

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS, State Bar No. 154990
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-0767
6 Facsimile: (916) 324-5567

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3109

13 **LILLIE A. THOMAS, AKA**
14 **LILLIE ANNETTE THOMAS**
15 20460 Gas Pt. Road
Cottonwood, CA 96022
16 Pharmacy Technician
17 Registration No. TCH 34341

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

Respondent.

18 **FINDINGS OF FACT**

19 1. On or about August 18, 2000, the Board issued Original Pharmacy
20 Technician Registration No. TCH 34341 to Lillie A. Thomas, also known as Lillie Annette
21 Thomas ("Respondent"). The registration expired on September 30, 2008, and has not been
22 renewed.

23 2. On or about December 18, 2007, Complainant/Petitioner Virginia Herold
24 in her official capacity as the Executive Officer of the Board ("Complainant"), filed an
25 Accusation in Case No. 3109 against Respondent.

26 3. On or about January 11, 2008, Praveen Singh, an employee of the
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation in Case
28 No. 3109, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
2 which was and is 20460 Gas Pt. Road, Cottonwood, CA 96022. A copy of the Accusation in
3 Case No. 3109, Notice of Defense, Statement to Respondent, Request for Discovery,
4 and Declaration of Service are attached as hereto as "Exhibit A," and are incorporated
5 herein by reference.

6 4. Service of the Accusation in Case No. 3109 was effective as a matter of
7 law under the provisions of Government Code section 11505, subdivision (c).

8 5. On or about January 25, 2008, Deputy Attorney General Jeffrey M.
9 Phillips contacted respondent, who stated that the information in the Accusation was true, that
10 Respondent wanted to surrender her license and therefore would not send in the Notice of
11 Defense and that the Board could take her default.

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service
19 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
20 Accusation in Case No. 3109.

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

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

26 9. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on

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1 Respondent's express admissions by way of default and the evidence before it, contained in
2 Exhibit A, finds that the allegations in Accusation in Case No. 3109 are true.

3 10. The total costs for investigation and enforcement are \$2,629.25, as of
4 February 8, 2008.

5 **DETERMINATION OF ISSUES**

6 1. Based on the foregoing findings of fact, Lillie A. Thomas, also known as
7 Lillie Annette Thomas, has subjected her Original Pharmacy Technician Registration No. TCH
8 34341 to discipline.

9 2. A copy of the Accusation and the related documents and Declaration of
10 Service are attached.

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

12 4. The Board of Pharmacy is authorized to revoke Respondent's Original
13 Pharmacy Technician Registration No. TCH 34341, based upon a violation of Business and
14 Professions Code section 4301, subdivision (l); Code section 4301, subdivision (f); and Code
15 section 4301, subdivision (j) and (o) in that Respondent has been convicted of a crime that is
16 substantially related to the qualifications, functions, and duties of a pharmacy technician,
17 in that, between May 1, 2005, and July 28, 2006, while working as a pharmacy technician at
18 Safeway Pharmacy in Redding, California, Respondent did the following:

19 a. Respondent possessed Phentermine, a controlled substance, without a
20 prescription from a physician, dentist, podiatrist, optometrist, veterinarian or naturopathic doctor,
21 in violation of Code Section 4060.

22 b. Respondent furnished Phentermine, a controlled substance, to herself,
23 without a prescription from a physician, dentist, podiatrist, optometrist, veterinarian or
24 naturopathic doctor, in violation of Code section 4059, subdivision (a) and Health and Safety
25 Code section 11158, subdivision (a).

26 c. Respondent stole Phentermine, a controlled substance, for her own use,
27 from Safeway Pharmacy in Redding, California, for which she was convicted of petty theft, as
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1 more fully set forth in paragraph 13, above, in violation of Health and Safety Code sections
2 11170 and 11173, subdivision (a).

3 **ORDER**

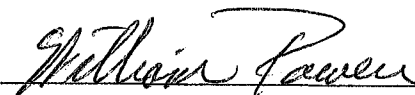
4 **IT IS SO ORDERED** that Original Pharmacy Technician Registration No. TCH
5 34341, heretofore issued to Respondent Lillie A. Thomas, also known as Lillie Annette Thomas
6 is revoked.

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

12 This Decision shall become effective on April 11, 2008.

13
14 It is so ORDERED March 12, 2008

15 BOARD OF PHARMACY
16 DEPARTMENT OF CONSUMER AFFAIRS
17 STATE OF CALIFORNIA

18
19 By 
20 WILLIAM POWERS
Board President

21 Attachments:

22 Exhibit A: Accusation and Petition to Revoke Probation in Case No. 2003-282, Notice of
23 Defense, Statement to Respondent, Request for Discovery, and Declaration of
24 Service
25
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EXHIBIT A

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS, State Bar No. 154990
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3109

13 **LILLIE A. THOMAS, AKA**
14 **LILLIE ANNETTE THOMAS**
20460 Gas Pt. Road
Cottonwood, CA 96022

A C C U S A T I O N

15 Pharmacy Technician
Registration No. TCH 34341

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 **Registration**

24 2. On or about August 18, 2000, the Board issued Original Pharmacy
25 Technician Registration No. TCH 34341 to Lillie A. Thomas, also known as Lillie Annette
26 Thomas ("Respondent"). The registration will expire on September 30, 2008, unless renewed.

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STATUTORY PROVISIONS

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3. Business and Professions Code ("Code") section 4202, subdivision (d), states that the Board may suspend or revoke a registration issued pursuant to this section on any ground specified in section 4301.

4. Code section 118, subdivision (b), states:

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

5. Code section 4300 states, in pertinent part:

- (a) Every license may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her on probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
 - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

6. Code section 4301 states, in pertinent part:

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

- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

///

1 (l) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter.

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

8 7. Code section 4059, subdivision (a), provides:

9 A person may not furnish any dangerous drug, except upon the
10 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
11 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
12 dangerous device, except upon the prescription of a physician, dentist, podiatrist,
13 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

14 8. Code section 4060 provides, in pertinent part:

15 No person shall possess any controlled substance, except that furnished to
16 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
17 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
18 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
19 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
20 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
21 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
22 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

23 9. Health and Safety Code section 11158, subdivision (a), states, in pertinent
24 part:

25 [N]o controlled substance classified in Schedule II shall be dispensed
26 without a prescription meeting the requirements of this chapter. Except as
27 provided in Section 11159 or when dispensed directly to an ultimate user by a
28 practitioner, other than a pharmacist or pharmacy, no controlled substance
classified in Schedule III, IV, or V may be dispensed without a prescription
meeting the requirements of this chapter.

10 10. Health and Safety Code section 11170 states, "No person shall prescribe,
11 administer, or furnish a controlled substance for himself."

12 11. Section 11173, subdivision (a), of the Health and Safety Code provides:

13 No person shall obtain or attempt to obtain controlled substances, or
14 procure or attempt to procure the administration of or prescription for controlled
15 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
16 concealment of a material fact.

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1 **COST RECOVERY**

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

6 **DRUG**

7 12. "Phentermine," is a Schedule IV controlled substance as designated by
8 Health and Safety Code section 11057, subdivision (f)(4), and is a dangerous drug within the
9 meaning of Code section 4022, in that under federal law it requires a prescription.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Conviction of a Crime)

12 13. Respondent's pharmacy technician registration is subject to disciplinary
13 action under Code section 4301, subdivision (l), in that Respondent has been convicted of a
14 crime that is substantially related to the qualifications, functions, and duties of a pharmacy
15 technician. On December 18, 2006, in the Superior Court, County of Shasta, in the case entitled
16 *People of the State of California v. Lillie Annette Thomas* (Super. Ct. Shasta Cty., 2006, Case
17 No. MC RD CRM 060006842), Respondent was convicted by the Court on her plea of *nolo*
18 *contendre* of violating Penal Code sections 484, subdivision (a), and 488 (petty theft), a
19 misdemeanor.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Act of Dishonesty, Fraud and Deceit)

22 14. Respondent's pharmacy technician registration is subject to disciplinary
23 action under Code section 4301, subdivision (f), in that she stole Phentermine, a controlled
24 substance, from Safeway Pharmacy while working as a pharmacy technician at Safeway
25 Pharmacy, which culminated in her conviction of petty theft, as more fully set forth in
26 paragraph 13, above, as follows:

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1 a. Between May 1, 2005 to July 28, 2006, Respondent stole approximately
2 fifty (50) 37.5 mg. tablets of Phentermine from Safeway Pharmacy #1954, 2275 Pine Street,
3 Redding, California.

4 b. Between May 1, 2005 to July 28, 2006, Respondent stole approximately
5 fifteen (15) 37.5 mg. tablets of Phentermine from Safeway Pharmacy in Redding, California.

6 c. On or around July 23, 2006, Respondent stole approximately one-hundred
7 (100) 37.5 mg. tablets of Phentermine from Safeway Pharmacy #1826, 1070 East Cypress,
8 Redding, California.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Violation of Statutes Regulating Controlled Substances)

11 15. Respondent's pharmacy technician registration is subject to disciplinary
12 action under Code section 4301, subdivision (j) and (o), in that, between May 1, 2005, and
13 July 28, 2006, while working as a pharmacy technician at Safeway Pharmacy in Redding,
14 California, Respondent did the following:

15 a. Respondent possessed Phentermine, a controlled substance, without a
16 prescription from a physician, dentist, podiatrist, optometrist, veterinarian or naturopathic doctor,
17 in violation of Code Section 4060.

18 b. Respondent furnished Phentermine, a controlled substance, to herself,
19 without a prescription from a physician, dentist, podiatrist, optometrist, veterinarian or
20 naturopathic doctor, in violation of Code section 4059, subdivision (a) and Health and Safety
21 Code section 11158, subdivision (a).

22 c. Respondent stole Phentermine, a controlled substance, for her own use,
23 from Safeway Pharmacy in Redding, California, for which she was convicted of petty theft, as
24 more fully set forth in paragraph 13, above, in violation of Health and Safety Code sections
25 11170 and 11173, subdivision (a).

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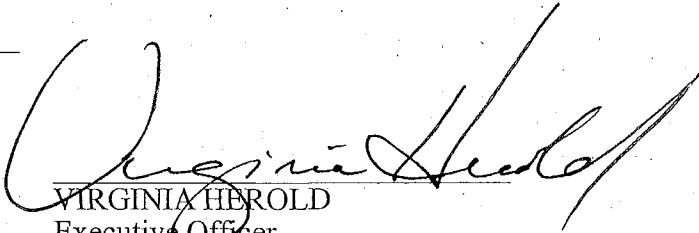
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 34341, issued to Lillie A. Thomas, also known as Lillie Annette Thomas;
2. Ordering Lillie A. Thomas, also known as Lillie Annette Thomas, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 12/18/07



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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1 EDMUND G. BROWN JR., Attorney General
of the State of California
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11 **STATE OF CALIFORNIA**

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13 **LILLIE A. THOMAS, AKA**
LILLIE ANNETTE THOMAS
14 20460 Gas Pt. Road
Cottonwood, CA 96022

15 Pharmacy Technician
Registration No. TCH 34341

Respondent.

Case No. 3109

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

16
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
24 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
25 ARE HEREBY REQUESTED TO:

26 1. Provide the names and addresses of witnesses to the extent known to the
27 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

28 ///

1 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
2 the following in the possession or custody or under control of the Respondent:

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

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

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

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

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

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

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

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


5 Your response to this Request for Discovery should be directed to the undersigned
6 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
7 **30 days after service** of the Accusation.

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

11 DATED: 1/11/08

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

14 ARTHUR D. TAGGART
15 Supervising Deputy Attorney General

16 
17 _____
18 JEFFREY M. PHILLIPS
19 Deputy Attorney General

20 Attorneys for Complainant

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11 **STATE OF CALIFORNIA**

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LILLIE ANNETTE THOMAS
14 20460 Gas Pt. Road
Cottonwood, CA 96022

15 Pharmacy Technician
Registration No. TCH 34341

16 Respondent.

Case No. 3109

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

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 Jeffrey M. Phillips, 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 **Jeffrey M. Phillips**
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

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.

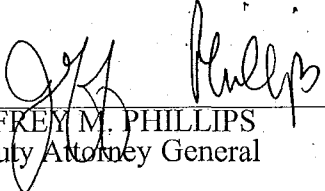
3 Any stipulation must be consistent with the Board's established disciplinary
4 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the
5 Board's Disciplinary Guidelines will be provided to you on your written request to the state
6 agency bringing this action.

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
9 Jeffrey M. Phillips at the earliest opportunity.

10 DATED: 1/11/08

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

13 ARTHUR D. TAGGART
14 Supervising Deputy Attorney General

15 
16 JEFFREY M. PHILLIPS
17 Deputy Attorney General

18 Attorneys for Complainant

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LILLIE ANNETTE THOMAS**
20460 Gas Pt. Road
Cottonwood, CA 96022

Pharmacy Technician
Registration No. TCH 34341

Respondent.

Case No. 3109

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.

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

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LILLIE ANNETTE THOMAS**
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Registration No. TCH 34341

Respondent.

Case No. 3109

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.

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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: Lillia A. Thomas, aka Lillie Annette Thomas**

Board of Pharmacy Case No.: **3109**

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 January 11, 2008, I served the attached **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 blank forms), and 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 **above-document** 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, addressed as follows:

Lillie A. Thomas
aka Lillie Annette Thomas
20460 Gas Pt. Road
Cottonwood, CA 96022

CERTIFIED MAIL RECEIPT

Certified Article Number

7160 3901 9845 3695 4550

SENDERS RECORD

Courtesy Copy Sent Via U.S. Mail to:

Board of Pharmacy
Attention: Virginia Herold
Department of Consumer Affairs
1625 North Market Blvd., Suite N219
Sacramento, CA 95834

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 January 11, 2008, at Sacramento, California.

Praveen K. Singh
Declarant

Praveen K. Singh
Signature

7160 3901 9845 3695 4550

TO:
Lillie A. Thomas
aka Lillie Annette Thomas
20460 Gas Pt. Road
Cottonwood, CA 96022

SENDER: Jeffrey M. Phillips

REFERENCE: SA2007101924

PS Form 3800, January 2005

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