BILL LOCKYER, Attorney General
of the State of California
JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-6292
Facsimile: (916) 322-8288

Attorneys for Complainant

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

| | |
|---|---|
| In the Matter of the Default Decision and Order Against:<br><br>**MATTHEW D. ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610<br><br>Pharmacy Technician Registration No. TCH 29247<br><br>Respondent. | Case No. 2840<br><br>OAH No.<br><br>**DEFAULT DECISION AND ORDER**<br><br>[Gov. Code, §11520] |

## FINDINGS OF FACT

1. On or about April 15, 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. 2840 against Matthew D. Anderson ("Respondent") before the Board of Pharmacy.

**License Information**

2. On or about May 2, 1999, the Board of Pharmacy ("Board") issued Pharmacy Technician Registration No. TCH 29247 to Respondent. The pharmacy technician registration expired on April 30, 2005, and has not been renewed.

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**Service Information**

3. On or about April 26, 2005, Catheleen Logan, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2840, 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 7008 Yarrow Way, Citrus Heights, California 95610. A copy of the Accusation and related documents 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 May 17, 2005, the documents sent by certified mail were returned by the U.S. Postal Service marked "Unclaimed." A copy of the postal returned documents are 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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On or about May 9, 2005 at 9:31 a.m. Respondent called Deputy Attorney General Jeffrey M. Phillips (DAG Phillips) and left a voice mail message acknowledging receipt of the accusation package. On May 16, 2005, DAG Phillips and Respondent discussed the matter during a telephone conference and it was agreed that Respondent would not contest the Accusation and a default could be entered against Respondent. (Exhibit C.)

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2840.

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. 2840 are true.

11. The total costs for investigation and enforcement are $1,067.25 as of June 13, 2005.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Matthew D. Anderson has subjected his Pharmacy Technician Registration No. TCH 29247 to discipline.

2. A copy of the Accusation and related documents 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:

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a. Code section 4301, subdivision (f) (acts involving moral turpitude, dishonesty, fraud, deceit, or corruption); and Code section 4301, subdivision (l) (criminal conviction).

## ORDER

**IT IS SO ORDERED** that Pharmacy Technician Registration No. TCH 29247, heretofore issued to Respondent Matthew D. Anderson, 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 September 22, 2005.

It is so ORDERED August 23, 2005

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Attachments:

Exhibit A: Accusation No. 2840 and Related Documents
Exhibit B: Postal Return Documents

03583110-SA2005100298
30023339.wpd

Exhibit A

Default Decision and Order No. 2840,
and Related Documents

BILL LOCKYER, Attorney General
of the State of California
JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
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Telephone: (916) 324-6292
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Attorneys for Complainant

COPY

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

| In the Matter of the Accusation Against: | Case No. 2840 |
|---|---|
| **MATTHEW D. ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610<br><br>Pharmacy Technician Registration<br>No. TCH 29247<br><br>Respondent. | **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 May 2, 1999, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 29247 to Matthew D. Anderson ("Respondent"). The pharmacy technician registration was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2005, unless renewed.

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## STATUTORY PROVISIONS

3. Business and Professions Code ("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. 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. 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.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of

sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

## COST RECOVERY

6. 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.

## FIRST CAUSE FOR DISCIPLINE

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

7. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or about December 16, 2001, while on duty as a pharmacy technician at the Rite Aid store in Roseville, California, Respondent committed acts as follows:

a. Respondent participated in the planning of a robbery of the Rite Aid store where he was employed.

b. Respondent participated in the robbery of the Rite Aid store by allowing another person into the store after closing for the purpose of robbing the store's deposits.

c. Respondent attempted to conceal his involvement and participation in the robbery of the Rite Aid store from investigators.

## SECOND CAUSE FOR DISCIPLINE

**(Criminal Conviction)**

8. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (l), on the grounds of unprofessional conduct, in that on or about April 15, 2002, in the criminal proceeding entitled *People vs. Matthew Dean Anderson* (Placer County Sup. Ct., 2002, Case No. 62-26356), Respondent was convicted by the court on his plea of guilty to one felony count in violation of Penal Code section 211 (2nd degree robbery), with Penal Code section 12022.4 (in commission of the robbery, furnished or offered to furnish a firearm to

another for the purpose of aiding, abetting or enabling that person to commit a felony), crimes substantially related to the qualifications, functions, and duties of a licensed pharmacy technician.

## PRAYER

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Pharmacy Technician Registration Number TCH 29247, issued to Matthew D. Anderson;

B. Ordering Matthew D. Anderson to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,

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

DATED: 4/15/05

P. F. Harris

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

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BILL LOCKYER, Attorney General
of the State of California
JEFFREY M. PHILLIPS, State Bar No. 154990
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California Department of Justice
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Attorneys for Complainant

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**MATTHEW ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610<br><br>Pharmacy Technician Registration<br>No. TCH 29247<br><br>Respondent. | Case No. 2840<br><br>**REQUEST FOR DISCOVERY**<br><br>[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.

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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: 4/25/05

BILL LOCKYER, Attorney General
of the State of California

JEFFREY M. PHILLIPS
Deputy Attorney General

Attorneys for Complainant

BILL LOCKYER, Attorney General
of the State of California
JEFFREY M. PHILLIPS, State Bar No. 154990
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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:<br><br>**MATTHEW ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610<br><br>Pharmacy Technician Registration<br>No. TCH 29247<br><br>Respondent. | Case No. 2840<br><br>**STATEMENT TO RESPONDENT**<br><br>[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 Jeffrey M. Phillips, 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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**Jeffrey M. Phillips**
**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 Jeffrey M. Phillips at the earliest opportunity.

******

SA2005100298
Accusation Package.wpd

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

| In the Matter of the Accusation Against:<br><br>**MATTHEW ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610<br><br>Pharmacy Technician Registration<br>No. TCH 29247<br><br>Respondent. | Case No. 2840<br><br>**NOTICE OF DEFENSE**<br><br>[Gov. Code §§ 11505 and 11506] |
|---|---|

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

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

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

**Check appropriate box:**

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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

| In the Matter of the Accusation Against: | Case No. 2840 |
|---|---|
| **MATTHEW ANDERSON**<br>7008 Yarrow Way<br>Citrus Heights, California 95610 | **NOTICE OF DEFENSE** |
| Pharmacy Technician Registration<br>No. TCH 29247<br>Respondent. | [Gov. Code §§ 11505 and 11506] |

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

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

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

**Check appropriate box:**

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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

### SECTION 11507.5: Exclusivity of discovery provisions

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

### SECTION 11507.6: Request for discovery

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

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

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

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

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

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

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

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

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

**SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

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

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

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

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

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

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

**********

Accusation Package.wpd

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

(Separate Mailings)

**Case Name: In the Matter of the Accusation Against: Matthew Anderson**
**Board of Pharmacy Case No.: 2840**

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 April 26, 2005, I served the attached **Accusation, Request for Discovery, Statement to Respondent, Notice of Defense (2), Government Code Sections 11507.5, 11507.6 and 11507.7** 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, Request for Discovery, Statement to Respondent, Notice of Defense (2), Government Code Sections 11507.5, 11507.6 and 11507.7** 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

**Matthew D. Anderson**
**7008 Yarrow Way**
**Citrus Heights, California 95610**

**7099 3220 0006 1237 6070**

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 April 26, 2005, at Sacramento, California.

Catheleen Logan
Declarant

Catheleen Logan
Signature

10162295.wpd

Exhibit B

Postal Return Documents

7099 3220 0006 1237 6070

049J82020258

$ 05.11 0

04/26/2005

Mailed From 95814

US POSTAGE

STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE

OFFICE OF ATTORNEY GENERAL

P.O. BOX 944255

SACRAMENTO, CA 94244-2550

Matthew D. Anderson

7008 Yarrow Way

Citrus Heights, California 95610

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

Matthew D. Anderson
7008 Yarrow Way
Citrus Heights, California 95610

4a. Article Number
7099 3220 0006 1237 6070

4b. Service Type
☐ Registered ☐ Certified
☒ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

8. Addressee's Address *(Only if requested and fee is paid)*

6. Signature: *(Addressee or Agent)*
X

PS Form **3811,** December 1994 102595-98-B-0229 Domestic Return Receipt

Thank you for using Return Receipt Service.

Exhibit C

Declaration of Jeffrey M. Phillips

BILL LOCKYER, Attorney General
of the State of California
JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-6292
Facsimile: (916) 327-8643

Attorneys for Complainant

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>MATTHEW ANDERSON<br>7008 Yarrow Way<br>Citrus Heights, CA 95610<br><br>Pharmacy Technician No. 29247<br><br>Respondent. | Case No. 2840<br><br>OAH No. 2840<br><br>**DECLARATION OF JEFFREY M. PHILLIPS** |

1. I, Jeffrey M. Phillips, am a Deputy Attorney General licensed to practice law before all courts in the State of California and make the following declaration based upon my own personal knowledge and if called to testify would competently state the following:

2. On or about May 9, 2005, at approximately 9:31 a.m., Respondent Matthew Anderson left a voice mail message on my business telephone acknowledging receipt of the Accusation Package. On May 16, 2005, after several attempts, I made personal contact with Respondent Matthew Anderson via telephone and discussed the matter of his license and criminal felony conviction. During this telephone conversation, it was agreed between Respondent and myself that Respondent would not contest the accusation and a default could be entered against him.

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///

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

DATED: 7/25/05

JEFFREY M. PHILLIPS
Deputy Attorney General

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

Case Name: **In the Matter of the Default Decision and Order Against: Matthew D. Anderson**

Board of Pharmacy Case No.: **2840**

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 July 26, 2005, I served the attached **Default Decision and Order with Exhibits; Declaration of Jeffrey M. Phillips** 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 **Default Decision and Order with Exhibits; Declaration of Jeffrey M. Phillips** 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, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Matthew D. Anderson
7008 Yarrow Way
Citrus Heights, CA 95610

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 July 26, 2005, at Sacramento, California.

Jessica L. Taylor
Declarant

Jessica L. Taylor
Signature

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