BILL LOCKYER, Attorney General
of the State of California
ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-2271
Facsimile: (916) 327-8643

Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KATONYA LYNN SHAW 9644 Holly Glen Way Elk Grove, CA 95757 Pharmacy Technician Registration No. TCH 55736 Respondent.	Case No. 2931 OAH No. N-2006080477 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 2, 2006, Complainant Patricia F. Harris, in her official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 2931 against Katonya Lynn Shaw (Respondent) before the Board of Pharmacy.

2. On or about March 29, 2004, the (Board) issued Pharmacy Technician Registration No. TCH 55736 to 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, 2008, unless renewed.

3. On or about May 8, 2006, Jessica Taylor, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 2931, 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 9644 Holly Glen Way, Elk Grove, CA 95757. 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 May 31, 2006, Respondent signed and returned a Notice of Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's address of record and it informed her that an administrative hearing in this matter was scheduled for October 13, 2006. Respondent failed to appear at that hearing. A copy of Respondent's Notice of Defense, the Notice of Hearing, and Declaration of Service are attached hereto as Exhibit B, and are incorporated herein by reference.

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

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

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

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

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it contained in Exhibits A and B, finds that the allegations in Accusation No. 2931 are true.

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9. The total costs for investigation and enforcement are $1,891.50 as of October 13, 2006. A Certification of Costs is attached as Exhibit C and incorporated herein by reference.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Katonya Lynn Shaw has subjected her Pharmacy Technician Registration No. TCH 55736 to discipline.

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

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

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

a. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), on the grounds of unprofessional conduct in that between August 1, 2003, and February 3, 2004, while employed as a pharmacy/procurement technician, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when she stole dangerous drugs belonging to the pharmacy at which she worked, and then unlawfully furnished the medications to her relatives.

b. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (j), on the grounds of unprofessional conduct in that between August 2003, and January 2004, Respondent violated Code section 4059, subdivision (a), by furnishing dangerous drugs without a prescription to her relatives.

c. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (l), on the grounds of unprofessional conduct in that on or about October 14, 2004, in the criminal proceeding titled *People v. Katonya L. Shaw* (Super. Ct. Sacramento County, 2004, Case No. 04M07111), Respondent was convicted by the court on her plea of nolo contendere to violating Code section 4059, subdivision (a) (furnishing dangerous drugs without a prescription), a crime substantially related to the qualifications, functions, and duties of a pharmacy technician.

d. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (o), on the grounds of unprofessional conduct, in that in and between August 1, 2003, and February 3, 2004, while employed as a pharmacy/procurement technician, Respondent violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision or term of this chapter or of an applicable state law governing pharmacy, to wit: Code section 4059, subdivision (a).

e. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (p), on the grounds of unprofessional conduct in that in and between August 1, 2003, and February 3, 2004, she committed acts that would have warranted denial of her pharmacy technician registration.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 55736, heretofore issued to Respondent Katonya Lynn Shaw, 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 January 4, 2007.

It is so ORDERED December 5, 2006

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

10290237.wpd
DOJ docket number:SA2005104406

Attachments:

Exhibit A: Accusation No.2931, Related Documents, and Declaration of Service
Exhibit B: Notice of Defense, Notice of Hearing, and Declaration of Service
Exhibit C: Cost Certification

Exhibit A

Accusation No. 2931,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
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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: **KATONYA LYNN SHAW,** **a.k.a. KATONYA LYNN ORR** 4930 Polk Street, #95 North Highlands, CA 95660 Pharmacy Technician Registration No. TCH 55736 Respondent.	Case No. 2931 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 29, 2004, the Board issued Pharmacy Technician Registration Number TCH 55736 to Katonya Lynn Shaw, also known as Katonya Lynn Orr ("Respondent"). Respondent's pharmacy technician registration will expire on April 30, 2006, 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 any 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.

. . . .

(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 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.

. . . .

(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 . . .

(p) Actions or conduct that would have warranted denial of a license . . .

6. 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. 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. Code section 477 provides, in pertinent part, that "license" includes certificate, registration or other means to engage in a business or profession regulated by the Code.

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9. 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.

Cost Recovery

10. 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.

DANGEROUS DRUGS AT ISSUE

11. "Ortho Evra patches", "Glucophage", "Hydrochlorothiazide", "Ibuprofen 800 mg", and "Diflucan" are dangerous drugs within the meaning of Code section 4022 in that they are available by prescription only.

FIRST CAUSE FOR DISCIPLINE

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

12. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), on the grounds of unprofessional conduct. In and between August 1, 2003, and February 3, 2004, while employed as a pharmacy/procurement technician[1] by the United States Department of Veterans Affairs ("VA"), McClellan VA Out-Patient Clinic Pharmacy, located in Sacramento, California (hereinafter "McClellan VA OPC"), Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows:

a. In and between August 1, 2003, and February 3, 2004, Respondent stole dangerous drugs belonging to the pharmacy, including, but not limited to, two 90-tablet bottles of Ibuprofen 800 mg, 12 tablets of Diflucan, and Ortho Evra birth control patches, then unlawfully

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1. As procurement technician, Respondent had the responsibility of ordering all pharmaceuticals and office supplies with a government purchase card issued to her in her name.

furnished the medications to her sister Tafeni Green, also known as Tafeni Orr (hereinafter "Tafeni Green"), as set forth in paragraph 13 below.

b. In or about November 2003, Respondent stole dangerous drugs belonging to the pharmacy, including, but not limited to, Glucophage and Hydrochlorothiazide, then unlawfully furnished the medications to her uncle Julius Matthews, as set forth in paragraph 13 below.

SECOND CAUSE FOR DISCIPLINE

(Violations of State Laws Regulating Dangerous Drugs)

13. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (j), on the grounds of unprofessional conduct. In and between August 2003, and January 2004, while employed as a pharmacy/procurement technician by McClellan VA OPC, Respondent violated Code section 4059, subdivision (a), as follows:

a. In and between August 1, 2003, and February 3, 2004, Respondent furnished dangerous drugs belonging to the pharmacy, including, but not limited to, two 90-tablet bottles of Ibuprofen 800 mg, 12 tablets of Diflucan, and Ortho Evra birth control patches, to her sister Tafeni Green located in Douglasville, Georgia, without a valid prescription for the medications from a physician, dentist, podiatrist, optometrist, or veterinarian.

b. In or about November 2003, Respondent furnished dangerous drugs belonging to the pharmacy, including, but not limited to, Glucophage and Hydrochlorothiazide, to her uncle Julius Matthews located in Hartford, Connecticut, without a valid prescription for the medications from a physician, dentist, podiatrist, optometrist, or veterinarian.

THIRD CAUSE FOR DISCIPLINE

(Criminal Conviction)

14. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (l), on the grounds of unprofessional conduct. On or about October 14, 2004, in the criminal proceeding titled *People v. Katonya L. Shaw* (Super. Ct. Sacramento County, 2004, Case No. 04M07111), Respondent was convicted by the court on her plea of nolo contendere to violating Code section 4059, subdivision (a) (furnishing dangerous drugs without a

prescription), a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances of the crime are set forth in paragraph 13 above.

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without a Prescription)

15. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (o), on the grounds of unprofessional conduct, in that in and between August 1, 2003, and February 3, 2004, while employed as a pharmacy/procurement technician by McClellan VA OPC, Respondent violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision or term of this chapter or of an applicable state law governing pharmacy, to wit: Code section 4059, subdivision (a), as set forth in paragraph 13 above.

FIFTH CAUSE FOR DISCIPLINE

(Actions or Conduct Warranting Denial of Licensure)

16. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (p), on the grounds of unprofessional conduct in that in and between August 1, 2003, and February 3, 2004, she committed acts that would have warranted denial of her pharmacy technician registration, as set forth in paragraphs 12, 13, and 15 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 55736, issued to Katonya Lynn Shaw, also known as Katonya Lynn Orr;

2. Ordering Katonya Lynn Shaw, also known as Katonya Lynn Orr, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 5/2/06

P. F. Harris

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

Complainant

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phd; 02/76/2006

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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. 2931
KATONYA LYNN SHAW	**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.

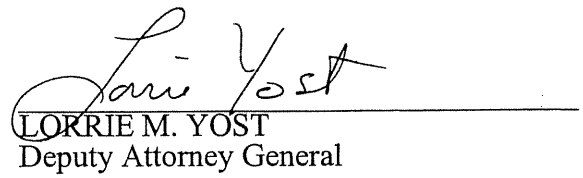
YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

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: 5-8-06

BILL LOCKYER, Attorney General
of the State of California



LORRIE M. YOST
Deputy Attorney General

Attorneys for Complainant

10242117.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. 2931
KATONYA LYNN SHAW	**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 Lorrie M. Yost, 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:

Lorrie M. Yost
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 Lorrie M. Yost at the earliest opportunity.

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SA2005104406
10242117.wpd

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

In the Matter of the Accusation Against:	Case No. 2931
KATONYA LYNN SHAW	**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.

10242117.wpd

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

In the Matter of the Accusation Against:	Case No. 2931
KATONYA LYNN SHAW	**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.

10242117.wpd

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.

****

10242117.wpd

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

Case Name: **In the Matter of the Accusation Against: Katonya Lynn Shaw**

No.: 2931

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 May 8, 2006, I served the attached **Accusation, Request for Discovery, Statement to Respondent, Notice of Defense, applicable 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 **above-named documents** 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:

BY U.S. & CERTIFIED MAIL TO:

Katonya Lynn Shaw
9644 Holly Glen Way
Elk Grove, CA 95757

Certified Article Number
7160 3901 9848 9138 1947
SENDERS RECORD

BY U.S. MAIL ONLY TO:

Patricia F. Harris
Executive Officer
Board of Pharmacy
1625 North Market Boulevard, Suite N-219
Sacramento, CA 95834

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 May 8, 2006, at Sacramento, California.

Jessica L. Taylor
Declarant

Jessica L. Taylor
Signature

10242119.wpd

7160 3901 9848 9138 1947

TO: Katonya Lynn Shaw
9644 Holly Glen Way
Elk Grove, CA 95757

SENDER:
Lorrie M. Yost

REFERENCE:
SA2005104406/Shaw/AccPkt

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

2. Article Number

7160 3901 9848 9138 1947

3. Service Type **CERTIFIED MAIL**

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

1. Article Addressed to:

Katonya Lynn Shaw
9644 Holly Glen Way
Elk Grove, CA 95757

SA2005104406/Shaw/AccPkt

Lorrie M. Yost

PS Form 3811, July 2001 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery 5/9

C. Signature
X ☐ Agent ☐ Addressee

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

Thank you for using Return Receipt Service

Exhibit B

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

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

In the Matter of the Accusation Against:	Case No. 2931
KATONYA LYNN SHAW	**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: 5/31/06

Respondent's Name: Katonya Shaw
Respondent's Signature: [signature]
Respondent's Mailing Address: 9644 Holly Glen Way
City, State and Zip Code: Elk Grove, CA 95757
Respondent's Telephone Number: 916-670-1752

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.

10242117.wpd

BILL LOCKYER, Attorney General
of the State of California
LORRIE M. YOST, State Bar No. 119088
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 445-2271
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:	Case No. 2931
KATONYA LYNN SHAW	OAH No. N-2006080477
Respondent.	**NOTICE OF HEARING** [Gov. Code § 11509]
	Hearing: Friday, October 13, 2006

YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on **Friday, October 13, 2006** at **9:00 a.m.** before an Administrative Law Judge at

Office of Administrative Hearings
2349 Gateway Oaks Drive, Suite 200
Sacramento, California 95814.

The hearing will be conducted before the Board of Pharmacy, Department of Consumer Affairs by an Administrative Law Judge of the Office of Administrative Hearings, upon the charges made in Accusation No. 2931 served upon you.

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

///

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You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings, 560 J Street, Suite 300, Sacramento, California 95814, telephone: (916) 445-4926.

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

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

Continuances are not favored. If you need a continuance, immediately write or call the Office of Administrative Hearings, 560 J Street, Suite 300, Sacramento, California 95814, telephone: (916) 445-4926.

DATED: Sept. 1, 2006

BILL LOCKYER, Attorney General
of the State of California

Lorrie Yost

LORRIE M. YOST
Deputy Attorney General

Attorneys for Complainant

SA2005104406
Shaw.NOH.10271451.wpd

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

Case Name: **In the Matter of the Accusation Against: Katonya Lynn Shaw**

No.: **2931**

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 September 5, 2006, I served the attached **Notice of Hearing** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Notice of Hearing** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

BY U.S. & CERTIFIED MAIL TO:
Katonya Lynn Shaw
9644 Holly Glen Way
Elk Grove, CA 95757

Certified Article Number
7160 3901 9849 5177 6294
SENDERS RECORD

BY U.S. MAIL ONLY TO:

Board of Pharmacy
Kim deLong
1625 North Market Boulevard, Suite N-219
Sacramento, CA 95834.

Office of Administrative Hearings
Kathy Rossow
Sacramento Regional Office
560 J Street, Suite 300
Sacramento, CA 95814

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 September 5, 2006, at Sacramento, California.

Jessica L. Taylor
Declarant

Jessica L. Taylor
Signature

10271540.wpd

7160 3901 9849 5177 6294

TO:
Katonya Lynn Shaw
9644 Holly Glen Way
Elk Grove, CA 95757

SENDER: Lorrie M. Yost

REFERENCE:
SA2005104406/Shaw/NOH

PS Form 3800, January 2005

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

Exhibit C

Certification of Costs

California State Board of Pharmacy
1625 N. Market Blvd, Suite N 219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

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

CERTIFICATION OF COSTS OF INVESTIGATIVE AND PROSECUTION BY AGENCY EXECUTIVE OFFICER

I, Virginia K. Herold, declare that I am the Interim Executive Officer of the Board of Pharmacy, and in that capacity certify pursuant to the provisions of the Business and Professions Code Sections 4350 and 4359, that the Board filed Accusation Number **2931** against **Katonya Shaw**, who holds the pharmacy technician registration number **TCH 55736.**

CERTIFICATION OF COSTS INCURRED THROUGH THE FILING OF THE ACCUSATION

In my capacity as the Interim Executive Officer, I review and approve payment for costs incurred by the Board of Pharmacy in the enforcement of the laws and regulations under its jurisdiction. I have reviewed the records of the agency and these reflect that the following costs and fees have been incurred by the agency in connection with the investigation and prosecution of Accusation Number **2931** as of the filing of the Accusation on **May 2, 2006.**

1. Legal Analyst's costs for **4** hours at **$92.00** per hour	$	368.00
2. Attorney General's costs for **4** hours at **$146.00** per hour	$	584.00

Total costs incurred through the filing of the Accusation: $ 952.00

CERTIFICATION OF COSTS INCURRED AFTER FILING ACCUSATION

Subsequent to filing the Accusation, the agency incurred the following additional costs in the investigation and prosecution of Accusation Number **2931** up to the commencement of the hearing of the matter before the Office of Administrative Hearings.

1. Attorney General's costs for **4** hours at **$146.00** per hour	$	**584.00**
2. Attorney General's costs for **2.25** hours at **$158.00** per hour	$	**355.50**
Total costs incurred from filing of Accusation to date:	$	**939.50**

The total of the costs and fees paid and incurred by the agency in the investigation and prosecution of Case Number **2931** from commencement of the investigation through **August 31, 2006**, in the sum of:

$ 1,891.50

CERTIFICATION

I certify pursuant to the provisions of Section 125.3 of the Business and Professions Code of the State of California that, to the best of my knowledge, the foregoing statement of costs incurred by the Board of Pharmacy is true and correct and that the amounts set forth therein do not exceed the actual and reasonable costs of investigation and prosecution in Case Number **2931**.

Dated: October 12, 2006

Virginia K. Herold
Interim Executive Officer