

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

11 In the Matter of the Accusation Against:

12 JOSEPH STRALOVICH  
13 3501 Bay Berry Drive  
14 Walnut Creek, CA 94598

15 Pharmacist License No. RPH 21900

16 Respondent.

Case No. 3024

OAH No.

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

17 FINDINGS OF FACT

18 1. On or about November 13, 2006, Complainant Virginia Herold, in her  
19 official capacity as the Interim Executive Officer of the Board of Pharmacy (Board), Department  
20 of Consumer Affairs, filed Accusation No. 3024 against Joseph Stralovich (Respondent) before  
21 the Board of Pharmacy.

22 2. On or about October 21, 1960, the Board of Pharmacy issued Pharmacist  
23 License No. RPH 21900 to Respondent. The License was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on September 30, 2007, unless renewed.

25 3. On or about November 16, 2006, Fe M. Domingo, an employee of the  
26 Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3024, a  
27 Statement to Respondent, a Notice of Defense, a Request for Discovery, and Government Code  
28 sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record with the Board, which

1 was and is 3501 Bay Berry Drive, Walnut Creek, CA 94598. A copy of the Accusation, related  
2 documents, and Declaration of Service are attached as exhibit A, and incorporated by reference.

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

5 5. Subsequent to service of the Accusation, Respondent notified the Board by  
6 telephone that he did not intend to contest the Accusation, and would therefore not return the  
7 Notice of Defense. On or about November 28, 2006, Respondent signed and returned a written  
8 statement confirming this intention. A copy of the document signed by Respondent is attached  
9 hereto as exhibit B, and is incorporated herein by reference.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service  
16 upon him of the Accusation, confirmed his lack of intention to do so in writing, and therefore  
17 waived his right to a hearing on the merits of Accusation No. 3024.

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

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

22 9. Pursuant to its authority under Government Code section 11520, the Board  
23 finds Respondent is in default. The Board will take action without further hearing and, based on  
24 Respondent's express admissions by way of default and the evidence before it, including that in  
25 exhibits A and B, finds that the allegations in Accusation No. 3024 are true.

26 10. The total Board costs for investigation and enforcement of this matter are  
27 \$5,796.25 as of December 13, 2006.

28 ///

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Joseph Stralovich has  
3 subjected his Pharmacist License No. RPH 21900 to discipline.

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

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

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

9 a. In violation of Business and Professions Code section 4301(f),  
10 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption  
11 when he, while employed as a Pharmacist at Sav-on Pharmacy in Walnut Creek, CA: on at least  
12 three occasions took generic **Donnatal** without a valid prescription and without payment; created  
13 and/or entered into the database for Sav-on Pharmacy at least 81 new and 152 refill prescriptions  
14 in his own name and his wife's name, for controlled substances, dangerous drugs, and over-the-  
15 counter drugs, without prescriber authorization; and billed the false prescriptions to insurance;

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

19 c. In violation of Business and Professions Code section 4301(j)  
20 and/or (o), by reference to or inclusive of section 4059 of the Code, Respondent, as described in  
21 paragraph 4(a), above, furnished the dangerous drug **Donnatal** without a valid prescription;

22 d. In violation of Business and Professions Code section 4301(j)  
23 and/or (o), by reference to or inclusive of Health and Safety Code section 11150, Respondent, as  
24 described in paragraph 4(a), above, wrote or issued prescriptions without authority to do so;

25 e. In violation of Business and Professions Code section 4301(j)  
26 and/or (o), by reference to or inclusive of Health and Safety Code section 11157, Respondent, as  
27 described in paragraph 4(a), above, wrote or issued false or fictitious prescriptions;

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1 f. In violation of Business and Professions Code section 4301(j)  
2 and/or (o), by reference to or inclusive of Health and Safety Code section 11170, Respondent, as  
3 described in paragraph 4(a), above, wrote or issued prescriptions to himself;

4 g. In violation of Business and Professions Code section 4301(j)  
5 and/or (o), by reference to or inclusive of section 4063 of the Code, Respondent, as described in  
6 paragraph 4(a), above, created refill prescriptions for dangerous drugs without authority to do so;

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

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

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Exhibit A  
Accusation No. 3024,  
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
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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 JOSEPH STRALOVICH  
3501 Bay Berry Drive  
13 Walnut Creek, CA 94598  
14 Pharmacist License No. RPH 21900  
15 Respondent.

Case No. 3024  
OAH No.

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

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 October 21, 1960, the Board of Pharmacy issued Pharmacist  
21 License No. RPH 21900 to Joseph Stralovich (Respondent). The Pharmacist License was in full  
22 force and effect at all times relevant to the charges brought herein and will expire on September  
23 30, 2007, unless renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board),  
26 Department of Consumer Affairs, under the authority of the following laws. All section  
27 references are to the Business and Professions Code (Code) unless otherwise indicated.  
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 4063 of the Code provides, in pertinent part, that no prescription  
9 for a dangerous drug may be refilled except upon authorization of the prescriber.

10          10.       Health and Safety Code section 11150 provides that no person other than a  
11 physician, dentist, podiatrist, veterinarian, naturopathic doctor (certain drugs or under protocol),  
12 pharmacist (per pilot project or under protocol), registered nurse (pilot project), nurse-midwife  
13 (under protocol), nurse practitioner (under protocol), physician assistant (under protocol),  
14 optometrist (certain drugs), or out-of-state prescriber, shall write or issue a prescription.

15          11.       Health and Safety Code section 11157 provides that no person shall issue a  
16 prescription that is false or fictitious in any respect.

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

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

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

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1                                    CONTROLLED SUBSTANCES / DANGEROUS DRUGS

2                    15.        Section 4021 of the Code states:

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

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

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

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

10                    . . . . .  
11                    “(c) Any other drug or device that by federal or state law can be lawfully  
12 dispensed only on prescription or furnished pursuant to Section 4006.”

13                    17.        **Halcion** is a brand name for **triazolam**, a Schedule IV controlled  
14 substance as designated by Health and Safety Code section 11057(d)(31) and dangerous drug as  
15 designated by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

16                    18.        **Sonata** is a brand name for **zaleplon**, a Schedule IV controlled substance  
17 as designated by Health and Safety Code section 11057(d)(31) and dangerous drug as designated  
18 by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

19                    19.        **Ambien** is a brand name for **zolpidem tartrate**, a Schedule IV controlled  
20 substance as designated by Health and Safety Code section 11057(d)(32) and dangerous drug as  
21 designated by Business and Professions Code section 4022. It is a depressant used as a sleep aid.

22                    20.        **Donnatal** is a brand name for a drug including ingredients **phenobarbital**  
23 and belladonna alkaloids; it is a dangerous drug as designated by Business and Professions Code  
24 section 4022, used to treat stomach, intestinal, and bowel disorders, including irritable bowel  
25 syndrome, acute (entero)colitis, and duodenal ulcers.

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1 FACTUAL BACKGROUND

2 21. Beginning in or about 1986 and lasting until in or about 2005, Respondent  
3 was employed as a Pharmacist by Sav-on Pharmacy. From on or about March 9, 1995 until on or  
4 about September 1, 2003, Respondent was the Pharmacist in Charge (PIC) at Sav-on Pharmacy #  
5 7058 (PHY 40820) in Walnut Creek, CA, and he continued to be employed thereafter as a staff  
6 Pharmacist at Sav-on Pharmacy # 7058 into and for various unspecified dates in 2005.

7 22. On at least two occasions while he was employed at Sav-on Pharmacy #  
8 7058, Respondent was observed by another employee placing tablets of generic **Donnatal** in his  
9 pocket without a valid prescription and without payment, and on another occasion Respondent  
10 was observed creating a false refill prescription for his wife for **Donnatal**, filling it, and taking  
11 the drugs home without payment. Respondent subsequently admitted to taking at least 6 doses of  
12 generic **Donnatal**, as well as an allergy medication and an antibiotic, all without payment.

13 23. While he was employed at Sav-on Pharmacy # 7058 and/or subsequent to  
14 that employment, on and/or between on or about February 1, 2001 and on or about November 20,  
15 2005, Respondent created and/or entered into the database for Sav-on Pharmacy # 7058 new and  
16 refill prescriptions in his own name and his wife's name, for controlled substances, dangerous  
17 drugs, and over-the-counter (OTC) drugs, without prescriber authorization. Respondent created  
18 and/or entered at least 81 new prescriptions and 152 refill prescriptions which lacked prescriber  
19 authorization, including: 4 new controlled substance prescriptions, 26 new dangerous drug  
20 prescriptions, and 6 new OTC prescriptions in his own name; 5 controlled substance refill  
21 prescriptions, 51 dangerous drug refill prescriptions, and 13 OTC refill prescriptions, in his own  
22 name; 43 new dangerous drug prescriptions, and 2 new OTC prescriptions, in his wife's name;  
23 and 83 dangerous drug refill prescriptions, in his wife's name.

24 24. The prescriptions created by Respondent without prescriber authorization  
25 included, but were not limited to, the following specific examples:

26 a. On March 9, 2003 and November 2, 2003, Respondent created, in  
27 his own name, without prescriber authorization, 2 new prescriptions for 30 tablets of **Sonata**;

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1 b. On March 29, 2003, Respondent created, in his own name, without  
2 prescriber authorization, a new prescription for 20 tablets of **Halcion**;

3 c. On December 14, 2003, Respondent created, in his own name,  
4 without prescriber authorization, a new prescription for 30 tablets of **Ambien**;

5 d. On January 25, 2004, Respondent created, in his own name,  
6 without prescriber authorization, a refill prescription for 30 tablets of **Ambien**;

7 e. On May 4, 2003, June 1, 2003, and June 29, 2003, Respondent  
8 created, in his own name, without prescriber authorization, 3 refills for 20 tablets of **Halcion**;

9 f. On February 8, 2004, Respondent created, in his own name,  
10 without prescriber authorization, a refill prescription for 30 tablets of **Sonata**;

11 25. Respondent billed at least some of the false prescriptions to insurance.  
12

13 FIRST CAUSE FOR DISCIPLINE

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

15 26. Respondent is subject to discipline under section 4301(f) of the Code in  
16 that Respondent, as described in paragraphs 22-25 above, committed acts involving moral  
17 turpitude, dishonesty, fraud, deceit, or corruption.

18 SECOND CAUSE FOR DISCIPLINE

19 (Making or Signing False Documents)

20 27. Respondent is subject to discipline under section 4301(g) of the Code in  
21 that Respondent, as described in paragraphs 22-25 above, made and/or signed documents that  
22 falsely represented the existence or nonexistence of a state of facts.

23 THIRD CAUSE FOR DISCIPLINE

24 (Unlawful Furnishing of Dangerous Drug)

25 28. Respondent is subject to discipline under section 4301 (j) and/or (o) of the  
26 Code, by reference to or inclusive of section 4059 of the Code, in that Respondent, as described  
27 in paragraph 22 above, furnished the dangerous drug **Donnatal** without a valid prescription.

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1 NINTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

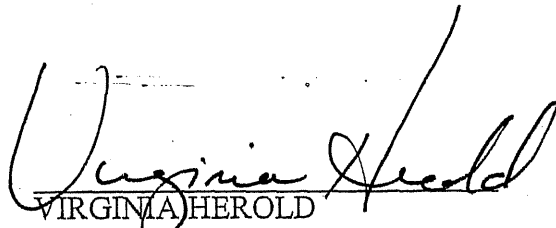
3 34. Respondent is subject to disciplinary action under section 4301 of the  
4 Code in that Respondent, by way of the conduct described in paragraphs 22-25 above, engaged in  
5 "unprofessional conduct" not becoming the profession of pharmacy.  
6

7 PRAYER

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

- 10 A. Revoking or suspending Pharmacist License Number RPH 21900, issued  
11 to Joseph Stralovich (Respondent);  
12 B. Ordering Respondent to pay the Board its reasonable costs of investigation  
13 and enforcement of this case, pursuant to Business and Professions Code section 125.3;  
14 C. Taking such other and further action as is deemed necessary and proper.  
15

16 DATED: 11/13/06



17  
18 VIRGINIA HEROLD  
19 Interim Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
24  
25  
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1 BILL LOCKYER, Attorney General  
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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 JOSEPH STRALOVICH

14 Respondent.

Case No. 3024

**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**  
**455 Golden Gate Avenue, Suite 11000**  
28 **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 BILL LOCKYER, Attorney General  
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3 JOSHUA A. ROOM, State Bar No. 214663  
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7 Attorneys for Complainant

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10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 JOSEPH STRALOVICH

13 Respondent.

Case No. 3024

**REQUEST FOR DISCOVERY**

[Gov. Code § 11507.6]

14  
15  
16 TO RESPONDENT:

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

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

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

1 omission of the Respondent as to this person is the basis for the administrative  
2 proceeding;

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

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

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

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

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

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

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

1 work product.

2 Your response to this Request for Discovery should be directed to the undersigned  
3 attorney for the Complainant at the address on the first page of this Request for Discovery **within**  
4 **30 days after service** of the Accusation.

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

8 DATED: 11/16/06

9 BILL LOCKYER, Attorney General  
10 of the State of California

11 FRANK H. PACOE  
12 Supervising Deputy Attorney General

13   
14 JOSHUA A. ROOM  
15 Deputy Attorney General

16 Attorneys for Complainant

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

In the Matter of the Accusation Against:

JOSEPH STRALOVICH

Respondent.

Case No. 3024

**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:

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Respondent.

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**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.

40116820.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.

\*\*\*\*\*

7160 3901 9849 2870 8716

**TO:** JOSEPH STRALOVICH  
3501 Bay Berry Drive  
Walnut Creek, CA 94598

**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 <b>Receipt for Certified Mail</b> <small>No Insurance Coverage Provided Do Not Use for International Mail</small>	POSTMARK OR DATE
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Exhibit B

Statement of Intention Not to Contest Accusation



455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500  
Telephone: (415) 703-1299  
Facsimile: (415) 703-5480

November 27, 2006

Joseph Stralovich  
3501 Bay Berry Drive  
Walnut Creek, CA 94598

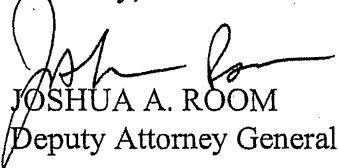
RE: RESPONSE TO ACCUSATION  
In the Matter of the Accusation Against:  
JOSEPH STRALOVICH  
Board of Pharmacy Case No. 3024

Dear Mr. Stralovich:

I represent the Interim Executive Officer for the California Board of Pharmacy (Virginia Herold) with regard to the Accusation recently filed and served and now pending against your license. I understand that you left a message with the Board stating you do not intend to contest the Accusation, and are no longer planning to practice pharmacy.

Please confirm that intention by signing the bottom of this letter and returning the signed copy to me in the enclosed return envelope. Please feel free to contact me with any questions.

Sincerely,

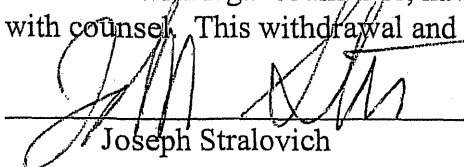
  
JOSHUA A. ROOM  
Deputy Attorney General

For BILL LOCKYER  
Attorney General

JAR:wg

Enclosure: Metered return envelope  
40118162.wpd

I, Joseph Stralovich, hereby waive my right to hearing in the above matter. I understand the Board of Pharmacy shall decide whether to proceed with the hearing as a default, withdraw the matter, or issue a default decision and order. I acknowledge the outcome of this proceeding or default decision may be discipline up to and including license revocation. I have either consulted with legal counsel or, having been made aware of my right to do so, declined to consult with counsel. This withdrawal and waiver is made knowingly, intelligently, and voluntarily.

  
Joseph Stralovich

11/28/06  
Date