings, including but not limited to reports of mental, physical and
11 blood examinations and things which the Respondent now proposes to offer in
12 evidence;

13 e. Any other writing or thing which is relevant and which would be
14 admissible in evidence, including but not limited to, any patient or hospital records
15 pertaining to the persons named in the pleading;

16 f. Investigative reports made by or on behalf of the Respondent pertaining
17 to the subject matter of the proceeding, to the extent that these reports (1) contain the
18 names and addresses of witnesses or of persons having personal knowledge of the acts,
19 omissions or events which are the basis for the proceeding, or (2) reflect matters
20 perceived by the investigator in the course of his or her investigation, or (3) contain or
21 include by attachment any statement or writing described in (a) to (e), inclusive, or
22 summary thereof.

23
24 For the purpose of this Request for Discovery, "statements" include written
25 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
26 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the
27 person, and written reports or summaries of these oral statements.

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

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: December 19, 2003

BILL LOCKYER, Attorney General
of the State of California



RONALD L. DIEDRICH
Deputy Attorney General
Attorneys for Complainant

**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

In the Matter of the Accusation Against: FAISAL AMANATULLAH

Agency Case No. 2495

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 December 19, 2003, I served the attached **Accusation, Statement to Respondent, Notice of Defense (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 **Accusation, Statement to Respondent, Notice of Defense (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 1300 I Street, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

FAISAL AMANATULLAH
2098 S. Fairway Drive
Pocatello, Idaho 83201
7160 3901 9848 0075 0277

John E. Virga, Esq.
721 - 11th Street
Sacramento, CA 95814
7160 3901 9848 0075 0291

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 December 19, 2003, at Sacramento, California.

B. L. HAMPTON

Typed Name



Signature

Courtesy Copy: Patricia F. Harris, Executive Officer, Board of Pharmacy

Certified Article Number

7160 3901 9848 0075 0277

SENDERS RECORD

7160 3901 9848 0075 0277

TO: John E. Virga, Esq.
721 - 11th Street
Sacramento, CA 95814

SENDER: RONALD L. DIEDRICH, DAG

REFERENCE: 03583-110-SA2002AD0065

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
Total Postage & Fees		

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Certified Article Number

7160 3901 9848 0075 0291

SENDERS RECORD

7160 3901 9848 0075 0291

TO: Faisal Amanatullah
2098 S. Fairway Drive
Pocatello, ID 83201

SENDER: RONALD L. DIEDRICH, DAG

REFERENCE: 03583-110-SA2002AD0065

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
Total Postage & Fees		

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

<p>2. Article Number</p>  <p>7160 3901 9848 0075 0277</p>	<p>COMPLETE THIS SECTION ON DELIVERY</p> <p>A. Received by (Please Print Clearly) SMITH B. Date of Delivery 12/23/03</p> <p>C. Signature X <i>[Signature]</i> DEC 23 2003 <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>3. Service Type CERTIFIED MAIL</p>	
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to:</p> <p>John E. Virga, Esq. 721 - 11th Street Sacramento, CA 95814</p>	
<p>03583-110-SA2002AD0065-Accusation.pkt RONALD L. DIEDRICH, DA</p>	
<p>PS Form 3811, July 2001 Domestic Return Receipt</p>	

<p>2. Article Number</p>  <p>7160 3901 9848 0075 0291</p>	<p>COMPLETE THIS SECTION ON DELIVERY</p> <p>A. Received by (Please Print Clearly) Faisal Amanatullah B. Date of Delivery 12-22-03</p> <p>C. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>
<p>3. Service Type CERTIFIED MAIL</p>	
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to:</p> <p>Faisal Amanatullah 2098 S. Fairway Drive Pocatello, ID 83201</p>	
<p>03583-110-SA2002AD0065-Accusation.pkt RONALD L. DIEDRICH, DA</p>	
<p>PS Form 3811, July 2001 Domestic Return Receipt</p>	

Exhibit B

January 2 and 8, 2004 Letters



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Telephone: (916) 324-5333
Facsimile: (916) 327-8643
E-Mail: ron.diedrich@doj.ca.gov

January 2, 200~~3~~⁴

Faisal Amanatullah
2098 S. Fairway Drive
Pocatello, Idaho 83201

RE: In the Matter of the Accusation Against: Faisal Amanatullah, Case No. 2495

Dear Mr. Amanatullah:

As you are aware, an Accusation, with attached documents, seeking the revocation of your expired California pharmacist license, number RPH 32468, was served on you by first class and certified mail on December 19, 2003.

This letter is a reminder that, as indicated on page 1 of the Statement to Respondent, you have fifteen (15) calendar days from that date (Dec. 19th) to deliver or mail a notice of defense (two notice of defense forms were attached to the Accusation) or a request for hearing to me. To expedite the matter, you may also fax it to me at 916-327-8643. Please understand that if you fail to submit a timely notice of defense or request for hearing you will be deemed to have waived your right to a hearing and the California State Board of Pharmacy may proceed upon the Accusation without a hearing and may revoke your pharmacist license. (See Cal. Gov. Code §§ 11506 & 11520.)

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Diedrich".

RONALD L. DIEDRICH
Deputy Attorney General

For BILL LOCKYER
Attorney General

cc: John E. Virga, Esq.



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Telephone: (916) 324-5333
Facsimile: (916) 327-8643
E-Mail: ron.diedrich@doj.ca.gov

January 8, 2004

Faisal Amanatullah
2098 S. Fairway Drive
Pocatello, Idaho 83201

RE: In the Matter of the Accusation Against: Faisal Amanatullah, Case No. 2495

Dear Mr. Amanatullah:

This letter is to confirm our telephone conversation yesterday wherein you advised me that you did not intend to file a notice of defense or request a hearing for the above-referenced matter. You said that you had reached this decision because of the mental anguish and costs that you believe you would incur by going forward.

You stated that you clearly understood that as a result of not requesting a hearing to dispute the allegations in the Accusation your California pharmacist license, number RPH 32468, will be revoked by way of a default decision and order. You also expressed your understanding that you would have to wait a minimum of three (3) years from the effective date of the decision and order revoking your license until you could petition the California Board of Pharmacy for the possible reinstatement of your license. (See Cal. Bus. & Prof. Code § 4309.) You said you understood that there was no guarantee that should you file such a petition that it would be granted.

You acknowledged that you knew that you had the right to be represented by counsel in this matter. You said you were choosing to represent yourself and that you felt more than capable of such representation in this matter. However, you did ask that a copy of this letter be sent to John E. Virga, Esq., for his records. Mr. Virga was your attorney in the criminal case of *People v. Faisal Frank Amanatullah* (Super. Ct. Yolo County, 2003, No. 030001159.).

You expressed your understanding that I represent the Complainant in this matter and that I do not represent you. You acknowledged that I did not provide you with any legal advice, that I did not advise you to not file a notice of defense or a request for hearing, that I told you that you could fax to me a late notice of defense or request for a hearing and that I would ask the Complainant if she would waive its untimeliness (see Cal. Gov. Code § 11520), and that no promises or inducements of any nature whatsoever were given to you for not filing a notice of

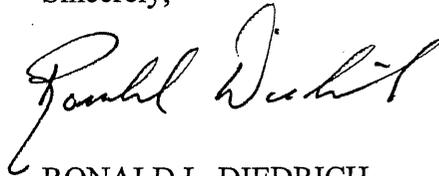
Faisal Amanatullah
January 8, 2004
page 2

defense or request for hearing.

Please contact me immediately if you believe that the above confirmation is not accurate.

Please be advised that because of your failure to file a timely notice of defense or request for hearing and your advising me that you do not intend to file a notice of defense or request for hearing, the California Board of Pharmacy will now proceed upon the Accusation without a hearing and will revoke your pharmacist license. (See Cal. Gov. Code §§ 11506 & 11520.)

Sincerely,



RONALD L. DIEDRICH
Deputy Attorney General

For BILL LOCKYER
Attorney General

cc: Patricia Harris, Executive Officer
California Board of Pharmacy

John E. Virga, Esq.