

1 BILL LOCKYER, Attorney General  
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3 California Department of Justice  
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5 Telephone: (916) 324-5342  
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6 Attorneys for Complainant  
7  
8

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

13 In the Matter of the Accusation Against:

Case No. 2746

14 **LORI ANN DAVIES**  
**aka LORI ANN BROWN**  
15 2800 Kerria Way  
Sacramento, CA 95821

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

16 Pharmacy Technician Registration No. TCH 10766

17 Respondent.

18 **FINDINGS OF FACT**

19 1. On or about October 15, 2004, Complainant Patricia F. Harris, in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs, filed Accusation No. 2746 against Lori Ann Davies, also known as Lori Ann Brown  
22 (Respondent), before the Board of Pharmacy.

23 2. On or about November 24, 1993, the Board of Pharmacy (Board) issued  
24 Pharmacy Technician Registration Number TCH 10766 to Respondent. The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on November 30, 2005, unless renewed.

27 3. On or about November 29, 2004, Araceli Mercado, an employee of the  
28 Office of the Attorney General, served by Certified and First Class Mail copies of Accusation

1 No. 2746, Statement to Respondent, Notice of Defense, Request for Discovery, and Government  
2 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,  
3 which was, and is, 2800 Kerria Way, Sacramento, CA 95821. Ms. Mercado also served  
4 Respondent at her address located at 3349 Cottage Way, #30, Sacramento, CA 95825.  
5 A copy of the Accusation and the related documents are attached as exhibit A, and are  
6 incorporated herein by reference.

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

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

10 (c) The respondent shall be entitled to a hearing on the merits if the  
11 respondent files a notice of defense, and the notice shall be deemed a specific  
12 denial of all parts of the accusation not expressly 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.

13 6. Respondent failed to file a Notice of Defense within 15 days after service  
14 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
15 Accusation No. 2746.

16 7. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at  
18 the hearing, the agency may take action based upon the respondent's express  
admissions or upon other evidence and affidavits may be used as evidence without  
19 any notice to respondent.

20 8. Pursuant to its authority under Government Code section 11520, the Board  
21 finds Respondent is in default. The Board will take action without further hearing and, based on  
22 Respondent's express admissions by way of default and the evidence before it, contained in  
23 exhibit A, finds that the allegations in Accusation No. 2746 are true.

24 9. The total costs for investigation and enforcement are \$6,483.75 as of  
25 February 9, 2005.

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**DETERMINATION OF ISSUES**

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2           1.       Based on the foregoing findings of fact, Respondent Lori Ann Davies, also  
3 known as Lori Ann Brown, has subjected her Pharmacy Technician Registration Number TCH  
4 10766 to discipline.

5           2.       A copy of the Accusation and the related documents are attached.

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

7           4.       The Board of Pharmacy is authorized to revoke Respondent's Pharmacy  
8 Technician Registration based upon the following violations alleged in the Accusation:

9           a.       Business and Professions Code (Bus. & Prof. Code) section  
10                   4301(j) [unprofessional conduct] for violations of Health and  
11                   Safety Code section (Health & Safety Code section) 11173(a)  
12                   [diversion of controlled substances];

13           b.       Bus. & Prof. Code sections 4301(j) and 4324(a) [forged  
14                   prescriptions];

15           c.       Bus. & Prof. Code sections 4301(j) and 4323 [false representation  
16                   as authorized prescriber];

17           d.       Bus. & Prof. Code section 4301(j) and Health & Safety Code  
18                   section 11173(c) [false representation as manufacturer, wholesaler,  
19                   or authorized prescriber];

20           e.       Bus. & Prof. Code section 4301(j) and Health & Safety Code  
21                   section 11173(b) [false statement in a prescription];

22           f.       Bus. & Prof. Code sections 4301(j) and 4324(b) [possession of  
23                   drugs obtained by forged prescription];

24           g.       Bus. & Prof. Code sections 4301(j) and 4060 [unauthorized  
25                   possession of controlled substances];

26           h.       Bus. & Prof. Code section 4301(j) and Health & Safe. Code section  
27                   11350(a) [unlawful possession of controlled substances];

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- i. Bus. & Prof. Code section 4301(f) [acts involving moral turpitude, dishonesty, fraud, deceit, or corruption]; and
- j. Bus. & Prof. Code section 4301(l) [conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter].

**ORDER**


IT IS SO ORDERED that Pharmacy Technician Registration Number TCH 10766, heretofore issued to Respondent Lori Ann Davies, also known as Lori Ann Brown, is revoked.

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

This Decision shall become effective on April 20, 2005.

It is so ORDERED March 21, 2005

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STANLEY W. GOLDENBERG  
Board President

Attachments:  
Exhibit A: Accusation No. 2746 and Related Documents

DOJ docket number:03583110-SA2004100442  
Davies, Lori Ann.def.wpd

Exhibit A

Accusation No. 2746  
and Related Documents

1 BILL LOCKYER, Attorney General  
of the State of California  
2 DIANA WOODWARD HAGLE, State Bar No. 46181  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
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6 Attorneys for Complainant  
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9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2746*

13 **LORI ANN DAVIES,**  
**also known as LORI ANN BROWN**  
14 2800 Kerria Way  
Sacramento, California 95821

**ACCUSATION**

15 Pharmacy Technician  
16 Registration No. TCH 10766

17 Respondent.  
18

19 PATRICIA F. HARRIS, for causes of discipline, alleges:

20 1. Complainant Patricia F. Harris makes and files this Accusation in her  
21 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs,  
22 State of California, and not otherwise.

23 2. On November 24<sup>th</sup>, 1993, the Board of Pharmacy (hereinafter referred to as  
24 "Board") issued Pharmacy Technician Registration Number TCH 10766 to Lori Ann Davies, also  
25 known as Lori Ann Brown (hereinafter referred to as "respondent"). The registration was in full  
26 force and effect at all times pertinent herein and has been renewed through November 30<sup>th</sup>, 2005.

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1           3.     Business and Professions Code section 4202(d)<sup>1</sup> states that the Board may  
2 suspend or revoke a registration as a pharmacy technician<sup>2</sup> on any ground specified in section  
3 4301. Section 4301 provides that the Board shall take action against any registrant who is guilty  
4 of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

5           A.     The commission of any act involving moral turpitude, dishonesty, fraud,  
6 deceit, or corruption [section 4301(f)];

7           B.     The violation of any state or federal statute regulating controlled  
8 substances and dangerous drugs [section 4301(j)]; and

9           C.     The conviction of a crime substantially related to the qualifications,  
10 functions, and duties of a registrant [section 4301(l)].

11           4.     Additionally, under section 125.3, the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations  
13 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case.

15           5.     "Drugs"

16           "Vicodin" (hydrocodone/acetaminophen) is a Schedule III controlled substance as  
17 designated by Health and Safety Code section 11056(e)(4) and Title 21 Code of Federal  
18 Regulations section 1308.13(e)(4) and is a dangerous drug per Business and Professions Code  
19 section 4022. It is used in the treatment of pain.

20           "Phenergan" (Promethazine) & Codeine is an antihistamine combined with  
21 codeine and is a dangerous drug as defined by Business and Professions Code section 4022. It is  
22 a schedule V controlled substance as designated by Health and Safety Code section 11058(c)(1).

23     ///

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26     1. Hereinafter, unless otherwise indicated, all section references are to the California  
27 Business and Professions Code.

28     2. A "pharmacy technician" performs packaging, repetitive and nondiscretionary tasks in  
a pharmacy under the direct supervision and control of a pharmacist [Bus. & Prof. Code §4038]

1 "Vibramycin" (Doxycycline) is an antibiotic used in the treatment of infections. It  
2 is a dangerous drug as defined by Business and Professions Code section 4022.

3 "Biaxin" (Clarithromycin) is an antibiotic used in the treatment of infections. It is  
4 a dangerous drug as defined by Business and Professions Code section 4022.

5 "Wellbutrin SR" (Bupropion) is an antidepressant. It is a dangerous drug as  
6 defined by Business and Professions Code section 4022.

7 FORGERY OF PRESCRIPTIONS - LONG'S DRUGS #463, SACRAMENTO

8 6. From on or about December 19<sup>th</sup>, 2001, to on or about March 10<sup>th</sup>, 2003,  
9 respondent received a total of approximately 2,820 Vicodin tablets, Phenergan with Codeine  
10 syrup, 20 Vibramycin tablets, 14 Biaxin tablets and 90 Wellbutrin tablets through submission of  
11 approximately 47 forged prescriptions to Long's Drugs #463, 3338 Arden Way, in Sacramento.  
12 Respondent acquired the controlled substances and dangerous drugs by telephoning<sup>3</sup> the  
13 pharmacy and leaving messages on the pharmacy's answering machine, identifying herself as  
14 "Claudia from Dr. McGinity's office", and placing the prescription orders. In fact, no "Claudia"  
15 works at the medical offices of Bernard B. McGinity, M.D., who is respondent's physician.<sup>4</sup>

16 7. Respondent has subjected her registration to discipline under sections  
17 4301(j) and Health and Safety Code section 11173(a) on the grounds of unprofessional conduct  
18 in that she obtained or attempted to obtain controlled substances by fraud, deceit,  
19 misrepresentation or subterfuge, as more particularly described above in Paragraph 6.

20 8. Respondent has subjected her registration to discipline under sections  
21 4301(j) and 4324(a) on the grounds of unprofessional conduct in that she falsely made, uttered,  
22 passed or attempted to pass, as genuine, prescriptions for drugs and was therefore guilty of  
23 forgery, as more particularly described above in Paragraph 6.

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25 \_\_\_\_\_  
26 3. Or by causing someone else to telephone the pharmacy, impersonating an  
27 employee of Dr. McGinity.

28 4. Dr. McGinity last wrote a prescription for Vicodin for respondent in December, 2001.



1           9.     Respondent has subjected her registration to discipline under sections  
2 4301(j) and 4323 on the grounds of unprofessional conduct in that she falsely represented that  
3 she was acting on behalf of a physician in telephone communications with a pharmacy in order to  
4 obtain drugs, as more particularly described above in Paragraph 6.

5           10.    Respondent has subjected her registration to discipline under sections  
6 4301(j) and Health and Safety Code section 11173(c) on the grounds of unprofessional conduct  
7 in that she falsely represented that she was an "authorized person" of Dr. McGinity's medical  
8 practice in telephone communications with a pharmacy in order to obtain controlled substances,  
9 as more particularly described above in Paragraph 6.

10          11.    Respondent has subjected her registration to discipline under sections  
11 4301(j) and Health and Safety Code section 11173(b) on the grounds of unprofessional conduct  
12 in that she made false statements in ordering prescriptions, as more particularly described above  
13 in Paragraph 6.

14          12.    Respondent has subjected her registration to discipline under sections  
15 4301(j) and 4324(b) on the grounds of unprofessional conduct in that she had in her possession  
16 drugs secured by forged prescriptions, as more particularly described above in Paragraph 6.

17          13.    Respondent has subjected her registration to discipline under sections  
18 4301(j) and 4060 on the grounds of unprofessional conduct in that she possessed controlled  
19 substances without prescriptions of a physician, dentist, podiatrist or veterinarian, as more  
20 particularly described above in Paragraph 6.

21          14.    Respondent has subjected her registration to discipline under sections  
22 4301(j) and Health and Safety Code section 11350(a) on the grounds of unprofessional conduct  
23 in that she possessed controlled substances without prescriptions of a physician, dentist,  
24 podiatrist or veterinarian, as more particularly described above in Paragraph 6.

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1           15.     Respondent has subjected her registration to discipline under section  
2 4301(f) on the grounds of unprofessional conduct in that she committed acts involving moral  
3 turpitude, dishonesty, fraud, deceit, or corruption in that she obtained drugs by falsely  
4 representing in telephone conversations to Long's Drugs #463 that she was "Claudia from Dr.  
5 McGinity's office" and stating or implying that the prescriptions were valid when, in fact, they  
6 were not, as more particularly described above in Paragraph 6.

7           16.     Respondent has subjected her registration to discipline under section 4301)  
8 on the grounds of unprofessional conduct in that she caused her medical insurance carrier (Blue  
9 Cross) financial loss, i.e., payment for drugs which respondent had illegally obtained by forged  
10 prescriptions, as more particularly described above in Paragraph 6.

11                           CRIMINAL CONVICTION - GRAND THEFT BY EMPLOYEE

12           17.     Respondent has subjected her registration to discipline under section  
13 4301(l) on the grounds of unprofessional conduct in that on or about November 22<sup>nd</sup>, 2000, she  
14 was convicted by the Court on her plea of nolo contendere of violating Penal Code section  
15 487(b)(3) [grand theft by an employee], a misdemeanor, a crime substantially related to the  
16 qualifications, functions, and duties of a registrant, in People v. Lori Ann Davies (Sacramento  
17 County Superior Court No. 00M03069).

18           18.     The circumstances of the offense were that in 1999, while an employee of  
19 WestAmerica Bank in Sacramento, respondent falsified expense reports by claiming  
20 reimbursement for personal expenses (e.g., the purchase of flowers for her mother and for her  
21 boyfriend) and for mileage for trips she had not actually made. The falsified expenses amounted  
22 to approximately \$3,400.00

23                           WHEREFORE, complainant prays that a hearing be held on the matters alleged  
24 herein and that the Board of Pharmacy make its order:

25           1.     Revoking or suspending respondent's Pharmacy Technician Registration  
26 No. TCH 10766;

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2. Ordering respondent to pay to the Board of Pharmacy its costs and charges for investigation and enforcement of the case according to proof at the hearing, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as may be deemed proper.

DATED: 10/15/04

  
\_\_\_\_\_  
PATRICIA F. HARRIS  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California

**Complainant**

03583.  
SA2004•100442  
10/08/2004

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JANA TUTON, State Bar No. 78206  
Deputy Attorney General  
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2746

12 **LORI ANN DAVIES**  
aka LORI ANN BROWN  
2800 Kerria Way  
Sacramento, CA 95821

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

13 Respondent.

14  
15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California, parties  
17 to an administrative hearing, including the Complainant, are entitled to certain information  
18 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the  
19 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, and  
25 2. Provide an opportunity for the Complainant to inspect and make a copy of any of  
26 the following in the possession or custody or under control of the Respondent:  
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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 any  
6 party to another party or persons;

7 c. Statements of witnesses then proposed to be called by the Respondent and  
8 of other persons having personal knowledge of the acts, omissions or events which are the  
9 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 evidence;

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

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

22  
23 For the purpose of this Request for Discovery, "statements" include written  
24 statements by the person, signed, or otherwise authenticated by him or her, stenographic,  
25 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,  
26 and written reports or summaries of these oral statements.

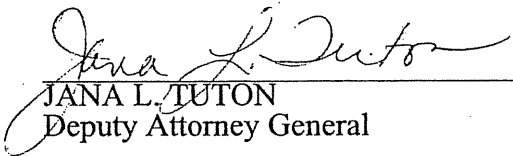
1                    YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for  
2 Discovery should be deemed to authorize the inspection or copying of any writing or thing which  
3 is privileged from disclosure by law or otherwise made confidential or protected as attorney's  
4 work product.

5                    Your response to this Request for Discovery should be directed to the undersigned  
6 attorney for the Complainant at the address on the first page of this Request for Discovery **within**  
7 **30 days after service** of the Accusation.

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

11 DATED: 11-29-04

12                    BILL LOCKYER, Attorney General  
13 of the State of California

14                      
15                    \_\_\_\_\_  
16                    JANA L. TUTON  
17                    Deputy Attorney General

18                    Attorneys for Complainant  
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2 of the State of California  
3 JANA TUTON, State Bar No. 78206  
4 Deputy Attorney General  
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Attorneys for Complainant

10  
11 **BEFORE THE**  
12 **BOARD OF PHARMACY**  
13 **DEPARTMENT OF CONSUMER AFFAIRS**  
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

Case No. 2746

16 **LORI ANN DAVIES**  
17 aka LORI ANN BROWN  
18 2800 Kerria Way  
19 Sacramento, CA 95821

**STATEMENT TO RESPONDENT**

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

Respondent.

20 TO RESPONDENT:

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

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

28 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

**Jana L. Tuton**  
**Deputy Attorney General**  
**1300 I Street, Suite 125**  
**P.O. Box 944255**  
**Sacramento, California 94244-2550.**

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

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

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

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

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

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

21                           **NOTICE REGARDING STIPULATED SETTLEMENTS**

22          It may be possible to avoid the time, expense and uncertainties involved in an  
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
24 settlement is a binding written agreement between you and the government regarding the matters  
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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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 is enclosed.

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 Jana L. Tuton at the earliest opportunity.

\*\*\*\*\*

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

In the Matter of the Accusation Against:

**LORI ANN DAVIES**  
aka LORI ANN BROWN  
2800 Kerria Way  
Sacramento, CA 95821

Respondent.

Case No. 2746

**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:

**LORI ANN DAVIES**  
aka LORI ANN BROWN  
2800 Kerria Way  
Sacramento, CA 95821

Respondent.

Case No. 2746

**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.

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**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.

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**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**

(Separate Mailings)

In the Matter of the Accusation Against: Lori Ann Davies

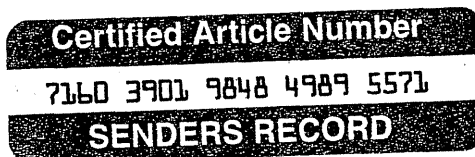
Agency Case No. 2746

I declare:

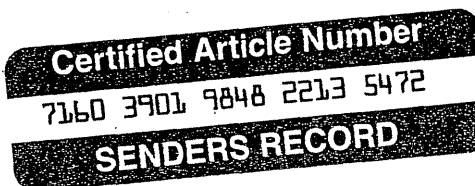
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General 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 29, 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, 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:

Lori Ann Davies  
3349 Cottage Way, # 30  
Sacramento, CA 95825



Lori Ann Davies  
2800 Kerria Way  
Sacramento, CA 95821



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 November 29, 2004, at Sacramento, California.

Araceli Mercado

Typed Name

Signature