BILL LOCKYER, Attorney General
of the State of California
SUSAN FITZGERALD, State Bar No. 112278
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) 645-2066
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: GLORIA M. DE LA TORRE 402 63rd Street, #19 San Diego, CA 92114 Pharmacy Technician Registration No. TCH 36691 Respondent.	Case No. 2788 OAH No. L-2005020142 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 2, 2004 Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 2788 against Gloria M. de la Torre (Respondent) before the Board of Pharmacy.

2. On or about March 5, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 36691 to Respondent. The registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed.

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3. On or about December 10, 2004, Carrie L. Johnson, an employee of the Department of Justice, served by certified and first class mail a copy of the Accusation No. 2788, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 402 63rd Street, #19, San Diego, CA 92114. A copy of the Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

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

5. On or about January 5, 2005, Respondent signed and returned a Notice of Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's address of record and it informed her that an administrative hearing in this matter was scheduled for June 10, 2005. Respondent failed to appear at that hearing. A copy of Respondent's Notice of Defense, the Notice of Hearing, and Declaration of Service are attached hereto as exhibit B, and are incorporated herein by reference.

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

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific 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."

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

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

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation No. 2788 are true.

9. The total costs for investigation and enforcement are $2,718.75 as of June 10, 2005. A certification of costs and the declaration of Susan Fitzgerald, Deputy Attorney General is attached as Exhibit C.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Gloria M. de la Torre has subjected her Pharmacy Technician Registration No. TCH 36691 to discipline.

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

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

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

a. Business & Professions Code §4301(f) (acts of dishonesty, fraud, moral turpitude or corruption);

b. Business & Professions Code §4301(j) in conjunction with both section 4059(a) and Health and Safety Code section 11170 (illegal furnishing of a controlled substance);

c. Business & Professions Code §4301(j) in conjunction with both section 4060 and Health and Safety Code section 11350(a) (unlawful possession of a controlled substance).

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 36691, heretofore issued to Respondent Gloria M. de la Torre, 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.

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This Decision shall become effective on August 12, 2005.

It is so ORDERED July 13, 2005

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Attachments:

Exhibit A: Accusation No.2788, Related Documents, and Declaration of Service
Exhibit B: Notice of Defense, Notice of Hearing, and Declaration of Service
Exhibit C: Costs Certification and Declaration of Susan Fitzgerald, Deputy Attorney General

Exhibit A

Accusation No. 2788,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
SUSAN FITZGERALD, State Bar No. 112278
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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: GLORIA M. DE LA TORRE 402 63rd Street, #19 San Diego, CA 92114 Pharmacy Technician Registration No. TCH 36691 Respondent.	Case No. 2788 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about March 5, 2001, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 36691 to Gloria M. de la Torre (Respondent). The pharmacy technician registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws of the Business and Professions Code:

A. Section 4059 of the Code states in pertinent part:

"(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

". . ."

B. Section 4060 of the Code provides that no person shall possess a controlled substance without a legal prescription for it.

C. Section 4301 of the Code states 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:

". . .

"(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.

". . ."

D. Section 125.3 of the Code states, in pertinent part, that 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.

4. This Accusation also refers to the following sections of the California Health & Safety Code:

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A. Section 11350 provides that it is illegal for anyone to possess controlled substances (including, specifically, any Schedule III controlled substance which is a narcotic) unless upon a legitimate written prescription.

B. Section 11170 provides that "no person shall prescribe, administer, or furnish a controlled substance for himself."

DRUGS

5. Vicodin is a brand name for hydrocodone w/acetaminophen, a narcotic and a Schedule III controlled substance under California Health & Safety Code section 11056.

CHARGES AND ALLEGATIONS

First Cause for Discipline

(Unprofessional Conduct: Stealing a Controlled Substance)

6. Respondent is subject to disciplinary action under section 4301(f) for acts of dishonesty, deceit, fraud, moral turpitude or corruption. The circumstances are as follows:

A. While employed as a pharmacy technician at Logan Heights Family Health Center in San Diego, California, Respondent stole Vicodin (hydrocodone w/APAP 5/500) from her employer on multiple occasions over a period of months before her termination of employment for that theft on July, 2003.

B. The Vicodin was for her own use.

Second Cause for Discipline

(Unprofessional Conduct: Illegal Furnishing of Controlled Substance)

7. Respondent is subject to disciplinary action under section 4301(j) in conjunction with both Code section 4059(a) and H&S Code section 11170 in that she illegally furnished Vicodin to herself, as more particularly alleged in paragraph 6 above and incorporated herein by reference.

Third Cause for Discipline

(Unprofessional Conduct: Unlawful Possession of Controlled Substance)

8. Respondent is subject to disciplinary action under section 4301(j) in conjunction with both Code section 4060 and H&S Code section 11350(a) in that Respondent illegally

possessed Vicodin, as more particularly alleged in paragraph 6 above and incorporated herein by reference.

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:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 36691, issued to Gloria M. de la Torre;

2. Ordering Gloria M. de la Torre 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;

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

DATED: 12/2/04

P. F. Harris

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

BILL LOCKYER, Attorney General
of the State of California
SUSAN L. FITZGERALD, State Bar No. 112278
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Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2788
GLORIA M. DE LA TORRE	**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 Susan L. Fitzgerald, 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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Susan L. Fitzgerald
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, 1350 Front Street, Suite 6022, San Diego, California 92101, 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.

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 Susan L. Fitzgerald 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: GLORIA M. DE LA TORRE Respondent.	Case No. 2788 **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.

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

In the Matter of the Accusation Against: GLORIA M. DE LA TORRE Respondent.	Case No. 2788 **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 _____

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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.

80045038.wpd

BILL LOCKYER, Attorney General
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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: GLORIA M. DE LA TORRE Respondent.	Case No. 2788 **REQUEST FOR DISCOVERY** [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:

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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.

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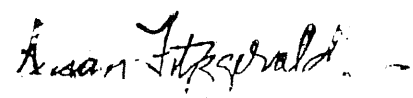
YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

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 10, 2004

BILL LOCKYER, Attorney General
of the State of California



SUSAN L. FITZGERALD
Deputy Attorney General

Attorneys for Complainant

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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)

Case Name: **In the Matter of the Accusation Against Gloria M. De La Torre, T.C.H.**

Case No.: **2788**

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 10, 2004, I served the attached **STATEMENT TO RESPONDENT, ACCUSATION, 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 **STATEMENT TO RESPONDENT, ACCUSATION, 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 San Diego, addressed as follows:

Gloria M. De La Torre
402 63rd Street, #19
San Diego, CA 92114

Certified Article Number
7160 3901 9848 7819 4829
SENDERS RECORD

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 10, 2004, at San Diego, California.

Carrie L. Johnson
Declarant

Signature

cc: Patricia F. Harris, Executive Officer - Board of Pharmacy, Sacramento

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Exhibit B

Notice of Defense,
Notice of Hearing, and
Declaration of Service

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

In the Matter of the Accusation Against:	Case No. 2788
GLORIA M. DE LA TORRE	**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: 1/5/05

Respondent's Name: Gloria M. De La Torre
Respondent's Signature: Gloria M. De La Torre
Respondent's Mailing Address: 402 63RD ST #19
City, State and Zip Code: San Diego CA. 92114
Respondent's Telephone Number: 619-269-5339

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.

80045038.wpd

BILL LOCKYER, Attorney General
of the State of California
SUSAN L. FITZGERALD, State Bar No. 112278
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
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Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: GLORIA M. DE LA TORRE Respondent.	Case No. 2788 OAH No. L-2005020142 **NOTICE OF HEARING** [Gov. Code § 11509] Hearing: Friday, June 10, 2005

YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on **Friday, June 10, 2005** at **09:00 a.m.,** before an Administrative Law Judge at

Office of Administrative Hearings
1350 Front Street, Suite 6022
San Diego, California 92101

The hearing will be conducted before the Board of Pharmacy, Department of Consumer Affairs by an Administrative Law Judge of the Office of Administrative Hearings, upon the charges made in Accusation No. 2788 served upon you.

If you object to the place of hearing, you must notify the presiding officer within ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten (10) days will deprive you of a change in the place of hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent

you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings, 1350 Front Street, Suite 6022, San Diego, California 92101, telephone: (619) 525-4475.

INTERPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall be conducted in the English language. If a party or a party's witness does not proficiently speak or understand the English language and before commencement of the hearing requests language assistance, an agency subject to the language assistance requirement in section 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved by the administrative law judge conducting the proceedings. The cost of providing the interpreter shall be paid by the agency having jurisdiction over the matter if the administrative law judge or hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a witness require the assistance of an interpreter, ample advance notice of this fact should be given to the Office of Administrative Hearings so that appropriate arrangements can be made.

CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a continuance, but when an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the presiding Administrative Law Judge for good cause. When seeking a continuance, a party shall apply for the continuance within ten (10) working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes good cause for the continuance. A continuance may be granted for good cause after the ten (10) working days have lapsed only if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.

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Continuances are not favored. If you need a continuance, immediately write or call the Office of Administrative Hearings, 1350 Front Street, Suite 6022, San Diego, California 92101, telephone: (619) 525-4475.

DATED: February 25, 2005

BILL LOCKYER, Attorney General
of the State of California

SUSAN L. FITZGERALD
Deputy Attorney General

Attorneys for Complainant

SD200480093
70012179.wpd

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

In the Matter of the Accusation Against: De La Torre, Gloria M., T.C.H.
Case No. 2788; OAH No.: L-2005020142

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 February 25, 2005, I served the attached **Notice of Hearing** 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 **Notice of Hearing** 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 San Diego, addressed as follows:

Gloria M. De La Torre
402 63rd Street, #19
San Diego, CA 92114
7000 0520 0025 1939 5149

Office of Administrative Hearings
1350 Front Street, Suite 6022
San Diego, CA 92101

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 February 25, 2005, at San Diego, California.

Tess Bautista
Declarant

Signature

cc: Patricia Harris, Executive Officer, Board of Pharmacy - Sacramento

70012182.wpd

Exhibit C

Certification of Costs
&
Declaration of Susan Fitzgerald, Deputy Attorney General

California State Board of Pharmacy
400 R Street, Suite 4070, Sacramento, CA 95814
Phone (916) 445-5014
Fax (916) 327-6308
www.pharmacy.ca.gov

STATE AND CONSUMERS AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

CERTIFICATION OF COSTS OF INVESTIGATIVE AND PROSECUTION BY AGENCY EXECUTIVE OFFICER

I, Patricia Harris, declare that I am the Executive Officer of the Board of Pharmacy, and in that capacity certify pursuant to the provisions of the Business and Professions Code Sections 4350 and 4359, that I filed Accusation Number **2788** against **Gloria De La Torre**, who holds the pharmacy technician registration number **TCH 36691**.

CERTIFICATION OF COSTS INCURRED THROUGH THE FILING OF THE ACCUSATION

In my capacity as the Executive Officer, I review and approve payment for costs incurred by the Board of Pharmacy in the enforcement of the laws and regulations under its jurisdiction. I have reviewed the records of the agency and these reflect that the following costs and fees have been incurred by the agency in connection with the investigation and prosecution of Accusation Number **2788** as of the filing of the Accusation on **December 2, 2004.**

1. Inspector's costs for **9.75** hours at **$65.00** per hour — **$ 633.75**
2. Attorney General's costs for **2.25** hours at **$139.00** per hour — **$ 312.75**

Total costs incurred through the filing of the Accusation: **$ 946.50**

CERTIFICATION OF COSTS INCURRED AFTER FILING ACCUSATION

Subsequent to filing the Accusation, the agency incurred the following additional costs in the investigation and prosecution of Accusation Number **2788** up to the commencement of the hearing of the matter before the Office of Administrative Hearings.

1. Attorney General's costs for **2.75** hours at **$139.00** per hour **$ 382.25**

Total costs incurred from filing of Accusation to date: **$ 382.25**

The total of the costs and fees paid and incurred by the agency in the investigation and prosecution of Case Number **2788** from commencement of the investigation through **March 31, 2005**, in the sum of:

$ 1,328.75

CERTIFICATION

I certify pursuant to the provisions of Section 125.3 of the Business and Professions Code of the State of California that, to the best of my knowledge, the foregoing statement of costs incurred by the Board of Pharmacy is true and correct and that the amounts set forth therein do not exceed the actual and reasonable costs of investigation and prosecution in Case Number **2788.**

Dated: April 14, 2005

P. F. Harris

Patricia F. Harris
Executive Officer

BILL LOCKYER, Attorney General
of the State of California
SUSAN FITZGERALD, State Bar No. 112278
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) 645-2066
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: GLORIA M. DE LA TORRE Pharmacy Technician Regis. No. TCH 36691 Respondent.	Case No. 2788 OAH No. L2005020142 **CERTIFICATION OF PROSECUTION COSTS BY THE ATTORNEY GENERAL**

I, SUSAN FITZGERALD, hereby certify and declare as follows:

1. I am a Deputy Attorney General employed by the California Department of Justice [DOJ], Office of the Attorney General. I am assigned to the Licensing Section in the Civil Division of the Office of the Attorney General. I am the person with primary responsibility for the prosecution of this case on behalf of the Board of Pharmacy [Board]. I have been designated as the representative of the Board to certify the costs of prosecution charged by the DOJ and incurred by the Board in this case. This certification is made in my official capacity as a Deputy Attorney General and as an officer of the court.

2. I represent the Executive Officer of the Board in the above-entitled action. This case was initially opened in this office on August 23, 2004.

3. I am familiar with the time recording system and billing practices of the Attorney General's Office [AGO] and the procedures for charging the client agency for the time spent

working on a particular case. Whenever work is performed on a case, it is the duty of the employee (Deputy Attorney General [DAG] or Legal Analyst [LA]) to record the time spent on a particular task and to report that time on AGO time sheets at or near the time the tasks are performed. This declaration establishes the charges by the DOJ to the Board for this case through June 9, 2005. It supplements the Board's Certification of Costs of April 14, 2005. Based upon this reported time, the AGO has billed or will bill the Board for the time spent on the above-entitled case as follows:

Employee/Position	Year	# of Hrs.	Hr. Rate		Total Charge
DAG Fitzgerald	2004-05	15.0 x	$139.00	=	$2,085.00
			TOTAL	=	$2,085.00

4. The following activities describe the tasks performed in prosecuting this administrative disciplinary matter:

A. Analysis of File

This time included the following activities:

(1) review of investigative file for legal sufficiency;

(2) organizing and maintaining file;

(3) further investigation by DAG Fitzgerald of some matters in the investigative file, which investigation included conversations with Board inspector Venegas.

B. Pleading of the Accusation

This time included pleading of the Accusation, writing the letter to the client which accompanied the proposed Accusation, and service of the Accusation on Respondent.

C. Hearing Preparation and Settlement

This time included the following activities:

(1) communicating with the client;

(2) obtaining hearing dates and facility;

(3) consulting with client and her staff;

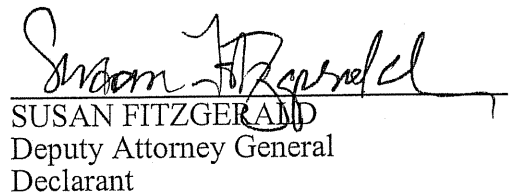
(4) preparing the documents, this costs declaration, and exhibits for hearing.

(5) various phone conversations with Respondent;

(6) contact with witnesses and preparation of examinations and cross-examination.

I declare and certify that the foregoing is true and correct under the laws of the State of California.

Executed on June 9, 2005 at San Diego, California.



SUSAN FITZGERALD
Deputy Attorney General
Declarant