

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2611
Facsimile: (619) 645-2061

8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 CORY BARENBAUM
23364 Merion
15 Mission Viejo, CA 92692

16 Pharmacy Technician Registration No. TCH
53490

17 Respondent.
18

Case No. 2974

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about November 27, 2006, Complainant Virginia Herold, in her
21 official capacity as the Interim Executive Officer of the Board of Pharmacy, filed Accusation No.
22 2974 against Cory Barenbaum (Respondent) before the Pharmacy Board.

23 2. On or about December 16, 2003, the Board issued Pharmacy Technician
24 Registration No. TCH 53490 to Respondent. The Pharmacy Technician Registration was in full
25 force and effect at all times relevant to the charges brought herein and will expire on September
26 30, 2007, unless renewed.

27 3. On or about December 5, 2006, Mona Sebastian, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.

1 2974, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
2 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
3 which was and is 23364 Merion, Mission Viejo, CA 92692. A copy of the Accusation, the
4 related documents, and the Declaration of Service are attached as exhibit A, and are incorporated
5 herein by reference.

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

8 5. On or about December 15, 2006, this office received a Domestic Return
9 Receipt signed by Respondent. A copy of the Domestic Return Receipt is attached hereto as
10 exhibit B, and is incorporated herein by reference.

11 6. This office has not received any returned documents from this mailing, nor
12 has this office, or the Board, ever received a Notice of Defense from the Respondent.

13 7. Government Code section 11506 states, in pertinent part:

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

18 8. Respondent failed to file a Notice of Defense within 15 days after service
19 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
20 Accusation No. 2974.

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

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

26 10. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on
28 Respondent's express admissions by way of default and the evidence before it, contained in

1 exhibits A, B and C, finds that the allegations in Accusation No. 2974 are true.

2 11. The total costs for investigation and enforcement are \$1,999.50 as of
3 January 2, 2007.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Cory Barenbaum has
6 subjected his Pharmacy Technician Registration No. TCH 53490 to discipline.

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

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

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

12 a. **First Cause for Discipline:** Violation of Business and Professions Code
13 sections 490, 493, and 4301(l) for a criminal conviction that is substantially related to the
14 qualifications, functions, and duties of a Pharmacy Technician. On April 22, 2005 Respondent
15 was convicted of Possession for Sale and Sale or Transportation of a Controlled Substance
16 (Hydrocodone/Acetaminophen).

17 b. **Second Cause for Discipline:** Violation of Business and Professions
18 Code section 4301(j) for violating statutes and regulations regulating controlled substances and
19 dangerous drugs as set forth above.

20 c. **Third Cause for Discipline:** Violation of Business and Professions Code
21 section(f) for engaging in unprofessional conduct by violating statutes and regulations regulating
22 controlled substances and dangerous drugs as set forth above.

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1 ORDER

2 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 53490,
3 heretofore issued to Respondent Cory Barenbaum, is revoked. Pursuant to Government Code
4 section 11520, subdivision (c), Respondent may serve a written motion requesting that the
5 Decision be vacated and stating the grounds relied on within seven (7) days after service of the
6 Decision on Respondent. The agency in its discretion may vacate the Decision and grant a
7 hearing on a showing of good cause, as defined in the statute.


8 This Decision shall become effective on March 9, 2007.

9 It is so ORDERED February 7, 2007

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12 BOARD OF PHARMACY
13 DEPARTMENT OF CONSUMER AFFAIRS
14 STATE OF CALIFORNIA

15 80108298.wpd
16 DOJ docket number:SD2006800301

By



WILLIAM POWERS
Board President

17 Attachments:

18 Exhibit A: Accusation No. 2974, Related Documents, and Declaration of Service
19 Exhibit B: Domestic Return Receipt
20 Exhibit C: Certification of Prosecution Costs: Declaration of Diane de Kervor
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Exhibit A
Accusation No. 2974,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General
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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. 2974

14 CORY BARENBAUM
23364 Merion
15 Mission Viejo, CA 92692

A C C U S A T I O N

16 Pharmacy Technician Registration No. TCH
53490

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Interim Executive Officer of the Board of Pharmacy.

23 2. On or about December 16, 2003, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 53490 to Cory Barenbaum (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on September 30, 2007, unless renewed.

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JURISDICTION AND STATUTORY PROVISIONS

1
2 3. This Accusation is brought before the Board of Pharmacy, under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 unless otherwise indicated.

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

9 5. Code section 482 states:

10 "Each board under the provisions of this code shall develop criteria to evaluate the
11 rehabilitation of a person when:

12 (a) Considering the denial of a license by the board under Section 480; or

13 (b) Considering suspension or revocation of a license under Section 490.

14 "Each board shall take into account all competent evidence of rehabilitation
15 furnished by the applicant or licensee."

16 6. Section 490 of the Code states, in pertinent part:

17 "A board may suspend or revoke a license on the ground that the licensee has been
18 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the license was issued. A conviction within the meaning
20 of this section means a plea or verdict of guilty or a conviction following a plea of nolo
21 contendere. . . ."

22 7. Code section 493 states:

23 "Notwithstanding any other provision of law, in a proceeding conducted by a board
24 within the department pursuant to law to deny an application for a license or to suspend or revoke
25 a license or otherwise take disciplinary action against a person who holds a license, upon the
26 ground that the applicant or the licensee has been convicted of a crime substantially related to the
27 qualifications, functions, and duties of the licensee in question, the record of conviction of the
28 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of the crime in
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the
3 qualifications, functions, and duties of the licensee in question.

4 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
5 'registration.'"

6 8. Section 4301 of the Code states:

7 "The board shall take action against any holder of a license who is guilty of
8 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
9 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
10 following:

11 ". . . .

12 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
13 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
14 otherwise, and whether the act is a felony or misdemeanor or not.

15 ". . . .

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

18 ". . . .

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

25 The board may inquire into the circumstances surrounding the commission of the crime, in order
26 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
27 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty

1 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
2 meaning of this provision. . . .

3 " "

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

5 "For the purpose of denial, suspension, or revocation of a personal or facility
6 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
7 Code, a crime or act shall be considered substantially related to the qualifications, functions or
8 duties of a licensee or registrant if to a substantial degree it evidences present or potential
9 unfitness of a licensee or registrant to perform the functions authorized by his license or
10 registration in a manner consistent with the public health, safety, or welfare."

11 **COST RECOVERY**

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

16 **DRUGS**

17 11. **Vicodin and Norco**, pain relievers, are dangerous drugs pursuant to
18 section 4022 and are Schedule III controlled substances pursuant to Health and Safety Code
19 section 11056(e)(4). The generic name for Vicodin and Norco is hydrocodone plus
20 Acetaminophen.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(April 22, 2005 Criminal Conviction -Possession for Sale of a Controlled Substance and
23 Sale or Transportation of a Controlled Substance on September 21, 2004)**

24 12. Grounds exist to revoke Respondent's license under sections 490, 493, and
25 4301(l) for a criminal conviction that is substantially related to the qualifications, functions, and
26 duties of a Pharmacy Technician. On or about April 22, 2005 in the Superior Court for the
27 County of Orange, Central Justice Center, in a case entitled *People vs. Cory Neil Barenbaum*
28 (Sup. Ct., Orange, 2005, Case No. 04SF1196), respondent pled guilty to a violation of Health and

1 Safety Code sections 11351 and 11352(a), both felonies. The circumstances of the conviction
2 are as follows:

3 13. On or about September 21, 2005, Respondent willfully, unlawfully and
4 knowingly possessed a useable quantity of the controlled substance Hydrocodone, knowing it to
5 be a controlled substance for purposes of sale and transported this substance for purposes of sale.
6 On or about September 21, 2004, at 10:40 a.m., a police officer stopped Respondent's car for
7 various traffic violations. While speaking to Respondent, the Officer noted the odor of marijuana
8 and saw pieces of plant material, stems, and seeds strewn around the car. Respondent admitted
9 to smoking marijuana the night before. Respondent was asked to step out of the car, and in
10 response to the question whether he had anything illegal in his car, Respondent admitted that he
11 had a bag of **Norco** (Hydrocodone/Acetaminophen), a prescription drug, but that he did not have
12 the prescription. He admitted that he had 500 pills. A search of the car revealed a bag of yellow
13 pills marked "Watson 853," a large empty manufacturer bottle of Hydrocodone, and a used
14 marijuana pipe. The officer, based upon his experience and training, identified the pills as
15 Hydrocodone, commonly known as **Vicodin**. The Officer noted that Respondent did not appear
16 to be under the influence of drugs.

17 14. Pursuant to a plea agreement, on or about April 22, 2005, Respondent was
18 sentenced to 180 days in jail (stayed until June 24, 2005), three years of formal probation,
19 supervised electronic confinement, fines and restitution in the amount of \$270.00, and he was
20 ordered to cease working in a pharmacy. On June 24, 2005, a bench warrant in the amount of
21 \$10,000 was issued as Respondent failed to appear in court. On July 1, 2005, Respondent
22 appeared in court and the bench warrant was recalled. All terms and conditions of probation
23 were ordered to remain the same.

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SECOND CAUSE FOR DISCIPLINE

(Violation of Laws Relating to Controlled Substances and Dangerous Drugs)

15. Respondent is subject to disciplinary action under section 4301(j) in that he violated statutes and regulations regulating controlled substances and dangerous drugs. The circumstances are set forth above in paragraphs 12 to 14 and are incorporated by reference herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

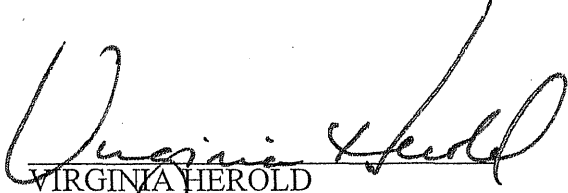
16. Respondent is subject to disciplinary action under section 4301(f) in that he engaged in unprofessional conduct when he violated statutes and regulations regulating controlled substances and dangerous drugs. The circumstances are set forth above in paragraphs 13 to 15 and incorporated by reference herein.

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 53490, issued to Cory Barenbaum.
- 2. Ordering Cory Barenbaum to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 11/27/06



VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
State of California
Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:	Case No. 2974
14 CORY BARENBAUM	REQUEST FOR DISCOVERY
15 Respondent.	[Gov. Code § 11507.6]

16
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 a. A statement of a person, other than the Respondent, named in the initial

1 administrative pleading, or in any additional pleading, when it is claimed that the act or
2 omission of the Respondent as to this person is the basis for the administrative
3 proceeding;

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

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

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

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

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

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

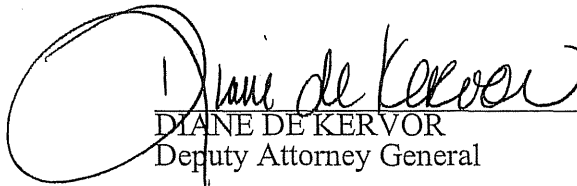
25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
26 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
27 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
28 work product.

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

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

7 DATED: December 4, 2006

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

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11
12 
13 DIANE DE KERVOR
14 Deputy Attorney General

15 Attorneys for Complainant

16 80103873.wpd

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11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2974

14 CORY BARENBAUM

STATEMENT TO RESPONDENT

15 Respondent.

[Gov. Code §§ 11504, 11505(b)]
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17
18 TO RESPONDENT:

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

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

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

1 Diane De Kervor
2 Deputy Attorney General
3 110 West "A" Street, Suite 1100
4 San Diego, California 92101

5 P.O. Box 85266
6 San Diego, California 92186-5266.

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

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

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

16 The hearing may be postponed for good cause. If you have good cause, you are
17 obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los
18 Angeles, CA 90013, within ten (10) working days after you discover the good cause. Failure to
19 notify the Office of Administrative Hearings within ten (10) days will deprive you of a
20 postponement.

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

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

27 **NOTICE REGARDING STIPULATED SETTLEMENTS**

28 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

1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
2 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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 Diane
9 De Kervor at the earliest opportunity.

10 *****

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

In the Matter of the Accusation Against:

CORY BARENBAUM

Respondent.

Case No. 2974

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.

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

In the Matter of the Accusation Against:

CORY BARENBAUM

Respondent.

Case No. 2974

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.

**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: **CORY BARENBAUM**

Case No.: **2974**

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 **December 5, 2006**, I served the attached

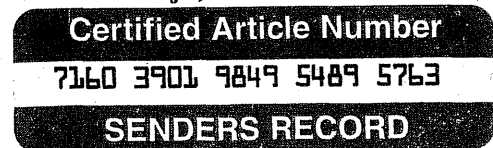
**ACCUSATION, STATEMENT TO RESPONDENT, NOTICE OF DEFENSE (2 COPIES),
REQUEST FOR DISCOVERY AND DISCOVERY STATUTES**

by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the

**ACCUSATION, STATEMENT TO RESPONDENT, NOTICE OF DEFENSE (2 COPIES),
REQUEST FOR DISCOVERY AND DISCOVERY STATUTES**

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 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Cory Barenbaum
23364 Merion
Mission Viejo, CA 92692

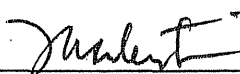


Courtesy Copy to:
Kim DeLong, Enforcement Analyst
Board of Pharmacy
1625 North Market Boulevard, Suite N-219
Sacramento, CA 95834
(First Class Mail Only)

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 **December 5, 2006**, at San Diego, California.

MONA SEBASTIAN

Declarant



Signature


<p>2. Article Number</p>  <p>7160 3901 9849 5489 5763</p>	<p>COMPLETE THIS SECTION ON DELIVERY</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;"> <p>A. Received by (Please Print Clearly) <i>Cory Barenbaum</i></p> </td> <td style="width: 50%; padding: 2px;"> <p>B. Date of Delivery <i>12-13-06</i></p> </td> </tr> <tr> <td colspan="2" style="padding: 2px;"> <p>C. Signature <i>[Signature]</i></p> </td> </tr> <tr> <td style="padding: 2px;"> <p><input checked="" type="checkbox"/> Agent</p> <p><input type="checkbox"/> Addressee</p> </td> <td style="padding: 2px;"> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> </td> </tr> <tr> <td colspan="2" style="padding: 2px;"> <p>D. Delivery address different from item 1? If YES, enter delivery address below:</p> </td> </tr> </table>	<p>A. Received by (Please Print Clearly) <i>Cory Barenbaum</i></p>	<p>B. Date of Delivery <i>12-13-06</i></p>	<p>C. Signature <i>[Signature]</i></p>		<p><input checked="" type="checkbox"/> Agent</p> <p><input type="checkbox"/> Addressee</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>D. Delivery address different from item 1? If YES, enter delivery address below:</p>	
<p>A. Received by (Please Print Clearly) <i>Cory Barenbaum</i></p>	<p>B. Date of Delivery <i>12-13-06</i></p>								
<p>C. Signature <i>[Signature]</i></p>									
<p><input checked="" type="checkbox"/> Agent</p> <p><input type="checkbox"/> Addressee</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>								
<p>D. Delivery address different from item 1? If YES, enter delivery address below:</p>									
<p>3. Service Type CERTIFIED MAIL</p>									
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>									
<p>1. Article Addressed to:</p> <p style="text-align: center;">Cory Barenbaum 23364 Merion Mission Viejo, CA 92692</p>									
<p style="text-align: right;"><i>SD200680030. Diane De Kervo-</i></p>									
<p>PS Form 3811, January 2005 Domestic Return Receipt</p>									

Exhibit B
Domestic Return Receipt

Exhibit C

Certification of Prosecution Costs: Declaration of Diane de Kervor

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2611
Facsimile: (619) 645-2061
8
9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 2974

13 CORY BARENBAUM
14 23364 Merion
Mission Viejo, CA 92692

**CERTIFICATION OF
PROSECUTION COSTS:
DECLARATION OF DIANE DE
KERVOR**

15 Pharmacy Technician Registration No. TCH
16 53490

[Business and Professions Code section
125.3]

17 Respondent.

18
19 I, DIANE DE KERVOR, hereby declare and certify as follows:

20 1. I am a Deputy Attorney General employed by the California Department of
21 Justice (DOJ), Office of the Attorney General (Office). I am assigned to the Licensing Section in
22 the Civil Division of the Office. I have been designated as the representative to certify the costs
23 of prosecution by DOJ and incurred by the Board of Pharmacy in this case. I make this
24 certification in my official capacity and as an officer of the court and as a public employee
25 pursuant to Evidence Code section 664.

26 2. I represent the Complainant, Virginia Herold, Interim Executive Officer of
27 the Board of Pharmacy, in this action. I was assigned to handle this case on or around February
28 28, 2006.

1 3. Our Office's computerized case management system reflect that the
2 following persons have performed tasks related to this matter: Diane de Kervor, Deputy
3 Attorney General, and Margaret A. Lafko, Supervising Deputy Attorney General.

4 4. I am familiar with the time recording and billing practices of DOJ and the
5 procedure for charging the client agency for the reasonable and necessary work performed on a
6 particular case. It is the duty of the time keeping employees to keep track of the time spent and
7 to report that time in DOJ's computerized case management system at or near the time of the
8 tasks performed.

9 5. On January 4, 2007, I requested a billing summary for this case from the
10 Accounting Department of the DOJ. In response, on January 4, 2007, I received a document
11 entitled "Matter Time Activity by Professional Type." I hereby certify that the Matter Time
12 Activity by Professional Type, attached hereto as Exhibit A, and herein incorporated by
13 reference, is a true and correct copy of the billing summary for this matter that I received from
14 the Accounting Department. The summary includes the billing costs incurred by myself, as well
15 as other professionals of the DOJ who worked on the matter; and sets forth the tasks undertaken,
16 the amount of time billed for the activity, and the billing rate by professional type. The billing
17 summary is comprehensive of the charges by the Office to the Board of Pharmacy through
18 January 4, 2007. It does not include billing for tasks performed after January 4, 2007, up to the
19 date of hearing.

20 6. Based upon the time reported through January 4, 2007, as set forth in
21 Exhibit A, DOJ has billed the Board of Pharmacy \$1,999.50 for the time spent working on the
22 above entitled case.

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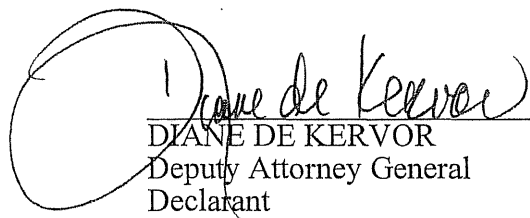
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7. The total costs to be bill in this matter are: \$1,999.50.

8. 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 January 5, 2006, in the City of San Diego, California.


DIANE DE KERVOR
Deputy Attorney General
Declarant

80108889.wpd
SD2006800301

Matter Time Activity By Professional Type

As Of 1/2/2007

Trans #	Date	Section	Client	Task	Hours Worked	Rate	Amount	Adj?	Stmn Date
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Matter ID: SD2006800301 Date Opened: 02/28/2006
Description: Barenbaum, Cory N., TCH

Professional Type: ATTORNEY

Fiscal Year: 2006-2007

Professional: Diane De Kervor

800208544	08/02/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		08/31/06
800215546	09/01/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		09/30/06
800215575	09/01/06	CV-LIC:110	03583	Pleading Preparation	0.50	\$158.00	\$79.00		09/30/06
800215850	09/05/06	CV-LIC:110	03583	Pleading Preparation	1.50	\$158.00	\$237.00		09/30/06
800216815	09/07/06	CV-LIC:110	03583	Pleading Preparation	2.00	\$158.00	\$316.00		09/30/06
800216808	09/08/06	CV-LIC:110	03583	Pleading Preparation	1.00	\$158.00	\$158.00		09/30/06
800217744	09/13/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		09/30/06
800217850	09/13/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		09/30/06
800220862	09/26/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		09/30/06
800230482	11/06/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		11/30/06
800232064	11/13/06	CV-LIC:110	03583	Client Communication	0.50	\$158.00	\$79.00		11/30/06
800232940	11/15/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		11/30/06
800235709	11/30/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		11/30/06
800241462	12/20/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		
800241421	12/21/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		
800241422	12/21/06	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		
800242829	12/27/06	CV-LIC:110	03583	Client Communication	0.50	\$158.00	\$79.00		
800242958	01/02/07	CV-LIC:110	03583	Pleading Preparation	2.50	\$158.00	\$395.00		

Diane De Kervor Totals:	11.25		\$1,777.50	
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Professional: Margaret A. Lafko

800216611	09/07/06	CV-LIC:110	03583	Supervisory Review	0.25	\$158.00	\$39.50		09/30/06
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Margaret A. Lafko Totals:	0.25		\$39.50	
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2006-2007 Totals:	11.50		\$1,817.00	
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Fiscal Year: 2005-2006

Professional: Diane De Kervor

700112812	03/08/06	CV-LIC:110	03583	Case Management	0.25	\$146.00	\$36.50		03/31/06
700117757	03/30/06	CV-LIC:110	03583	Case Management	0.25	\$146.00	\$36.50		03/31/06

Matter Time Activity By Professional Type

As Of 1/2/2007

Trans #	Date	Section	Client	Task	Hours Worked	Rate	Amount	Adj?	Stmn Date
800180765	04/14/06	CV-LIC:110	03583	Case Management	0.25	\$146.00	\$36.50		04/30/06
800200056	06/20/06	CV-LIC:110	03583	Case Management	0.25	\$146.00	\$36.50		06/30/06
800201767	06/29/06	CV-LIC:110	03583	Case Management	0.25	\$146.00	\$36.50		06/30/06
Diane De Kervor Totals:					<u>1.25</u>		<u>\$182.50</u>		
2005-2006 Totals:					<u>1.25</u>		<u>\$182.50</u>		
ATTORNEY Totals:					12.75		\$1,999.50		
SD2006800301 Totals:					12.75		\$1,999.50		