

1 BILL LOCKYER, Attorney General  
of the State of California  
2 KENT D. HARRIS, State Bar No. 144804  
Deputy Attorney General  
3 California Department of Justice  
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4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
6  
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against: Case No. 2938  
12 AIBHNE O'HAIMHIRGIN  
250 Macadoo Dr. #1113  
13 Folsom, CA 95630 **DEFAULT DECISION**  
**AND ORDER**  
14 Pharmacist License No. RPH 49485 [Gov. Code, §11520]  
15 Respondent.

16 FINDINGS OF FACT

- 17  
18 1. On or about January 31, 2006, Complainant Patricia F. Harris, in her  
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
20 Affairs, filed Accusation No. 2938 against Aibhne O'Haimhirgin (Respondent) before the Board  
21 of Pharmacy.  
22 2. On or about August 18, 1997, the Board of Pharmacy (Board) issued  
23 Pharmacist License No. RPH 49485 to Respondent. The Pharmacist License was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on August 31, 2007,  
25 unless renewed.  
26 3. On or about February 16, 2006, Mary Anne Snyder, an employee of the  
27 Department of Justice, served by First Class Mail and certified mail, a copy of the Accusation  
28 No. 2938, Statement to Respondent, Notice of Defense, Request for Discovery, and Government

1 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,  
2 which was and is 250 Macadoo Dr. #1113, Folsom, CA 95630. Respondent was also served by  
3 registered mail at an address in Ireland, 42 Coolkill, Sandyford, Dublin, Ireland. A copy of the  
4 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are  
5 incorporated herein by reference.

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

8 5. On or about April 3, 2006, the documents served in Ireland were returned  
9 by the U.S. Postal Service with Irish postal service markings indicating that the mailing was "not  
10 called for" (Unclaimed). The documents served in the United States by both regular and certified  
11 mail have not been returned. A copy of the postal returned documents from Ireland are attached  
12 hereto as exhibit B, and are incorporated herein by reference.

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service  
19 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
20 Accusation No. 2938.

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

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

26 9. Pursuant to its authority under Government Code section 11520, the Board  
27 finds Respondent is in default. The Board will take action without further hearing and, based on  
28 Respondent's express admissions by way of default and the evidence before it, contained in

1 exhibits A and B finds that the allegations in Accusation No. 2938 are true.

2 10. The total costs for investigation and enforcement are \$3,157.50 as of April  
3 4, 2006.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Aibhne O'Haimhirgin  
6 has subjected his Pharmacist License No. RPH 49485 to discipline.

7 2. A copy of the Accusation and the related documents and Declaration of  
8 Service are attached.

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

10 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist  
11 License based upon the following violations alleged in the Accusation:

12  
13 ORDER

14 IT IS SO ORDERED that Pharmacist License No. RPH 49485, heretofore issued  
15 to Respondent Aibhne O'Haimhirgin, is revoked.

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

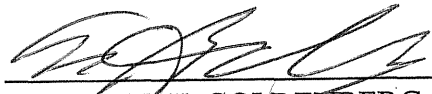
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This Decision shall become effective on June 15, 2006

It is so ORDERED May 16, 2006

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STANLEY W. GOLDENBERG  
Board President

Attachments:

- Exhibit A: Accusation No.2938, Related Documents, and Declaration of Service
- Exhibit B: Postal Return Documents

DOJ docket number:03583110-SA2005104486  
O'haimhirgin default.wpd

Exhibit A  
Accusation No. 2938,  
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General  
of the State of California  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2938*

12 AIBHNE O'HAIMHIRGIN  
250 Macadoo Dr. #1113  
13 Folsom, CA 95630

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

14 Pharmacist License No. RPH 49485

15 Respondent.  
16

17 Complainant alleges:

18 PARTIES

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

22 2. On or about August 18, 1997, the Board of Pharmacy issued Pharmacist  
23 License Number RPH 49485 to Aibhne O'Haimhirgin (Respondent). The Pharmacist License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 August 31, 2007, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4301 of the Code states in pertinent part:

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

7 "(h) The administering to oneself, of any controlled substance, or the use of any  
8 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
9 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
10 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
11 the public the practice authorized by the license.

12 ....

13 "(k) The conviction of more than one misdemeanor or any felony involving the  
14 use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
15 combination of those substances.

16 "(l) The conviction of a crime substantially related to the qualifications, functions,  
17 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
19 substances or of a violation of the statutes of this state regulating controlled substances or  
20 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
21 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
22 The board may inquire into the circumstances surrounding the commission of the crime, in order  
23 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
24 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
25 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
26 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
27 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
28 the judgment of conviction has been affirmed on appeal or when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
2 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
3 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
4 or indictment.

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

9           5.       Section 4327 of the Code states that "Any person who, while on duty,  
10 sells, dispenses or compounds any drug while under the influence of any dangerous drug or  
11 alcoholic beverages shall be guilty of a misdemeanor"

12           6.       Section 4361 of the Code states, in pertinent part, that "(c) "Pharmacists  
13 Recovery Program" or "program" means the rehabilitation program created by this article for  
14 pharmacists whose competency may be threatened or diminished due to abuse of alcohol or other  
15 drugs."

16           7.       Section 4369 of the Code states that:

17                   (a) The board shall inform, in writing, each pharmacist referred to the  
18 employees assistance program as part of a board action of the procedures followed in the  
19 program, of the rights and responsibilities of the pharmacist in the program, and of the possible  
20 consequences of noncompliance with the program.

21                   (b) Any failure to comply with the provisions of the treatment program  
22 may result in the termination of the pharmacist's participation in the diversion program. The  
23 name and license number of a pharmacist who is terminated for failure to comply with the  
24 provisions of the treatment program and the basis for the termination shall be reported to the  
25 board.

26                   (c) Participation in a program under this article shall not be a defense to  
27 any disciplinary action that may be taken by the board. Further, no provision of this article shall  
28 preclude the board from commencing disciplinary action against a licensee who is terminated



1 from the program under this article."

2 8. Section 118 of the Code states in pertinent part:

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

10 "(c) As used in this section, 'board' includes an individual who is  
11 authorized by any provision of this code to issue, suspend, or revoke a license, and 'license'  
12 includes 'certificate,' 'registration,' and 'permit.'"

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

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Conviction of substantially related crime)

19 10. Respondent is subject to disciplinary action under section 4301(k) in that  
20 on 12/2/02 he was convicted of substantially related crimes in the case of *People v. Aibhne*  
21 *O'Haimhirgin*, Sacramento Superior Court Case no. 02F08637. Respondent pled Nolo  
22 Contendere to one count of violating Vehicle Code section 2800.2 (driving in willful or wanton  
23 disregard for safety of persons or property while fleeing from pursuing officer) a felony, and one  
24 count of Vehicle Code section 23152(a) (driving under the influence) a misdemeanor.

25 11. The facts and circumstances of the above convictions were that on or  
26 about October 9, 2002 respondent was observed speeding by the California Highway Patrol.  
27 When a traffic stop was initiated, respondent fled in his vehicle in an attempt to evade the officer,  
28 running through red lights and nearly causing several accidents. Respondent eventually stopped

1 and was determined to be under the influence of alcohol. His BAC tested at .20 and .21  
2 respectively in two field breath tests.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Dispensing dangerous drugs while under the influence)

5 12. Respondent is subject to disciplinary action under section 4327 in  
6 conjunction with section 4301(h) for , in that on March 20, 2004, while working at Safeway  
7 Pharmacy #1618 in Pleasanton, California, respondent refilled 13 prescriptions for dangerous  
8 drugs while on duty as a licensed pharmacist under the influence of alcohol.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Termination from P RP for failure to comply with program requirements)

11 13. Respondent is subject to disciplinary action under section 4301 (general  
12 unprofessional conduct), and 4369 in that on May 10, 2005, respondent entered into the  
13 pharmacist Recovery Program (PRP) after referral by the Board of Pharmacy in lieu of  
14 disciplinary action. Subsequently, on June 18, 2005, respondent was terminated from the PRP  
15 after his failure to report for in-house treatment for his alcoholism, and his failure to call in for  
16 random biological fluid testing.

17  
18 **PRAYER**

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

21 A. Revoking or suspending Pharmacist License Number RPH 49485, issued  
22 to Aibhne O'Haimhirgin;

23 B. Ordering Aibhne O'Haimhirgin to pay the Board of Pharmacy the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3;

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

DATED: 1/31/06

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

03583110-SA2005104486  
OHaimhirgin accusation.wpd  
kdh:12/14/05

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**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2938

11 AIBHNE O'HAIMHIRGIN

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

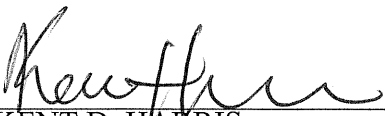
22                 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for  
23 Discovery should be deemed to authorize the inspection or copying of any writing or thing which  
24 is privileged from disclosure by law or otherwise made confidential or protected as attorney's  
25 work product.

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

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

4 DATED: 2/2/06

5 BILL LOCKYER, Attorney General  
6 of the State of California

7   
8 \_\_\_\_\_  
9 KENT D. HARRIS  
Deputy Attorney General

10 Attorneys for Complainant

11 10219566.wpd

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**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2938

11 AIBHNE O'HAIMHIRGIN

**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  
16 Pharmacy of the 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  
18 or mailed to the Board, represented by Deputy Attorney General Kent D. Harris, within fifteen  
19 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will  
20 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon  
21 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  
23 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided  
24 in section 11506 of the Government Code, to

25 **Kent D. Harris**  
**Deputy Attorney General**  
26 **1300 I Street, Suite 125**  
**P.O. Box 944255**  
27 **Sacramento, California 94244-2550.**

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, 560 J Street, Suite 340/360, Sacramento,  
12 California 95814, 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 Kent  
5 D. Harris 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:

AIBHNE O'HAIMHIRGIN

Respondent.

Case No. 2938

**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.

- 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.

10219566.wpd

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

In the Matter of the Accusation Against:

AIBHNE O'HAIMHIRGIN

Respondent.

Case No. 2938

**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.

- 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.

10219566.wpd

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

**SECTION 11507.5: Exclusivity of discovery provisions**

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

**SECTION 11507.6: Request for discovery**

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

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

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

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

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

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

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

## **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

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

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

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

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

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

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

\*\*\*\*\*

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**

(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: Aibhne O'Haimhirgin**

Case No.: **2938**

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 2, 2006, I served the attached **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** 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 Sacramento addressed as follows:

Aibhne O'Haimhirgin  
250 Macadoo Drive, #1113  
Folsom, CA 95630  
Respondent  
Mail Cert. No. 7160 3901 9848 9138 6676

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 2, 2006, at Sacramento, California.

Mary Anne Snyder

\_\_\_\_\_  
Declarant

  
\_\_\_\_\_  
Signature

cc: Patricia Harris, Board of Pharmacy



7160 3901 9848 9... 6676

**TO:** Aibhne O'Haimhirgin  
250 Macadoo Drive, #1113  
Folsom, CA 95630

**SENDER:** Kent D. Harris, DAG

**REFERENCE:** O'Haimhirgin/AccusPkt

PS Form 3800, June 2000

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service  
**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail

POSTMARK OR DATE

02/02/06

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

Case Name: **In the Matter of the Accusation Against:** Aibhne O'Haimhirgin

Case No.: **2938**

I declare:

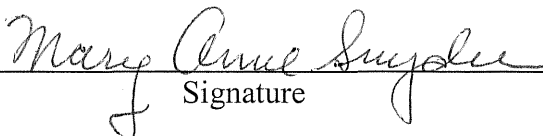
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General 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 16, 2006, I served the attached **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** 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 Sacramento addressed as follows:

Aibhne O'Haimhirgin  
42 Coolkill, Sandyford  
Dublin, Ireland  
Respondent  
Registered No. RR 294 377 099 US

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 16, 2006, at Sacramento, California.

Mary Anne Snyder  
\_\_\_\_\_  
Declarant

  
\_\_\_\_\_  
Signature

cc: Patricia Harris, Board of Pharmacy

**OFFICE OF THE ATTORNEY GENERAL**  
**P. O. BOX 944255**  
**SACRAMENTO, CA 94244-2550**

Check type of mail:  
 Express       Return Receipt (RR) for Merchandise  
 Registered       Certified  
 Insured       Int'l Rec. Del.  
 COD       Del. Confirmation (DC)

If Registered Mail check below:  
 Insured  
 Not Insured

Affix stamp here if issued as certificate of mailing, or for additional copies of this bill. **Postmark and Date of Receipt**

Line	Article Number	Addressee Name, Street, and PO Address	Postage	Fee	Handling Charge	Actual Value (If Reg.)	Insured Value	Due Sender If COD	RR Fee	DC Fee	SC Fee	SH Fee	SD Fee	RD Fee	Remarks
1	RR 294 377 099 US	Aibhne O'Haimhirgin 42 Coolkill, Sandyford Dublin, Ireland													
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
13															
14															
15															
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office		Postmaster, Per (Name of receiving employee)		The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual R900, S913, and S921 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to Standard Mail (A) and Standard Mail (B) parcels.									

**Registered No.** RR294377099US  
**RR 294 377 099 US**

Reg. Fee \$7.90  
 Handling Charge \$0.00  
 Postage \$4.20

Return Receipt \$1.85  
 Restricted Delivery \$0.00

Received by \_\_\_\_\_

Customer Must Declare Full Value \$ \$0.00

With Postal Insurance  
 Without Postal Insurance

Domestic Insurance up to \$25,000 is included in the fee. International indemnity is limited. (See Reverse).

**0814**  
**02/16/2006**

METROPS SACRAMENTO

**OFFICIAL USE**

*M.A. Smyth, Licensing Section*

**FROM**  
 Calif. Dept. of Justice  
 Attorney General's Office  
 1300 I Street, Suite 125  
 Sacramento, CA 94244-2550

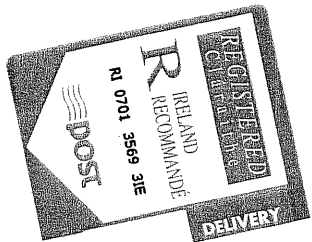
**TO**  
 Aibhne O'Haimhirgin  
 42 Coolkill, Sandyford  
 Dublin, Ireland

PS Form 3877, Receipt for Registered Mail Copy 1 - Customer  
 May 2004 (7530-02-000-9051) (See Information on Reverse)  
 For domestic delivery information, visit our website at www.usps.com®

*M.A. Smyth, Licensing Section*

) )

Exhibit B  
Postal Return Documents



**DEPARTMENT OF JUSTICE**

Office of the Attorney General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550

TO

Aibne O'Haimhirgin  
42 Coolkill, Sandyford

RLB - ROSCOMMON Case ID: 8

DEPT. OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
1300 I STREET, SUITE 125  
PO BOX 944255  
SACRAMENTO, CA 94244-2550  
USA

*B  
Mark  
7/3/06*



0000



00126

SF

**RETURN TO SENDER**  
**SEOL AR AIS AG AN SEOLTÓIR**

- Insufficient address  
*Seoladh neamhiomlán*
- Gone away  
*Imithe*
- Not at this address  
*Ní ag an seoladh seo*
- Refused  
*Diúltaithe*
- Deceased  
*Básaithe*
- Not called for  
*Gan bhailiú*

Other *Minú eile*  
Please explain  
*Minigh le do thoil*

Initials SP

Date 22/7

Help us to help you! Put your address on the top left hand corner letter you send. That way, if we can't deliver it we can return it. Cuidigh linn cuidiú leat! Cuir do sheoladh ar bharr gach litreach, ar Má theipeann orainn i a sheachadadh seoltar ar ais chugat i.