

1 EDMUND G. BROWN J.R., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 3007

13 DANIELLE BIVENS
7561 Cook Avenue
14 Citrus Heights, CA 95610

**DEFAULT DECISION
AND ORDER**

15 Pharmacy Technician Registration No. TCH
28217

[Gov. Code, §11520]

16
17 Respondent.

18 FINDINGS OF FACT

- 19 1. On or about February 8, 2007, Complainant Virginia Herold, in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs, filed Accusation No. 3007 against Danielle Bivens (Respondent) before the Board of
22 Pharmacy.
- 23 2. On or about January 28, 1999, the Board of Pharmacy (Board) issued
24 Pharmacy Technician Registration No. TCH 28217 to Respondent. The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on November 30, 2008, unless renewed.
- 27 3. On or about February 14, 2007, Donna H. Parker, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.

1 3007, 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 7561 Cook Avenue, Citrus Heights, CA 95610. A copy of the Accusation, the
4 related documents, and 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 February 20, 2007, Respondent acknowledged receipt of
9 service, but failed to file a Notice of Defense. A copy of the Domestic Return Receipt is attached
10 hereto as exhibit B, and are incorporated herein by reference.

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service
17 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
18 Accusation No. 3007.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board
24 finds Respondent is in default. The Board will take action without further hearing and, based on
25 Respondent's express admissions by way of default and the evidence before it, contained in
26 exhibits A, B and C, finds that the allegations in Accusation No. 3007 are true.

27 10. The total costs for investigation and enforcement are \$2,882.50 as of
28 March 28, 2007.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Danielle Bivens has
3 subjected her Pharmacy Technician Registration No. TCH 28217 to discipline.

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

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

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

9 ORDER

10 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 28217,
11 heretofore issued to Respondent Danielle Bivens, is revoked.

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

17 This Decision shall become effective on May 19, 2007.

18 It is so ORDERED April 19, 2007

19 BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS
21 STATE OF CALIFORNIA

22
23 By William Powers
24 WILLIAM POWERS
Board President

25 Attachments:

26 Exhibit A: Accusation No.3007, Related Documents, and Declaration of Service
27 Exhibit B: Postal Domestic Return Receipt
28 Exhibit C: Certificate of Costs - Declaration of Virginia Herold

Exhibit A

Accusation No. 3007,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 ELENA L. ALMANZO, State Bar No. 131058
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
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5 Telephone: (916) 322-5524
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 DANIELLE BIVENS
7561 Cook Avenue
13 Citrus Heights, CA 95610
Pharmacy Technician Registration No. TCH
14 28217
15 Respondent.

Case No. 3007

A C C U S A T I O N

17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Pharmacy.
21 2. On or about January 28, 1999, she issued Pharmacy Technician
22 Registration Number TCH 28217 to Danielle Bivens (Respondent). Said Registration shall
23 expire November 30, 2008, unless renewed.

24 JURISDICTION

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

28 //

1 4. Section 4300 of the Code states in pertinent part:

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

3 "(b) The board shall discipline the holder of any license issued by the board,
4 whose default has been entered or whose case has been heard by the board and found guilty, by
5 any of the following methods:

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

8 "(3) Suspending his or her right to practice for a period not exceeding one year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the board in
11 its discretion may deem proper."

12 5. Section 4301 of the Code states in pertinent part:

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

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

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

22 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
24 applicable federal and state laws and regulations governing pharmacy, including regulations
25 established by the board.

26 6. Section 4059 of the Code states, in pertinent part, that a person may not
27 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
28 optometrist, or veterinarian.

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

5 8. Health and Safety Code section 11350 provides in pertinent part:

6 "(a) Except as otherwise provided in this division, every person who possesses (1) any controlled
7 substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054,
8 specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
9 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2)
10 any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
11 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
12 this state, shall be punished by imprisonment in the state prison.

13 9. Health and Safety Code section 11352 provides in pertinent part:

14 "(a) Except as otherwise provided in this division, every person who transports, imports into this
15 state, sells, furnishes, administers, or gives away, or offers to transport, import into this state,
16 sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any
17 controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of
18 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
19 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
20 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
21 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
22 licensed to practice in this state, shall be punished by imprisonment in the state prison for three,
23 four, or five years."

24 10. Health and Safety Code section 11173 provides:

25 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to
26 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
27 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

28 //

1 (b) No person shall make a false statement in any prescription, order, report, or record, required
2 by this division.

3 (c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title
4 of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist,
5 veterinarian, registered nurse, physician's assistant, or other authorized person.

6 (d) No person shall affix any false or forged label to a package or receptacle containing
7 controlled substances."

8 11. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate also
9 known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and
10 Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

11 FIRST CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 12. Respondent is subject to disciplinary action under section 4301 (f) in that
14 from approximately May 1, 2005 to January 31, 2006, while working as a pharmacy technician,
15 respondent took approximately 11,000 tablets of Norco, without legal authority therefor, from the
16 Rite Aid Pharmacy where she worked. The circumstances are as follows:

17 A. From approximately January 28, 1999, to January 31, 2006, respondent
18 worked as a pharmacy technician at Rite Aid Pharmacy located at 6422 Tupelo Drive, Citrus
19 Heights, CA 95621.

20 B. In an interview with Board Inspector Lin Hokana on May 5, 2006, respondent
21 admitted that from May 1, 2005 to January 31, 2006 she took 1 bottle of 100 Norco tablets per
22 week from the Rite Aid Pharmacy where she worked. She could not estimate the exact quantity
23 she took because the frequency that she took bottles of Norco escalated over time.

24 C. For the period of May 1, 2005, to April 30, 2006, Rite Aid Pharmacy located at
25 6422 Tupelo Drive, Citrus Heights, CA 95621 had a loss of 11,144 tablets of Norco.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Forged Prescription)

3 13. Respondent is subject to disciplinary action under section 4301 (j) and (o)
4 in conjunction with Health and Safety Code section 11173 due to the manner in which she took
5 Norco tablets from Rite Aid Pharmacy which involved fraudulently labeling said medication.

6 The circumstances are as follows:

7 A. From approximately May 1, 2005, to January 31, 2006, respondent took
8 approximately 11,000 tablets of Norco as noted above in paragraph 12 (b).

9 B. In an interview with Board Inspector Lin Hokana on May 5, 2006, respondent
10 admitted that she printed a duplicate label of a legitimate Norco prescription, affixed said label to
11 the bottle, and placed the bottle in the will call area. Respondent then took the bottle with the
12 duplicate label from will call area, placed it in a Rite Aid bag, and took the medication home.

13 THIRD CAUSE FOR DISCIPLINE

14 (Furnishing without a Prescription)

15 14. Respondent is subject to disciplinary action under section 4301 (o) in
16 conjunction with Health and Safety Code sections 11173 and 11352 in that respondent
17 unlawfully furnished a controlled substance to another person without a legal prescription
18 therefor. The circumstances are as follows:

19 A. In an interview with Board Inspector Lin Hokana on May 5, 2006, respondent
20 admitted she took the Norco tablets from Rite Aid Pharmacy and furnished them to her husband,
21 who is permanently disabled, in order to control his pain.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Possession)

24 15. Respondent is subject to disciplinary action under section 4301 (o) in
25 conjunction with Health and Safety Code section 11350 in that respondent unlawfully possessed
26 a controlled substance without a legal prescription therefor.

27 //

28 //

1 The circumstances are that respondent admitted that for the period of May 1, 2005
2 to January 31, 2006, she took Norco tablets from Rite Aid Pharmacy as more specifically set
3 forth above in paragraph 12 (b).

4 PRAYER

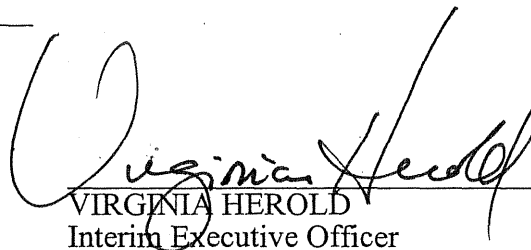
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

7 A. Revoking or suspending Pharmacy Technician Number TCH 28217,
8 issued to Danielle Bivens.

9 B. Ordering Danielle Bivens to pay the Board of Pharmacy the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code section 125.3;

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

13
14 DATED: 2/8/07

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16 

17 VIRGINIA HEROLD
18 Interim Executive Officer
19 Board of Pharmacy
20 State of California
21 Complainant

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1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO, State Bar No. 131058
Deputy Attorney General
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10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
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12 In the Matter of the Accusation Against:

Case No. 3007

13 DANIELLE BIVENS
7561 Cook Avenue
14 Citrus Heights, CA 95610

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

15 Pharmacy Technician Registration
No. TCH 28217

16 Respondent.
17

18 TO RESPONDENT:

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

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

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

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

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

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

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

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

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

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

26 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
27 Discovery should be deemed to authorize the inspection or copying of any writing or thing which

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1 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
2 work product.


3 Your response to this Request for Discovery should be directed to the undersigned
4 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
5 **30 days after service** of the Accusation.

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

9 DATED: February 13, 2007

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

12 ARTHUR D. TAGGART
13 Supervising Deputy Attorney General

14 
15 ELENA L. ALMANZO
16 Deputy Attorney General

17 Attorneys for Complainant

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2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3007

13 DANIELLE BIVENS
7561 Cook Avenue
14 Citrus Heights, CA 95610

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

15 Pharmacy Technician Registration
No. TCH 28217

16 Respondent.
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 Elena L. Almanzo, within
23 fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you,
24 you will be deemed to have waived your right to a hearing in this matter and the Board may
25 proceed upon 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 **Elena L. Almanzo**
2 **Deputy Attorney General**
3 **1300 I Street, Suite 125**
4 **P.O. Box 944255**
5 **Sacramento, California 94244-2550.**

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

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

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

15 The hearing may be postponed for good cause. If you have good cause, you are
16 obliged to notify the Office of Administrative Hearings, Attn: General Jurisdiction, 2349
17 Gateway Oaks, Suite 200, Sacramento, CA 95833-4231, within ten (10) working days after you
18 discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10)
19 days will deprive you of a postponement.

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

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

26 **NOTICE REGARDING STIPULATED SETTLEMENTS**

27 It may be possible to avoid the time, expense and uncertainties involved in an
28 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
settlement is a binding written agreement between you and the government regarding the matters

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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 Elena
9 L. Almanzo at the earliest opportunity.

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

In the Matter of the Accusation Against:

DANIELLE BIVENS
7561 Cook Avenue
Citrus Heights, CA 95610

Pharmacy Technician Registration
No. TCH 28217

Respondent.

Case No. 3007

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:

DANIELLE BIVENS
7561 Cook Avenue
Citrus Heights, CA 95610

Pharmacy Technician Registration
No. TCH 28217

Respondent.

Case No. 3007

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: *In the Matter of the Accusation Against DANIELLE BIVENS*

Board of Pharmacy, Case No. 3007

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 February 14, 2007, I served the attached **ACCUSATION; REQUEST FOR DISCOVERY; STATEMENT TO RESPONDENT; NOTICE OF DEFENSE (two (2) blank forms; and COPY OF 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 **ACCUSATION; REQUEST FOR DISCOVERY; STATEMENT TO RESPONDENT; NOTICE OF DEFENSE (two (2) blank forms; and COPY OF GOVERNMENT CODE SECTIONS** 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,

7160 3901 9849 5177 3972

TO: Danielle Bivens
7561 Cook Avenue
Citrus Heights, CA 95610

CERTIFIED ARTICLE NUMBER

Certified Article Number

7160 3901 9849 5177 3972

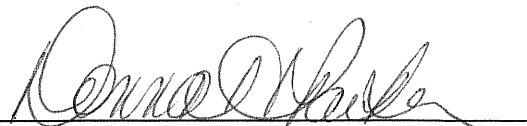
SENDER'S RECORD

SENDER: Elena L. Almanzo
REFERENCE: SA2006102031

By laws of the State of California the foregoing is true and executed on February 14, 2007, at Sacramento,

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	


Signature

US Postal Service
Receipt for Certified Mail

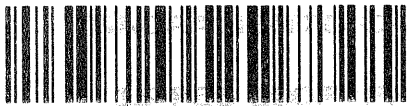
No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

Exhibit B

Postal Domestic Return Receipt

2. Article Number



7160 3901 9849 5177 3972

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

Agent

Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:

Yes

No

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Danielle Bivens
7561 Cook Avenue
Citrus Heights, CA 95610

DEPARTMENT OF JUSTICE
SALVAMANTO OFFICE

RECEIVED
ATTORNEY GENERAL

SA2006102031
Elena L. Almanzo