

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General

3 Attorneys for Complainant

4 BLANCA I. LOPEZ,
5 Senior Legal Analyst
California Department of Justice
6 110 West "A" Street, Suite 1100
San Diego, CA 92101

7 P.O. Box 85266
8 San Diego, CA 92186-5266
Telephone: (619) 645-2610
9 Facsimile: (619) 645-2061

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

13 In the Matter of the Accusation Against:

14 WALTER EDWARD LOOSLI
15 1054 San Lucas Road
Palm Springs, CA 92264
16 Pharmacy No. TCH 59771

17 Respondent.

Case No. 2948

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18
19 FINDINGS OF FACT

20 1. On or about June 28, 2006, Complainant Patricia Harris, in her official
21 capacity as the Executive Officer of the Board of Pharmacy (Board) filed Accusation No. 2948
22 against Walter Edward Loosli (Respondent).

23 2. On or about November 29, 2004, the Board issued Pharmacy Technician
24 License No. TCH 59771 to Respondent. Respondent's license will expire on November 26,
25 2006, unless renewed.

26 3. On or about July 12, 2006, Sandra Sotelo, an employee of the Department
27 of Justice, served by Certified Mail and U. S. Mail a copy of the Accusation No. 2948, Statement
28 to Respondent, Notice of Defense, Request for Discovery, and Government Code sections

1 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and
2 is 1054 San Lucas Road, Palm Springs, CA 92264. A copy of the Accusation, the related
3 documents, and Declaration of Service are attached as exhibit A, and are incorporated herein by
4 reference.

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

7 5. On or about July 27, 2006, the aforementioned documents were returned
8 by the U.S. Postal Service marked "Attempted-Not Known." A copy of the postal returned
9 documents are attached hereto as exhibit B, and are incorporated herein by reference.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 of the Accusation was attempted at his address of record with the Board, and therefore waived
17 his right to a hearing on the merits of Accusation No. 2948.

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

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

23 9. 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, B and C, finds that the allegations in Accusation No. 2948 are true.

27 10. The total costs for investigation and enforcement are \$990.00 as of
28 October 26, 2006.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Walter Edward Loosli
3 has subjected his Pharmacy Technician License No. TCH 59771 to discipline.

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

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

7 4. The Board is authorized to revoke Respondent's Pharmacy Technician
8 License No. TCH 59771 based upon the following violations alleged in the Accusation:

9 a. Respondent was convicted of transportation of a controlled
10 Substance - Methamphetamine, on August 14, 2003.

11 b. Respondent was convicted of driving under the influence of
12 alcohol and/or drugs on May 27, 1993.

13 c. Respondent was convicted of driving under the influence of
14 alcohol and/or drugs with a blood alcohol level of 0.08% or above on December 5, 1986.

15 d. Respondent was convicted of driving under the influence of
16 alcohol and/or drugs on July 31, 2003.

17 e. Respondent lied under penalty of perjury on October 27, 2004,
18 when he signed his application for Pharmacy Technician License No. TCH 59771.

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Exhibit A
Accusation No. 2948,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General

3 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 2948

14 **WALTER EDWARD LOOSLI**
15 1054 San Lucas Road
Palm Springs, CA 92264

A C C U S A T I O N

16 Current License No. TCH 59771
17 Former License No. License No. TCH 34729

18 Respondent.

19
20 Complainant alleges:

21 PARTIES

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

24 Current License

25 2. On or about November 29, 2004, the Board of Pharmacy issued License
26 Number TCH 59771 to Walter Edward Loosli. The license will expire on November 30, 2006,
27 unless renewed.

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1 **Former License**

2 3. On or about September 27, 2000, the Board of Pharmacy issued License
3 Number TCH 34729 to Walter Edward Loosli. The license expired on November 30, 2003, and
4 was canceled by the Board of Pharmacy for non-renewal on March 7, 2004.

5 **JURISDICTION**

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

9 5. Section 4300 of the Code states:

10 "(a) Every license issued may be suspended or revoked.

11 ". . . ."

12 6. Section 4301 of the Code states:

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

17 ". . . ."

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

21 ". . . ."

22 "(g) Knowingly making or signing any certificate or other document that falsely
23 represents the existence or nonexistence of a state of facts.

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

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

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

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

". . . .

"(p) Actions or conduct that would have warranted denial of a license.

". . . .

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1 7. Section 118, subdivision (b), of the Code states, in pertinent part, that the
2 expiration or surrender of a license shall not deprive the Board of jurisdiction to proceed with a
3 disciplinary action during the period within which the license may be renewed, restored, reissued
4 or reinstated.

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

9 9. Section 490 of the Code states:

10 "A board may suspend or revoke a license on the ground that the licensee has been
11 convicted of a crime, if the crime is substantially related to the qualifications, functions,
12 or duties of the business or profession for which the license was issued. A conviction
13 within the meaning of this section means a plea or verdict of guilty or a conviction
14 following a plea of nolo contendere. Any action which a board is permitted to take
15 following the establishment of a conviction may be taken when the time for appeal has
16 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
17 granting probation is made suspending the imposition of sentence, irrespective of a
18 subsequent order under the provisions of Section 1203.4 of the Penal Code."

19 10. Section 492 of the Code states:

20 "Notwithstanding any provision of law, successful completion of any diversion
21 program under the Penal Code, or successful completion of an alcohol and drug problem
22 assessment program under Article 5 (commencing with Section 2349.50) of Chapter 12 of
23 Division 11 of the Vehicle Code, shall not prohibit an agency established under Division 2
24 (commencing with Section 500) of this code, or any initiative act referred to in that division,
25 from taking disciplinary action against a licensee or from denying a license for professional
26 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
27 pertaining to an arrest."

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11. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law . . . to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only to that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

". . . ."

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

"For the purpose of denial, suspension, or revocation of a personal or facility license . . . a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

FIRST CAUSE FOR DISCIPLINE

(Conviction - August 14, 2003)
(Transportation of Methamphetamine)

13. Respondent is subject to disciplinary action under sections 490, 492, and 4301(l) of the Code in that on or about August 14, 2003, in a proceeding entitled, People vs. Walter Edward Loosli, San Bernardino County Superior Court No. FMB006121, he was convicted, upon his plea of nolo contendere, of violation of Health and Safety Code section 11379(a) (Transportation of a Controlled Substance - Methamphetamine). The circumstances are as follows:

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1 a. On or about July 31, 2003, Respondent was stopped by San Bernardino
2 County Sheriff's Office personnel. During the stop, officers found two glass pipes and a plastic
3 zip-loc baggie with a bag inside of it which contained a white powdery substance which field
4 tested positive for methamphetamine. Respondent was arrested for violation of Health and
5 Safety Code section 11379(a) (Transportation of a Controlled Substance).

6 b. As a result of the above conviction, Respondent was sentenced pursuant to
7 Penal Code section 1210.1 and placed on 3 years supervised probation. Respondent was ordered
8 to participate and successfully complete a counseling program as directed by the probation
9 officer, perform 40 hours of community service, enroll and complete a drug treatment plan, and
10 attend Narcotics Anonymous/Alcoholics Anonymous.

11 On September 24, 2004, the Court found that Respondent successfully completed
12 the drug treatment program. The Court ordered Respondent's conviction be set aside and
13 dismissed the case pursuant to Penal Code section 1210.1(d). The Court allowed Respondent's
14 to withdraw his initial plea of nolo contendere and enter a plea of not guilty. The Court accepted
15 the plea and dismissed the above conviction.

16 SECOND CAUSE FOR DISCIPLINE

17 (Conviction of a Crime - May 27, 1993)
18 (Driving Under the Influence of Alcohol and/or Drugs)

19 14. Respondent is subject to disciplinary action under sections 490 and 4301(1)
20 of the Code in that on or about May 27, 1993, in a proceeding entitled, People vs. Walter Edward
21 Loosli, in Los Angeles County Municipal Court No. 93M02038, Respondent was convicted,
22 upon his plea of guilty, of violation of Vehicle Code section 23152(a) (Driving Under the
23 Influence of Alcohol and/or Drugs). The circumstances are as follows:

24 a. On or about May 14, 1993, Respondent was arrested by Arcadia Police
25 Department of violation of Vehicle Code sections 23152(A) (Driving Under the Influence of
26 Drugs and/or Alcohol), 23152(B) (Driving with Alcohol Level 0.08% or Above), and for
27 23222(B) (Possession of Less Than 10oz. of Marijuana in Vehicle).

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud and Deceit)
3 (False Statement on Application)

4 17. Respondent is subject to disciplinary action under section 4301(g) in that
5 on or about October 27, 2004, Respondent falsely certified under penalty of perjury, in response
6 to Question 6 of his application for a pharmacy technician license, which reads, "Have you ever
7 been convicted of or pled no contest to a violation of any law of a foreign country, the United
8 States or any state laws or local ordinances? You must include all misdemeanor and felony
9 convictions, regardless of the age of the conviction, including those which have been set aside
10 under Penal Code section 1203.4 . . .," that Respondent had never been convicted, when in fact
11 Respondent has had three convictions. See paragraphs 13, 14, and 15, above.

12 PRAYER

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

15 A. Revoking or suspending License Number TCH 59771, issued to Walter
16 Edward Loosli;

17 B. Ordering Walter Edward Loosli to pay the Board of Pharmacy the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3;

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

21 DATED: 6/28/09

22
23 P. J. Harris
24 PATRICIA HARRIS
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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

Case Name: **In the Matter of the Accusation Against: Loosli, Walter Edward, TCH**

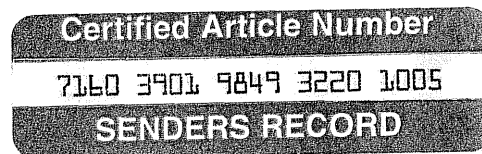
No.: 2948

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 July 12, 2006, I served the attached **STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE (2 COPIES), REQUEST FOR DISCOVERY, DISCOVERY STATUTES, DISCIPLINARY GUIDELINES** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT, ACCUSATION, NOTICE OF DEFENSE (2 COPIES), REQUEST FOR DISCOVERY, DISCOVERY STATUTES, DISCIPLINARY GUIDELINES** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at San Diego addressed as follows

Walter Edward Loosli
1054 San Lucas Road
Palm Springs, CA 92264



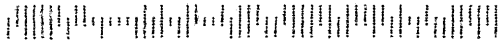
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 12, 2006, at San Diego, California.

Sandra Sotelo
Declarant

Sandra Sotelo
Signature

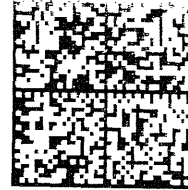
Exhibit B
Postal Return Documents

CERTIFIED MAIL



7160 3901 9849 3220 1005

RETURN RECEIPT REQUESTED



016H26502778

\$06.800

07/12/2006

Mailed From 92101

US POSTAGE

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RETURN TO SENDER

B. LEPEZ

DEPARTMENT OF JUSTICE

Office of the Attorney General
110 West "A" Street, Suite 1100
San Diego, California 92101

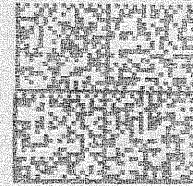
TO

Walter Edward Loosli
1054 San Lucas Road
Palm Springs, CA 92264

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MISSING ADDRESS

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RETURN TO SENDER

B. LOPEZ

DEPARTMENT OF JUSTICE

Office of the Attorney General
110 West "A" Street, Suite 1100
San Diego, California 92101

TO

Walter Edward Loosli
1054 San Lucas Road
Palm Springs, CA 92264

ATTEMPTED
NO SIGN
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Exhibit C
Certification of Costs

1 BILL LOCKYER, Attorney General
of the State of California
2 MARGARET A. LAFKO, State Bar No. 105921
Supervising Deputy Attorney General
3 BLANCA I. LOPEZ,
Senior Legal Analyst
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12
13 WALTER EDWARD LOOSLI
14 Respondent.

Case No. 2948

CERTIFICATION OF COSTS:
DECLARATION OF BLANCA I.
LOPEZ

[Business and Professions Code section
125.3]

15
16
17
18 I, BLANCA I. LOPEZ, hereby declare and certify as follows:

19 1. I am a Senior Legal Analyst employed by the California Department of
20 Justice, Office of the Attorney General (Office). I am assigned to the Licensing Section in the
21 Civil Division of the Office. I have been designated as the representative to certify the costs of
22 prosecution by DOJ and incurred by the Board of Pharmacy in this case. I make this certification
23 in my official capacity and as an officer of the court.

24 2. I represent the Complainant, Patricia Harris, Executive Officer of the
25 Board of Pharmacy, in this action. I was assigned to handle this case on or around November 4,
26 2005.

27 ///

28 ///

1 3. As the Senior Legal Analyst assigned to handle this case, I performed a
 2 wide variety of tasks that were necessary for the prosecution of this matter, including, but not
 3 limited to (1) conducting an initial case evaluation; (2) obtaining, reading and reviewing the
 4 investigative material and requesting further investigation, as needed; (3) drafting pleadings,
 5 correspondence, memoranda, and other case-related documents; (4) researching relevant points
 6 of law and fact; (5) consulting and/or meeting with colleague deputies, supervisory staff, experts,
 7 client staff, and investigators; (6) communicating and corresponding with Walter Edward Loosli;
 8 and (7) providing and requesting discovery.

9 4. I am personally familiar with the time recording and billing practices of
 10 DOJ and the procedure for charging the client agency for the reasonable and necessary work
 11 performed on a particular case. Whenever work is performed on a case, it is the duty of the
 12 employee to keep track of the time spent and to report that time on DOJ time sheets at or near the
 13 time of the tasks performed. Based upon the time reported through October 26, 2006, DOJ has
 14 billed or will bill the Board for the following amount of time spent working on the above entitled
 15 case.

Employee/ <u>Position</u>	Fiscal <u>Year</u>	No. of <u>Hours</u>	Hourly <u>Rate</u>	Total <u>Charges</u>
Margaret A. Lafko Supervising Deputy Attorney General	2005-2006	0.50	146	73.00
Blanca Lopez Senior Legal Analyst	2005-2006	14.25	92	1,311.00
Blanca Lopez Senior Legal Analyst	2006-2007	4.50	101	454.50
				TOTAL: \$1,838.50

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5. To the best of my knowledge the items of cost set forth in this certification are correct and were necessarily incurred in this case.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 11-8-06, in the City of San Diego, California.



BLANCA I. LOPEZ
Senior Legal Analyst

Declarant

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SD2005800260