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

In the Matter of the Accusation Against:

JENNIFER PARKS

Respondent.

Case No. 3409

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 29, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3409 against Jennifer Parks (Respondent) before the Board of Pharmacy.
2. On or about July 15, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 57498 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and will expire on July 31, 2010 if not renewed.
3. On or about October 1, 2009, James J. Mirarchi, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3409, a Statement to Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board: 2677 Oak Road, #100, Walnut Creek, CA 94597. Copies of the Accusation and service materials are attached as exhibit A, and are incorporated herein by reference.

Exhibit A
Accusation Packet No. 3409 and Service Documents

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
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. 3409

11 **JENNIFER ERIN PARKS**
12 **2677 Oak Road #100**
13 **Walnut Creek, California 94597**

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
TCH 57498

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 15, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 57498 to Jennifer Erin Parks (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on July 31, 2010, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
2 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
3 state prison, or by imprisonment in the county jail for not more than one year.

4 "(b) Every person who has in his or her possession any drugs secured by a forged
5 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
6 county jail for not more than one year."

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

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

14 CONTROLLED SUBSTANCES

15 9. Section 4021 of the Code states:

16 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
17 11053) of Division 10 of the Health and Safety Code."

18 10. Section 4022 of the Code states:

19 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
20 self-use, except veterinary drugs that are labeled as such, and includes the following:

21 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
22 without prescription," "Rx only," or words of similar import.

23 "(b) Any device that bears the statement: "Caution: federal law restricts this device
24 to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to
25 be filled in with the designation of the practitioner licensed to use or order use of the device.

26 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only
27
28

1 on prescription or furnished pursuant to Section 4006.”

2 11. Section 4051 of the Code states:

3 “(a) Except as otherwise provided in this chapter, it is unlawful for any person to
4 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
5 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
6 is a pharmacist under this chapter.

7
8 “(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a
9 prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or
10 patient consultation if all of the following conditions are met:

11 “(1) The clinical advice or information or patient consultation is provided to a health care
12 professional or to a patient.

13 “(2) The pharmacist has access to prescription, patient profile, or other relevant medical
14 information for purposes of patient and clinical consultation and advice.

15 “(3) Access to the information described in paragraph (2) is secure from unauthorized
16 access and use.”

17 12. Section 4060 of the Code states:

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

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

4 **COST RECOVERY**

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

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Criminal Conviction)

11 14. Respondent is subject to disciplinary action under section 4301(I) of the Code in that
12 she has been convicted of a crime substantially related to the qualifications, functions, and duties
13 of a licensee. The circumstances are as follows:

14 15. On or about October 15, 2008, in Contra Costa Superior Court Case No. 01-138450-
15 2, Respondent was convicted of having violated Business and Professions Code section 4324(b)
16 (possession of drugs from a forged prescription), a misdemeanor.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Forgery and False Statements)

19 16. Respondent is subject to disciplinary action under section 4301, subsections (f) and
20 (g), and under section 4324(a), in that she committed acts involving moral turpitude, dishonesty,
21 fraud, deceit or corruption and knowingly made or signed certificates or documents falsely
22 representing the existence or nonexistence of a state of facts and made, altered, forged, uttered,
23 published, passed, or attempted to pass, as genuine, any prescription for any drugs. The
24 circumstances are as follows:

25 17. On or about June 26, 2008, and July 5, 2008, Respondent fraudulently obtained
26 approximately 280 tablets of drugs including Zolpidem, Norco and Lorazepam, all of which are
27 controlled substances and dangerous drugs, and lithium carbonate, a dangerous drug. Respondent
28 phoned Longs Pharmacy in Walnut Creek, California and posed as an agent of her physician in

1 order to make and renew prescriptions for these drugs. Respondent, who was an employee of
2 Longs, made false entries in the pharmacy records regarding these transactions.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Unlawful Possession and use of Drugs)

5 18. Respondent is subject to disciplinary action under section 4301, subsections (h), (j)
6 and (o), in that she violated state statutes regulating possession and use of controlled substances
7 and dangerous drugs and violated state laws governing pharmacy. The circumstances are as
8 follows:

9 19. On or about June 26, 2008, and July 5, 2008, Respondent fraudulently obtained
10 approximately 280 tablets of drugs including Zolpidem, Norco and Lorazepam, all of which are
11 controlled substances and dangerous drugs, and lithium carbonate, a dangerous drug.

12 20. Respondent possessed and used these drugs in violation of Code sections 4051 and
13 4060 and in violation of Health and Safety Code sections 11350, 11377 and 11550.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 (Threats to Witness)

16 21. Respondent is subject to disciplinary action under section 4301, subsections (a), (f)
17 and (q), in that she engaged in conduct that subverted or attempted to subvert an investigation.
18 This conduct involved gross immorality, moral turpitude and corruption. The circumstances are
19 as follows:

20 22. On or about July 10, 2008, during a telephone conversation, Respondent threatened to
21 harm a witness who had made statements regarding Respondent's unlawful activities at Long's
22 Pharmacy in Walnut Creek, California.

23 **PRAYER**

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

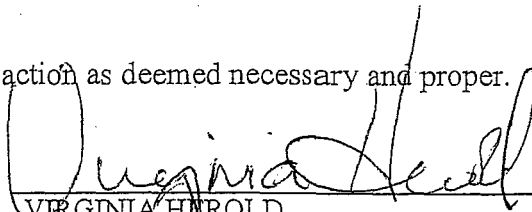
26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 57498,
27 issued to Jennifer Erin Parks;

28 2. Ordering Jennifer Erin Parks to pay the Board of Pharmacy the reasonable costs of

1 the investigation and enforcement of this case, pursuant to Business and Professions Code section
2 125.3;

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

4 DATED: 9/29/09



5 VIRGINIA HEROLD
6 Executive Officer
7 Board of Pharmacy
8 Department of Consumer Affairs
9 State of California
10 *Complainant*

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1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
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. 3409

11 **JENNIFER ERIN PARKS**
12 **2677 Oak Road #100**
13 **Walnut Creek, California 94597**

STATEMENT TO RESPONDENT

[Gov. Code §§ 11504, 11505(b)]

14 **Pharmacy Technician Registration No. TCH**
15 **57498**

Respondent.

16
17 **TO RESPONDENT:**

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

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

25 The request for hearing may be made by delivering or mailing one of the enclosed forms
26 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in
27 section 11506 of the Government Code, to
28

Jonathan D. Cooper
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102

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.

If you file any Notice of Defense within the time permitted, a hearing will be held 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 sections 11507.5, 11507.6, and 11507.7 of the Government Code 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.

NOTICE REGARDING STIPULATED SETTLEMENTS

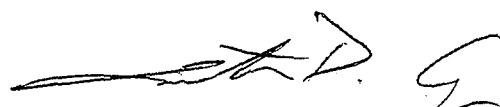
It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters charged and the discipline to 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.

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 Jonathan D.
3 Cooper at the earliest opportunity.

4 Dated: October 1, 2009

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JONATHAN D. COOPER
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. 3409

JENNIFER ERIN PARKS
2677 Oak Road #100
Walnut Creek, California 94597

NOTICE OF DEFENSE

**Pharmacy Technician Registration No. TCH
57498**

[Gov. Code §§ 11505 and 11506]

Respondent.

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 do not consent to electronic reporting.

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

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

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

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

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

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

In the Matter of the Accusation Against:

Case No. 3409

JENNIFER ERIN PARKS
2677 Oak Road #100
Walnut Creek, California 94597

NOTICE OF DEFENSE

**Pharmacy Technician Registration No. TCH
57498**

[Gov. Code §§ 11505 and 11506]

Respondent.

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 do not consent to electronic reporting.

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

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

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

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

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

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3409

11 **JENNIFER ERIN PARKS**
12 **2677 Oak Road #100**
13 **Walnut Creek, California 94597**

REQUEST FOR DISCOVERY

14 **Pharmacy Technician Registration No. TCH**
15 **57498**

Respondent.

16 TO RESPONDENT:

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

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

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

1 administrative pleading, or in any additional pleading, when it is claimed that the act or
2 omission of the Respondent as to this person is the basis for the administrative proceeding;

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

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

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

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

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

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

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

27 Your response to this Request for Discovery should be directed to the undersigned attorney
28 for the Complainant at the address on the first page of this Request for Discovery within 30 days

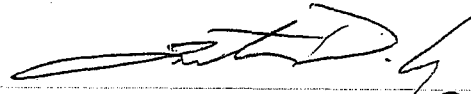
1 after service of the Accusation.

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

5 Dated: October 1, 2009

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

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JONATHAN D. COOPER
Deputy Attorney General
Attorneys for Complainant

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

SECTION 11507.5: Exclusivity of discovery provisions

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

SECTION 11507.6: Request for discovery

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

- (a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;
- (b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;
- (c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;
- (d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;
- (e) Any other writing or thing which is relevant and which would be admissible in evidence;
- (f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

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

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

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

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

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

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

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

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

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

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

Case Name: **Jennifer Erin Parks**

Case No.: **3409**

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 October 1, 2009, I served the attached **Statement to Respondent, Accusation, Notice of Defense (2), Request for Discovery and Disciplinary Guidelines** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Statement to Respondent, Accusation, Notice of Defense (2), Request for Discovery and Disciplinary Guidelines** 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:

**Jennifer Erin Parks
Pharmacy Technician
2677 Oak Road, #100
Walnut Creek, California 94597**

Certified Article Number


7160 3901 9845 4028 7484

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 October 1, 2009, at San Francisco, California.

James J. Mirarchi

Declarant



Signature