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of the State of California
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Supervising Deputy Attorney General
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Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-2557
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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:
13 SERINA L. JOHNSON
927 Jeffrey St.
14 Bakersfield, CA 93305
15 Pharmacy Technician Registration No. TCH
24958
16
17 Respondent.

Case No. 3078
OAH No.
**DEFAULT DECISION
AND ORDER**
[Gov. Code, §11520]

18 FINDINGS OF FACT

- 19 1. On or about August 17, 2007, Complainant Virginia Herold, in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
21 filed Accusation No. 3078 against Serina L. Johnson (Respondent) before the Board of
22 Pharmacy.
- 23 2. On or about January 27, 1998, the Board of Pharmacy (Board) issued
24 Pharmacy Technician Registration No. TCH 24958 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 December 31, 2007, unless renewed.
- 27 3. On or about August 22, 2007, Rebeca Garcia, an employee of the
28 Department of Justice, served by Certified Mail a copy of the Accusation No. 3078, Statement to

1 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
2 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 927
3 Jeffrey St. Bakersfield, CA 93305. A copy of the Accusation, the related documents, and
4 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

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

7 5. On or about August 22, 2007, the aforementioned documents were
8 returned by the U.S. Postal Service marked "Unclaimed." A copy of the envelope returned by the
9 post office is attached as exhibit B, and is incorporated herein by reference.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
17 Accusation No. 3078.

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

19 "(a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions or
21 upon other evidence and affidavits may be used as evidence without any notice to
22 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. 3078 are true.

27 10. The total costs for investigation and enforcement are \$1,377.25 as of
28 September 28, 2007.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Serina L. Johnson has
3 subjected her Pharmacy Technician Registration No. TCH 24958 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 following violations alleged in the Accusation:
9 Unprofessional Conduct under sections 4300 and 4301, subdivisions (h), (j)(o), and (p) of the
10 Code (Dispensing While Under the Influence of Drugs, Possession, and Self-Administration of
11 Controlled Substances (Methamphetamine and Marijuana) while working as a Pharmacy
12 Technician at Mercy Hospital in Bakersfield, CA.)

13 ORDER

14 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 24958,
15 heretofore issued to Respondent Serina L. Johnson, is revoked.

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

21 This Decision shall become effective on December 20, 2007.

22 It is so ORDERED November 20, 2007

23 BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS
25 STATE OF CALIFORNIA

26 By 
27 WILLIAM POWERS
28 Board President

27 Attachments:
28 Exhibit A: Accusation No.3078, Related Documents, and Declaration of Service
Exhibit B: Copy of Envelope Returned by Post Office
Exhibit C: Certification of Costs: Declaration of Christina Thomas

Exhibit A
Accusation No. 3078,
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 SERINA L. JOHNSON,
13 Respondent.
14

Case No. 3078
STATEMENT TO RESPONDENT
[Gov. Code §§ 11504, 11505(b)]

15
16 TO RESPONDENT:

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

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

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

27 ///
28 ///

1 **Christina Thomas**
2 **Deputy Attorney General**
3 **Ronald Reagan Building**
 300 South Spring Street, Suite 1702
 Los Angeles, CA 90013.

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

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

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

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

18 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
19 enclosed.

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

24 **NOTICE REGARDING STIPULATED SETTLEMENTS**

25 It may be possible to avoid the time, expense and uncertainties involved in an
26 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
27 settlement is a binding written agreement between you and the government regarding the matters
28 charged and the discipline to be imposed. Such a stipulation would have to be approved by the

1 Board of Pharmacy but, once approved, it would be incorporated into a final order.

2 Any stipulation must be consistent with the Board's established disciplinary
3 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
4 Board's Disciplinary Guidelines will be provided to you on your written request to the state
5 agency bringing this action.

6 If you are interested in pursuing this alternative to a formal administrative hearing,
7 or if you have any questions, you or your attorney should contact Deputy Attorney General
8 Christina Thomas at the earliest opportunity.

9 DATED: 8/22/07

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

MARC D. GREENBAUM
Supervising Deputy Attorney General



CHRISTINA THOMAS
Deputy Attorney General

Attorneys for Complainant

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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3078

12 SERINA L. JOHNSON
927 Jeffrey St.
13 Bakersfield, CA 93305

A C C U S A T I O N

14 Pharmacy Technician Registration
No. TCH 24958

15 Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about January 27, 1998, the issued Pharmacy Technician
23 Registration Number TCH 24958 to Serina L. Johnson (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2007, unless renewed.

26 ///
27 ///
28 ///

JURISDICTION

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

5 4. Section 118, subdivision (b) states:

6 The suspension, expiration, or forfeiture by operation of law of a license issued by
7 a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
8 order of a court of law, or its surrender without the written consent of the board, shall not, during
9 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
10 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
11 provided by law or to enter an order suspending ore revoking the license or otherwise taking
12 disciplinary action against the licensee on any such ground.

13 5. Section 4300 of the Code provides, in pertinent part, that every license
14 issued by the Board is subject to discipline, including suspension or revocation.

15 6. Section 4301 of the Code states:

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

20

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

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

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

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

7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

8. Section 4327 of the Code states:

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

9. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

1 10. Section 125.3 of the Code provides, 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 11. CONTROLLED SUBSTANCES

6 A. “Marijuana” is a Schedule I controlled substance, as defined by Health and
7 Safety Code section 11054(d)(13) and is categorized as a “dangerous drug” pursuant to section
8 4022 of the Business and Professions Code.

9 B. “Methamphetamine” is a Scheduled II controlled substance, as defined by
10 Health and Safety Code section 11055(d)(2) and is categorized as a “dangerous drug” pursuant to
11 section 4022 of the Business and Professions Code.

12 FIRST CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct: Dispensing While Under the Influence of Drugs)

14 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
15 subdivisions (j), (o), and (p) of the Code, on the grounds of unprofessional conduct, for violating
16 section 4327, in that on or about February 14, 2006, Respondent possessed and self-administered
17 Methamphetamine, a Schedule II Controlled Substance, and Marijuana, a Schedule I Controlled
18 Substance, while working as a Pharmacy Technician at Mercy Hospital Pharmacy in Bakersfield,
19 CA.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct: Self Administration of Controlled Substances)

22 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
23 subdivisions (h), (j), (o), and (p) of the Code, on the grounds of unprofessional conduct, for
24 violating Health and Safety Code section 11170, in that on or about February 14, 2006,
25 Respondent self-administered Methamphetamine, a Schedule II Controlled Substance, and
26 Marijuana, a Schedule I Controlled Substance, while working as a Pharmacy Technician at
27 Mercy Hospital Pharmacy in Bakersfield, CA.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Possession of Controlled Substances)

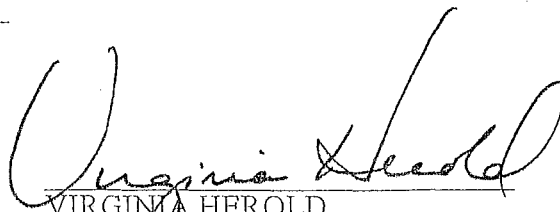
3 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivisions (j), (o), and (p) of the Code, on the grounds of unprofessional conduct, for violating
5 section 4060 of the Code, in that on or about February 14, 2006, Respondent possessed
6 Methamphetamine, a Schedule II Controlled Substance, and Marijuana, a Schedule I Controlled
7 Substance, while working as a Pharmacy Technician at Mercy Hospital Pharmacy in Bakersfield,
8 CA.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein
11 alleged, and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH
13 24958, issued to Serina L. Johnson;
- 14 2. Ordering Serina L. Johnson to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 8/17/07

20
21 

22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
State of California
Complainant

25 LA2007600805

26 60228696.wpd

27

28

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

In the Matter of the Accusation Against:

SERINA L. JOHNSON,

Respondent.

Case No. 3078

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

In the Matter of the Accusation Against:

SERINA L. JOHNSON,

Respondent.

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[Gov. Code §§ 11505 and 11506]

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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:

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- 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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1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 SERINA L. JOHNSON,
13 Respondent.

Case No. 3078
REQUEST FOR DISCOVERY
[Gov. Code § 11507.6]

14
15 TO RESPONDENT:

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

20 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
21 ARE HEREBY REQUESTED TO:

- 22 1. Provide the names and addresses of witnesses to the extent known to the
23 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
24 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
25 the following in the possession or custody or under control of the Respondent:
26 a. A statement of a person, other than the Respondent, named in the initial
27 administrative pleading, or in any additional pleading, when it is claimed that the act or
28 omission of the Respondent as to this person is the basis for the administrative

1 proceeding;

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

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

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

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

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

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

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

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

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

DATED: 8/22/07

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

MARC D. GREENBAUM
Supervising Deputy Attorney General



CHRISTINA THOMAS
Deputy Attorney General

Attorneys for Complainant

60239536.wpd

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

SECTION 11507.5: Exclusivity of discovery provisions

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

SECTION 11507.6: Request for discovery

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

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

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

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

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

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

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

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

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

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

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

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

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

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

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

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

DECLARATION OF SERVICE

(Certified & First Class Mail (separate mailing))

In the Matter of the Accusation Against:
SERINA L. JOHNSON

OAH No.

Board of Pharmacy Case No. 3078

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; my business address is 300 So. Spring St., Los Angeles, CA 90013

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 August 22, 2007, I served the attached **STATEMENT TO RESPONDENT; ACCUSATION; NOTICE OF DEFENSE (2); REQUEST FOR DISCOVERY; 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 **STATEMENT TO RESPONDENT; ACCUSATION; NOTICE OF DEFENSE (2); REQUEST FOR DISCOVERY; 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, addressed as follows:

Serina L. Johnson
927 Jeffrey St.
Bakersfield, CA 93305

Certified Article Number

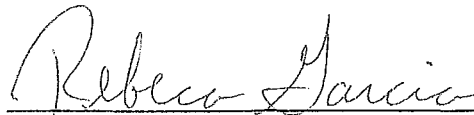
7160 3901 9845 1353 7288

SENDER'S 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 August 22, 2007, at Los Angeles, California.

Rebeca Garcia

Typed Name



Signature

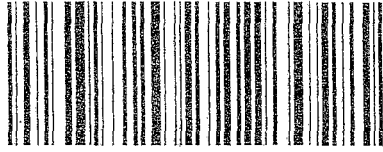
Exhibit B

Copy of Envelope Returned by Post Office

C. THOMAS

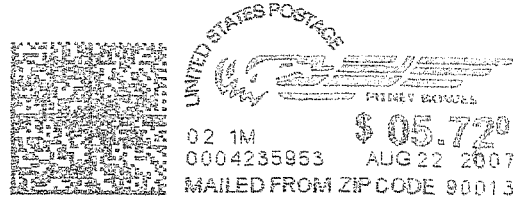
CERTIFIED MAIL

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CA 90013



7160 3901 9845 1353 7288

RETURN RECEIPT REQUESTED



Beitz & Kraft

RECEIVED

2007 SEP 19 PM 1:00

ATTORNEY GENERAL
LOS ANGELES

NK
8/25/07



Serina L. Johnson
927 Jeffrey St.
Bakersfield, CA 93305

9/3
9/15

5300562768 0002

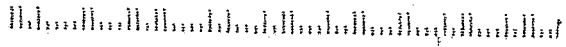


Exhibit C

Certification of Costs: Declaration of Christina Thomas

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 CHRISTINA THOMAS, State Bar No. 171168
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2557
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 SERINA L. JOHNSON
13 Respondent.

Case No. 3078
OAH No.

**CERTIFICATION OF
PROSECUTION COSTS:
DECLARATION OF CHRISTINA
THOMAS**

[Business and Professions Code section
125.3]

17
18 I, CHRISTINA THOMAS, hereby declare and certify as follows:

- 19
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, Executive Officer of the
27 Board of Pharmacy, in this action. I was assigned to handle this case on or around May 7, 2007.
- 28 3. Our Office's computerized case management system reflect that the

1 following persons have also performed tasks related to this matter: Deputy Attorney General
2 Karen Chappelle, Paralegal Jacqueline Zamora.

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


7 5. On September 28, 2007, I requested a billing summary for this case from
8 the Accounting Department of the DOJ. In response on, September 28, 2007, I received a
9 document entitled "Matter Time Activity by Professional Type." I hereby certify that the Matter
10 Time Activity by Professional Type, attached hereto as Exhibit A, and herein incorporated by
11 reference, is a true and correct copy of the billing summary for this matter that I received from
12 the Accounting Department. The summary includes the billing costs incurred by myself, as well
13 as other professionals of the DOJ who worked on the matter; and sets forth the tasks undertaken,
14 the amount of time billed for the activity, and the billing rate by professional type. The billing
15 summary is comprehensive of the charges by the Office to the Board of Pharmacy through
16 September 28, 2007.

17 6. Based upon the time reported through September 28, 2007, DOJ has billed
18 the Board of Pharmacy \$1,377.25 for the time spent working on the above-entitled case.

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

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

23 Executed on 9/28/07, in the City of Los Angeles, California.

24
25
26 
27 CHRISTINA THOMAS
28 Deputy Attorney General

Declarant



Matter Time Activity By Professional Type

As Of 9/28/2007

| Trans # | Date | Section | Client | Task | Hours Worked | Rate | Amount | Adj? | Stmn Date |
|---------|------|---------|--------|------|--------------|------|--------|------|-----------|
|---------|------|---------|--------|------|--------------|------|--------|------|-----------|

Matter ID: LA2007600805 Date Opened: 05/07/2007
Description: Johnson, Serina L.

Professional Type: ATTORNEY

Fiscal Year: 2007-2008

Professional: Christina Thomas

| | | | | | | | | | |
|-----------|----------|------------|-------|-------------------------------|------|----------|----------|--|----------|
| 600675194 | 07/12/07 | CV-LIC:110 | 03583 | Case Evaluation/Assessment | 0.25 | \$158.00 | \$39.50 | | 07/31/07 |
| 600675196 | 07/12/07 | CV-LIC:110 | 03583 | Pleading Preparation | 0.50 | \$158.00 | \$79.00 | | 07/31/07 |
| 600675919 | 07/12/07 | CV-LIC:110 | 03583 | Pleading Preparation | 0.50 | \$158.00 | \$79.00 | | 07/31/07 |
| 600675198 | 07/13/07 | CV-LIC:110 | 03583 | Pleading Preparation | 1.75 | \$158.00 | \$276.50 | | 07/31/07 |
| 600675208 | 07/13/07 | CV-LIC:110 | 03583 | Supervisory Review | 0.25 | \$158.00 | \$39.50 | | 07/31/07 |
| 600695131 | 08/21/07 | CV-LIC:110 | 03583 | Pleading Preparation | 0.25 | \$158.00 | \$39.50 | | 08/31/07 |
| 600695148 | 08/21/07 | CV-LIC:110 | 03583 | Contract/Document Preparation | 0.25 | \$158.00 | \$39.50 | | 08/31/07 |
| 600695130 | 08/21/07 | CV-LIC:110 | 03583 | Client Communication | 0.25 | \$158.00 | \$39.50 | | 08/31/07 |
| 600705296 | 09/10/07 | CV-LIC:110 | 03583 | Case Evaluation/Assessment | 0.50 | \$158.00 | \$79.00 | | |
| 600706636 | 09/12/07 | CV-LIC:110 | 03583 | Case Evaluation/Assessment | 0.50 | \$158.00 | \$79.00 | | |
| 600709928 | 09/18/07 | CV-LIC:110 | 03583 | Case Management | 0.25 | \$158.00 | \$39.50 | | |

Christina Thomas Totals: 5.25 \$829.50

2007-2008 Totals: 5.25 \$829.50

Fiscal Year: 2006-2007

Professional: Christina Thomas

| | | | | | | | | | |
|-----------|----------|------------|-------|-----------------|------|----------|---------|--|----------|
| 600640830 | 05/08/07 | CV-LIC:110 | 03583 | Case Management | 0.25 | \$158.00 | \$39.50 | | 05/31/07 |
| 600661067 | 06/15/07 | CV-LIC:110 | 03583 | Case Management | 0.25 | \$158.00 | \$39.50 | | 06/30/07 |

Christina Thomas Totals: 0.50 \$79.00

Professional: Karen B. Chappelle

| | | | | | | | | | |
|-----------|----------|------------|-------|-----------------|------|----------|---------|--|----------|
| 600641957 | 05/10/07 | CV-LIC:110 | 03583 | Case Management | 0.25 | \$158.00 | \$39.50 | | 05/31/07 |
|-----------|----------|------------|-------|-----------------|------|----------|---------|--|----------|

Karen B. Chappelle Totals: 0.25 \$39.50

2006-2007 Totals: 0.75 \$118.50

ATTORNEY Totals: 6.00 \$948.00

Matter Time Activity By Professional Type

As Of 9/28/2007

| Trans # | Date | Section | Client | Task | Hours Worked | Rate | Amount | Adj? | Stmn Date |
|-------------------------------------|----------|------------|--------|----------------------|--------------|----------|-------------------|------|-----------|
| Professional Type: PARALEGAL | | | | | | | | | |
| Fiscal Year: 2007-2008 | | | | | | | | | |
| Professional: Jacqueline G. Zamora | | | | | | | | | |
| 600671221 | 07/02/07 | CV-LIC:110 | 03583 | Pleading Preparation | 2.00 | \$101.00 | \$202.00 | | 07/31/07 |
| Jacqueline G. Zamora Totals: | | | | | <u>2.00</u> | | <u>\$202.00</u> | | |
| 2007-2008 Totals: | | | | | <u>2.00</u> | | <u>\$202.00</u> | | |
| Fiscal Year: 2006-2007 | | | | | | | | | |
| Professional: Jacqueline G. Zamora | | | | | | | | | |
| 600639828 | 05/07/07 | CV-LIC:110 | 03583 | Case Management | 0.50 | \$101.00 | \$50.50 | | 05/31/07 |
| 600642443 | 05/11/07 | CV-LIC:110 | 03583 | Pleading Preparation | 0.25 | \$101.00 | \$25.25 | | 05/31/07 |
| 600659969 | 06/13/07 | CV-LIC:110 | 03583 | Investigation | 0.25 | \$101.00 | \$25.25 | | 06/30/07 |
| 600659970 | 06/13/07 | CV-LIC:110 | 03583 | Pleading Preparation | 1.25 | \$101.00 | \$126.25 | | 06/30/07 |
| Jacqueline G. Zamora Totals: | | | | | <u>2.25</u> | | <u>\$227.25</u> | | |
| 2006-2007 Totals: | | | | | <u>2.25</u> | | <u>\$227.25</u> | | |
| PARALEGAL Totals: | | | | | <u>4.25</u> | | <u>\$429.25</u> | | |
| LA2007600805 Totals: | | | | | <u>10.25</u> | | <u>\$1,377.25</u> | | |