BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
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: **STACY RAE HAYNES** 1055 McRae Way Roseville, California 95678 Pharmacy Technician Registration No. TCH 40047 Respondent.	Case No. 2817 **DEFAULT DECISION AND ORDER**

FINDINGS OF FACT

1. On or about May 31, 2005, Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 2817 against Stacy Rae Haynes ("Respondent") before the Board of Pharmacy.

Pharmacy Technician Registration

2. On or about October 31, 2001, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 40047 ("technician registration") to Stacy Rae Haynes ("Respondent"). The technician registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2005, unless renewed.

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Service Information

3. On or about June 3, 2005, Mary Anne Snyder, an employee of the Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 2817, 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 1055 McRae Way, Roseville, California 95678. 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 June 4, 2005, Respondent signed Domestic Return Receipt, Article No. 7160 3901 9848 4990 2392. A copy of the Domestic Return Receipt is attached hereto as **Exhibit B**, and are incorporated herein by reference.

6. Business and Professions Code ("Code") section 118 states, in pertinent part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground."

7. 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."

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8. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2817.

9. 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."

10. 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 and B**, finds that the allegations in Accusation No. 2817 are true.

11. The total costs for investigation and enforcement are $1,444.50 as of July 21, 2005.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Stacy Rae Haynes has subjected her Pharmacy Technician Registration No. 40047 to discipline.

2. A copy of the Accusation, 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 a violation of Code sections 4301, subdivision (f) (acts involving moral turpitude); 4301, subdivision (j) (violation of laws regulating controlled substances); 4301, subdivision (h) (self-administration of controlled substances); 4301, subdivision (o) (furnishing dangerous drugs without a prescription); and 4301, subdivision (l) (criminal conviction), as alleged in Accusation No. 2817.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. 40047, heretofore issued to Respondent Stacy Rae Haynes, 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 October 19, 2005.

It is so ORDERED September 19, 2005

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Attachments:

Exhibit A: Accusation No. 2817, Related Documents, and Declaration of Service
Exhibit B: Domestic Return Receipt

Exhibit A

Accusation No. 2817
Related Documents and Declaration of Service

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of the State of California
KENT D. HARRIS, State Bar No. 144804
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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: **STACY RAE HAYNES** 1055 McRae Way Roseville, California 95678 Pharmacy Technician Registration No. TCH 40047 Respondent.	Case No. 2817 **A C C U S A T I O N**

Patricia F. Harris ("Complainant") alleges:

PARTIES

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

Pharmacy Technician Registration

2. On or about October 31, 2001, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 40047 ("technician registration") to Stacy Rae Haynes ("Respondent"). The technician registration was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2005, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Bus. & Prof. Code") section 4202, subdivision (d), states that the Board may suspend or revoke a registration issued pursuant to this section on any ground specified in Section 4301.

4. Bus. & Prof. Code section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

5. Bus. & Prof. Code section 4301 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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of 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.

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction

occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board . . .

6. Bus. & Prof. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription, "RX only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a------," "RX only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

7. Bus. & Prof. Code section 4059, subdivision (a), states:

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.

8. Bus. & Prof. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

9. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

10. Health and Safety Code section 11173, subdivision (a), states:

> (a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

11. Health and Safety Code section 11350, subdivision (a), states:

> (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

12. Health and Safety Code section 11377, subdivision (a), states:

> (a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.

13. Health and Safety Code section 11550, subdivision (a), states, in pertinent part:

> (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances.

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COST RECOVERY

14. Bus. & Prof. Code section 125.3 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.

CONTROLLED SUBSTANCE/DANGEROUS DRUGS

15. **"Ativan,"** a brand of lorazepam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(13) and a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

16. **"Dilaudid,"** a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K) and a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

17. **"Fioricet,"** a brand of butalbital, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law. Each tablet contains 50 mg butalbital, 325 mg acetaminophen, and 40 mg caffeine.

18. **"Flexeril,"** a brand of cyclobenzaprine HCL, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

19. **"Lioresal,"** a brand of baclofen, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

20. **"Lomotil,"** a brand of diphenoxylate hydrochloride with atropine sulfate, is a Schedule V controlled substance as designated by Health and Safety Code section 11058(c)(4) and a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law. Each tablet contains 2.5 mg. diphenoxylate hydrochloride and 0.025 mg. atropine sulfate.

21. **"Phenergan,"** a brand of promethazine hydrochloride, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

22. **"Soma,"** a brand of Carisoprodol, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

23. **"Zithromax,"** a brand of azithromycin, is a dangerous drug within the meaning of Business and Professions Code section 4022 in that it requires a prescription under federal law.

FACTUAL BACKGROUND

24. On or about April 23, 2004, Respondent while on duty as pharmacy technician at Marshall Hospital ("MH"), located in Placerville, California, hospital staff found Respondent in a locked hospital restroom. After pounding on the bathroom door, hospital personnel obtained a pry bar and forced the door open. Respondent was found unresponsive and slumped over the sink holding a 100mg/50ml Dilaudid PCA syringe with the needle attached. Also found in the restroom with Respondent were 6 Lomotil unit dose tablets, 10 Soma 350mg unit dose tablets, 10 Flexeril 10mg unit dose tables, 16 Lioresal 10mg unit dose tablets, 1 Zithromax 250mg unit dose tablet, 3 Phenergan 25mg suppositories, 1 empty Ativan 2mg/1m vial, 1 partial Phenergan 25mg/1ml vial, 8 Fioricet tablets, 11 empty Fioricet pharmacy prepared unit dose packages, 3 Fioricet pharmacy prepared unit dose packages, and various syringes and needles. There was no known reason for Respondent to have these drugs in her possession. On the same day, a drug screen was obtained from Respondent. The drug screen was positive for cannabinoid, opiates, barbiturates, and tricyclic antidepressants.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

25. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or about

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April 23, 2004, while on duty as a pharmacy technician at MH, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows:

a. Respondent dishonestly or fraudulently appropriated or diverted Soma, Flexeril, Lioresal, Zithromax, and Fioricet, dangerous drugs, belonging to the hospital pharmacy.

b. Respondent dishonestly or fraudulently appropriated or diverted Dilaudid, Ativan, and Lomotil, controlled substances, belonging to the hospital pharmacy.

SECOND CAUSE FOR DISCIPLINE

(Violations of State Laws Regulating Controlled Substances)

26. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about April 23, 2004, while on duty as a pharmacy technician at MH, Respondent violated the following state laws regulating controlled substances:

a. Respondent possessed unknown quantities of the controlled substances Dilaudid, Ativan, and Lomotil without lawful prescriptions for the medications from a physician, dentist, podiatrist, optometrist, or veterinarian, in violation of Bus. & Prof. Code section 4060.

b. Respondent possessed unknown quantities of the controlled substance Dilaudid without a lawful prescription for the medication from a physician, dentist, podiatrist, optometrist, or veterinarian, in violation of Health and Safety Code section 11350, subdivision (a).

c. Respondent possessed unknown quantities of the controlled substances Ativan and Lomotil without lawful prescriptions for the medications from a physician, dentist, podiatrist, optometrist, or veterinarian, in violation of Health and Safety Code section 11377, subdivision (a).

d. Respondent administered and/or furnished the controlled substances Dilaudid and Lomotil for herself, in violation of Health and Safety Code section 11170.

e. Respondent was under the influence of the controlled substance Dilaudid, in violation of Health and Safety Code section 11550, subdivision (a).

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f. Respondent obtained unknown quantities of the controlled substances Dilaudid, Ativan, and Lomotil by fraud deceit, misrepresentation, or subterfuge by removing the drugs from hospital supplies, in violation of Health and Safety Code section 11173, subdivision (a).

THIRD CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substances)

27. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (h), on the grounds of unprofessional conduct, in that on or about April 23, 2004, while on duty as a pharmacy technician at MH, Respondent self-administered unknown quantities of the controlled substances Dilaudid and Lomotil and used the dangerous drug Fioricet to an extent or in a manner dangerous or injurious to herself or the public, in that such use required emergency medical treatment.

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without a Prescription)

28. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (o), on the grounds of unprofessional conduct. On or about April 23, 2004, Respondent violated or attempted to violate, Bus. & Prof. Code section 4059, subdivision (a), by furnishing the following dangerous drugs to herself from the inventory of MH without a prescription: unknown quantities of Ativan, Dilaudid, and Lomotil, and 10 Soma 350mg unit dose tablets, 10 Flexeril 10mg unit dose tablets, 16 Lioresal 10mg unit dose tablets, 1 Zithromax 250mg unit dose tablet, and approximately 22 generic Fioricet tablets.

FIFTH CAUSE FOR DISCIPLINE

(Criminal Conviction)

29. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (l), on the grounds of unprofessional conduct, in that on or about August 20, 2004, in the criminal proceeding entitled *People vs. Stacey Rae Haynes* (El Dorado Sup. Ct., 2004, No. P04CRM1112), Respondent was convicted by the court on her plea of nolo contendere to one misdemeanor count in violation of Penal Code section 488/490.5 (petty

theft/merchandise from merchant), a crime substantially related to the qualifications, functions, and duties of a licensed pharmacy technician.

30. The circumstances of the crime are that on or about April 23, 2004, Respondent took merchandise, to wit, drugs/medication, from MH, as more particularly set forth in paragraphs 24 and 25, above.

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 40047, issued to Stacy Rae Haynes;

2. Ordering Stacy Rae Haynes to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Bus. & Prof. Code section 125.3;

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

DATED: 5/31/05

P. F. Harris

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

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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. 2817
STACY RAE HAYNES	**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 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: 6/3/05

BILL LOCKYER, Attorney General
of the State of California

KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

10172244.wpd

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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. 2817
STACY RAE HAYNES	**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 Kent D. Harris, 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

Kent D. Harris
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, California 94244-2550.

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, 560 J Street, Suite 340/360, Sacramento, California 95814, 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 Kent D. Harris 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. 2817
STACY RAE HAYNES	**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 do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ 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.

10172244.wpd

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

In the Matter of the Accusation Against:	Case No. 2817
STACY RAE HAYNES	**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 do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

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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: Stacy Rae Haynes**

Board of Pharmacy Case No.: 2817

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 June 3, 2005, I served the attached **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), Government Code sections** 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, Request for Discovery, Notice of Defense (2 copies), Government Code sections** 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 Sacramento addressed as follows:

Stacy Rae Haynes
1055 McRae Way
Roseville, CA 95678
Respondent
Mail Cert. No. 7160 3901 9848 4990 2392

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 June 3, 2005, at Sacramento, California.

Mary Anne Snyder
Declarant

Mary Anne Snyder
Signature

cc: Patricia Harris, Bd. of Pharmacy

Exhibit B

Domestic Return Receipt

7160 3901 9848 4990 2392

TO: Stacy Rae Haynes
1055 McRae Way
Roseville, CA 95678

SENDER: Kent D. Harris

REFERENCE: Haynes/AccusPkt

PS Form 3800, June 2000

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

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
06/03/05

2. Article Number

7160 3901 9848 4990 2392

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

1. Article Addressed to:

Stacy Rae Haynes
1055 McRae Way
Roseville, CA 95678

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery
6-4-05

C. Signature
X
☐ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:
☐ Yes
☐ No

Haynes/AccPkt
Kent Harris, DAG

PS Form 3811, July 2001 Domestic Return Receipt