

ORIGINAL

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of the State of California
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2880

12 **GABRIEL G. GARZA,**
13 **a.k.a. GABRIEL GUADALUPE GARZA,**
14 **a.k.a. GABE GUADALUPE GARZA**
11165 Kay Lane
Hanford, CA 93230

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

15 Pharmacy Technician Registration No. TCH 41546

16 Respondent.

17
18 FINDINGS OF FACT

19 1. On or about March 9, 2006, Complainant Patricia F. Harris, in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
21 filed Accusation No. 2880 (Accusation) against Gabriel G. Garza (Respondent) before the Board
22 of Pharmacy.

23 2. On or about October 25, 2002, the Board of Pharmacy (Board) issued
24 Pharmacy Technician Registration No. TCH 41546 to Respondent.

25 3. On or about April 6, 2006, Cathleen Logan, an employee of the
26 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
27 2880, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
28 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,

1 which was and is: 11165 Kay Lane, Hanford, California 93230. A copy of the Accusation, the
2 related documents, and Declaration of Service are attached as exhibit A, and are incorporated
3 herein by reference.

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

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

7 "(c) The respondent shall be entitled to a hearing on the merits if the
8 respondent files a notice of defense, and the notice shall be deemed a specific denial of all
9 parts of the accusation not expressly admitted. Failure to file a notice of defense shall
10 constitute a waiver of respondent's right to a hearing, but the agency in its discretion may
11 nevertheless grant a hearing."

12 6. Respondent failed to file a Notice of Defense within 15 days after service
13 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
14 Accusation No. 2880.

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

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

20 8. Pursuant to its authority under Government Code section 11520, the Board
21 finds Respondent is in default. The Board will take action without further hearing and, based on
22 Respondent's express admissions by way of default and the evidence before it, contained in
23 exhibit A finds that the allegations in Accusation No. 2880 are true.

24 9. The total costs for investigation and enforcement are \$1,326.25 as of June
25 28, 2006.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Gabriel G. Garza has
3 subjected his Pharmacy Technician Registration No. TCH 41546 to discipline.

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

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

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

9 a. unprofessional conduct, in that Respondent was convicted of a
10 crime which is substantially related to the qualifications, functions, and duties of a
11 pharmacy technician in violation of Business and Professions Code section 4301,
12 subdivision (l);

13 b. unprofessional conduct, in that he self-administered a controlled
14 substance in violation of Business and Professions Code section 4301, subdivision (h);
15 and,

16 c. unprofessional conduct, in that on or about August 13, 2004, he
17 violated a statute of this state regulating controlled substances, to wit: Health and Safety
18 Code section 11550, in violation of Business and Professions Code section 4301,
19 subdivision (j).

20 ORDER

21 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 41546,
22 heretofore issued to Respondent Gabriel G. Garza, is revoked.

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

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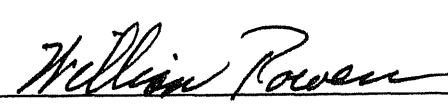
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This Decision shall become effective on August 24, 2006

It is so ORDERED July 25, 2006

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
WILLIAM POWERS
Board President

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DOJ docket number:SA2005102887

Attachment:

Exhibit A: Accusation No. 2880, Related Documents, and Declaration of Service

Exhibit A
Accusation No. 2880,
Related Documents and Declaration of Service

copy

1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR D. TAGGART, State Bar No. 83047
Lead Supervising Deputy Attorney General
3 California Department of Justice
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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
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14 **a.k.a. GABE GUADALUPE GARZA**
11165 Kay Lane
15 Hanford, CA 93230
16 Pharmacy Technician Registration No. TCH 41546
17 Respondent.

Case No. 2880

A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of
23 Consumer Affairs.
24 2. On or about October 25, 2002, the Board issued Pharmacy Technician
25 Registration Number TCH 41546 to Gabriel G. Garza, also known as Gabriel Guadalupe Garza
26 and Gabe Guadalupe Garza ("Respondent"). Respondent's pharmacy technician registration was
27 in full force and effect at all times relevant to the charges brought herein and will expire on July
28 31, 2006, unless renewed.

STATUTORY PROVISIONS

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3. Business and Professions Code ("Bus. & Prof. Code") section 4202, subdivision (d), states that the Board may suspend or revoke any license 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 118, subdivision (b), states:

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 licensee on any such ground.

6. 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:

....

(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.

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2 (j) The violation of any of the statutes of this state or of the United States
3 regulating controlled substances and dangerous drugs.
4

5 (l) The conviction of a crime substantially related to the qualifications,
6 functions, and duties of a licensee under this chapter. The record of conviction of
7 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
8 United States Code regulating controlled substances or of a violation of the
9 statutes of this state regulating controlled substances or dangerous drugs shall be
10 conclusive evidence of unprofessional conduct. In all other cases, the record of
11 conviction shall be conclusive evidence only of the fact that the conviction
12 occurred. The board may inquire into the circumstances surrounding the
13 commission of the crime, in order to fix the degree of discipline or, in the case of
14 a conviction not involving controlled substances or dangerous drugs, to determine
15 if the conviction is of an offense substantially related to the qualifications,
16 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
17 or a conviction following a plea of nolo contendere is deemed to be a conviction
18 within the meaning of this provision. The board may take action when the time
19 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
20 or when an order granting probation is made suspending the imposition of
21 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
22 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
23 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
24 information, or indictment . . .

15 7. Health and Safety Code section 11550, subdivision (a), states:

16 No person shall use, or be under the influence of any controlled substance
17 which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of
18 subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or
19 (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of
20 Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in
21 paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified
22 in Schedule III, IV, or V, except when administered by or under the direction of a
23 person licensed by the state to dispense, prescribe, or administer controlled
24 substances. It shall be the burden of the defense to show that it comes within the
25 exception. Any person convicted of violating this subdivision is guilty of a
26 misdemeanor and shall be sentenced to serve a term of not less than 90 days or
27 more than one year in a county jail. The court may place a person convicted under
28 this subdivision on probation for a period not to exceed five years and, except as
 provided in subdivision (c), shall in all cases in which probation is granted
 require, as a condition thereof, that the person be confined in a county jail for at
 least 90 days. Other than as provided by subdivision (c), in no event shall the
 court have the power to absolve a person who violates this subdivision from the
 obligation of spending at least 90 days in confinement in a county jail.

Cost Recovery

26 8. Bus. & Prof. Code section 125.3 states, in pertinent part, that the Board
27 may request the administrative law judge to direct a licentiate found to have committed a
28

1 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
2 investigation and enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Convictions)**

5 9. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
6 section 4301, subdivision (1), on the grounds of unprofessional conduct, in that he was convicted
7 of crimes which are substantially related to the qualifications, functions, and duties of a
8 pharmacy technician, as follows:

9 a. On or about April 18, 2005, in the criminal proceeding titled *People v.*
10 *Gabe G. Garza* (Super. Ct., County of Kings, 2005, Case No. 05CM1255), Respondent pled
11 guilty to a violation of Penal Code section 594, subdivision (a) [vandalism], a misdemeanor. The
12 circumstances of the crime are that on or about March 26, 2005, Respondent unlawfully and
13 maliciously damaged and destroyed a car belonging to G.G., the amount of damage being over
14 \$400.

15 b. On or about April 18, 2005, in the criminal proceeding titled *People v.*
16 *Gabe G. Garza* (Super. Ct., County of Kings, 2005, Case No. 04CM3112), Respondent pled
17 guilty to a violation of Health and Safety Code section 11550, subdivision (a), a misdemeanor.
18 The circumstances of the crime are that on or about August 13, 2004, Respondent unlawfully
19 used and was under the influence of a controlled substance.

20 c. On or about July 15, 2005, in the criminal proceeding titled *People v.*
21 *Gabriel Guadalupe Garza* (Super Ct., County of Kings, 2005, Case No. 05CM2378),
22 Respondent plead guilty to a violation of Penal Code section 594, subdivision (a) [vandalism], a
23 misdemeanor. The circumstances of the crime are that on or about May 28, 2005, Respondent
24 unlawfully and maliciously defaced with graffiti and other inscribed material and otherwise
25 damaged and destroyed a door and frame belonging to J.R., the amount of said damage begin
26 over \$400.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Self-Administration of Controlled Substances)

3 10. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4 section 4301, subdivision (h), on the grounds of unprofessional conduct, in that he self-
5 administered a controlled substance, as set forth in paragraph 9 above.

6 THIRD CAUSE FOR DISCIPLINE

7 (Violations of State Laws Regulating Controlled Substances)

8 11. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
9 section 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about
10 August 13, 2004, he violated a statute of this state regulating controlled substances, to wit:
11 Health and Safety Code section 11550, as set forth in paragraph 9 above.

12 PRAYER

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

15 1. Revoking or suspending Pharmacy Technician Registration Number
16 TCH 41546, issued to Gabriel G. Garza, also known as Gabriel Guadalupe Garza and Gabe
17 Guadalupe Garza;

18 2. Ordering Gabriel G. Garza, also known as Gabriel Guadalupe Garza and
19 Gabe Guadalupe Garza, to pay the Board of Pharmacy the reasonable costs of the investigation
20 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

22 DATED: 3/9/06

23
24 *P. J. Harris*

25 PATRICIA F. HARRIS
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 GEOFFREY S. ALLEN, State Bar No. 193338
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13 **aka GABE GUADALUPE GARZA**
11165 Kay Lane
Hanford, CA 93230

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

14 Pharmacy Technician Registration
No. TCH 41546

15
16 Respondent.

17 **TO RESPONDENT:**

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

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

- 24 1. Provide the names and addresses of witnesses to the extent known to the
25 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
27 the following in the possession or custody or under control of the Respondent:

28 ///

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative
4 proceeding;

5 b. A statement pertaining to the subject matter of the proceeding made by any
6 party to another party or persons;

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

10 d. All writings, including but not limited to reports of mental, physical and
11 blood examinations and things which the Respondent now proposes to offer in evidence;

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

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

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

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

1 work product.

2 Your response to this Request for Discovery should be directed to the undersigned
3 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
4 **30 days after service** of the Accusation.

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

8 DATED: 4/4/06

9 BILL LOCKYER, Attorney General
10 of the State of California

11 
12 _____
13 GEOFFREY S. ALLEN
14 Deputy Attorney General

15 Attorneys for Complainant

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of the State of California
2 GEOFFREY S. ALLEN, State Bar No. 193338
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12 Aka **GABE GUADALUPE GARZA**
11165 Kay Lane
13 Hanford, CA 93230

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

14 Pharmacy Technician Registration
No. TCH 41546

15
16 Respondent.

17 TO RESPONDENT:

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

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

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

28 ///

1 **Geoffrey S. Allen**
2 **Deputy Attorney General**
3 **1300 I Street, Suite 125**
4 **P.O. Box 944255**
5 **Sacramento, California 94244-2550.**

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

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

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

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

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

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

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 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

1 Board of Pharmacy but, once approved, it would be incorporated into a final order.

2 ///

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

7 If you are interested in pursuing this alternative to a formal administrative hearing,
8 or if you have any questions, you or your attorney should contact Deputy Attorney General
9 Geoffrey S. Allen at the earliest opportunity.

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Aka GABRIEL GUADALUPE GARZA
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11165 Kay Lane
Hanford, CA 93230

Pharmacy Technician Registration
No. TCH 41546

Respondent.

Case No. 2880

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**

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No. TCH 41546

Respondent.

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

SECTION 11507.5: Exclusivity of discovery provisions

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

SECTION 11507.6: Request for discovery

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

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

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

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

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

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

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

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

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

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

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

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

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

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

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

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

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

**Case Name: In the Matter of the Accusation Against: Gabriel G. Garza, aka Gabriel
Guadalupe Garza, aka Gabe Guadalupe Garza**

Board of Pharmacy Case No.: 2880

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 6, 2006, I served the attached **Accusation, Request for Discovery, Statement to Respondent, Notice of Defense, Notice of Defense and Government Code Sections 11505, 11506, and 11507** 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, Notice of Defense and Government Code Sections 11505, 11506, and 11507** 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

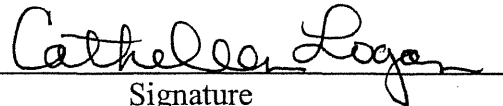
**Gabriel G. Garza
aka Gabriel Guadalupe Garza
aka Gabe Guadalupe Garza
11165 Kay Lane
Hanford, California 93230**

7003 1680 0002 3841 9455

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 6, 2006, at Sacramento, California.

Catheleen Logan

Declarant



Signature

7003 1680 0002 3841 9455

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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OFFICIAL USE

Postage	\$	Postmark Here
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to
Gabriel G. Garza
 aka Gabriel Guadalupe Garza
 aka Gabe Guadalupe Garza
 11165 Kay Lane
 Hanford, California 93230

PS Form 3800, June 2002

See Reverse for Instructions

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.

Thank you for using Return Receipt Service.

Gabriel G. Garza
 aka Gabriel Guadalupe Garza
 aka Gabe Guadalupe Garza
 11165 Kay Lane
 Hanford, California 93230

7003 1680 0002 3841 9455

4b. Service Type	
<input checked="" type="checkbox"/> Registered	<input type="checkbox"/> Certified
<input checked="" type="checkbox"/> Express Mail	<input type="checkbox"/> Insured
<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> COD

7. Date of Delivery
4. 12.06

Is your RETURN

5. Received By: (Print Name)
Georgina Garza

6. Signature: (Addressee or Agent)
X [Signature]

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