1	EDMUND G. BROWN JR. Attorney General of California				
2	FRANK H. PACOE Supervising Deputy Attorney General JOSHUA A. ROOM				
4	Deputy Attorney General State Bar No. 214663				
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004				
6	Telephone: (415) 703-1299 Facsimile: (415) 703-5480				
7	Attorneys for Complainant				
	BEFORE THE				
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS				
9	STATE OF CALIFORNIA				
10	In the Matter of the Accusation Against: Case No. 3218				
11					
12	ANGELICA TABARA DEFAULT DECISION AND ORDER				
13					
14	[Gov. Code, §11520] Respondent.				
15					
16					
17	FINDINGS OF FACT				
18	1. On or about April 10, 2009, Complainant Virginia Herold, in her official capacity as				
19	the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed				
20	Accusation No. 3218 against Angelica Tabara (Respondent) before the Board of Pharmacy.				
21	2. On or about June 30, 2005, the Board of Pharmacy (Board) issued Pharmacy				
22	Technician License No. TCH 63715 to Respondent. The License was in full force and effect at				
23	all times relevant to the charges brought herein and expired on February 28, 2009.				
24	3. On or about April 14, 2009, Fe M. Domingo, an employee of the Department of				
25	Justice, served by Certified and First Class Mail a copy of the Accusation No. 3218, Statement to				
26	Respondent, Notice of Defense, and Request for Discovery to Respondent's address of record				
27	with the Board: 416 88th Street, Apt. #7, Daly City, California 94015. Copies of the Accusation				
28	and service materials are attached as exhibit A, and are incorporated herein by reference.				
	1				
	DEFAULT DECISION AND ORDER (Case No. 3218)				

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c). In addition, on or about April 16, 2009, the Certified Mail Return Receipt card was returned to the Department of Justice, dated April 15, 2009 for receipt of the Accusation materials, with what appears to be Respondent's signature. A copy of the Certified Mail Return Receipt card is included with the documents in exhibit A.

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Government Code section 11506 states, in pertinent part:

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

6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3225.

13

California Government Code section 11520 states, in pertinent part:

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

Pursuant to its authority under Government Code section 11520, the Board finds
 Respondent is in default. The Board will take action without further hearing and, based on the
 evidence on file herein, finds that the allegations in Accusation No. 3218 are true.

9. The total cost for investigation and enforcement in connection with the Accusation are \$1,609.75 as of June 22, 2009.

#### DETERMINATION OF ISSUES

1.Based on the foregoing findings of fact, Respondent Angelica Tabara has subjectedher Pharmacy Technician License No. TCH 63715 to discipline.

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A copy of the Accusation is attached.

The agency has jurisdiction to adjudicate this case by default.

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1	4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician						
2	License based upon the following violations alleged in the Accusation:						
3	a. In violation of Business and Professions Code section 4301(f), in or around February						
4	2008, while she was employed as a pharmacy technician at a Walgreens Pharmacy in South San						
5	Francisco, CA, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or						
6	corruption when she created and cashed in fraudulent "refund" transactions using her manager(s)						
7	identification number(s), fraudulently procuring/stealing at least \$14,600.00 in cash;						
8	b. In violation of Business and Professions Code sections 4301(l) and or 490, based on						
9	the conduct described in paragraph 4(a) above, on or about March 27, 2008 Respondent entered a						
10	plea of nolo contendere and was convicted of violating Penal Code sections 508 / 487(a) (Grand						
11	Theft / Embezzlement), a substantially related crime;						
12	c. In violation of Business and Professions Code section 4301, by way of the actions						
13	described in paragraph(s) 4(a) and 4(b) above, Respondent engaged in unprofessional conduct.						
14	ORDER						
15	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 63715, heretofore						
16	issued to Respondent Angelica Tabara, is revoked.						
17	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a						
18	written motion requesting that the Decision be vacated and stating the grounds relied on within						
19	seven (7) days after service of the Decision on Respondent. The agency in its discretion may						
20	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.						
21	This Decision shall become effective on October 14, 2009.						
22	It is so ORDERED September 14, 2009.						
23	Benneth H. Scheel						
24	KENNETH H. SCHELL, BOARD PRESIDENT						
25	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS						
26	40346466.DOCX						
27	DOJ docket number:SF2008201011						
28	Attachment: Exhibit A: Accusation No. 3218						
	3						
	DEFAULT DECISION AND ORDER (Case No. 3218)						

DEFAULT DECISION AND ORDER (Case No. 3218)

# Exhibit A

Accusation No. 3218

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· ·					
1	EDMUND G. BROWN JR., Attorney General	·			
2	of the State of California FRANK H. PACOE	,			
3	Supervising Deputy Attorney General JOSHUA A. ROOM, State Bar No. 214663				
4	Deputy Attorney General 455 Golden Gate Avenue, Suite 11000				
5	San Francisco, CA 94102-7004 Telephone: (415) 703-1299				
6	Facsimile: (415) 703-5480				
.7	Attorneys for Complainant				
	BEFORE				
8	BOARD OF PH. DEPARTMENT OF CON	SUMER AFFAIRS			
9	STATE OF CAL	IFORNIA			
10	In the Matter of the Accusation Against:	Case No. 3218			
11	ANGELICA TABARA				
12	aka ANGELICA SUYAT TABARA 416 88th Street, Apt. #7	ACCUSATION			
13	Daly City, California 94015				
14	Pharmacy Technician Registration No. TCH 63715				
15	Respondent.				
16	· · · · · · · · · · · · · · · · · · ·				
17	Complainant alleges:				
18	PARTIE	<u>S</u>			
19	1. Virginia Herold (Complainan	t) brings this Accusation solely in her official			
20	capacity as the Executive Officer of the Board of Ph	armacy, Department of Consumer Affairs.			
21	2. On or about June 30, 2005, th	e Board of Pharmacy issued Pharmacy			
22	Technician Registration Number TCH 63715 to Angelica Tabara (Respondent). The Pharmacy				
23	Technician Registration was in full force and effect	at all times relevant to the charges brought			
24	herein. The Registration expired on February 28, 20	009 and has not been renewed.			
25	JURISDICT	TION			
26	3. This Accusation is brought be	efore the Board of Pharmacy (Board),			
. 27	Department of Consumer Affairs, under the authorit	y of the following laws. All section			
28	references are to the Business and Professions Code	(Code) unless otherwise indicated.			
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1 4. Section 4011 of the Code provides that the Board shall administer and 2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.]. 3 Section 4300(a) of the Code provides that every license issued by the 5. 4 5 Board may be suspended or revoked. 6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, 7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to 8 proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license 9 that is not renewed within three years following its expiration may not be renewed, restored, or 10 11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the 12 13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance. 14 15

# STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall 16 take action against any holder of a license who is guilty of "unprofessional conduct," defined to 17 18 include, but not be limited to, any of the following:

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud, 20 deceit, or corruption, whether the act is committed in the course of relations as a licensee or 21 otherwise, and whether the act is a felony or misdemeanor or not.

22 (1) The conviction of a crime substantially related to the qualifications, functions, 23 and duties of a licensee under this chapter.

24 (o) Violating or attempting to violate, directly or indirectly, or assisting in or 25 abetting the violation of or conspiring to violate any provision or term of this chapter or of the 26 applicable federal and state laws and regulations governing pharmacy, including regulations 27 established by the board or by any other state or federal regulatory agency.

28 ///

1 8. Section 490 of the Code provides, in pertinent part, that the Board may 2 suspend or revoke a license when it finds that the licensee has been convicted of a crime 3 substantially related to the qualifications, functions or duties of the license. 9. California Code of Regulations, title 16, section 1770, states: 4 5 "For the purpose of denial, suspension, or revocation of a personal or facility 6 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions 7 Code, a crime or act shall be considered substantially related to the qualifications, functions or 8 duties of a licensee or registrant if to a substantial degree it evidences present or potential 9 unfitness of a licensee or registrant to perform the functions authorized by his license or, registration in a manner consistent with the public health, safety, or welfare." 10 11 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of 12 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement. 13 FACTUAL BACKGROUND 14 Prior to and on or about February 28, 2008, Respondent was employed as 15 11. a pharmacy technician at a Walgreens Pharmacy (PHY 41538) in South San Francisco, CA. On 16 or about that date, Respondent was detained by Walgreens Loss Prevention and subsequently by 17 18 the South San Francisco Police for her actions over the preceding weeks in creating and cashing in/stealing fraudulent "refund" transactions using manager(s) identification number(s) obtained 19 through Respondent's covert observation(s). The total amount of money fraudulently procured 20 21 by Respondent is not known, but Respondent admitted to numerous fraudulent transactions over 22 the prior "four weeks," with up to \$700 taken per transaction, and admitted to taking \$14,600.00. 23 24 FIRST CAUSE FOR DISCIPLINE 25 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption) 26 12. Respondent is subject to discipline under section 4301(f) of the Code in 27 that Respondent, as described in paragraph 11 above, committed acts involving moral turpitude, 28 dishonesty, fraud, deceit, or corruption.

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1	SECOND CAUSE FOR DISCIPLINE
2	(Conviction of Substantially Related Crime(s))
3	13. Respondent is subject to discipline under section 4301(l) and/or section
4	490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the
、 5	conviction of a substantially related crime, in that on or about March 27, 2008, in a criminal case
6	titled People v. Angelica Suyat Tabara, Case No. SC065897 (and/or NF373896) in San Mateo
7	County Superior Court, Respondent was convicted on her plea of nolo contendere of violating
8	Penal Code sections 508 / 487(a) (Appropriation by Employee [Embezzlement] / Grand Theft of
. 9	More than \$400), a felony. The conviction was entered in San Mateo County as follows:
10	a. On or about February 28, 2008, based on the conduct described above in
11	paragraph 11, Respondent was arrested by South San Francisco Police on suspicion of 21 counts
12	of violating Penal Code section 508 (Embezzlement).
13	b. On or about February 29, 2008, Respondent was charged in a criminal case
14	titled People v. Angelica Suyat Tabara, Case No. SC065897 (and/or NF373896) in San Mateo
15	County Superior Court with eleven (11) counts of violating Penal Code sections 508 / 487(a)
16	(Appropriation by Employee [Embezzlement] / Grand Theft of More than \$400), all felonies.
17	c. On or about March 27, 2008, pursuant to a plea agreement, Respondent
18	pleaded nolo contendere to the first count of having violated Penal Code sections 508 / 487(a)
19	(Appropriation by Employee [Embezzlement] / Grand Theft of More than \$400), a felony. The
20	imposition of sentence was suspended in favor of an order of supervised probation for a period of
. 21	three (3) years, on terms and conditions including 90 days in county jail (8 days CTS + 2 days of
- 22	good time credit) with the Sheriff's work program recommended, search and seizure conditions,
23	treatment or counseling as required by probation, fines, fees, and court restitution, and restitution
24	to Walgreens (subsequently calculated) of \$23,086.61 plus additional amount(s) and fee(s).
25	THIRD CAUSE FOR DISCIPLINE
26	(Unprofessional Conduct)
27	14. Respondent is subject to discipline under section 4301 of the Code in that
28	Respondent, as described in paragraphs 11-13 above, engaged in unprofessional conduct.
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1	PRAYER							
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein							
3	alleged, and that following the hearing, the Board of Pharmacy issue a decision:							
4	A. Revoking or suspending Pharmacy Technician Registration Number TCH							
5	63715, issued to Angelica Tabara (Respondent);							
6	B. Ordering Respondent to pay the Board reasonable costs of investigation							
7	and enforcement of this case, pursuant to Business and Professions Code section 125.3;							
8	C. Taking such other and further action as is deemed necessary and proper.							
9	DATED: 4/10/09							
10								
11								
12	VIRGINIA HEROLD Executive Officer							
13	Board of Pharmacy							
14	Department of Consumer Affairs State of California Complainant							
15	Complainait							
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17	SF2008201011							
18	40315632.wpd							
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1	EDMUND G. BROWN JR., Attorney General of the State of California					
. 2	FRANK H. PACOE Supervising Deputy Attorney General					
3	JOSHUA A. ROOM, State Bar No. 214663 Deputy Attorney General					
4	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004					
5	Telephone: (415) 703-1299 Facsimile: (415) 703-5480					
6	Attorneys for Complainant					
7	BEFORE THE					
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS					
9	STATE OF CALIFORNIA					
10	In the Matter of the Accusation Against: Case No. 3218					
11	ANGELICA TABARA STATEMENT TO RESPONDENT					
. 12						
13	Respondent. [Gov. Code §§ 11504, 11505(b)]					
14						
15	TO RESPONDENT:					
16	Enclosed is a copy of the Accusation that has been filed with the Board of					
17	Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.					
18	Unless a written request for a hearing signed by you or on your behalf is delivered					
19	or mailed to the Board, represented by Deputy Attorney General Joshua A. Room, within fifteen					
20	(15) days after a copy of the Accusation was personally served on you or mailed to you, you will					
21	be deemed to have waived your right to a hearing in this matter and the Board may proceed upon					
22	2 the Accusation without a hearing and may take action thereon as provided by law.					
23	The request for hearing may be made by delivering or mailing one of the enclosed					
24	forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided					
25	in section 11506 of the Government Code, to					
26	Joshua A. Room					
27	Deputy Attorney General 455 Golden Gate Avenue, Suite 11000					
- 28	San Francisco, California 94102.					
	1					

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

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

8 If you file any Notice of Defense within the time permitted, a hearing will be held 9 on the charges made in the Accusation.

The hearing may be postponed for good cause. If you have good cause, you are
obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland,
CA 94612, within ten (10) working days after you discover the good cause. Failure to notify the
Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of Government Code sections 11507.5, 11507.6, & 11507.7 are enclosed.
If you desire the names and addresses of witnesses or an opportunity to inspect
and copy the items mentioned in section 11507.6 of the Government Code in the possession,
custody or control of the Board you may send a Request for Discovery to the above designated
Deputy Attorney General.

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#### **NOTICE REGARDING STIPULATED SETTLEMENTS**

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

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

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Joshua A. Room at the earliest opportunity. DATED: EDMUND G. BROWN JR., Attorney General of the State of California FRANK H. PACOE Supervising Deputy Attorney General JOSH OOM Α Deputy Attorney General Attorneys for Complainant 40327254.wpd 

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

In the Matter of the Accusation Against:

ANGELICA TABARA

Case No. 3218

# NOTICE OF DEFENSE

Respondent.

[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:

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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:

ANGELICA TABARA

Case No. 3218

# NOTICE OF DEFENSE

Respondent.

[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.

 $\Box$  I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Mailing Address City, State and Zip Code Counsel's Telephone Number

Counsel's Name

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	FRANK H. PACOE Supervising Deputy Attorney General JOSHUA A. ROOM, State Bar No. 214663						
3	Deputy Attorney General 455 Golden Gate Avenue, Suite 11000						
4	San Francisco, CA 94102-7004 Telephone: (415) 703-1299						
6	Facsimile: (415) 703-5480						
7	Attorneys for Complainant						
8	BEFORE T BOARD OF PHA						
9	DEPARTMENT OF CON STATE OF CAL	SUMER AFFAIRS					
10							
11	In the Matter of the Accusation Against:	Case No. 3218					
12	ANGELICA TABARA	REQUEST FOR DISCOVERY					
13	Respondent.	[Gov. Code § 11507.6]					
14	TO RESPONDENT:						
15	Under section 11507.6 of the Government Code of the State of California, parties						
16	to an administrative hearing, including the Complain	nant, are entitled to certain information					
17	concerning the opposing party's case. A copy of the	provisions of section 11507.6 of the	<u>ک</u>				
18	Government Code concerning such rights is include	d among the papers served.					
19	PURSUANT TO SECTION 11507.6	OF THE GOVERNMENT CODE, YOU					
20	ARE HEREBY REQUESTED TO:						
21	1. Provide the names and addresses of v	vitnesses to the extent known to the					
22	Respondent, including, but not limited to, those inte	nded to be called to testify at the hearing, and					
23	2. Provide an opportunity for the Comp	lainant to inspect and make a copy of any of					
24	the following in the possession or custody or under	control of the Respondent:					
25	a. A statement of a person, othe	r than the Respondent, named in the initial					
26	administrative pleading, or in any additional pleading, when it is claimed that the act or						
27	omission of the Respondent as to this person	n is the basis for the administrative					
28	proceeding;						
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b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent 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 Respondent now proposes to offer in evidence;

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

f. Investigative reports made by or on behalf of the Respondent 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 Request for Discovery, "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.

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

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•		
1	Your response to thi	is Request for Discovery should be directed to the undersigned
2	e 1	address on the first page of this Request for Discovery within
3	30 days after service of the Accus	
. 4		stantial justification to comply with this Request for Discovery
5		ctions pursuant to sections 11507.7 and 11455.10 to 11455.30
6	of the Government Code.	
. 7	DATED: 4/14/09	
8		EDMUND G. BROWN JR., Attorney General of the State of California
. 9		FRANK H. PACOE
10		Supervising Deputy Attorney General
11		$\bigcirc$
12 13		hal R
13		JOSHUA A. ROOM Deputy Attorney General
15		Attorneys for Complainant
16	40327254.wpd	
17	SF2008201011	
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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.

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#### DECLARATION OF SERVICE (Certified and First Class Mail)

In the Matter of the Accusation Against: *Angelica Tabara* Agency Case No. **3218** 

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 14, 2009, 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 same document(s) 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 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

ANGELICA TABARA aka ANGELICA SUYAT TABARA 416 88th Street, Apt. #7 Daly City, CA 94015

Certified Article Number 7160 3901 9849 2869 7645 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 14, 2009at San Francisco, California.

FE M. DOMINGO Typed Name

<u>JM/JOming</u> Signature

Daly City, CA 74013

# SENDER: JAR

# **REFERENCE:** Acc Pckt

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