

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARGARET A. LAFKO  
Supervising Deputy Attorney General  
3 SUSAN FITZGERALD, State Bar No. 112278  
Deputy Attorney General  
4 California Department of Justice  
110 West "A" Street, Suite 1100  
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6 P.O. Box 85266  
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8 Attorneys for Complainant  
9

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

13 In the Matter of the Accusation Against:

Case No. 3052

14 DENISE CAROL ROGERS, TCH  
2920 Harris Drive  
15 Vista, CA 92084

**DEFAULT DECISION  
AND ORDER**

16 Pharmacist Technician Registration No. TCH  
66439

[Gov. Code, §11520]

17 Respondent.  
18

19 FINDINGS OF FACT

20 1. On or about April 3, 2007, Complainant Virginia Herold, in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
22 Accusation No. 3052 against Denise Carol Rogers, TCH (Respondent) before the Board of  
23 Pharmacy.

24 2. On or about January 4, 2006, the Board of Pharmacy (Board) issued Pharmacist  
25 Technician Registration No. TCH 66439 to Respondent. The registration was in full force and  
26 effect at all times relevant to the charges brought herein and will expire on September 30, 2007,  
27 unless renewed.

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1           3.       On or about April 13, 2007, Tess Bautista, an employee of the Department of  
2 Justice, served by certified and first class mail a copy of the Accusation No. 3052, Statement to  
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 2920  
5 Harris Drive, Vista, CA 92084. A copy of the Accusation, the related documents, and  
6 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

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

9           5.       None of the mailed documents or any notification from the U.S. Post Office of  
10 inability to deliver the documents have been returned to the Office of the Attorney General.

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 files a  
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
14 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  
16 hearing."

17           7.       Respondent failed to file a Notice of Defense within 15 days after service upon  
18 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
19 No. 3052.

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

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

24           9.       Pursuant to its authority under Government Code section 11520, the Board finds  
25 Respondent is in default. The Board will take action without further hearing and, based on  
26 Respondent's express admissions by way of default and the evidence before it, contained in  
27 exhibits A and B, finds that the allegations in Accusation No. 3052 are true.

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1 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

2 This Decision shall become effective on July 18, 2007.

3 It is so ORDERED June 18, 2007

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BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

7

8

9

By   
WILLIAM POWERS  
Board President

10

11

12 Attachments:

13 Exhibit A: Accusation No.3052, Related Documents, and Declaration of Service  
14 Exhibit B: Certificate of Costs - Declaration of Susan Fitzgerald

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15 DOJ docket number:SD2006802944

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Exhibit A  
Accusation No. 3052,  
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARGARET A. LAFKO  
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8 Attorneys for Complainant  
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10 **BEFORE THE**  
11 **BOARD OF PHARMACY**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. **3052**

14 DENISE CAROL ROGERS, TCH  
2920 Harris Drive  
15 Vista, CA 92084

**A C C U S A T I O N**

16 Pharmacy Technician Registration No. TCH  
66439

17 Respondent.  
18

19 Complainant alleges:

20 PARTIES

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

23 2. On or about January 4, 2006, the Board of Pharmacy issued Pharmacy  
24 Technician Registration number TCH 66439 to Denise Carol Rogers, TCH (Respondent). The  
25 Pharmacy Technician registration was in full force and effect at all times relevant to the charges  
26 brought herein and will expire on September 30, 2007, unless renewed.

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1 C. Section 4060 of the Code states:

2 "No person shall possess any controlled substance, except that furnished to a person upon  
3 the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug  
4 order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner  
5 pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section  
6 shall not apply to the possession of any controlled substance by a manufacturer, wholesaler,  
7 pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner,  
8 or physician assistant, when in stock in containers correctly labeled with the name and address of  
9 the supplier or producer.

10 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a  
11 physician assistant to order his or her own stock of dangerous drugs and devices."

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

16 4. This Accusation also refers to the following sections of the Health & Safety  
17 (H&S) Code :

18 A. H&S Code section 11350(a) states that it is unlawful to possess a Schedule III  
19 controlled substance without a valid prescription for the drug.

20 B. H&S Code section 11351 states that it is unlawful to possess a Schedule III  
21 controlled substance for sale.

22 **DRUGS**

23 5. "Norco" is a brand name for hydrocodone/APAP 10/650. It is both a dangerous  
24 drug under the Business & Professions Code and a Schedule III controlled substance under  
25 Health & Safety Code section 11056.

26 **CHARGES AND ALLEGATIONS**

27 6. During early 2006 and until on or about May 20, 2006, Respondent was employed  
28 at the Von's Pharmacy 2327 in Solana Beach, California. as a pharmacy technician.



1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

3 12. Respondent is subject to disciplinary action under Code section 4301(f) for moral  
4 turpitude, dishonesty, fraud, deceit and corruption in that she stole a controlled substance and  
5 sold it for economic gain, as more particularly alleged above and incorporated herein by  
6 reference.

7 PRAYER

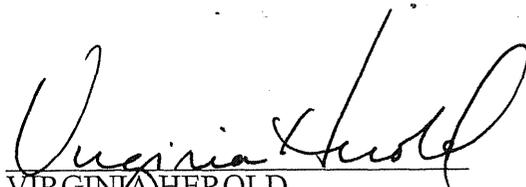
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking or suspending Pharmacy Technician Registration Number TCH  
11 66439, issued to Denise Carol Rogers, TCH;

12 2. Ordering Denise Carol Rogers, TCH to pay the Board of Pharmacy the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
14 Code section 125.3;

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

16 DATED: 4/3/07

17  
18 

19 VIRGINIA HEROLD  
20 Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant  
25  
26  
27  
28

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9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 DENISE ROGERS, TCH

14 Respondent.

Case No. 3052

**STATEMENT TO RESPONDENT**

[Gov. Code §§ 11504, 11505(b)]

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16  
17 TO RESPONDENT:

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

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

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

28 ///

1                   **Susan L. Fitzgerald**  
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, 1350 Front Street, Suite 6022, San  
18 Diego, CA 92101, 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 Susan  
9 L. Fitzgerald at the earliest opportunity.

10 DATED: April 13, 2007

11 EDMUND G. BROWN JR., Attorney General  
12 of the State of California

13 MARGARET ANN LAFKO  
14 Supervising Deputy Attorney General

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SUSAN L. FITZGERALD  
17 Deputy Attorney General

18 Attorneys for Complainant

19 80126701.wpd

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

In the Matter of the Accusation Against:

DENISE ROGERS, TCH

Respondent.

Case No. 3052

**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 do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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10 **BEFORE THE**  
**BOARD OF PHARMACY**  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3052

13 DENISE ROGERS, TCH

**REQUEST FOR DISCOVERY**

14 Respondent.

[Gov. Code § 11507.6]  
15

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 ///

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: April 13, 2007

10 EDMUND G. BROWN JR., Attorney General  
11 of the State of California

12 MARGARET ANN LAFKO  
13 Supervising Deputy Attorney General

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SUSAN L. FITZGERALD  
16 Deputy Attorney General

17 Attorneys for Complainant

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

**SECTION 11507.5: Exclusivity of discovery provisions**

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

**SECTION 11507.6: Request for discovery**

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

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

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

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

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

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

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

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

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

## **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

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

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

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

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

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

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

\*\*\*\*\*

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: Denise Rogers, TCH**

Case No.: **3052**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 13, 2007, 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:

**Denise Rogers, TCH  
2920 Harris Drive  
Vista, CA 92084**

**Certified Article Number**

**7160 3901 9849 7187 2532**

**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 April 13, 2007, at San Diego, California.

Tess Bautista

Declarant

  
Signature

cc: Kim deLong, Enforcement Analyst, Board of Pharmacy - Sacramento

7160 3901 9849 7187 2532

**TO:** Denise Rogers, TCH  
2920 Harris Drive  
Vista, CA 92084

**SENDER:** Susan Fitzgerald

**REFERENCE:** SD2006802944

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	
US Postal Service <b>Receipt for Certified Mail</b> No Insurance Coverage Provided Do Not Use for International Mail		POSTMARK OR DATE

Exhibit B

Certification of Costs - Declaration of Susan Fitzgerald

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARGARET A. LAFKO  
Supervising Deputy Attorney General  
3 SUSAN FITZGERALD, State Bar No. 112278  
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4 California Department of Justice  
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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3052

13 DENISE CAROL ROGERS, TCH

14 Respondent.

**CERTIFICATION OF COSTS:**  
**DECLARATION OF SUSAN**  
**FITZGERALD**

[Business and Professions Code section  
125.3]

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16  
17  
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19 I, SUSAN FITZGERALD, hereby declare and certify as follows:

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

26 2. I represent the Complainant, Virginia Herold, Executive Officer of the Board of  
27 Pharmacy, in this action. I was assigned to handle this case on or around December 29, 2006.

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1           3.       Our Office's computerized case management system reflect that the following  
2 persons have also performed tasks related to this matter: Susan Fitzgerald, Deputy Attorney  
3 General and Linda Schneider, 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 May 14, 2007, I requested a billing summary for this case from the  
10 Accounting Department of the DOJ. In response on, May 14, 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 to this declaration and incorporated by reference, is a true  
13 and correct copy of the billing summary for this matter that I received from the Accounting  
14 Department. The summary includes the billing costs incurred by myself, as well as other  
15 professionals of the DOJ who worked on the matter; and sets forth the tasks undertaken, the  
16 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 May  
18 13, 2007. It does not include billing for tasks performed after May 13, 2007.

19           6.       Based upon the time reported through May 13, 2007, as set forth in the attachment  
20 hereto, DOJ has billed the Board of Pharmacy \$434.50 for the time spent working on the above  
21 entitled case.

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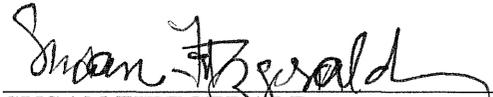
1           7.       To the best of my knowledge the items of cost set forth in this certification are  
2 correct and were necessarily incurred in this case.

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

5           Executed on May 14, 2007 in the City of San Diego, California.

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SUSAN FITZGERALD  
Deputy Attorney General

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Declarant

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rogers costsdcl.wpd  
SD2006802944

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**Matter Time Activity By Professional Type**

**As Of 5/14/2007**

Trans #	Date	Section	Client	Task	Hours Worked	Rate	Amount	Adj?	Stmn Date
<b>Matter ID: SD2006802944      Date Opened: 12/29/2006</b> <b>Description: Rogers, Denise, TCH</b>									
<b>Professional Type: ATTORNEY</b>									
<b>Fiscal Year: 2006-2007</b>									
<b>Professional: Linda K. Schneider</b>									
800260040	03/15/07	CV-LIC:110	03583	Supervisory Review	0.25	\$158.00	\$39.50		03/31/07
<b>Linda K. Schneider Totals:</b>					<u>0.25</u>		<u>\$39.50</u>		
<b>Professional: Susan L. Fitzgerald</b>									
800259707	03/13/07	CV-LIC:110	03583	Case Evaluation/Assessment	0.75	\$158.00	\$118.50		03/31/07
800259902	03/14/07	CV-LIC:110	03583	Pleading Preparation	1.00	\$158.00	\$158.00		03/31/07
800260162	03/15/07	CV-LIC:110	03583	Pleading Preparation	0.25	\$158.00	\$39.50		03/31/07
800265924	04/06/07	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		04/30/07
800267352	04/13/07	CV-LIC:110	03583	Case Management	0.25	\$158.00	\$39.50		04/30/07
<b>Susan L. Fitzgerald Totals:</b>					<u>2.50</u>		<u>\$395.00</u>		
<b>2006-2007 Totals:</b>					<u>2.75</u>		<u>\$434.50</u>		
<b>ATTORNEY Totals:</b>					<u>2.75</u>		<u>\$434.50</u>		
<b>SD2006802944 Totals:</b>					<u>2.75</u>		<u>\$434.50</u>		