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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. 2829

11 DEBORAH A. WILLIAMS

OAH No.

12 Pharmacy Technician License No. TCH 35735

**DEFAULT DECISION
AND ORDER**

13
14 Respondent.

[Gov. Code, §11520]

15
16 FINDINGS OF FACT

17 1. On or about January 5, 2001, the Board of Pharmacy issued Pharmacy
18 Technician License No. TCH 35735 to Respondent. The License expired November 30, 2004,
19 and has not been renewed. The License was canceled based on non-renewal on March 6, 2005.

20 2. On or about March 23, 2005, Complainant Patricia F. Harris, Executive
21 Officer, Board of Pharmacy, Department of Consumer Affairs, filed, in her official capacity,
22 Accusation No. 2829 against Deborah A. Williams (Respondent) before the Board of Pharmacy.

23 3. On or about March 25, 2005, Fe M. Domingo, a Department of Justice
24 employee, served by Certified and First Class Mail copies of: Accusation No. 2829; a Statement
25 to Respondent; a Notice of Defense; a Request for Discovery; and Government Code sections
26 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
27 is 1712 Paseo Laguna Seco #120, Livermore, California 94550. A copy of these documents, and
28 a Declaration of Service, are attached as Exhibit A, and are incorporated herein by reference.

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

3 5. On or about April 1, 2005, the aforementioned documents were returned
4 by the U.S. Postal Service marked "RETURNED TO SENDER - Not Deliverable as Addressed -
5 UNABLE TO FORWARD." A copy of the postal returned documents are attached hereto as
6 Exhibit B, and are incorporated herein by reference.

7 6. Business and Professions Code section 118, subdivision (b), provides in pertinent
8 part that the suspension, expiration, forfeiture or cancellation of a license by operation of law, by
9 order of the Board, or by order of a court of law, or its surrender without the written consent of
10 the Board, shall not deprive the Board of its authority to institute or continue disciplinary action,
11 or to enter an order suspending or revoking the license or otherwise taking disciplinary action.

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

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

17 8. Respondent failed to file a Notice of Defense within 15 days after service
18 of the Accusation, and thus waived her right to a hearing on the merits of Accusation No. 2829.

19 9. California Government Code section 11520 states, in pertinent part:

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

23 10. Pursuant to its authority under Government Code section 11520, the Board
24 finds Respondent is in default. The Board will take action without further hearing and, based on
25 Respondent's express admissions by way of default and the evidence before it, contained in
26 Exhibits A and B, finds that the allegations in Accusation No. 2829 are true.

27 11. The total costs for investigation and enforcement of this matter, pursuant
28 to Business and Professions Code section 125.3, are \$2,812.25 as of April 4, 2005.

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Deborah A. Williams
3 has subjected her Pharmacy Technician License No. TCH 35735 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached as Exhibit A.

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

7 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy
8 Technician based upon the following violations alleged in the Accusation:

9 a. In violation of Business and Professions Code section 4301(f),
10 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption
11 when she, while employed as a Pharmacy Technician at Longs Pharmacy #64 in Livermore, CA,
12 between May 2003 and March 2004 unlawfully misappropriated or conspired to misappropriate
13 approximately 30,754 tablets of controlled substances and/or dangerous drugs, including Norco
14 or generic, Tylenol with Codeine #4 or generic, Valium or generic, Soma or generic, and Viagra
15 or generic, including approximately 6,120 tablets personally misappropriated by Respondent;

16 b. In violation of Business and Professions Code section 4301(j) and
17 Health and Safety Code section 11173(a), Respondent, between May 2003 and March 2004 as
18 described above, unlawfully misappropriated and/or conspired to misappropriate controlled
19 substances, by fraud, deceit, misrepresentation, subterfuge, and/or concealment of material fact;

20 c. In violation of Business and Professions Code sections 4301(j),
21 4301(o), 4051, and/or 4059, Respondent, between May 2003 and March 2004, without having a
22 pharmacist's license and not based on valid prescriptions therefor, furnished and/or conspired to
23 furnish and/or assisted in or abetted the furnishing of dangerous drugs;

24 d. In violation of Business and Professions Code sections 4301(j),
25 4301(o), and/or 4060, Respondent, between May 2003 and March 2004, had in her possession
26 and/or conspired to possess and/or assisted in or abetted the possession of controlled substances,
27 without a valid prescription/drug order therefor from an authorized prescriber;

28 ///

1 e. In violation of Business and Professions Code sections 4301(j),
2 4301(o), and/or Health and Safety Code section 11350, Respondent, between May 2003 and
3 March 2004, had in her possession and/or conspired to possess and/or assisted in or abetted the
4 possession of controlled substances, including narcotic drugs, without a valid prescription/drug
5 order therefor from an authorized prescriber;

6 f. In violation of Business and Professions Code sections 4301(j),
7 4301(o), and/or Health and Safety Code section 11351, Respondent, between May 2003 and
8 March 2004, had in her possession and/or conspired to possess and/or assisted in or abetted the
9 possession of controlled substances, including narcotic drugs, for purposes of sale;

10 g. In violation of Business and Professions Code sections 4301(j),
11 4301(o), and/or Health and Safety Code section 11352, Respondent, between May 2003 and
12 March 2004, sold or furnished and/or conspired to sell or furnish and/or assisted in or abetted the
13 sale or furnishing of controlled substances, including narcotic drugs;

14 h. In violation of Business and Professions Code sections 4301(j),
15 4301(o), and/or Health and Safety Code section 11357, Respondent, in March 2004, had in her
16 possession and/or conspired to possess and/or assisted in or abetted the possession of Marijuana;

17 i. In violation of Business and Professions Code sections 4301(j),
18 4301(o), and/or Health and Safety Code section 11170, Respondent, in March 2004, furnished
19 and/or administered to herself and/or conspired to self-administer and/or assisted in or abetted
20 the self-administration of Marijuana, a controlled substance;

21 j. In violation of Business and Professions Code sections 4301(j),
22 4301(o), and/or Health and Safety Code section 11375, Respondent, between May 2003 and
23 March 2004, had in her possession and/or conspired to possess and/or assisted in or abetted the
24 possession of Diazepam (Valium);

25 k. In violation of Business and Professions Code sections 4301(j),
26 4301(o), and/or Health and Safety Code section 11377, Respondent, between May 2003 and
27 March 2004, had in her possession and/or conspired to possess and/or assisted in or abetted the
28 possession of controlled substances, including non-narcotic drugs, without a valid prescription;

1 l. In violation of Business and Professions Code sections 4301(j),
2 4301(o), and/or Health and Safety Code section 11378, Respondent, between May 2003 and
3 March 2004, had in her possession and/or conspired to possess and/or assisted in or abetted the
4 possession of controlled substances, including non-narcotic drugs, for purposes of sale;

5 m. In violation of Business and Professions Code sections 4301(j),
6 4301(o), and/or Health and Safety Code section 11379, Respondent, between May 2003 and
7 March 2004, sold or furnished and/or conspired to sell or furnish and/or assisted in or abetted the
8 sale or furnishing of controlled substances, including non-narcotic drugs;

9 n. In violation of Business and Professions Code section 4301,
10 Respondent, between May 2003 and March 2004, engaged in repeated acts of unprofessional
11 conduct, including theft/diversion of controlled substances for purposes of sale; under-ringing of
12 employee purchases; theft of/non-payment for personal items taken from her employer; and
13 possession and use of the controlled substance Marijuana.

14 ORDER

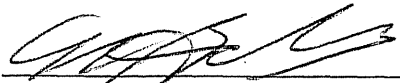
15 IT IS SO ORDERED that Pharmacy Technician License No. TCH 35735,
16 heretofore issued to Respondent Deborah A. Williams, is revoked.

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

21 This Decision shall become effective on May 27, 2005.

22 It is so ORDERED April 27, 2005

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

26 By 
27 STANELY W. GOLDENBERG
28 Board President

40055845.wpd

DOJ docket number:SF2005400181

27 Attachments:

Exhibit A: Accusation No.2829, Related Documents, and Declaration of Service

28 Exhibit B: Postal Return Documents

Exhibit A
Accusation No. 2829,
Related Documents and Declaration of Service

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of the State of California
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11 DEBORAH A. WILLIAMS
1712 Paseo Laguna Seco #120
12 Livermore, California 94550

OAH No.

A C C U S A T I O N

13 Pharmacy Technician License No. TCH 35735

14 Respondent.

15

16 Complainant alleges:

17 PARTIES

18 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
19 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about January 5, 2001, the Board of Pharmacy issued Pharmacy
21 Technician License Number TCH 35735 to Deborah A. Williams (Respondent). The Pharmacy
22 Technician License expired on November 30, 2004, and has not been renewed.

23 JURISDICTION

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

27 4. Section 4300(a) of the Code provides in pertinent part that every license
28 issued by the Board may be suspended or revoked.

1 5. Section 118(b) of the Code provides, in pertinent part, that the suspension,
2 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
3 proceed with a disciplinary action during the period within which the license may be renewed,
4 restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not
5 renewed within three years following its expiration may not be renewed, restored, or reinstated
6 and shall be canceled by operation of law at the end of the three-year period.

7
8 STATUTORY PROVISIONS

9 6. Section 4301 of the Code provides, in pertinent part, that the Board shall
10 take action against any holder of a license who is guilty of “unprofessional conduct,” defined to
11 include, but not be limited to, any of the following:

12 ...
13 “(f) The commission of any act involving moral turpitude, dishonesty, fraud,
14 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
15 otherwise, and whether the act is a felony or misdemeanor or not.

16 ...
17 “(j) The violation of any of the statutes of this state or of the United States
18 regulating controlled substances and dangerous drugs.

19 ...
20 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
21 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
22 applicable federal and state laws and regulations governing pharmacy, including regulations
23 established by the board.

24 ...
25 7. Section 4051 of the Code provides, in pertinent part, that it is unlawful for
26 any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or
27 dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a
28 prescriber, unless he or she is a pharmacist under this chapter.

1 8. Section 4059 of the Code provides, in pertinent part, that a person may not
2 furnish any dangerous drug or dangerous device except upon the prescription of a physician,
3 dentist, podiatrist, optometrist, or veterinarian.

4 9. Section 4060 of the Code provides, in pertinent part, that no person shall
5 possess any controlled substance, except that furnished to a person upon the prescription of a
6 physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a
7 certified nurse-midwife, a nurse practitioner, or a physician assistant.

8 10. Health and Safety Code section 11170 provides that no person shall
9 prescribe, administer, or furnish a controlled substance for himself or herself.

10 11. Health and Safety Code section 11173, subdivision (a), provides that no
11 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
12 the administration of or prescription for controlled substances, (1) by fraud, deceit,
13 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14 12. Health and Safety Code section 11350, in pertinent part, makes it unlawful
15 for any person to possess any controlled substance classified in Schedule III, IV, or V which is a
16 narcotic drug, unless upon a written prescription of a physician, dentist, podiatrist, or veterinarian
17 licensed to practice in this state.

18 13. Health and Safety Code section 11351, in pertinent part, makes it unlawful
19 for any person to possess for sale or purchase for sale any controlled substance classified in
20 Schedule III, IV, or V which is a narcotic drug.

21 14. Health and Safety Code section 11352, in pertinent part, makes it unlawful
22 for any person to transport, import into this state, sell, furnish, administer, or give away, or offer
23 to transport, import into this state, sell, furnish, administer, or give away, any controlled
24 substance classified in Schedule III, IV, or V which is a narcotic drug.

25 15. Health and Safety Code section 11357, in pertinent part, makes it unlawful
26 for any person to possess **marijuana** or concentrated cannabis.

27 16. Health and Safety Code section 11375, in pertinent part, makes it unlawful
28 for any person to possess, or to possess for sale, or to sell, any form of **diazepam**.

1 17. Health and Safety Code section 11377, in pertinent part, makes it unlawful
2 for any person to possess any controlled substance classified in Schedule III, IV, or V which is
3 not a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
4 veterinarian licensed to practice in this state.

5 18. Health and Safety Code section 11378, in pertinent part, makes it unlawful
6 for any person to possess for sale any controlled substance classified in Schedule III, IV, or V
7 which is not a narcotic drug.

8 19. Health and Safety Code section 11379, in pertinent part, makes it unlawful
9 for any person to transport, import into this state, sell, furnish, administer, or give away, or offer
10 to transport, import into this state, sell, furnish, administer, or give away, any controlled
11 substance classified in Schedule III, IV, or V which is not a narcotic drug.

12 20. Section 125.3 of the Code provides, in pertinent part, that the Board may
13 request the administrative law judge to direct a licentiate found to have committed a violation of
14 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

15
16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 21. Section 4021 of the Code states:

18 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
19 with Section 11053) of Division 10 of the Health and Safety Code.”

20 22. Section 4022 of the Code states, in pertinent part

21 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
22 self-use, except veterinary drugs that are labeled as such, and includes the following:

23 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
24 without prescription,’ ‘Rx only,’ or words of similar import.

25 ...

26 “(c) Any other drug or device that by federal or state law can be lawfully
27 dispensed only on prescription or furnished pursuant to Section 4006.”

28 ///

1 23. **Vicodin®**, **Vicodin ES®**, and **Norco®** are brand names for compounds of
2 varying dosages of acetaminophen and **hydrocodone bitartrate**, a narcotic and Schedule III
3 controlled substance designated by Health and Safety Code section 11056(e)(4) and a dangerous
4 drug designated by Business and Professions Code section 4022, intended for pain relief.

5 24. **Tylenol® with Codeine No. 4** ("Tylenol #4") is a brand name for a
6 compound of 325 mg acetaminophen and 60 mg **codeine**, a narcotic and Schedule III controlled
7 substance designated by Health and Safety Code section 11056(e)(2) and a dangerous drug
8 designated by Business and Professions Code section 4022, intended for pain relief.

9 25. **Valium®** is a brand name for **diazepam**, a depressant and Schedule IV
10 controlled substance designated by Health and Safety Code section 11057(d) and a dangerous
11 drug designated by Business and Professions Code section 4022, intended for anxiety relief.

12 26. **Marijuana** is a hallucinogenic substance, a Schedule I controlled
13 substance designated by Health and Safety Code section 11054(d)(13), and a dangerous drug
14 designated by Business and Professions Code section 4022.

15 27. **Soma®** is a brand name for **carisoprodol**, a dangerous drug designated by
16 Business and Professions Code section 4022, intended as a skeletal muscle relaxant.

17 28. **Viagra®** is a brand name for **sildenafil**, a dangerous drug designated by
18 Business and Professions Code section 4022, intended as a treatment for erectile dysfunction.

19
20 FACTUAL BACKGROUND

21 29. Respondent was employed as a pharmacy technician at Longs Drug Store
22 # 64 in Livermore, CA from on or about March 26, 2001 until on or about March 5, 2004.

23 30. In or about January 2004, store management discovered that Respondent
24 and another employee were engaged in a conspiracy to misappropriate controlled substances and
25 dangerous drugs from the pharmacy for purposes of street sale.

26 31. Both Respondent and her accomplice admitted to misappropriation of
27 controlled substances and dangerous drugs from the pharmacy stock at Longs Drug Store # 64,
28 and to the sale of those controlled substances and dangerous drugs for personal remuneration.

1 32. An internal audit conducted by Longs' compliance department for a period
2 covering May 25, 2003 to February 27, 2004 discovered a total loss from Longs Drug Store # 64
3 of at least: 22,246 tablets of narcotic controlled substance **Norco** or its generic equivalents; 377
4 tablets of narcotic controlled substance **Vicodin ES** or generic; 100 tablets of narcotic controlled
5 substance **Tylenol with Codeine #4** or generic; 5,148 tablets of depressant controlled substance
6 **Valium** or generic; 1,180 tablets of **Soma** or generic; and 1,703 tablets of **Viagra** or generic.

7 33. On or about March 5, 2004 and/or again on or about September 23, 2004,
8 Respondent admitted to conspiring with her co-worker to misappropriate controlled substances
9 and dangerous drugs from Longs Drug Store # 64 for purposes of street sale. Respondent also
10 admitted to personally misappropriating, in and between November 2003 and February 2004, an
11 estimated total of 4,000 tablets of **Norco** or generic, 2,000 tablets of **Vicodin ES** or generic, and
12 120 tablets of **Viagra** or generic. Respondent also admitted that all drugs misappropriated were
13 then sold on the street for personal remuneration. Respondent also admitted to under-ringing
14 fellow employees for merchandise purchased in Longs Drug Store # 64, and to taking for her
15 own use and/or consuming Longs store merchandise without making payment.

16 34. On or about March 2, 2004, a drug test administered to Respondent by
17 Longs revealed a positive result for **Marijuana**.

18
19 FIRST CAUSE FOR DISCIPLINE

20 (Dishonest/Fraudulent Acts)

21 35. Respondent is subject to disciplinary action under section 4301(f) of the
22 Code in that Respondent, as described in paragraphs 29-33 above, dishonestly or fraudulently
23 diverted and/or conspired to divert large quantities of controlled substances and dangerous drugs.

24 SECOND CAUSE FOR DISCIPLINE

25 (Obtaining Controlled Substances by Fraud or Deceit)

26 36. Respondent is subject to disciplinary action under section 4301(j) of the
27 Code in that Respondent, as described in paragraphs 29-33 above, obtained controlled substances
28 by fraud, deceit, or subterfuge, in violation of Health and Safety Code section 11173(a).

1 THIRD CAUSE FOR DISCIPLINE

2 (Unlawful Furnishing of Controlled Substances)

3 37. Respondent is subject to disciplinary action under section 4301(j) and/or
4 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, without
5 a pharmacist's license and not based on valid prescriptions therefor, furnished and/or conspired
6 to furnish and/or assisted in or abetted the furnishing of large quantities of dangerous drugs, in
7 violation of section 4051 and/or section 4059 of the Code.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Unlawful Possession of Controlled Substances)

10 38. Respondent is subject to disciplinary action under section 4301(j) and/or
11 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
12 her possession and/or conspired to possess and/or assisted in or abetted the possession of large
13 quantities of controlled substances, without a valid prescription/drug order therefor from an
14 authorized prescriber, in violation of section 4060 of the Code.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Unlawful Possession of Narcotic Controlled Substances)

17 39. Respondent is subject to disciplinary action under section 4301(j) and/or
18 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
19 her possession and/or conspired to possess and/or assisted in or abetted the possession of large
20 quantities of controlled substances, including narcotic drugs, without a valid prescription/drug
21 order therefor, in violation of Health and Safety Code section 11350.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Unlawful Possession for Sale of Narcotic Controlled Substances)

24 40. Respondent is subject to disciplinary action under section 4301(j) and/or
25 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
26 her possession and/or conspired to possess and/or assisted in or abetted the possession of large
27 quantities of controlled substances, including narcotic drugs, for purposes of sale, in violation of
28 Health and Safety Code section 11351.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Unlawful Sale or Furnishing of Narcotic Controlled Substances)

3 41. Respondent is subject to disciplinary action under section 4301(j) and/or
4 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, sold or
5 furnished and/or conspired to sell or furnish and/or assisted in or abetted the sale or furnishing of
6 large quantities of controlled substances, including narcotic drugs, in violation of Health and
7 Safety Code section 11352.

8 EIGHTH CAUSE FOR DISCIPLINE

9 (Unlawful Possession of Marijuana)

10 42. Respondent is subject to disciplinary action under section 4301(j) and/or
11 section 4301(o) of the Code in that Respondent, as described in paragraph 34 above, had in her
12 possession and/or conspired to possess and/or assisted in or abetted the possession of **marijuana**,
13 in violation of Health and Safety Code section 11357.

14 NINTH CAUSE FOR DISCIPLINE

15 (Unlawful Self-Administration of Controlled Substance)

16 43. Respondent is subject to disciplinary action under section 4301(j) and/or
17 section 4301(o) of the Code in that Respondent, as described in paragraph 34 above, furnished
18 and/or administered to herself **marijuana**, and/or conspired to self-administer and/or assisted in
19 or abetted the self-administration thereof, in violation of Health and Safety Code section 11170.

20 TENTH CAUSE FOR DISCIPLINE

21 (Unlawful Possession of Diazepam)

22 44. Respondent is subject to disciplinary action under section 4301(j) and/or
23 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
24 her possession and/or conspired to possess and/or assisted in or abetted the possession of
25 **diazepam**, in violation of Health and Safety Code section 11375.

26 ELEVENTH CAUSE FOR DISCIPLINE

27 (Unlawful Possession of Non-Narcotic Controlled Substances)

28 45. Respondent is subject to disciplinary action under section 4301(j) and/or

1 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
2 her possession and/or conspired to possess and/or assisted in or abetted the possession of large
3 quantities of controlled substances, including non-narcotic drugs, without a valid prescription
4 therefor, in violation of Health and Safety Code section 11377.

5 TWELFTH CAUSE FOR DISCIPLINE

6 (Unlawful Possession for Sale of Non-Narcotic Controlled Substances)

7 46. Respondent is subject to disciplinary action under section 4301(j) and/or
8 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, had in
9 her possession and/or conspired to possess and/or assisted in or abetted the possession of large
10 quantities of controlled substances, including non-narcotic drugs, for purposes of sale, in
11 violation of Health and Safety Code section 11378.

12 THIRTEENTH CAUSE FOR DISCIPLINE

13 (Unlawful Sale or Furnishing of Non-Narcotic Controlled Substances)

14 47. Respondent is subject to disciplinary action under section 4301(j) and/or
15 section 4301(o) of the Code in that Respondent, as described in paragraphs 29-33 above, sold or
16 furnished and/or conspired to sell or furnish and/or assisted in or abetted the sale or furnishing of
17 large quantities of controlled substances, including non-narcotic drugs, in violation of Health and
18 Safety Code section 11379.

19 FOURTEENTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 48. Respondent is subject to disciplinary action under section 4301 of the
22 Code in that Respondent, as described in paragraphs 29-34 above, engaged in an unprofessional
23 course of conduct including the following unprofessional acts:

- 24 a. theft/diversion of controlled substances for purposes of sale;
25 b. under-ringing of employee purchases at Longs Drug Store # 64;
26 c. theft of/non-payment for personal items from her employer; and
27 d. possession and use of the controlled substance Marijuana.

28 ///

PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 35735, issued to Respondent Deborah A. Williams.

2. Ordering Respondent Deborah A. Williams to pay to the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 3/23/05

P. J. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2005400181

40050479.wpd

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of the State of California
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6 Attorneys for Complainant

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9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2829

11 DEBORAH A. WILLIAMS

STATEMENT TO RESPONDENT

12 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 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
San Francisco, California 94102.

28

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

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

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

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

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

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

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

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 Board's Disciplinary Guidelines will be provided to you on your written request to the state
2 agency bringing this action.

3 If you are interested in pursuing this alternative to a formal administrative hearing,
4 or if you have any questions, you or your attorney should contact Deputy Attorney General
5 Joshua A. Room at the earliest opportunity.

6 *****

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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. 2829

DEBORAH A. WILLIAMS

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:

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:

DEBORAH A. WILLIAMS

Respondent.

Case No. 2829

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- I do not consent to electronic reporting.

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

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Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

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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 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2829

11 DEBORAH A. WILLIAMS

REQUEST FOR DISCOVERY

12 Respondent.

[Gov. Code § 11507.6]

13
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 Complainant, are entitled to certain information
17 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
18 Government Code concerning such rights is included 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 witnesses to the extent known to the
22 Respondent, 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
24 the 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
28 proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 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 to
12 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,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

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

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

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

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

DATED: 3/25/05

BILL LOCKYER, Attorney General
of the State of California



JOSHUA A. ROOM
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
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Deborah A. Williams*
Agency Case No. 2829

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 March 25, 2005, 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:

DEBORAH A. WILLIAMS
1712 Paseo Laguna Seco #120
Livermore, CA 94550

Certified Article Number

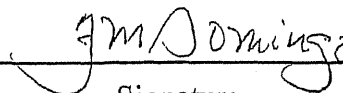
7160 3901 9848 0785 7740

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 March 25, 2005 at San Francisco, California.

FE M. DOMINGO

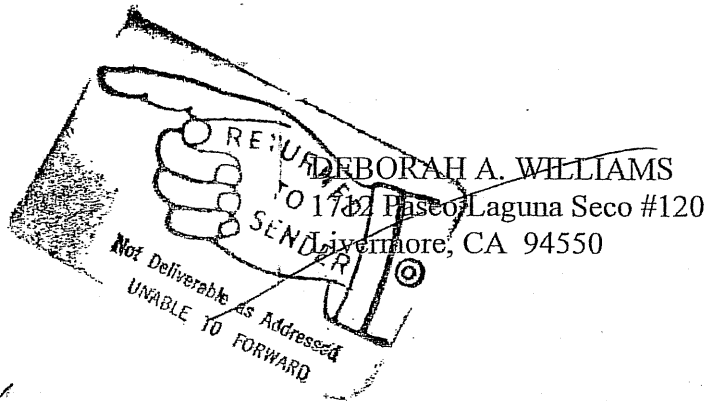
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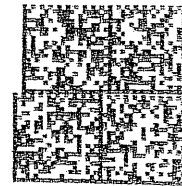
Signature

Exhibit B
Postal Return Documents

STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANCISCO, CA 94102-7004



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