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of the State of California  
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Supervising Deputy Attorney General  
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 CYNTHIA A. GARZA  
13 21 Larkfield Maples Ct.  
14 Santa Rosa, CA 95403

15 Pharmacy Technician License No. TCH 38775

16 Respondent.

Case No. 3017

OAH No.

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

17 FINDINGS OF FACT

18 1. On or about October 31, 2006, Complainant Virginia Herold, in her  
19 official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of  
20 Consumer Affairs, filed Accusation No. 3017 against Cynthia A. Garza (Respondent) before the  
21 Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about August 16, 2001, the Board of Pharmacy (Board) issued  
23 Pharmacy Technician License No. TCH 38775 to Respondent. The Pharmacy Technician  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on February 28, 2007, unless renewed.

26 3. On or about November 20, 2006, Fe M. Domingo, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3017, a  
28 Statement to Respondent, two copies of a Notice of Defense, a Request for Discovery, and copies

1 of Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record  
2 with the Board, which was and is 21 Larkfield Maples Court, Santa Rosa, CA 95403. Copies of  
3 the Accusation, related documents, and Declaration of Service showing service to Respondent's  
4 address of record are attached as Exhibit A, and are incorporated herein by reference.

5 4. On or about November 29, 2006, the aforementioned documents were  
6 returned by the U.S. Postal Service marked "Not Deliverable as Addressed - Unable to Forward."  
7 A copy of the documents and envelope returned by the U.S. Postal Service are attached hereto as  
8 Exhibit B, and are incorporated herein by reference.

9 5. On or about November 30, 2006, Fe M. Domingo served, by Certified and  
10 First Class Mail, the same materials (a copy of Accusation No. 3017, a Statement to Respondent,  
11 two copies of a Notice of Defense, a Request for Discovery, and copies of Government Code  
12 sections 11507.5, 11507.6, and 11507.7), to another address for Respondent, besides the address  
13 of record, also known to the Board: P.O. Box 65831, Los Angeles, CA 90065. On or about  
14 December 4, 2006, a Certified Mail Return Receipt card was received in the San Francisco office  
15 of the Department of Justice, showing receipt of the Certified Mail copies, and signature therefor,  
16 by Respondent on or about December 2, 2006. Copies of the Accusation, related documents,  
17 Declaration of Service and Return Receipt card showing service to Respondent and acceptance of  
18 delivery are attached as Exhibit C, and are incorporated herein by reference.

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

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

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

26 8. Respondent failed to file a Notice of Defense within 15 days after service  
27 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
28 Accusation No. 3017.

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

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

5 10. Pursuant to its authority under Government Code section 11520, the Board  
6 finds Respondent is in default. The Board will take action without further hearing and, based on  
7 Respondent's express admissions by way of default and the evidence before it, contained in  
8 exhibits A and B finds that the allegations in Accusation No. 3017 are true.

9 11. The total costs for investigation and enforcement are \$10,111.25 as of  
10 January 3, 2007.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Cynthia A. Garza has  
13 subjected her Pharmacy Technician License No. TCH 38775 to discipline.

14 2. A copy of the Accusation and the related documents and Declaration of  
15 Service are attached.

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

17 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy  
18 Technician License No. based upon the following violations alleged in the Accusation:

19 a. In violation of Business and Professions Code section 4301(f),  
20 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption  
21 when she, while employed as a pharmacy technician at Wal-Mart Pharmacy in Windsor, CA  
22 and/or at Walgreens Pharmacy in Santa Rosa, CA in 2004 and 2005, refilled several prescriptions  
23 in her own name without prescriber authorization for controlled substances and dangerous drugs  
24 including **Norco 10/325, Vicodin ES, Hydrocodone/APAP 7.5/750 (generic Vicodin ES),**  
25 **Ambien 10mg, and Carisoprodol 350mg (generic Soma)**, conspired with another pharmacy  
26 technician to do so, created false prescription documents for prescriptions of **Carisoprodol**  
27 **350mg (generic Soma)**, stole tablets of **Vicodin ES** from pharmacy stock, and received **Vicodin**  
28 **ES** tablets on an unauthorized refill.

1                   b.       In violation of Business and Professions Code section 4301(g),  
2 Respondent made and/or signed documents that falsely represented the existence or nonexistence  
3 of a state of facts, by the conduct described in paragraph 4(a), above;

4                   c.       In violation of Business and Professions Code section 4301(j)  
5 and/or (o), by reference to or inclusive of section 4059 of the Code and/or Health and Safety  
6 Code section 11158, Respondent, as described in paragraph 4(a), above, furnished/dispensed to  
7 herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs;

8                   d.       In violation of Business and Professions Code section 4301(j)  
9 and/or (o), by reference to or inclusive of section 4060 of the Code and/or Health and Safety  
10 Code sections 11350 and/or 11377, Respondent, as described in paragraph 4(a), above,  
11 possessed, without valid prescriptions, controlled substances and/or dangerous drugs;

12                  e.       In violation of Business and Professions Code section 4301(j)  
13 and/or (o), by reference to or inclusive of section 4063 of the Code, Respondent, as described in  
14 paragraph 4(a), above, refilled and/or conspired to refill, without prescriber authorization, refills  
15 for controlled substances and/or dangerous drugs;

16                  f.       In violation of Business and Professions Code section 4301(j)  
17 and/or (o), by reference to or inclusive of Health and Safety Code section 11173, Respondent, as  
18 described in paragraph 4(a), above, procured or attempted to procure administration of or  
19 prescription(s) for controlled substances, by fraud, deceit, misrepresentation, subterfuge, or by  
20 the concealment of a material fact;

21                  g.       In violation of Business and Professions Code section 4301  
22 Respondent, as described in paragraph 4(a), above, engaged in unprofessional conduct.

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ORDER


IT IS SO ORDERED that Pharmacy Technician License No. TCH 38775, heretofore issued to Respondent Cynthia A. Garza, is revoked.

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

This Decision shall become effective on March 9, 2007.

It is so ORDERED February 7, 2007

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
WILLIAM POWERS  
Board President

40118666.wpd

DOJ docket number:SF2006402253

Attachments:

- Exhibit A: Accusation No.3017, Related Documents, and Declaration of Service
- Exhibit B: Postal Return Documents
- Exhibit C: Accusation No.3017, Related Documents, and Declaration of Service (2<sup>nd</sup> service)

Exhibit A  
Accusation No. 3017,  
Related Documents and Declaration of Service

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  
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3017

11 CYNTHIA A. GARZA  
21 Larkfield Maples Court  
12 Santa Rosa, CA 95403

OAH No.

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

13 Pharmacy Technician License No. TCH 38775

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

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

20 2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy  
21 Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on February  
23 28, 2007, unless renewed.

24  
25 JURISDICTION

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





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

5  
6           8.       Section 4059 of the Code, in pertinent part, prohibits furnishing of any  
7 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

8           9.       Section 4060 of the Code provides, in pertinent part, that no person shall  
9 possess any controlled substance, except that furnished upon a valid prescription/drug order.

10          10.       Section 4063 of the Code provides, in pertinent part, that no prescription  
11 for a dangerous drug may be refilled except upon authorization of the prescriber.

12          11.       Health and Safety Code section 11158 provides, in pertinent part, that no  
13 controlled substance in Scheduled II-V may be dispensed without a prescription.

14          12.       Health and Safety Code section 11170 provides that no person shall  
15 prescribe, administer, or furnish a controlled substance for himself or herself.

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

20          14.       Health and Safety Code section 11350, in pertinent part, makes it unlawful  
21 to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules  
22 III-V which is a narcotic drug, unless upon written prescription of an authorized prescriber.

23          15.       Health and Safety Code section 11377, in pertinent part, makes it unlawful  
24 to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules  
25 III-V which is not a narcotic drug, unless upon written prescription of an authorized prescriber.

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

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

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

18. Section 4022 of the Code states, in pertinent part:

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

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

...

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

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.





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SECOND CAUSE FOR DISCIPLINE

(Creation/Signature of False Documents)

34. Respondent is subject to discipline under section 4301(g) of the Code in that Respondent, as described in paragraphs 22-31 above, created and/or signed documents that falsely represented the existence or nonexistence of a state of facts.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing/Dispensing of Controlled Substances / Dangerous Drugs)

35. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent furnished/dispensed to herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4059 of the Code and/or Health and Safety Code section 11158.

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances / Dangerous Drugs)

36. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent possessed, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of the Code and/or Health and Safety Code sections 11350 and/or 11377.

FIFTH CAUSE FOR DISCIPLINE

(Unlawful Refills Without Prescriber Authorization)

37. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber  
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or  
4 dangerous drugs, in violation of section 4063 of the Code.

5  
6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13  
14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,  
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22  
23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that  
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

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1 PRAYER

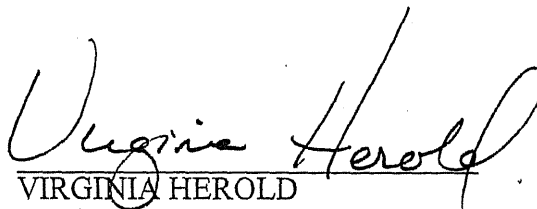
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

4 A. Revoking or suspending Pharmacy Technician License No. Number TCH  
5 38775, issued to Cynthia A. Garza (Respondent);

6 B. Ordering Respondent to pay the Board reasonable costs of investigation  
7 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

9  
10 DATED: 10/31/06

11 

12  
13 VIRGINIA HEROLD  
14 Interim Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

19 SF2006402253

20 40108378.wpd

1 BILL LOCKYER, Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM, State Bar No. 214663  
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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3017

13 CYNTHIA A. GARZA

**STATEMENT TO RESPONDENT**

14 Respondent.

[Gov. Code §§ 11504, 11505(b)]

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**  
28 **455 Golden Gate Avenue, Suite 11000**  
**San Francisco, California 94102.**



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



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

In the Matter of the Accusation Against:

Case No. 3017

CYNTHIA A. GARZA

**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.

40115539.wpd

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

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

**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.

40115539.wpd

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of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM, State Bar No. 214663  
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455 Golden Gate Avenue, Suite 11000  
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Telephone: (415) 703-1299  
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7 Attorneys for Complainant

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9 **BOARD OF PHARMACY**  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 CYNTHIA A. GARZA

Respondent.

Case No. 3017

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

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.

28     ///



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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: 11/20/06

BILL LOCKYER, Attorney General  
of the State of California

FRANK H. PACOE  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
JOSHUA A. ROOM  
Deputy Attorney General  
Attorneys for Complainant

40115539.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**  
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Cynthia A. Garza*  
Agency Case No. 3017

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 November 20, 2006, 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:

CYNTHIA A. GARZA  
21 Larkfield Maples Court  
Santa Rosa, CA 95403

**Certified Article Number**

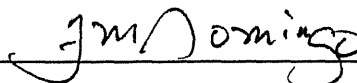
7160 3901 9849 2870 8709

**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 November 20, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name



Signature

7160 3901 9849 2870 8709

**TO:** CYNTHIA A. GARZA  
21 Larkfield Maples Court  
Santa Rosa, CA 95403

**SENDER:** JAR

**REFERENCE:** Acc Pkt

PS Form 3800, January 2005

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

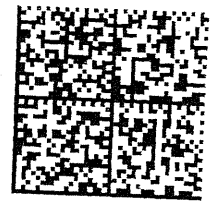
Exhibit B  
Postal Return Documents

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**CERTIFIED MAIL**



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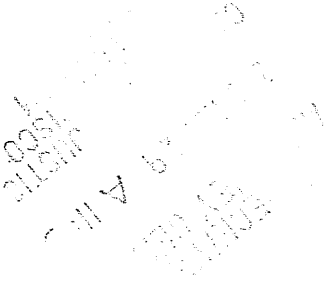
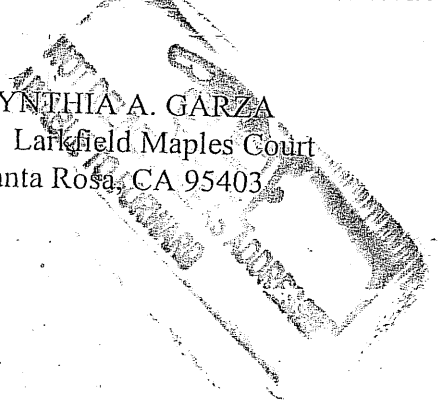
Mailed From 94102

US POSTAGE

RETURN RECEIPT REQUESTED

*Handwritten initials*

CYNTHIA A. GARZA  
21 Lanefield Maples Court  
Santa Rosa, CA 95403



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:  
11 CYNTHIA A. GARZA  
21 Larkfield Maples Court  
12 Santa Rosa, CA 95403  
13 Pharmacy Technician License No. TCH 38775  
14 Respondent.

Case No. 3017

OAH No.

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

15  
16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
19 capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.  
20 2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy  
21 Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on February  
23 28, 2007, unless renewed.

24  
25 JURISDICTION

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



1           4. Section 4011 of the Code provides that the Board shall administer and  
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled  
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4           5. Section 4300(a) of the Code provides that every license issued by the  
5 Board may be suspended or revoked.

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

12  
13   STATUTORY PROVISIONS

14           7. Section 4301 of the Code provides, in pertinent part, that the Board shall  
15 take action against any holder of a license who is guilty of "unprofessional conduct," defined to  
16 include, but not be limited to, any of the 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   ...

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

27   ....

28     ///

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

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

18. Section 4022 of the Code states, in pertinent part:

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

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

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

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.

1           21.     **Soma** is a brand name for **carisoprodol**, a dangerous drug designated by  
2 Business and Professions Code section 4022, intended as a skeletal muscle relaxant. It is also  
3 known by its generic name **Carisoprodol 350mg**, designating the tablet/dosage amount.  
4

5   FACTUAL BACKGROUND

6           22.     From on or about November 4, 2001 until on or about February 24, 2005,  
7 Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy 10-2553, located in  
8 Windsor, CA (PHY 44126). Respondent was subsequently employed by Walgreens Pharmacy as  
9 a float pharmacy technician from on or about May 16, 2005 until on or about October 14, 2005,  
10 primarily working at Walgreens Pharmacy 6722 (PHY 45955) located in Santa Rosa, CA.

11          23.     While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
12 own prescriptions (prescriptions in her name) for **Norco 10/325** without proper authorization  
13 from the prescriber on June 11, 2004, July 20, 2004, and August 23, 2004, thereby acquiring a  
14 total of 300 tablets of **Norco 10/325**.

15          24.     While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
16 own prescriptions (prescriptions in her name) for **Vicodin ES** without proper authorization from  
17 the prescriber on July 30, 2004, December 29, 2004, and January 18, 2005, thereby acquiring a  
18 total of 220 tablets of **Vicodin ES**.

19          25.     While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
20 own prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin**  
21 **ES**) without proper authorization from the prescriber on December 6, 2004, January 8, 2005, and  
22 February 24, 2005, thereby acquiring a total of 180 tablets of **Hydrocodone/APAP 7.5/750**  
23 (generic **Vicodin ES**).

24          26.     While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
25 own prescriptions (prescriptions in her name) for **Ambien 10mg** without proper authorization  
26 from the prescriber on July 29, 2004, December 6, 2004, and December 31, 2004, thereby  
27 acquiring a total of 90 tablets of **Ambien 10mg**.

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SECOND CAUSE FOR DISCIPLINE

(Creation/Signature of False Documents)

34. Respondent is subject to discipline under section 4301(g) of the Code in that Respondent, as described in paragraphs 22-31 above, created and/or signed documents that falsely represented the existence or nonexistence of a state of facts.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing/Dispensing of Controlled Substances / Dangerous Drugs)

35. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent furnished/dispensed to herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4059 of the Code and/or Health and Safety Code section 11158.

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances / Dangerous Drugs)

36. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent possessed, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of the Code and/or Health and Safety Code sections 11350 and/or 11377.

FIFTH CAUSE FOR DISCIPLINE

(Unlawful Refills Without Prescriber Authorization)

37. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber  
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or  
4 dangerous drugs, in violation of section 4063 of the Code.

5  
6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13  
14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,  
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22  
23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that  
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

27 ///

28 ///

1 PRAYER

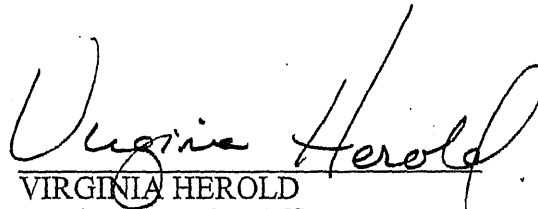
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

4 A. Revoking or suspending Pharmacy Technician License No. Number TCH  
5 38775, issued to Cynthia A. Garza (Respondent);

6 B. Ordering Respondent to pay the Board reasonable costs of investigation  
7 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

8 C. Taking such other and further action as deemed necessary and proper.  
9

10 DATED: 10/31/06

11 

12  
13 VIRGINIA HEROLD  
14 Interim Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 CYNTHIA A. GARZA  
13 Respondent.  
14

Case No. 3017  
**STATEMENT TO RESPONDENT**  
[Gov. Code §§ 11504, 11505(b)]

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**  
28 **455 Golden Gate Avenue, Suite 11000**  
**San Francisco, California 94102.**



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:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

**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.

40115539.wpd

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

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

**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.

40115539.wpd

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

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

12 In the Matter of the Accusation Against:

Case No. 3017

13 CYNTHIA A. GARZA

**REQUEST FOR DISCOVERY**

Respondent.

[Gov. Code § 11507.6]

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: 11/20/06

BILL LOCKYER, Attorney General  
of the State of California

FRANK H. PACOE  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
JOSHUA A. ROOM  
Deputy Attorney General  
Attorneys for Complainant

40115539.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**  
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Cynthia A. Garza*  
Agency Case No. 3017

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 November 20, 2006, 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:

CYNTHIA A. GARZA  
21 Larkfield Maples Court  
Santa Rosa, CA 95403

**Certified Article Number**

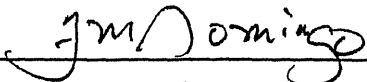
7160 3901 9849 2870 8709

**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 November 20, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name



Signature

Exhibit C  
Accusation No. 3017,  
Related Documents and Declaration of Service  
(Second Service)

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**

11 In the Matter of the Accusation Against:

Case No. 3017

12 CYNTHIA A. GARZA  
21 Larkfield Maples Court  
Santa Rosa, CA 95403

OAH No.

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

13 Pharmacy Technician License No. TCH 38775

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

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

20 2. On or about August 16, 2001, the Board of Pharmacy issued Pharmacy  
21 Technician License No. TCH 38775 to Cynthia A. Garza (Respondent). The License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on February  
23 28, 2007, unless renewed.

24  
25 JURISDICTION

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

1           4.       Section 4011 of the Code provides that the Board shall administer and  
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled  
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4           5.       Section 4300(a) of the Code provides that every license issued by the  
5 Board may be suspended or revoked.

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

12  
13

STATUTORY PROVISIONS

14           7.       Section 4301 of the Code provides, in pertinent part, that the Board shall  
15 take action against any holder of a license who is guilty of "unprofessional conduct," defined to  
16 include, but not be limited to, any of the 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

...

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

27

...

28   ///

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

5  
6                   8.       Section 4059 of the Code, in pertinent part, prohibits furnishing of any  
7 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

8                   9.       Section 4060 of the Code provides, in pertinent part, that no person shall  
9 possess any controlled substance, except that furnished upon a valid prescription/drug order.

10                  10.       Section 4063 of the Code provides, in pertinent part, that no prescription  
11 for a dangerous drug may be refilled except upon authorization of the prescriber.

12                  11.       Health and Safety Code section 11158 provides, in pertinent part, that no  
13 controlled substance in Scheduled II-V may be dispensed without a prescription.

14                  12.       Health and Safety Code section 11170 provides that no person shall  
15 prescribe, administer, or furnish a controlled substance for himself or herself.

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

20                  14.       Health and Safety Code section 11350, in pertinent part, makes it unlawful  
21 to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules  
22 III-V which is a narcotic drug, unless upon written prescription of an authorized prescriber.

23                  15.       Health and Safety Code section 11377, in pertinent part, makes it unlawful  
24 to possess certain Schedule I-III controlled substances, or any controlled substance in Schedules  
25 III-V which is not a narcotic drug, unless upon written prescription of an authorized prescriber.

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



CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

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

18. Section 4022 of the Code states, in pertinent part:

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

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

...

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

19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. These varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

As is pertinent here:

a. **Norco 10/325** is a brand name for a compound combining 10 mg **hydrocodone** with 325 mg acetaminophen (APAP).

b. **Vicodin ES** is a brand name for a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

c. **Hydrocodone/APAP 7.5/750** is the generic equivalent of **Vicodin ES**, i.e., a compound combining 7.5 mg **hydrocodone** with 750 mg acetaminophen (APAP).

20. **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(32) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug. It is sold in either 5mg or 10mg tablets, thus **Ambien 10mg** designates the latter dosage.

1 21. **Soma** is a brand name for **carisoprodol**, a dangerous drug designated by  
2 Business and Professions Code section 4022, intended as a skeletal muscle relaxant. It is also  
3 known by its generic name **Carisoprodol 350mg**, designating the tablet/dosage amount.

4  
5 FACTUAL BACKGROUND

6 22. From on or about November 4, 2001 until on or about February 24, 2005,  
7 Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy 10-2553, located in  
8 Windsor, CA (PHY 44126). Respondent was subsequently employed by Walgreens Pharmacy as  
9 a float pharmacy technician from on or about May 16, 2005 until on or about October 14, 2005,  
10 primarily working at Walgreens Pharmacy 6722 (PHY 45955) located in Santa Rosa, CA.

11 23. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
12 own prescriptions (prescriptions in her name) for **Norco 10/325** without proper authorization  
13 from the prescriber on June 11, 2004, July 20, 2004, and August 23, 2004, thereby acquiring a  
14 total of 300 tablets of **Norco 10/325**.

15 24. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
16 own prescriptions (prescriptions in her name) for **Vicodin ES** without proper authorization from  
17 the prescriber on July 30, 2004, December 29, 2004, and January 18, 2005, thereby acquiring a  
18 total of 220 tablets of **Vicodin ES**.

19 25. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
20 own prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin**  
21 **ES**) without proper authorization from the prescriber on December 6, 2004, January 8, 2005, and  
22 February 24, 2005, thereby acquiring a total of 180 tablets of **Hydrocodone/APAP 7.5/750**  
23 (generic **Vicodin ES**).

24 26. While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
25 own prescriptions (prescriptions in her name) for **Ambien 10mg** without proper authorization  
26 from the prescriber on July 29, 2004, December 6, 2004, and December 31, 2004, thereby  
27 acquiring a total of 90 tablets of **Ambien 10mg**.

28 ///

1                   27.     While working at Wal-Mart Pharmacy 10-2553, Respondent refilled her  
2 own prescription (prescription in her name) for **Carisoprodol 350mg** (generic **Soma**) without  
3 proper authorization from the prescriber on July 29, 2004, thereby acquiring a total of 100 tablets  
4 of **Carisoprodol 350mg** (generic **Soma**).

5                   28.     While working at Wal-Mart Pharmacy 10-2553, Respondent created a  
6 false prescription document for Patient D.C.<sup>1</sup> for **Carisoprodol 350mg** (generic **Soma**), for 90  
7 tablets with two refills of the same number of tablets, on October 26, 2004.

8                   29.     While working at Wal-Mart Pharmacy 10-2553, Respondent created a  
9 false prescription document for Patient D.C.<sup>1</sup> for **Carisoprodol 350mg** (generic **Soma**), for 90  
10 tablets with three refills of the same number of tablets, on February 4, 2005.

11                   30.     While working at Walgreens Pharmacy 6722, Respondent refilled her own  
12 prescriptions (prescriptions in her name) for **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**)  
13 without proper authorization from the prescriber on August 3, 2005 and September 9, 2005,  
14 thereby acquiring a total of 120 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**).

15                   31.     While working at Walgreens Pharmacy 6722, Respondent conspired with  
16 another pharmacy technician (M.P.)<sup>1</sup> to refill Respondent's own prescription (prescription in her  
17 name) for 60 tablets of **Hydrocodone/APAP 7.5/750** (generic **Vicodin ES**), without proper  
18 authorization from the prescriber, on September 23, 2005.

19                   32.     Respondent admitted that while at Walgreens Pharmacy 6722 she stole 3  
20 tablets of **Vicodin ES**, and paid for/received 60 tablets of **Vicodin ES** on an unauthorized refill.  
21

22   FIRST CAUSE FOR DISCIPLINE

23   (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

24                   33.     Respondent is subject to discipline under section 4301(f) of the Code in  
25 that Respondent, as described in paragraphs 22-31 above, committed acts involving moral  
26 turpitude, dishonesty, fraud, deceit, or corruption.  
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28                   1. A full name will be provided to Respondent as needed during discovery.

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SECOND CAUSE FOR DISCIPLINE

(Creation/Signature of False Documents)

34. Respondent is subject to discipline under section 4301(g) of the Code in that Respondent, as described in paragraphs 22-31 above, created and/or signed documents that falsely represented the existence or nonexistence of a state of facts.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing/Dispensing of Controlled Substances / Dangerous Drugs)

35. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent furnished/dispensed to herself or to others, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4059 of the Code and/or Health and Safety Code section 11158.

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances / Dangerous Drugs)

36. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate, assisted in or abetted violation of or conspired to violate laws regulating controlled substances and dangerous drugs and/or laws governing pharmacy, when Respondent possessed, without valid prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of the Code and/or Health and Safety Code sections 11350 and/or 11377.

FIFTH CAUSE FOR DISCIPLINE

(Unlawful Refills Without Prescriber Authorization)

37. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,

1 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
2 and dangerous drugs and/or laws governing pharmacy, when Respondent, without prescriber  
3 authorization, refilled and/or conspired to refill, prescriptions for controlled substances and/or  
4 dangerous drugs, in violation of section 4063 of the Code.

5  
6 SIXTH CAUSE FOR DISCIPLINE

7 (Unlawful Self-Furnishing of Controlled Substances)

8 38. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
9 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
10 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
11 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
12 and Safety Code section 11170, self-furnished controlled substances and/or dangerous drugs.

13  
14 SEVENTH CAUSE FOR DISCIPLINE

15 (Obtaining Controlled Substances by Fraud or Deceit)

16 39. Respondent is subject to discipline under sections 4301(j) and/or (o) of the  
17 Code in that Respondent, as described in paragraphs 22-31 above, violated, attempted to violate,  
18 assisted in or abetted violation of or conspired to violate laws regulating controlled substances  
19 and dangerous drugs and/or laws governing pharmacy, when Respondent, in violation of Health  
20 and Safety Code section 11173, obtained controlled substances and/or dangerous drugs by fraud,  
21 deceit, misrepresentation, subterfuge, or by the concealment of a material fact.

22  
23 EIGHTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 40. Respondent is subject to discipline under section 4301 of the Code in that  
26 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

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PRAYER

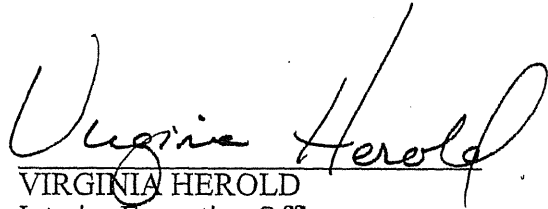
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy (Board) issue a decision:

A. Revoking or suspending Pharmacy Technician License No. Number TCH 38775, issued to Cynthia A. Garza (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10/31/06



VIRGINIA HEROLD  
Interim Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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

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

12 In the Matter of the Accusation Against:

Case No. 3017

13 CYNTHIA A. GARZA

**STATEMENT TO RESPONDENT**

14 Respondent.

[Gov. Code §§ 11504, 11505(b)]

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**  
28 **455 Golden Gate Avenue, Suite 11000**  
**San Francisco, California 94102.**

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.

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

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

**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.

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

In the Matter of the Accusation Against:

CYNTHIA A. GARZA

Respondent.

Case No. 3017

**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.

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

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against: 13 CYNTHIA A. GARZA 14 Respondent.	Case No. 3017 <b>REQUEST FOR DISCOVERY</b> [Gov. Code § 11507.6]
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15 TO RESPONDENT:

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

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

- 22 1. Provide the names and addresses of witnesses to the extent known to the  
23 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
- 24 2. Provide an opportunity for the Complainant to inspect and make a copy of any of  
25 the following in the possession or custody or under control of the Respondent:
  - 26 a. A statement of a person, other than the Respondent, named in the initial  
27 administrative pleading, or in any additional pleading, when it is claimed that the act or  
28 omission of the Respondent as to this person is the basis for the administrative  
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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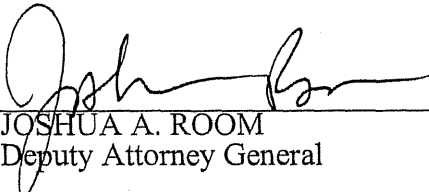
Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

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: 11/30/06

BILL LOCKYER, Attorney General  
of the State of California

FRANK H. PACOE  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
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: *Cynthia A. Garza*  
Agency Case No. 3017

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 November 30, 2006, 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:

CYNTHIA A. GARZA  
P.O. Box 65831  
Los Angeles, CA 90065

**Certified Article Number**

7160 3901 9849 2870 8693

**SENDER'S 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 November 30, 2006 at San Francisco, California.

FE M. DOMINGO

Typed Name

*FE M. Domingo*

Signature

REFERENCE: Acc Pkt

PS Form 3800, January 2005

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

2. Article Number



7160 3901 9849 2870 8693

COMPLETE THIS SECTION ON DELIVERY

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

C. Signature

X

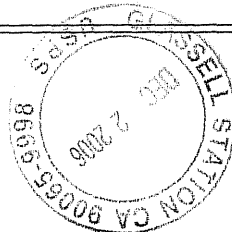
D. Is delivery address different from item 1?  
If YES, enter delivery address below:

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

CYNTHIA A. GARZA  
P.O. Box 65831  
Los Angeles, CA 90065



Acc Pkt

JAR

PS Form 3811, January 2005

Domestic Return Receipt