

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

In the Matter of the Accusation Against:

WILLIAM LUTHER BENNETT
P.O. Box 690486
Stockton, CA 95269-0486

Original Pharmacist Licence No. RPH 28245

Respondent.

Case No. 31 03

OAH No. 2007110330

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 8, 2008

It is so ORDERED July 9, 2008

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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
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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 WILLIAM LUTHER BENNETT
P.O. Box 690486
Stockton, CA 95269-0486

14 Original Pharmacist Licence No. RPH 28245

15 Respondent.

Case No. 3103

OAH No. 2007110330

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
22 by Edmund G. Brown Jr., Attorney General of the State of California, by Patrick M. Kenady,
23 Deputy Attorney General.

24 2. Respondent William Luther Bennett (Respondent) is represented in this
25 proceeding by attorney Scott M. Hutchison, Simas & Hutchison whose address is Scott M.
26 Hutchison, 1215 K Street, 17th Floor, Sacramento, CA 95814.

27 3. On or about May 18, 1973, the Board of Pharmacy issued Pharmacist
28 License No. RPH 28245 to William Luther Bennett (Respondent). The Pharmacist License was

1 in full force and effect at all times relevant to the charges brought in Accusation No. 3103 and
2 will expire on September 30, 2008, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3103 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on
7 January 1, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 3103 is attached as exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 3103. Respondent has also carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
17 the right to present evidence and to testify on his own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. 3103.

26 9. Respondent agrees that his Pharmacist License is subject to discipline and
27 he agrees to be bound by the Board of Pharmacy (Board) 's imposition of discipline as set forth in
28 the Disciplinary Order below.

1 that Respondent shall be given credit for the time his license was suspended under the
2 Pharmacists Recovery Program (PRP). Respondent shall be given credit for (180) days actual
3 suspension already served.

4 During suspension, Respondent shall not enter any pharmacy area or any portion
5 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
6 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous
7 drugs and devices or controlled substances are maintained. Respondent shall not practice
8 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
9 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be
10 a consultant to any licensee of the Board, or have access to or control the ordering,
11 manufacturing or dispensing of dangerous drugs and devices or controlled substances.

12 Respondent shall not engage in any activity that requires the professional
13 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
14 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for
15 any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to
16 own or hold an interest in any pharmacy in which he holds an interest at the time this decision
17 becomes effective unless otherwise specified in this order.

18 2. **Obey All Laws.** Respondent shall obey all state and federal laws and
19 regulations substantially related to or governing the practice of pharmacy.

20 Respondent shall report any of the following occurrences to the Board, in writing,
21 within 72 hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal
24 controlled substances laws
- 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
26 any criminal complaint, information or indictment
- 27 • a conviction of any crime

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- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is **not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

4. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

5. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to comply shall be considered a violation of probation.

6. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

7. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 3103 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in case number 3103.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at

1 every pharmacy of the and terms conditions of the decision in case number 3103 in advance of
2 the Respondent commencing work at each pharmacy.

3 "Employment" within the meaning of this provision shall include any full-time,
4 part-time, temporary, relief or pharmacy management service as a pharmacist, whether the
5 Respondent is considered an employee or independent contractor.

6 **8. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
7 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
8 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
9 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
10 order.

11 **9. Reimbursement of Board Costs.** Respondent shall pay to the Board
12 its costs of investigation and prosecution in the amount of \$5,073.75. Respondent shall make
13 said payments as follows: Payment in full shall be made within three (3) years of the effective
14 date of the decision, at the rate of \$150.00 per month.

15 **10. Probation Monitoring Costs.** Respondent shall pay the costs
16 associated with probation monitoring as determined by the Board each and every year of
17 probation. Such costs shall be payable to the Board at the end of each year of probation.
18 Failure to pay such costs shall be considered a violation of probation.

19 **11. Status of License.** Respondent shall, at all times while on probation,
20 maintain an active current license with the Board, including any period during which
21 suspension or probation is tolled.

22 If Respondent's license expires or is canceled by operation of law or otherwise,
23 upon renewal or re-application, Respondent's license shall be subject to all terms and
24 conditions of this probation not previously satisfied.

25 **12. License Surrender while on Probation/Suspension.**
26 Following the effective date of this decision, should Respondent cease practice due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 Respondent may tender his license to the Board for surrender. The Board shall have the

1 discretion whether to grant the request for surrender or take any other action it deems
2 appropriate and reasonable. Upon formal acceptance of the surrender of the license,
3 Respondent will no longer be subject to the terms and conditions of probation.

4 Upon acceptance of the surrender, Respondent shall relinquish his pocket
5 license to the Board within 10 days of notification by the Board that the surrender is accepted.
6 Respondent may not reapply for any license from the Board for three years from the effective
7 date of the surrender. Respondent shall meet all requirements applicable to the license sought
8 as of the date the application for that license is submitted to the Board.

9 **13. Notification of Employment/Mailing Address Change.** Respondent
10 shall notify the Board in writing within 10 days of any change of employment. Said
11 notification shall include the reasons for leaving and/or the address of the new employer,
12 supervisor or owner and work schedule if known. Respondent shall notify the Board in
13 writing within 10 days of a change in name, mailing address or phone number.

14 **14. Tolling of Probation.** Should Respondent, regardless of residency, for
15 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
16 California, Respondent must notify the Board in writing within 10 days of cessation of the
17 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
18 shall not apply to the reduction of the probation period. It is a violation of probation for
19 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
20 period exceeding three years.

21 "Cessation of practice" means any period of time exceeding 30 days in which
22 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the
23 Business and Professions Code.

24 **15. Violation of Probation.** If Respondent violates probation in any
25 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
26 probation and carry out the disciplinary order which was stayed. If a petition to revoke
27 probation or an accusation is filed against Respondent during probation, the Board shall have

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1 continuing jurisdiction and the period of probation shall be extended, until the petition to
2 revoke probation or accusation is heard and decided.

3 If Respondent has not complied with any term or condition of probation, the
4 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
5 be extended until all terms and conditions have been satisfied or the Board has taken other
6 action as deemed appropriate to treat the failure to comply as a violation of probation, to
7 terminate probation, and to impose the penalty which was stayed.

8 **16. Completion of Probation.** Upon successful completion of probation,
9 Respondent's license will be fully restored.

10 **17. Rehabilitation Program - Pharmacists Recovery Program (PRP).**
11 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
12 Recovery Program for evaluation and shall successfully participate in and complete the
13 treatment contract and any subsequent addendums as recommended and provided by the PRP
14 and as approved by the Board. The costs for PRP participation shall be borne by the
15 Respondent.

16 If Respondent is currently enrolled in the PRP, said participation is now
17 mandatory and is no longer considered a self-referral under Business and Professions Code
18 section 4363, as of the effective date of this decision. Respondent shall successfully
19 participate in and complete his current contract and any subsequent addendums with the PRP.
20 Probation shall be automatically extended until Respondent successfully completes his
21 treatment contract. Any person terminated from the program shall be automatically suspended
22 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
23 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
24 probation for any violation of this term.

25 **18. Random Drug Screening.** Respondent, at his own expense, shall
26 participate in random testing, including but not limited to biological fluid testing (urine,
27 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
28 The length of time shall be for the entire probation period and the frequency of testing will be

1 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
2 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
3 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
4 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
5 in the immediate suspension of practice by Respondent. Respondent may not resume the
6 practice of pharmacy until notified by the Board in writing.

7 19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
8 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
9 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
10 practitioner as part of a documented medical treatment. Upon request of the Board,
11 Respondent shall provide documentation from the licensed practitioner that the prescription
12 was legitimately issued and is a necessary part of the treatment of the Respondent.

13 20. **Supervised Practice.** Respondent shall practice only under the
14 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
15 until the supervisor is approved by the Board. The supervision shall be, as required by the
16 Board, either:

17 Continuous - 75% to 100% of a work week

18 Substantial - At least 50% of a work week

19 Partial - At least 25% of a work week

20 Daily Review - Supervisor's review of probationer's daily activities within 24
21 hours.

22 Within 30 days of the effective date of this decision, Respondent shall have his
23 supervisor submit notification to the Board in writing stating the supervisor has read the
24 decision in case number 3103 and is familiar with the level of supervision as determined by
25 the Board..

26 If Respondent changes employment, Respondent shall have his new supervisor,
27 within 15 days after employment commences, submit notification to the Board in writing
28 stating the direct supervisor and pharmacist-in-charge have read the decision in case number

1 3103 and is familiar with the level of supervision as determined by the Board. Within 10,
2 days of leaving employment, Respondent shall notify the Board in writing.

3 **21. No Ownership of Premises.** Respondent shall not own, have any legal
4 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
5 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
6 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
7 entity licensed by the Board within 90 days following the effective date of this decision and
8 shall immediately thereafter provide written proof thereof to the Board.

9 **22. Tolling of Suspension.** If Respondent leaves California to reside or
10 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
11 must notify the Board in writing of the dates of departure and return. Periods of residency or
12 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
13 reduction of the suspension period.

14 Respondent shall not practice pharmacy upon returning to this state until
15 notified by the Board that the period of suspension has been completed.

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: April 23, 2008

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

Exhibit A
Accusation No. 3103

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 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
7
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3103

12 WILLIAM LUTHER BENNETT
13 P.O. Box 690486
Stockton, CA. 95269-0486

ACCUSATION

14 Original Pharmacist License Number
15 RPH 28245

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, DEPARTMENT OF
21 CONSUMER AFFAIRS, STATE OF CALIFORNIA.

22 2. On or about May 18, 1973, the BOARD OF PHARMACY issued
23 Pharmacist License Number RPH 28245 to William Luther Bennett (Respondent). The
24 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on September 30, 2008, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the BOARD OF PHARMACY,
28 DEPARTMENT OF CONSUMER AFFAIRS, STATE OF CALIFORNIA, under the authority

1 of the following laws. All section references are to the Business and Professions Code unless
2 otherwise indicated.

3 4. Section 4300 of the Code states:

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

5 "(b) The board shall discipline the holder of any license issued by the board,
6 whose default has been entered or whose case has been heard by the board and found guilty, by
7 any of the following methods:

8 "(1) Suspending judgment.

9 "(2) Placing him or her upon probation.

10 "(3) Suspending his or her right to practice for a period not exceeding one year.

11 "(4) Revoking his or her license.

12 "(5) Taking any other action in relation to disciplining him or her as the board
13 in its discretion may deem proper.

14
15 5. Section 4301 of the Code states:

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

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

24 ...
25 "(h) The administering to oneself, of any controlled substance, or the use of any
26 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
27 injurious to oneself, to a person holding a license under this chapter, or to any other person or to

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

11 ...
12 6. Section 125.3 of the Code states, in pertinent part, that the Board may
13 request the administrative law judge to direct a licentiate found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 7. Section 118, subdivision (b), of the Code provides that the
17 suspension/expiration/surrender/cancellation of a license shall not deprive the
18 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
19 within which the license may be renewed, restored, reissued or reinstated.

20 FIRST CAUSE FOR DISCIPLINE

21 (MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)

22 8. Respondent is subject to disciplinary action under section 4301(1) in that
23 respondent between October, 2005 and December, 2006 did wilfully and unlawfully take from
24 Kaiser Permanente controlled substances while employed by Kaiser at Stockton, California, to
25 wit: Ambien and Temazepam, an act constituting moral turpitude, dishonesty, fraud or deceit.

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1 SECOND CAUSE FOR DISCIPLINE

2 (CONTROLLED SUBSTANCE VIOLATION)

3 9. Respondent is subject to disciplinary action under section 4301(j), (o) in
4 that respondent between 2002 and December, 2006 possessed without a prescription controlled
5 substances in violation of section 4060, and Health and Safety Code section 11377(a) and
6 section 11 3500(a), to wit: Phentermine, Lomotil, Ambien, and Temazepam.

7 THIRD CAUSE FOR DISCIPLINE

8 (UNLAWFUL SELF-ADMINISTRATION OF A CONTROLLED SUBSTANCE)

9 10. Respondent is subject to disciplinary action under section 4301(h) in that
10 between 2002 and December, 2006 respondent administered to himself a controlled substance,
11 used a dangerous drug to the extent or in a manner as to be dangerous or injurious to his self, or
12 to the extent that the use impairs the ability of the person to conduct with safety to the public the
13 practice authorized by the license, to wit: Phentermine.

14 FOURTH CAUSE FOR DISCIPLINE

15 (WORKING UNDER THE INFLUENCE)

16 12. Respondent is subject to disciplinary action under section 4301(o) in that
17 between November, 2002 and December, 2006 while working at Kaiser Permanente at Stockton,
18 California self-administered Phentermine, a schedule IV controlled substance, known to affect
19 mood and judgment, during numerous times when he was involved with the preparation,
20 compounding, dispensing, and sale of prescriptions and providing patient care as a licensed
21 pharmacist in violation of section 4327.

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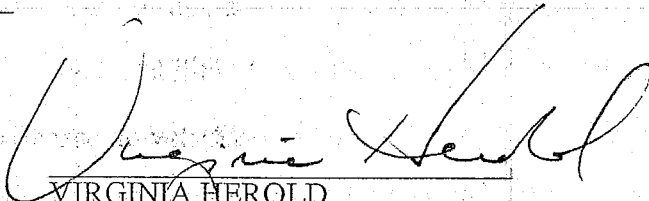
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PRAYER

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 Pharmacist License Number RPH 28245, issued to William Luther Bennett.
2. Ordering William Luther Bennett to pay the BOARD OF PHARMACY D 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: 10/12/07



VIRGINIA HEROLD
Executive Officer
BOARD OF PHARMACY
STATE OF CALIFORNIA
State of California
Complainant

SA2007101626
10361766.wpd

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

Case Name: **In the Matter of the Accusation Against: WILLIAM L. BENNETT**

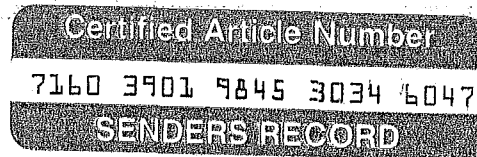
Case No.: **3103**

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 10/18/07, 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:

William Luther Bennett
P.O. Box 690486
Stockton, CA 95269-0486



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 10/18/07, at Sacramento, California.

Kasey P. Arismende
Declarant

Kasey P. Arismende

Signature