BILL LOCKYER, Attorney General
of the State of California
TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-3034
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: NANCY LYNN WILDISH 9265 Belvedere Street Spring Hill, Florida 34608 Pharmacy Technician Registration No. TCH 18312 Respondent.	Case No. 2689 **DEFAULT DECISION AND ORDER**

ACCUSATION

1. On November 22, 2004, an administrative disciplinary proceeding, Accusation No. 2689, was filed by Patricia F. Harris, who was acting in her official capacity as the Executive Officer of the California State Board of Pharmacy, against NANCY LYNN WILDISH (hereinafter respondent WILDISH), holder of Pharmacy Technician Registration No. TCH 18312.

SERVICE OF ACCUSATION

2. On November 30, 2004, the Accusation, Case No. 2689, together with a Notice of Defense, a Statement to Respondent and a document entitled "Copy of Government Code Sections 11507.5, 11507.6 and 11507.7 Provided Pursuant to Government Code Sections

11504 and 11505," (hereinafter referenced as the "Accusation and jurisdictional documents") were served upon respondent WILDISH by first class and certified mail addressed to respondent at 26132 Lodgepole Court, Hemet, California 92544.

4. On January 24, 2005, the Accusation and jurisdictional documents were served upon respondent WILDISH by certified mail addressed to respondent at 9265 Belvedere Street, Spring Hill, Florida 34608.

5. On March 17, 2005, the Accusation and jurisdictional documents were served upon respondent WILDISH by first class mail addressed to respondent at 9265 Belvedere Street, Spring Hill, Florida 34608.

JURISDICTION FOR DEFAULT

6. The California Pharmacy Law is set forth at Business and Professions Code section 4000 et seq. Business and Professions Code section 4001(a) provides that there is in the Department of Consumer Affairs a California State Board of Pharmacy.

7. Under Business and Professions Code section 4005(a), the California State Board of Pharmacy may by rule or regulation adopt rules and regulations, *inter alia*, for the proper and more effective enforcement and administration of the California Pharmacy Law. The regulations adopted by the Board appear in Title 16, California Code of Regulations, section 1700, et seq., and shall be referred to herein as the "Board Regulations."

8. At all times material herein, Board Regulation 1704 has provided as follows:

> Each person holding a certificate, license, permit, registration or exemption to practice or engage in any activity in the State of California under any and all laws administered by the Board shall file a proper and current residence address with the Board at its offices in Sacramento and shall within 30 days notify the Board at its said office of any and all changes of residence address, giving both the old and new address.

9. At all times material herein, Government Code section 11505(c) has provided, in pertinent part, that "Service (of the Accusation) by registered mail shall be effective if a statute or agency rule requires the respondent to file the respondent's address with the agency

and to notify the agency of any change, and if a registered letter containing the Accusation and accompanying materials is mailed, addressed to the respondent at the latest address on file with the agency."

10. Code of Civil Procedure section 11 provides that "(W)henever any notice or other communication is required by this code to be mailed by registered mail by or to any person or corporation, the mailing of such notice or other communication by certified mail shall be deemed to be a sufficient compliance with the requirement of law."

11. At all times material herein, the latest address of respondent WILDISH on file with the California State Board of Pharmacy has been 9265 Belvedere Street, Spring Hill, Florida 34608.

12. On January 24, 2005, respondent WILDISH was served with the Accusation and jurisdictional documents in Case No. 2689, in a manner authorized by Government Code section 11505(c) and Code of Civil Procedure section 11. Respondent WILDISH has failed to file a Notice of Defense as permitted by Government Code section 11506(a), and has otherwise failed to request a hearing, object or otherwise contest the Accusation, Case No. 2689. Respondent has waived her right to a hearing on the Accusation and is in default. As a result of respondent's waiver, and pursuant to Government Code section 11520(a), the California State Board of Pharmacy shall take action on the Accusation without a hearing, based upon the Accusation and the documentary evidence on file, and makes the following Findings of Fact and Determination of Issues.

13. The Accusation and jurisdictional documents, including the Declarations of Service By Mail showing service upon respondent WILDISH on January 24, 2005 and March 17, 2005, are attached hereto as Exhibit A and incorporated herein by this reference.

14. The Postal Return showing that respondent WILDISH did not claim the service which was made by certified mail on January 24, 2005, is attached hereto as Exhibit B and incorporated herein by this reference.

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FINDINGS OF FACT

1. Complainant, Patricia F. Harris, is the Executive Officer of the California State Board of Pharmacy, and filed the Accusation, Case No. 2689, solely in her official capacity.

2. On January 29, 1996, the California State Board of Pharmacy issued Pharmacy Technician Registration Number TCH 18312 to respondent NANCY LYNN WILDISH. The registration will expire on January 31, 2006, unless renewed.

3. At all times material herein, hydrocodone with acetaminophen was designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

4. On or about January 25, 2000, respondent WILDISH was employed as a pharmacy technician by Sav-On Pharmacy. From September 12, 2002 to December 10, 2002, respondent worked as a pharmacy technician at Sav-On Pharmacy No. 9703, which is located in Temecula, California.

5. From September 12, 2002 to December 9, 2002, while working as a pharmacy technician, respondent WILDISH diverted approximately 1,299 tablets of hydrocodone from Sav-On Pharmacy No. 9703. Respondent diverted and self-administered the hydrocodone for relief of back pain. On December 10, 2002, respondent signed a Promissory Note and Disclosure Statement in which she agreed to repay Sav-On the amount of $453.16 as reimbursement for the diverted drugs.

6. During the period of diversion, on November 21, 2002, respondent WILDISH completed a document entitled "Daily Physical Inventory Count Work Sheet." In the Work Sheet, respondent wrote that there were 663 tablets of hydrocodone 7.5/750 in Sav-On Pharmacy No. 9703, when there were actually 667 tablets of this controlled substance in the pharmacy. Respondent misrepresented the amount of hydrocodone in order to conceal her diversion of drugs from Sav-On Pharmacy No. 9703.

7. The Investigation Report, No. CI 2002-24769, relating to the conduct of respondent WILDISH at Sav-On Pharmacy No. 9703 is attached hereto as Exhibit C, and

incorporated herein by this reference.

DETERMINATION OF ISSUES

1. Based on the above Findings of Fact, cause for disciplinary action against respondent WILDISH exists for violating provisions of the California Pharmacy Law.

2. Cause for discipline exists pursuant to Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(j) (violation of statutes regulating controlled substances), through a violation of Business and Professions Code section 4060 and Health and Safety Code section 11173(a), by reason of Findings of Fact numbers 3, 4, 5 and 6.

3. Cause for discipline exists pursuant to Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(f) (commission of an act of moral turpitude), by reason of Findings of Fact numbers 3, 4, 5 and 6.

4. Cause for discipline exists pursuant to Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(g) (making a document that falsely represents facts), by reason of Findings of Fact numbers 3, 4, 5 and 6.

5. Cause for discipline exists pursuant to Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(h) (use of controlled substances dangerous to self and others), by reason of Findings of Fact numbers 3, 4, 5 and 6.

6. Pursuant to Business and Professions Code section 4307(a), respondent WILDISH shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate or partner of any licensee with rights issued by the California State Board of Pharmacy.

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DISCIPLINARY ORDER

WHEREFORE, IT IS ORDERED:

Original Pharmacy Technician Registration Number TCH 18312, issued to NANCY LYNNE WILDISH, is hereby revoked pursuant to Determination of Issues numbers 2, 3, 4 and 5, separately, and for all of them.

Respondent NANCY LYNNE WILDISH is prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to Determination of Issues number 6.

Pursuant to Government Code section 11520, subdivision (c), respondent NANCY LYNNE WILDISH 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 California State Board of Pharmacy, in its discretion, may vacate the Decision and grant a hearing on a showing of good cause, as defined in section 11520(c).

This Default Decision shall become effective on June 3, 2005.

DATED: May 4, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANELY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2689,
Jurisdictional Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: NANCY LYNNE WILDISH 26132 Lodgepole Court Hemet, CA 92544 Pharmacy Technician Registration No. TCH 18312 Respondent.	Case No. 2689 **ACCUSATION**

The Complainant, Patricia F. Harris, for cause of accusation against NANCY LYNNE WILDISH, alleges as follows:

PARTIES

1. The Complainant, Patricia F. Harris, is the Executive Officer of the California State Board of Pharmacy (hereinafter the "Board"), and makes this Accusation solely in her official capacity.

2. On or about January 29, 1996, the Board issued Original Pharmacy Technician Registration Number TCH 18312 to respondent NANCY LYNNE WILDISH (hereinafter respondent "WILDISH"). At all times material herein, respondent WILDISH was and currently is licensed by the Board as a pharmacy technician. The registration expires on

January 31, 2006, unless renewed.

JURISDICTION

3. Complainant brings this Accusation under the power vested in the Board in Business and Professions Code section 4300(a) to suspend or revoke licenses issued by the Board pursuant to the California Pharmacy Act, Chapter 9, Division 2, section 4000 et seq., of the Business and Professions Code.

FACTS

4. At all times material herein, hydrocodone with acetaminophen was designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

5. On or about January 25, 2000, respondent WILDISH was employed as a pharmacy technician by Sav-on Pharmacy. From September 12, 2002 to December 10, 2002, respondent worked as a pharmacy technician at Sav-on Pharmacy No. 9703, which is located in Temecula, California.

6. From September 12, 2002 to December 9, 2002, while working as a pharmacy technician, respondent WILDISH diverted approximately 1,299 tablets of hydrocodone from Sav-on Pharmacy No. 9703. Respondent diverted and self-administered the hydrocodone for relief of back pain. On December 10, 2002, respondent signed a Promissory Note and Disclosure Statement in which she agreed to repay Sav-on the amount of $453.16 as reimbursement for the diverted drugs.

7. During the period of diversion, on November 21, 2002, respondent WILDISH completed a document entitled "Daily Physical Inventory Count Work Sheet." In the Work Sheet, respondent wrote that there were 663 tablets of hydrocodone 7.5/750 in Sav-on Pharmacy No. 9703, when there were actually 667 tablets of this controlled substance in the pharmacy. Respondent misrepresented the amount of hydrocodone in order to conceal her diversion of drugs from Sav-on Pharmacy No. 9703.

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FIRST CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Controlled Substances)

8. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 7 hereinabove.

9. Business and Professions Code section 4060 provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian.

10. Health and Safety Code section 11173(a) provides, in pertinent part, that no person shall obtain, or attempt to obtain, controlled substances by fraud, deceit, misrepresentation, or subterfuge.

11. Business and Professions Code section 4301 provides that the Board shall take action against any licensee who is guilty of unprofessional conduct.

12. Business and Professions Code section 4301(j) provides that unprofessional conduct for a pharmacy technician includes the violation of any statutes of this state regulating controlled substances.

13. The pharmacy technician registration held by respondent WILDISH is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(j), in that, by diverting hydrocodone from Sav-on Pharmacy No. 9703, as described in paragraph 6 hereinabove, respondent violated Business and Professions Code section 4060 and Health and Safety Code section 11173(a), statutes that regulate controlled substances in this state.

SECOND CAUSE FOR DISCIPLINE

(Commission of Act of Moral Turpitude)

14. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 7 and 11 hereinabove.

15. Business and Professions Code section 4301(f) provides that unprofessional conduct for a pharmacy technician includes 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.

16. The pharmacy technician registration held by respondent WILDISH is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(f), in that, by diverting hydrocodone while she was working as a pharmacy technician at Sav-on Pharmacy No 9703, as described in paragraph 6 hereinabove, respondent committed acts of moral turpitude, dishonesty, fraud, deceit or corruption.

THIRD CAUSE FOR DISCIPLINE

(Falsely Representing Facts)

17. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 7 and 11 hereinabove.

18. Business and Professions Code section 4301(g) provides that unprofessional conduct for a pharmacy technician includes knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

19. The pharmacy technician registration held by respondent WILDISH is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(g), in that, respondent made a Daily Physical Inventory Count Worksheet in which she falsely represented the number of hydrocodone 7.5/750 in Sav-on Pharmacy No. 9703 as of November 21, 2002, as described in paragraph 7 hereinabove.

FOURTH CAUSE FOR DISCIPLINE

(Dangerous Use of Controlled Substances)

20. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 7 and 11 hereinabove.

21. Business and Professions Code section 4301(h) provides that unprofessional conduct for a licensee under the California Pharmacy Act includes:

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

22. The pharmacy technician registration held by respondent WILDISH is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(h), in that, respondent used hydrocodone, a controlled substance, to the extent and in a manner that was dangerous to herself, and to the extent that such use impaired her ability to practice with safety to the public the profession of pharmacy technician, as described in paragraphs 6 and 7 hereinabove.

OWNERSHIP PROHIBITION

23. Business and Professions Code section 4307(a) provides, in pertinent part, that any person whose license has been revoked or is under suspension shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate or partner of a licensee.

24. Pursuant to Business and Professions Code section 4307(a), in the event that the license issued to respondent WILDISH is revoked or placed on suspension, respondent WILDISH shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate or partner of any licensee with rights issued by the Board.

COST RECOVERY

25. Business and Professions Code section 125.3 provides that, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, the board may request the Administrative law Judge to direct a licentiate 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.

26. Under Business and Professions Code section 101(d), the California State

Board of Pharmacy was and is a board within the Department of Consumer Affairs of the State of California. Pursuant to Business and Professions Code section 125.3, the Board hereby requests the Administrative Law Judge who issues a Proposed Decision in this matter to include an Order which provides for the recovery by the Board of the costs of investigation and enforcement of this case against respondent WILDISH, according to proof.

WHEREFORE, Complainant prays that a hearing be had and that the Board of Pharmacy make its Order:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 18312 issued to respondent NANCY LYNNE WILDISH.

2. Prohibiting respondent NANCY LYNNE WILDISH from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to the provisions of Business and Professions Code section 4307(a).

3. Directing respondent NANCY LYNNE WILDISH to pay the California State Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter pursuant to Business and Professions Code section 125.3, according to proof.

4. Taking such further action as is deemed necessary and proper.

DATED: 11/22/04.

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
California State Board of Pharmacy
Department of consumer Affairs

Attorneys for Complainant

BILL LOCKYER, Attorney General
of the State of California
TIMOTHY L. NEWLOVE, State Bar No. 73428
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California Department of Justice
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2689
NANCY LYNNE WILDISH	**REQUEST FOR DISCOVERY**
Respondent.	[Gov. Code § 11507.6]

TO RESPONDENT:

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

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

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

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

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 persons;

c. Statements of witnesses then proposed to be called by the Respondent 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 Respondent now proposes to offer in evidence;

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

f. Investigative reports made by or on behalf of the Respondent 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 Request for Discovery, "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.

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

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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: November 30, 2004.

BILL LOCKYER, Attorney General
of the State of California

T. L. Newlove (mss)

TIMOTHY L. NEWLOVE
Deputy Attorney General

Attorneys for Complainant

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BILL LOCKYER, Attorney General
of the State of California
TIMOTHY L. NEWLOVE, State Bar No. 73428
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2689
NANCY LYNNE WILDISH	**STATEMENT TO RESPONDENT**
Respondent.	[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

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

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

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

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Timothy L. Newlove
Deputy Attorney General
110 West "A" Street, Suite 1100
San Diego, California 92101

P.O. Box 85266
San Diego, California 92186-5266.

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

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

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

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California 90013, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

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

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

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NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated 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 approved by the Board of Pharmacy but, once approved, it would be incorporated into a final order.

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

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

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

In the Matter of the Accusation Against:	Case No. 2689
NANCY LYNNE WILDISH	**NOTICE OF DEFENSE**
Respondent.	[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:	Case No. 2689
NANCY LYNNE WILDISH	**NOTICE OF DEFENSE**
Respondent.	[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.

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

Case Name: **NANCY LYNNE WILDISH** No.:**2689**

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 **November 30, 2004**, 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, in the internal mail collection system at the Office of the Attorney General at San Diego, addressed as follows:

Nancy Wildish
26132 Lodgepole Court
Hemet, CA 92544
7003 1680 0006 9084 9555

COURTESY COPY:

Patricia Harris
Executive Officer
400 R Street, Suite 4070
Sacramento, California 95814
FIRST CLASS MAIL

I declare under penalty of perjury under the law of the State of California the foregoing is true and correct and that this declaration was executed on **November 30, 2004**, at San Diego, California.

MONA S. SEBASTIAN
Declarant

Signature

80043638.wpd

7111 8900 0000 4004 9555

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Sent To
NANCY WILDISH
Street, Apt. No., or PO Box No. 26132 LODGEPOLE COURT
City, State, ZIP+4 HEMET CA 92544

PS Form 3800, June 2002 See Reverse for Instructions

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **NANCY LYNNE WILDISH**

Case No.: **2689**

I declare:

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

On January 6, 2005, 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 with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at San Diego, addressed as follows:

Nancy Wildish
26132 Lodgepole Court
Hemet, CA 92544

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 6, 2005, at San Diego, California.

Veronica R. Cruz
Declarant

Signature

80047839.wpd

DECLARATION OF SERVICE BY CERTIFIED MAIL

Case Name: **NANCY LYNNE WILDISH** No.:**2689**

I declare:

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

On **January 24, 2005**, 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, in the internal mail collection system at the Office of the Attorney General at San Diego, addressed as follows:

Nancy Wildish
9265 Belvedere Street
Spring Hill, Florida 34608

COURTESY COPY:

Patricia Harris
Executive Officer
400 R Street, Suite 4070
Sacramento, California 95814
FIRST CLASS MAIL

I declare under penalty of perjury under the law of the State of California the foregoing is true and correct and that this declaration was executed on **January 24, 2005**, at San Diego, California.

MONA S. SEBASTIAN
Declarant

Signature

80049586.wpd

7004 1350 0005 6243 3654

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Sent To
NANCY WILDISH
Street, Apt. No.; or PO Box No. 9265 BELVEDERE STREET
City, State, ZIP+4 SPRING HILL FLORIDA 34608

PS Form 3800, June 2002 See Reverse for Instructions

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **In the Matter of the Accusation Against: NANCY LYNNE WILDISH** No. **2689**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar which member's direction this service is made. I am 18 years of age and 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 **March 17, 2005**, 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 with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at San Diego, addressed as follows:

Nancy Wildish
9265 Belvedere Street
Spring Hill, Florida 34608

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 **March 17, 2005**, at San Diego, California.

MONA S. SEBASTIAN
Declarant

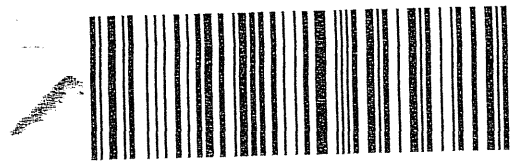
Signature

70014658.wpd

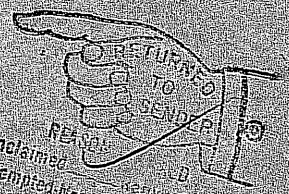
Exhibit B

Postal Return Documents

CERTIFIED MAIL



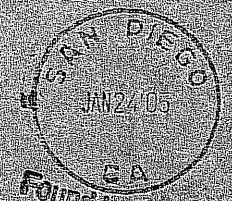
7004 1350 0005 6243 3654



Unclaimed
Attempted-Not known
Insufficient Address
No such street number
No such office in state
Do not remain in this envelope

ATTORNEY GENERAL
SAN DIEGO

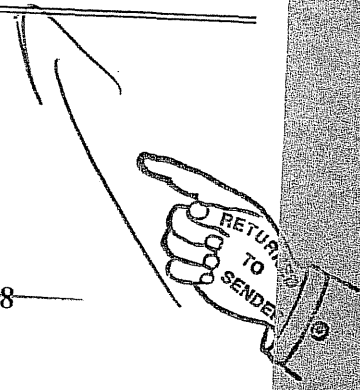
2005 MAR 14 AM 9:44



Found in supposedly empty equipment

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF ATTORNEY GENERAL
110 WEST A STREET, SUITE 1100
P.O. BOX 85266
SAN DIEGO, CA 92186-5266

TIMOTHY E. REISERT



NANCY WILDISH
9265 BELVEDERE STREET
SPRING HILL FLORIDA 34608

1st NOTICE 1-27
2nd NOTICE 2-07
RETURNED 2-14