BILL LOCKYER, Attorney General
of the State of California
MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General

Attorneys for Complainant

BLANCA I. LOPEZ,
Senior Legal Analyst
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2610
Facsimile: (619) 645-2061

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

In the Matter of the Accusation Against: WALTER EDWARD LOOSLI 1054 San Lucas Road Palm Springs, CA 92264 Pharmacy No. TCH 59771 Respondent.	Case No. 2948 OAH No. **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 28, 2006, Complainant Patricia Harris, in her official capacity as the Executive Officer of the Board of Pharmacy (Board) filed Accusation No. 2948 against Walter Edward Loosli (Respondent).

2. On or about November 29, 2004, the Board issued Pharmacy Technician License No. TCH 59771 to Respondent. Respondent's license will expire on November 26, 2006, unless renewed.

3. On or about July 12, 2006, Sandra Sotelo, an employee of the Department of Justice, served by Certified Mail and U. S. Mail a copy of the Accusation No. 2948, 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 1054 San Lucas Road, Palm Springs, CA 92264. 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 July 27, 2006, the aforementioned documents were returned by the U.S. Postal Service marked "Attempted-Not Known." A copy of the postal returned documents 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. Respondent failed to file a Notice of Defense within 15 days after service of the Accusation was attempted at his address of record with the Board, and therefore waived his right to a hearing on the merits of Accusation No. 2948.

8. 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."

9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations in Accusation No. 2948 are true.

10. The total costs for investigation and enforcement are $990.00 as of October 26, 2006.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Walter Edward Loosli has subjected his Pharmacy Technician License No. TCH 59771 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 License No. TCH 59771 based upon the following violations alleged in the Accusation:

a. Respondent was convicted of transportation of a controlled Substance - Methamphetamine, on August 14, 2003.

b. Respondent was convicted of driving under the influence of alcohol and/or drugs on May 27, 1993.

c. Respondent was convicted of driving under the influence of alcohol and/or drugs with a blood alcohol level of 0.08% or above on December 5, 1986.

d. Respondent was convicted of driving under the influence of alcohol and/or drugs on July 31, 2003.

e. Respondent lied under penalty of perjury on October 27, 2004, when he signed his application for Pharmacy Technician License No. TCH 59771.

///

///

///

///

///

///

///

///

///

///

ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 59771, issued to Respondent Walter Edward Loosli, is hereby 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

Attachments:

Exhibit A: Accusation No.2948, Related Documents, and Declaration of Service
Exhibit B: Postal Return Documents
Exhibit C: Declaration of Costs

Loosli Default Decision & Order.wpd
DOJ docket number:SD2005800260

Exhibit A

Accusation No. 2948,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General

Attorneys for Complainant

BLANCA I. LOPEZ,
Senior Legal Analyst
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2610
Facsimile: (619) 645-2061

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

In the Matter of the Accusation Against: **WALTER EDWARD LOOSLI** 1054 San Lucas Road Palm Springs, CA 92264 Current License No. TCH 59771 Former License No. License No. TCH 34729 Respondent.	Case No. 2948 **ACCUSATION**

Complainant alleges:

PARTIES

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

Current License

2. On or about November 29, 2004, the Board of Pharmacy issued License Number TCH 59771 to Walter Edward Loosli. The license will expire on November 30, 2006, unless renewed.

///

Former License

3. On or about September 27, 2000, the Board of Pharmacy issued License Number TCH 34729 to Walter Edward Loosli. The license expired on November 30, 2003, and was canceled by the Board of Pharmacy for non-renewal on March 7, 2004.

JURISDICTION

4. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 4300 of the Code states:

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

". . . ."

6. Section 4301 of the Code states:

"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.

". . . .

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

". . . .

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

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(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.

". . . .

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

". . . .

///

///

7. Section 118, subdivision (b), of the Code states, in pertinent part, that the expiration or surrender of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

8. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

9. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."

10. Section 492 of the Code states:

"Notwithstanding any provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 2349.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit an agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

///

11. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law . . . to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only to that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

". . . ."

12. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license . . . a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

FIRST CAUSE FOR DISCIPLINE

(Conviction - August 14, 2003)
(Transportation of Methamphetamine)

13. Respondent is subject to disciplinary action under sections 490, 492, and 4301(l) of the Code in that on or about August 14, 2003, in a proceeding entitled, People vs. Walter Edward Loosli, San Bernardino County Superior Court No. FMB006121, he was convicted, upon his plea of nolo contendere, of violation of Health and Safety Code section 11379(a) (Transportation of a Controlled Substance - Methamphetamine). The circumstances are as follows:

///

///

a. On or about July 31, 2003, Respondent was stopped by San Bernardino County Sheriff's Office personnel. During the stop, officers found two glass pipes and a plastic zip-loc baggie with a bag inside of it which contained a white powdery substance which field tested positive for methamphetamine. Respondent was arrested for violation of Health and Safety Code section 11379(a) (Transportation of a Controlled Substance).

b. As a result of the above conviction, Respondent was sentenced pursuant to Penal Code section 1210.1 and placed on 3 years supervised probation. Respondent was ordered to participate and successfully complete a counseling program as directed by the probation officer, perform 40 hours of community service, enroll and complete a drug treatment plan, and attend Narcotics Anonymous/Alcoholics Anonymous.

On September 24, 2004, the Court found that Respondent successfully completed the drug treatment program. The Court ordered Respondent's conviction be set aside and dismissed the case pursuant to Penal Code section 1210.1(d). The Court allowed Respondent's to withdraw his initial plea of nolo contendere and enter a plea of not guilty. The Court accepted the plea and dismissed the above conviction.

SECOND CAUSE FOR DISCIPLINE

(Conviction of a Crime - May 27, 1993)
(Driving Under the Influence of Alcohol and/or Drugs)

14. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the Code in that on or about May 27, 1993, in a proceeding entitled, People vs. Walter Edward Loosli, in Los Angeles County Municipal Court No. 93M02038, Respondent was convicted, upon his plea of guilty, of violation of Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol and/or Drugs). The circumstances are as follows:

a. On or about May 14, 1993, Respondent was arrested by Arcadia Police Department of violation of Vehicle Code sections 23152(A) (Driving Under the Influence of Drugs and/or Alcohol), 23152(B) (Driving with Alcohol Level 0.08% or Above), and for 23222(B) (Possession of Less Than 10oz. of Marijuana in Vehicle).

///

b. As a result of the above conviction, Respondent was sentenced to five years summary probation, ordered to pay a $1,064 fine, ordered to enroll and complete a three-month first offender alcohol and other drug education and counseling program.

On October 7, 1993, Respondent's probation was revoked by the Court and a $13,000 bench warrant was issued for Respondent's arrest. On December 7, 1993, said bench warrant was recalled.

THIRD CAUSE FOR DISCIPLINE

(Conviction of a Crime - December 1986)
(Driving Under the Influence of Alcohol and/or Drugs)

15. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the Code in that on or about December 5, 1986, in a proceeding entitled, People vs. Walter Edward Loosli, in Los Angeles County Superior Court, Alhambra, Case No. M152300, Respondent was convicted of violation of Vehicle Code section 23152(b) (Driving Under the Influence of Alcohol and/or Drugs With Blood Alcohol Level of 0.08% or above.)

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Conviction of a Crime While Licensed)

16. Respondent is subject to disciplinary action under section 4301(f), (h), (j) and (k) in that on or about July 31, 2003, while holding Pharmacist Technician License No. TCH 34729, Respondent failed a field sobriety test and was determined to be under the influence of a controlled substance. A search of Respondent's car revealed a brown bag containing a white powdery substance that tested positive for Methamphetamine. (See paragraph 13(a) and (b), above.)

///

///

///

///

///

///

FIFTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud and Deceit)
(False Statement on Application)

17. Respondent is subject to disciplinary action under section 4301(g) in that on or about October 27, 2004, Respondent falsely certified under penalty of perjury, in response to Question 6 of his application for a pharmacy technician license, which reads, "Have you ever been convicted of or pled no contest to a violation of any law of a foreign country, the United States or any state laws or local ordinances? You must include all misdemeanor and felony convictions, regardless of the age of the conviction, including those which have been set aside under Penal Code section 1203.4 . . .," that Respondent had never been convicted, when in fact Respondent has had three convictions. See paragraphs 13, 14, 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:

A. Revoking or suspending License Number TCH 59771, issued to Walter Edward Loosli;

B. Ordering Walter Edward Loosli 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;

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

DATED: 6/28/09

P. J. Harris

PATRICIA HARRIS
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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

Case Name: **In the Matter of the Accusation Against: Loosli, Walter Edward, TCH**

No.: 2948

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 12, 2006, I served the attached **STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE (2 COPIES), REQUEST FOR DISCOVERY, DISCOVERY STATUTES, DISCIPLINARY GUIDELINES** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE (2 COPIES), REQUEST FOR DISCOVERY, DISCOVERY STATUTES, DISCIPLINARY GUIDELINES** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at San Diego addressed as follows

Walter Edward Loosli
1054 San Lucas Road
Palm Springs, CA 92264

Certified Article Number
7160 3901 9849 3220 1005
SENDERS RECORD

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 12, 2006, at San Diego, California.

Sandra Sotelo
Declarant

Sandra Sotelo
Signature

80082216.wpd

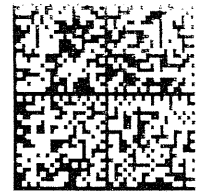
Exhibit B

Postal Return Documents

CERTIFIED MAIL

7160 3901 9849 3220 1005

RETURN RECEIPT REQUESTED



Hasler

016H26502775

$06.80⁰

07/12/2006

Mailed From 92101

US POSTAGE

RETURN TO SENDER

B. LOPEZ

DEPARTMENT OF JUSTICE

Office of the Attorney General

110 West "A" Street, Suite 1100

San Diego, California 92101

TO

ATTEMPTED-NOT KNOWN

INSUFFICIENT ADDRESS

NO SUCH NUMBER

STREET

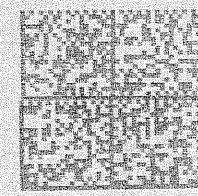
Walter Edward Loosli

1054 San Lucas Road

Palm Springs, CA 92264

DOES NOT LIVE

RE!



Hasler

016H26502775

$02.55

07/12/2006

Mailed From 92101

US POSTAGE

RETURN TO SENDER

B. LOPEZ

DEPARTMENT OF JUSTICE

Office of the Attorney General
110 West "A" Street, Suite 1100
San Diego, California 92101

ATTEMPTED - NOT KNOWN
NO SUCH STREET
NO SUCH NUMBER
INSUFFICIENT ADDRESS
REFUSED
UNCLAIMED
MOVED, LEFT NO ADDRESS
FORWARD TIME EXPIRED
RETURN TO SENDER

TO

Walter Edward Loosli
1054 San Lucas Road
Palm Springs, CA 92264

HE DOES NOT LIVE HERE!

Exhibit C

Certification of Costs

BILL LOCKYER, Attorney General
of the State of California
MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General
BLANCA I. LOPEZ,
Senior Legal Analyst
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2610
Facsimile: (619) 645-2061

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

In the Matter of the Accusation Against: WALTER EDWARD LOOSLI Respondent.	Case No. 2948 **CERTIFICATION OF COSTS: DECLARATION OF BLANCA I. LOPEZ** [Business and Professions Code section 125.3]

I, BLANCA I. LOPEZ, hereby declare and certify as follows:

1. I am a Senior Legal Analyst employed by the California Department of Justice, Office of the Attorney General (Office). I am assigned to the Licensing Section in the Civil Division of the Office. I have been designated as the representative to certify the costs of prosecution by DOJ and incurred by the Board of Pharmacy in this case. I make this certification in my official capacity and as an officer of the court.

2. I represent the Complainant, Patricia Harris, Executive Officer of the Board of Pharmacy, in this action. I was assigned to handle this case on or around November 4, 2005.

///

///

3. As the Senior Legal Analyst assigned to handle this case, I performed a wide variety of tasks that were necessary for the prosecution of this matter, including, but not limited to (1) conducting an initial case evaluation; (2) obtaining, reading and reviewing the investigative material and requesting further investigation, as needed; (3) drafting pleadings, correspondence, memoranda, and other case-related documents; (4) researching relevant points of law and fact; (5) consulting and/or meeting with colleague deputies, supervisory staff, experts, client staff, and investigators; (6) communicating and corresponding with Walter Edward Loosli; and (7) providing and requesting discovery.

4. I am personally familiar with the time recording and billing practices of DOJ and the procedure for charging the client agency for the reasonable and necessary work performed on a particular case. Whenever work is performed on a case, it is the duty of the employee to keep track of the time spent and to report that time on DOJ time sheets at or near the time of the tasks performed. Based upon the time reported through October 26, 2006, DOJ has billed or will bill the Board for the following amount of time spent working on the above entitled case.

Employee/ Position	Fiscal Year	No. of Hours	Hourly Rate	Total Charges
Margaret A. Lafko Supervising Deputy Attorney General	2005-2006	0.50	146	73.00
Blanca Lopez Senior Legal Analyst	2005-2006	14.25	92	1,311.00
Blanca Lopez Senior Legal Analyst	2006-2007	4.50	101	454.50
			TOTAL:	$1,838.50

///

///

///

5. To the best of my knowledge the items of cost set forth in this certification are correct and were necessarily incurred in this case.

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

Executed on 11-8-06, in the City of San Diego, California.

Blanca Lopez

BLANCA I. LOPEZ
Senior Legal Analyst

Declarant

80098173.wpd
SD2005800260