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

In the Matter of the Accusation Against:

**JOSE ALBERTO VILLASENOR**  
691 Bucknell Avenue  
Claremont, CA 91711

Pharmacy Technician Registration  
No. TCH 47115

Respondent.

Case No. 3278  
OAH No. L-2009120058

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 24, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3278 against Jose Alberto Villasenor (Respondent) before the Board of Pharmacy.

2. On or about August 25, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 47115 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011, unless renewed.

1           3.     On or about October 6, 2009, Gilda R. Sanchez, an employee of the Department of  
2 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3278 , Statement to  
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:  
5 691 Bucknell Avenue, Claremont, CA 91711. A copy of the Accusation, all documents served  
6 with the Accusation, and proof of service is attached as **Exhibit A**, and is incorporated herein by  
7 reference.

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

11           5.     On or about October 22, 2009, Respondent signed and returned a Notice of  
12 Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at  
13 Respondent's address of record and it informed him that an administrative hearing in this matter  
14 was scheduled for March 4, 2010. Respondent failed to appear at that hearing. A copy of the  
15 Notice of Hearing and proof of service is attached as **Exhibit B**, and is incorporated herein by  
16 reference.

17  
18           6.     Government Code section 11506 states, in pertinent part:

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

24           7.     California Government Code section 11520 states, in pertinent part:

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

          8.     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. 3278 are true.

1           5.     The total costs for investigation and enforcement in connection with the Accusation  
2 are \$5,484.00 as of February 23, 2010.

3                                   DETERMINATION OF ISSUES

4           1.     Based on the foregoing findings of fact, Respondent Jose Alberto Villasenor has  
5 subjected his Pharmacy Technician Registration No. TCH 47115 to discipline.

6           2.     A copy of the Accusation is attached.

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

8           4.     The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
9 Registration based upon the following violations:

10           A.     Respondent is subject to disciplinary action under Business and Professions  
11 Code section 4301, subdivision (l), in conjunction with California Code of Regulations, title  
12 16, section 1770, in that Respondent has been convicted of a crime substantially related to  
13 the qualifications, functions or duties of a licensed pharmacy technician, as follows:

14           i.     On or about October 18, 2007, Respondent entered his plea of guilty to  
15 one misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)  
16 (possession of a controlled substance – methamphetamine) in the criminal proceeding  
17 entitled *People of The State of California v. Jose Alberto Villasenor* (Super. Ct. Los  
18 Angeles County, 2007, No. 7PK06730). Respondent was sentenced to 2 years of probation.

19           ii.    Circumstances of the conviction are on or about August 24, 2007, after  
20 conducting a pat-down search of Respondent following a routine traffic stop in an area  
21 known for a high level of drug trafficking, City of Pomona police officers found a baggie  
22 containing white crystal-like substance in the left front pocket of Respondent's shirt. Asked  
23 what the substance was, Respondent stated "they're drugs, sir." Respondent subsequently  
24 admitted the substance was methamphetamine, which he had purchased for \$20.00 from a  
25 friend that evening after getting off work. Respondent further admitted he had "a problem  
26 with" methamphetamine, and that he had been using the drug for approximately two years.

27           iii.   Respondent participated in an 18 month court ordered Deferred Entry of  
28 Judgment Program and successfully completed the program on April 16, 2009.

1                   iv. The Board expressly finds that Respondent's 2007 possession conviction is  
2 substantially related to the qualifications, functions or duties of a licensed pharmacy  
3 technician

4                   B. Respondent is further subject to disciplinary action under Business and  
5 Professions Code section 4060, section 4300, and section 4301, subdivision (l), on the  
6 grounds of unprofessional conduct for violating Health and Safety Code section 11377,  
7 subdivision (a), in that on or about August 24, 2007, Respondent was found to be in  
8 possession of methamphetamine by City of Pomona police officers, for which Respondent  
9 was criminally prosecuted and convicted of violating Health and Safety Code section  
10 11377(a), based on his plea of guilty, entered on or about October 18, 2007, in the criminal  
11 matter more fully described in paragraph 4(A) above.

12                  C. Respondent is subject to disciplinary action under business and Professions  
13 Code section 4301, subdivision (f), on the grounds of unprofessional conduct in Respondent  
14 committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption, by  
15 reason of criminal misconduct resulting in his arrest and conviction for possession of a  
16 controlled substance, as described in paragraph 4(A) above.

17                  D. Respondent is subject to disciplinary action under Business and Profession  
18 Code section 4060, in that Respondent engaged in unprofessional conduct on or about  
19 October 18, 2007, when he committed acts resulting in his arrest and conviction for  
20 possession of a controlled substance as described in paragraph 4(A) above.

21                  E. As an additional disciplinary consideration, the Board finds that on or about  
22 August 1, 2001, after pleading guilty, Respondent was convicted of one misdemeanor  
23 count of violating Penal Code section 490.5, subdivision (a) (petty theft retail merchandise)  
24 in the criminal proceeding entitled *The People of The State of California v. Jose Alberto*  
25 *Villasenor* (Super. Ct. San Bernardino County, 2001, No. MWV065973). Respondent was  
26 sentenced to one day in San Bernardino County Jail, payment of fines, and 2 years of  
27 probation. Circumstances of the conviction are that on May 18, 2001, Respondent was  
28 observed removing packaging from a music compact disc at a 'Virgin Megastore' store in

1 Ontario Mills Mall, slipping the disc into his notebook, then leaving the store without  
2 paying for it. Estimated value of the disc was \$18.99.

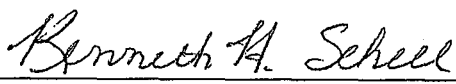
3 ORDER

4 **IT IS ORDERED** that Pharmacy Technician Registration No. TCH 47115, heretofore  
5 issued to Respondent Jose Alberto Villasenor, is revoked.

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

10  
11 This Decision shall become effective on June 23, 2010.

12 It is so ORDERED May 24, 2010.

13   
14 \_\_\_\_\_  
15 KENNETH H. SCHELL, BOARD PRESIDENT  
16 FOR THE BOARD OF PHARMACY  
17 DEPARTMENT OF CONSUMER AFFAIRS

18 60521425.DOC  
19 DOJ docket number:LA2009602899

20 Exhibit A: Accusation No.3278, with Service Documents and Proof of Service

21 Exhibit B: Notice of Hearing and Proof of Service

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Exhibit A

Accusation No.3278, with Service Documents  
and Proof of Service

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3278

13 **JOSE ALBERTO VILLASENOR**  
691 Bucknell Avenue  
14 Claremont, CA 91711

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

15 Pharmacy Technician Registration Number  
16 TCH 47115

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 25, 2003, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration Number TCH 47115 to Jose Alberto Villasenor (Respondent). The  
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on January 31, 2011, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

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

STATUTORY PROVISIONS

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian. . ."

6. Section 4300 permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

7. Section 4301 states:

"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.

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order



1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
5 of this provision. The board may take action when the time for appeal has elapsed, or the  
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
10 indictment.”

### 11 REGULATORY PROVISIONS

12 8. California Code of Regulations, title 16, section 1770, states:

13 "For the purpose of denial, suspension, or revocation of a personal or facility license  
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
17 licensee or registrant to perform the functions authorized by his license or registration in a manner  
18 consistent with the public health, safety, or welfare."

### 19 COST RECOVERY

20 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

### 24 CONTROLLED SUBSTANCE

25 10. Methamphetamine is a Schedule II controlled substance as designated by Health and  
26 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
27 Business and Professions Code section 4022.

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Substantially Related Crime)

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (l), in  
4 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has  
5 been convicted of a crime substantially related to the qualifications, functions or duties of a  
6 licensed pharmacy technician, as follows:

7 POSSESSION METHAMPHETAMINE - 2007

8 a. On or about October 18, 2007, Respondent entered his plea of guilty to one  
9 misdemeanor count of violating Health and Safety Code section 11377, subdivision (a)  
10 (possession of a controlled substance – methamphetamine) in the criminal proceeding entitled  
11 *People of The State of California v. Jose Alberto Villasenor* (Super. Ct. Los Angeles County,  
12 2007, No. 7PK06730). Respondent was sentenced to 2 years of probation.

13 b. Circumstances of the conviction are on or about August 24, 2007, after  
14 conducting a pat-down search of Respondent following a routine traffic stop in an area known for  
15 a high level of drug trafficking, City of Pomona police officers found a baggie containing white  
16 crystal-like substance in the left front pocket of Respondent's shirt. Asked what the substance  
17 was, Respondent stated "they're drugs, sir." Respondent subsequently admitted the substance was  
18 methamphetamine, which he had purchased for \$20.00 from a friend that evening after getting off  
19 work. Respondent further admitted he had "a problem with" methamphetamine, and that he had  
20 been using the drug for approximately two years.

21 c. Respondent participated in an 18 month court ordered Deferred Entry of  
22 Judgment Program and successfully completed the program on April 16, 2009.

23 SECOND CAUSE FOR DISCIPLINE

24 (Unlawful Possession of a Controlled Substance)

25 12. Respondent is subject to disciplinary action under section 4060, section 4300, and  
26 section 4301, subdivision (l), on the grounds of unprofessional conduct for violating Health and  
27 Safety Code section 11377, subdivision (a), in that on or about August 24, 2007, Respondent was  
28 found to be in possession of methamphetamine by City of Pomona police officers, for which

1 Respondent was criminally prosecuted and convicted of violating Health and Safety Code section  
2 11377(a), based on his plea of guilty, entered on or about October 18, 2007, as more fully  
3 described in paragraph 11, above.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Dishonest Act)**

6 13. Respondent is subject to disciplinary action under section 4301, subdivision (f), on  
7 the grounds of unprofessional conduct in Respondent committed an act involving involving moral  
8 turpitude, dishonesty, fraud, deceit, or corruption, by reason of criminal misconduct resulting in  
9 his arrest and conviction for possession of a controlled substance, as described in paragraph 11,  
10 above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 14. Respondent is subject to disciplinary action under section 4060, in that Respondent  
14 engaged in unprofessional conduct on or about October 18, 2007, when he committed acts  
15 resulting in his arrest and conviction for possession of a controlled substance as described in  
16 paragraph 11, above.

17 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

18 15. As an additional disciplinary consideration, the Board alleges that on or about  
19 August 1, 2001, after pleading guilty, Respondent was convicted of one misdemeanor count of  
20 violating Penal Code section 490.5, subdivision (a) (petty theft retail merchandise) in the criminal  
21 proceeding entitled *The People of The State of California v. Jose Alberto Villasenor* (Super. Ct.  
22 San Bernardino County, 2001, No. MWV065973). Respondent was sentenced to one day in San  
23 Bernardino County Jail, payment of fines, and 2 years of probation.

24 16. Circumstances of the conviction are that on May 18, 2001, Respondent was  
25 observed removing packaging from a music compact disc at a 'Virgin Megastore' store in Ontario  
26 Mills Mall, slipping the disc into his notebook, then leaving the store without paying for it.  
27 Estimated value of the disc was \$18.99.

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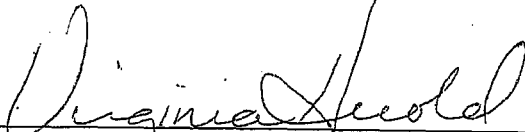
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 47115, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

9/24/09



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 California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 3278

11 **JOSE ALBERTO VILLASENOR**

**STATEMENT TO RESPONDENT**

12 Respondent.

[Gov. Code §§ 11504, 11505(b)]  
13

14 **TO RESPONDENT:**

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

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

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

25  
26 **Susan Melton Wilson**  
**Deputy Attorney General**  
**Ronald Reagan Building**  
27 **300 South Spring Street, Suite 1702**  
**Los Angeles, CA 90013**  
28

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

2 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
3 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
4 to the form of the Accusation unless you file a further Notice of Defense as provided in section  
5 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

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

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

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

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

17 **NOTICE REGARDING STIPULATED SETTLEMENTS**

18 It may be possible to avoid the time, expense and uncertainties involved in an  
19 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
20 settlement is a binding written agreement between you and the government regarding the matters  
21 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
22 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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

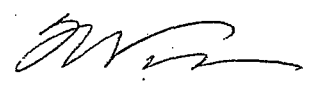
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1 If you are interested in pursuing this alternative to a formal administrative hearing, or if you  
2 have any questions, you or your attorney should contact Deputy Attorney General Susan Melton  
3 Wilson at the earliest opportunity.

4 Dated: October 5, 2009

EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



SUSAN MELTON WILSON  
Deputy Attorney General  
*Attorneys for Complainant.*

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

In the Matter of the Accusation Against:

Case No. 3278

**JOSE ALBERTO VILLASENOR**

**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: \_\_\_\_\_

**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**

In the Matter of the Accusation Against:

Case No. 3278

**JOSE ALBERTO VILLASENOR**

**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: \_\_\_\_\_

**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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1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
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Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 3278

11 JOSE ALBERTO VILLASENOR

**REQUEST FOR DISCOVERY**

12 Respondent.  
13

14 TO RESPONDENT:

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

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

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

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

25 a. A statement of a person, other 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 is the basis for the administrative proceeding;  
28

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

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

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

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

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

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

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

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

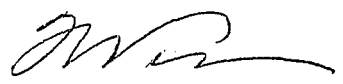
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Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

Dated: October 5, 2009

Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



SUSAN MELTON WILSON  
Deputy Attorney General  
*Attorneys for Complainant*

LA2009602899  
60469286.doc

**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**  
(Separate Mailings)

**TO:** Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711

Case Name: Jose Alberto Villasenor

No.:

**SENDER:** Susan Melton Wilson

**REFERENCE:** LA2009602899

I declare:

I am employed in the Office of the Attorney General, which California State Bar at which member's direction this service older and not a party to this matter. I am familiar with the bu Attorney General for collection and processing of corresponc States Postal Service. In accordance with that practice, corre mail collection system at the Office of the Attorney General Postal Service that same day in the ordinary course of busine

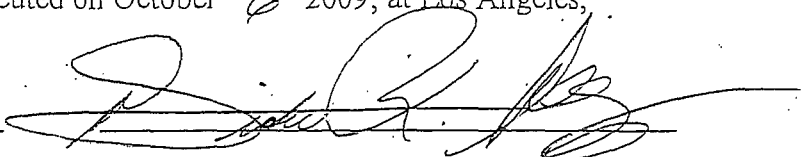
On October 6 2009, I served the attached STATEMENT T ACCUSATION, NOTICE OF DEFENSE (2 COPIES), R GOVERNMENT CODE SECTIONS 11507, 11507.6, 115 enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE (2 COPIES), REQUEST FOR DISCOVERY, GOVERNMENT CODE SECTIONS 11507, 11507.6, 11507.7 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 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Jose Alberto Villasenor  
Pharmacy Technician  
691 Bucknell Avenue  
Claremont, CA 91711  
Respondent  
**Certified Return Receipt Requested**  
**7160 3901 9848 3347 5130**

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 October 6 2009, at Los Angeles, California.

Gilda R. Sanchez

Declarant



Signature

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Ce	<b>Certified Article Number</b>
	Re	7160 3901 9848 3347 5130
	Re	
	To	<b>SENDER'S RECORD</b>

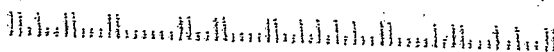
US Postal Service <b>Receipt for Certified Mail</b> <small>No Insurance Coverage Provided Do Not Use for International Mail</small>	POSTMARK OR DATE
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**UNITED STATES POSTAL SERVICE**

NAME, ADDRESS AND ZIP CODE BELOW

First Class Mail  
US Postage Paid  
Permit No. G - 10

Susan Melton Wilson  
Office of the Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013



2. Article Number



**COMPLETE THIS SECTION ON DELIVERY**

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

10/7

C. Signature

Agent  
 Addressee

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

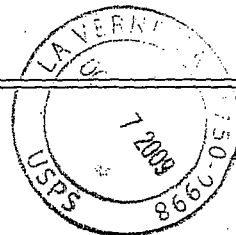
Yes  
 No

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711



LA2009602899  
Susan Melton Wilson



Exhibit B

Notice of Hearing and Proof of Service

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE :  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 3278

11 **JOSE ALBERTO VILLASENOR**

OAH No. L-2009120058

12 Respondent.

**NOTICE OF HEARING**  
[Gov. Code § 11509]

13  
14 Hearing: Thursday, March 4, 2010

15 YOU ARE HEREBY NOTIFIED that a hearing in this matter will commence on  
16 **Thursday, March 4, 2010 at 09:00 a.m.** before an Administrative Law Judge at  
17 **Office of Administrative Hearings**  
18 **320 West Fourth Street, Suite 630**  
**Los Angeles, CA 90013.**

19 The hearing will be conducted before the Board of Pharmacy, Department of Consumer  
20 Affairs by an Administrative Law Judge of the Office of Administrative Hearings, upon the  
21 charges made in Accusation No. 3278 served upon you.

22 If you object to the place of hearing, you must notify the presiding officer within ten (10)  
23 days after this notice is served on you. Failure to notify the presiding officer within ten (10) days  
24 will deprive you of a change in the place of hearing.

25 You may be present at the hearing. You have the right to be represented by an attorney at  
26 your own expense. You are not entitled to the appointment of an attorney to represent you at  
27 public expense. You are entitled to represent yourself without legal counsel. You may present  
28 any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying

1 against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses  
2 and the production of books, documents, or other things by applying to the Office of  
3 Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013, telephone:  
4 (213) 576-7200.

5 INTERPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall  
6 be conducted in the English language. If a party or a party's witness does not proficiently speak  
7 or understand the English language and before commencement of the hearing requests language  
8 assistance, an agency subject to the language assistance requirement in section 11435.15 of the  
9 Government Code shall provide a certified interpreter or an interpreter approved by the  
10 administrative law judge conducting the proceedings. The cost of providing the interpreter shall  
11 be paid by the agency having jurisdiction over the matter if the administrative law judge or  
12 hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a  
13 witness require the assistance of an interpreter, ample advance notice of this fact should be given  
14 to the Office of Administrative Hearings so that appropriate arrangements can be made.

15 CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a  
16 continuance, but when an administrative law judge of the Office of Administrative Hearings has  
17 been assigned to the hearing, no continuance may be granted except by him or her or by the  
18 presiding Administrative Law Judge for good cause. When seeking a continuance, a party shall  
19 apply for the continuance within ten (10) working days following the time the party discovered or  
20 reasonably should have discovered the event or occurrence which establishes good cause for the  
21 continuance. A continuance may be granted for good cause after the ten (10) working days have  
22 lapsed only if the party seeking the continuance is not responsible for and has made a good faith  
23 effort to prevent the condition or event establishing the good cause.

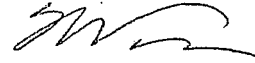
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1 Continuances are not favored. If you need a continuance, immediately write or call the  
2 Office of Administrative Hearings: 320 West Fourth Street, Suite 630, Los Angeles, CA 90013  
3 telephone: (213) 576-7200.

4 Dated: February 9, 2010

Respectfully submitted,

5  
6 EDMUND G. BROWN JR.  
Attorney General of California,  
7 GREGORY J. SALUTE  
Supervising Deputy Attorney General

8 

9 SUSAN MELTON WILSON  
10 Deputy Attorney General  
*Attorneys for Complainant*

11  
12 LA2009602899  
50578160.doc

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

Case Name: **Jose Alberto Villasenor**

No.: **L-2009120058**

I declare:

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

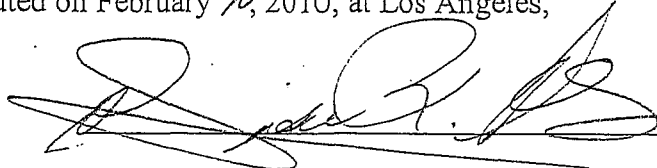
On February 10, 2010, I served the attached NOTICE OF HEARING by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the NOTICE OF HEARING was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711  
Respondent

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 February 10, 2010, at Los Angeles, California.

\_\_\_\_\_  
Gilda R. Sanchez

Declarant



Signature

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**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

Case Name: **Jose Alberto Villasenor**

No.: **L-2009120058**

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 Attorney General for collection and processing of correspondence States Postal Service. In accordance with that practice, certified mail collection system at the Office of the Attorney General that same day in the ordinary course of business.

On February 10, 2010, I served the attached NOTICE OF HEARING thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the NOTICE in a second sealed envelope as first class mail with postage thereon collected at the collection system at the Office of the Attorney General at 300 Los Angeles, CA 90013, addressed as follows:

Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711  
Respondent

I declare under penalty of perjury under the laws of the State of California that this declaration was executed on February 10, 2010.

Gilda R. Sanchez

Declarant

LA2009602899  
50578198.doc

2. Article Number



7160 3901 9845 5605 8986

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711

7160 3901 9845 5605 8986

**TO:** Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711

**SENDER:** Susan Melton Wilson

**REFERENCE:** LA2009602899

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	<b>Certified Article Number</b>
	Certified	7160 3901 9845 5605 8986
	Returned	
	Resend	<b>SENDER'S RECORD</b>
Total Postage & Fees		

US Postal Service	POSTMARK OR DATE
<b>Receipt for Certified Mail</b>	

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery
	2/11
C. Signature	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
X <i>Jose Alberto Villasenor</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
D. Is delivery address different from item 1? If YES, enter delivery address below:	

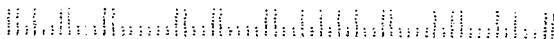
LA2009602899  
Susan Melton Wilson

UNITED STATES POSTAL SERVICE

PRINT YOUR NAME, ADDRESS AND ZIP CODE BELOW

First Class Mail  
US Postage Paid  
Permit No. G-10

Susan Melton Wilson  
Office of the Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013



2. Article Number



7160 3901 9845 5605 8986

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

Jose Alberto Villasenor  
691 Bucknell Avenue  
Claremont, CA 91711

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

2/11

C. Signature

X *Susan Melton Wilson*

Agent

Addressee

D. Is delivery address different from item 1?

IF YES, enter delivery address below:

Yes

No

LA2009602899

Susan Melton Wilson