

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3081

12 JAMES PHILIP REYNOLDS
13 1301 Scott Avenue # 10
Clovis, Ca. 93612
Original Pharmacy Technician Registration No.
14 TCH67086

DEFAULT DECISION
AND ORDER

15 Respondent.

[Gov. Code, §11520]

16
17 **FINDINGS OF FACT**

18 1. On or about October 22, 2007, Complainant Virginia Herold, in her
19 official capacity as the Executive Officer of the Board of Pharmacy, filed Accusation No. 3081
20 against James Philip Reynolds (Respondent) before the BOARD OF PHARMACY ("Board").

21 2. On or about January 20, 2006, the Board issued Original Pharmacy
22 Technician Registration No. TCH67086 to Respondent, which will expire on January 31, 2008
23 unless renewed.

24 3. On or about December 19, 2007, Kasey P. Arismende, an employee of the
25 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
26 3081, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
27 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
28 which was and is 1301 Scott Avenue # 10, Clovis, California 93612. A copy of the Accusation,

1 the related documents, and Declaration of Service are attached as exhibit A, and are incorporated
2 herein by reference. The above documents were also mailed by Certified and First Class Mail to
3 44 N. Duke Avenue, Fresno, California 93727.

4 4. On or about January 24, 2008, the certified mail to 1301 Scott Avenue,
5 # 1, Clovis, Ca. 93612 was returned by the Post Office as "Unclaimed," a copy of which is
6 attached hereto as Exhibit B.

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

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service
16 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
17 Accusation No. 3081.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board
24 finds Respondent is in default. The Board will take action without further hearing and, based
25 on Respondent's express admissions by way of default and the evidence before it, contained in
26 exhibits A, B and C, finds that the allegations in Accusation No. 3081 are true.

27 10. The total costs for investigation and enforcement in connection with the
28 Accusation are \$3,385.25 as of January 25, 2008.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent James Philip
3 Reynolds has subjected his Original Pharmacy Technician Registration No. TCH67086 to
4 discipline.

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

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

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

10 a. Respondent is subject to disciplinary action under section 4301,
11 subdivision (f) in that respondent between March 2006 and August 29, 2006, did willfully and
12 unlawfully take from Rite Aid controlled substances while employed by Rite Aid, to wit,
13 hydrocodone-containing medications, an act constituting moral turpitude, dishonesty, fraud or
14 deceit.

15 b. Respondent is subject to disciplinary action under section 4301,
16 subdivision (j) and (o), in that Respondent between March 2006 and August 29, 2006 possessed
17 without a prescription controlled substances in violation of section 4060, and/or Health and
18 Safety Code section 11350(a), to wit, hydrocodone-containing medications.

19 c. Respondent is subject to disciplinary action under section 4301,
20 subdivision (l), in that Respondent was convicted on September 27, 2006 in the case of *People*
21 *v. James Reynolds Booth*, Fresno County Superior Court Case No. F06906806 F on a plea of
22 nolo contendere of the following crime substantially related to the qualifications, functions or
23 duties as a registrant: Penal Code section 503, Embezzlement, a felony, in that respondent did
24 unlawfully and fraudulently appropriate property which had been entrusted to him.

25 d. Respondent is subject to disciplinary action under section 4301,
26 subdivision (h), in that he administered to himself from March 2006 to August 31, 2006 an
27 estimated 3,200 tablets of hydrocodone-containing medications, a schedule III controlled
28 substance, a violation of Health and Safety Code section 11170.

1 e. Respondent is subject to disciplinary action under section 4301,
2 subdivision (o), in that between March 2006 and August 31, 2006 respondent, while on duty as a
3 registered pharmacy technician, sold, dispensed, or compounded drugs on multiple occasions,
4 while under the influence of a drug as defined in section 4022, a hydrocodone-containing
5 medication, in violation of section 4327.

6 **ORDER**

7 IT IS SO ORDERED that Original Pharmacy Technician Registration No.
8 TCH67086, heretofore issued to Respondent James Philip Reynolds, is revoked.

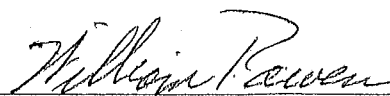
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10 Pursuant to Government Code section 11520, subdivision (c), Respondent may
11 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
12 within seven (7) days after service of the Decision on Respondent.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

15 This Decision shall become effective on May 9, 2008.

16 It is so ORDERED April 10, 2008

17
18 BOARD OF PHARMACY
19 DEPARTMENT OF CONSUMER AFFAIRS
20 STATE OF CALIFORNIA

21 By


22 WILLIAM POWERS
23 Board President

24
25
26 10427672.wpd
27 DOJ docket number:SA2007101051

28 Attachments A: Accusation Packet
29 Attachments B: Copy of Envelope Returned by Post Office

Exhibit A
Accusation No. 3081

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY, State Bar No. 050882
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 322-6100
6 Facsimile: (916) 324-5567

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:

Case No. 3081

12 JAMES PHILIP REYNOLDS

STATEMENT TO RESPONDENT

13 Respondent.

[Gov. Code §§ 11504, 11505(b)]

14
15 TO RESPONDENT:

16 Enclosed is a copy of the Accusation that has been filed with the Board of
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered
19 or mailed to the Board, represented by Deputy Attorney General Patrick M. Kenady, within
20 fifteen (15) days after a copy of the Accusation was personally served on you or mailed to you,
21 you will be deemed to have waived your right to a hearing in this matter and the Board may
22 proceed upon 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 **Patrick M. Kenady**
27 **Deputy Attorney General**
1300 I Street, Suite 125
28 P.O. Box 944255
Sacramento, California 94244-2550.

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Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Patrick M. Kenady at the earliest opportunity.

DATED: 10/31/2007

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General



PATRICK M. KENADY
Deputy Attorney General

Attorneys for Complainant

Accus.Pckt.wpd

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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Sacramento, CA 94244-2550
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Facsimile: (916) 327-8643

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3081

12 JAMES PHILIP REYNOLDS
13 1301 Scott Avenue #10
Clovis, CA. 93612
Original Pharmacy Technician Registration No.
14 TCH67086

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy.

21 2. On or about January 20, 2006, the Board of Pharmacy issued Original
22 Pharmacy Technician Registration Number TCH67086 to James Philip Reynolds (Respondent),
23 which will expire on January 31, 2008 unless renewed.

24 **JURISDICTION**

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

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4. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

5. Section 4300 of the Code states:

"Every license issued may be suspended or revoked."
...

6. Section 4301 of the Code states:

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

...

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

...

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to

1 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
2 the public the practice authorized by the license.

3 ...

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

6 ...

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

24 ...

25 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
26 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
27 applicable federal and state laws and regulations governing pharmacy, including regulations
28 established by the board or by any other state or federal regulatory agency."

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6. Section 4327 of the Code states:

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverage shall be guilty of a misdemeanor."

7. Section 118 of the Code states:

"...

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

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

FIRST CAUSE FOR DISCIPLINE

(MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)

9. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that respondent between March 2006 and August 29, 2006, did willfully and unlawfully take from Rite Aid controlled substances while employed by Rite Aid, to wit, hydrocodone-containing medications, an act constituting moral turpitude, dishonesty, fraud or deceit.

SECOND CAUSE FOR DISCIPLINE

(CONTROLLED SUBSTANCE VIOLATION)

10. Respondent is subject to disciplinary action under section 4301, subdivision (j) and (o), in that Respondent between March 2006 and August 29, 2006 possessed

1 without a prescription controlled substances in violation of section 4060, and/or Health and
2 Safety Code section 11350(a), to wit, hydrocodone-containing medications.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(CRIMINAL CONVICTION)**

5 11. Respondent is subject to disciplinary action under section 4301,
6 subdivision (l), in that Respondent was convicted on September 27, 2006 in the case of *People v.*
7 *James Reynolds Booth*, Fresno County Superior Court Case No. FO6906806 F A on a plea of
8 nolo contendere of the following crime substantially related to the qualifications, functions or
9 duties as a registrant: Penal Code Section 503, Embezzlement, a felony, in that respondent did
10 unlawfully and fraudulently appropriate property which had been entrusted to him.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(UNLAWFUL SELF-ADMINISTRATION OF A CONTROLLED SUBSTANCE)**

13 12. Respondent is subject to disciplinary action under section 4301,
14 subdivision (h), in that he administered to himself from March 2006 to August 31, 2006 an
15 estimated 3,200 tablets of hydrocodone-containing medications, a schedule III controlled
16 substance, a violation of Health and Safety Code section 11170.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(VIOLATION OF LAW)**

19 13. Respondent is subject to disciplinary action under section 4301,
20 subdivision (o), in that between March 2006 to August 31, 2006 respondent, while on duty as a
21 registered pharmacy technician, sold, dispensed, or compounded drugs on multiple occasions,
22 while under the influence of a drug as defined in section 4022, to wit, a hydrocodone-containing
23 medication, in violation of section 4327.

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PRAYER

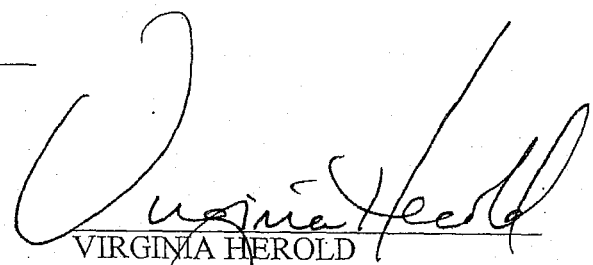
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH67086, issued to James Philip Reynolds.

2. Ordering James Philip Reynolds to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 10/22/07



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
State of California
Complainant

SA2007101051

10335607.wpd

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

In the Matter of the Accusation Against:

JAMES PHILIP REYNOLDS

Respondent.

Case No. 3081

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 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.

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

In the Matter of the Accusation Against:

JAMES PHILIP REYNOLDS

Respondent.

Case No. 3081

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 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.

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY, State Bar No. 050882
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Telephone: (916) 322-6100
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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 JAMES PHILIP REYNOLDS

Case No. 3081

REQUEST FOR DISCOVERY

13 Respondent.

[Gov. Code § 11507.6]

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.

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

24
25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
26 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
27 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
28 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: 10-31-2007

EDMUND G. BROWN JR., Attorney General
of the State of California

ARTHUR D. TAGGART
Supervising Deputy Attorney General



PATRICK M. KENADY
Deputy Attorney General

Attorneys for Complainant

Accus.Pckt.wpd
SA2007101051

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

SECTION 11507.5: Exclusivity of discovery provisions

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

SECTION 11507.6: Request for discovery

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

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

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

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

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

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

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

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

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

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

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

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

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

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

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

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

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

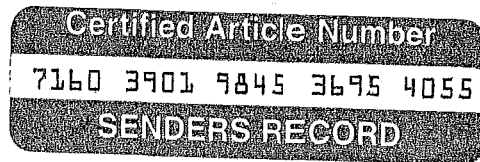
Case Name: **In the Matter of the Accusation Against: JAMES P. REYNOLDS**

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 12/19/07, I served the attached **Statement to Respondent, Accusation, Notice of Defense (2), 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 **Statement to Respondent, Accusation, Notice of Defense (2), Request for Discovery and Discovery Statutes** 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 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

James P. Reynolds
1301 Scott Avenue #10
Clovis, CA 93612



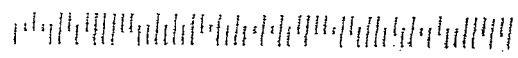
I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on 12/19/07, at Sacramento, California.

Kasey P. Arismende
Declarant

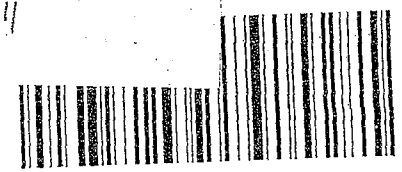
Kasey P. Arismende
Signature

Exhibit B

Copy of Envelope Returned by Post Office

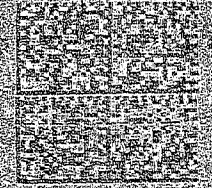


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RETURN RECEIPT REQUESTED



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US PS

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF ATTORNEY GENERAL
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

James P. Reynolds
1301 Scott Avenue #10
Clovis, CA 93612

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1-9
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