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

In the Matter of the Accusation Against:  
  
**TRISTAN ANDREW TOLOSA**  
  
Respondent.

Case No. 3280

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 14, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3280 against Tristan Andrew Tolosa (Respondent) before the Board of Pharmacy.
2. On or about September 11, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 50743 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2011 if not renewed.
3. On or about May 29, 2009, Fe M. Domingo, an employee of the Department of Justice, served by Certified and First Class Mail a copy of Accusation No. 3357, a Statement to Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board: 1156 Balclutha Dr., Foster City, CA 94404. Copies of the Accusation and service materials are attached as exhibit A, and are incorporated herein by reference.
4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c). In addition, the Certified Mail Return Receipt

1 card was returned to the Department of Justice, dated May 30, 2009 for receipt of the Accusation  
2 materials, with what appears to be Nyemy Tolosa's signature. A copy of the Certified Mail  
3 Return Receipt card is included with the documents in exhibit A.

4 5. Government Code section 11506 states, in pertinent part:

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

9 6. Respondent failed to file a Notice of Defense within 15 days after service upon him  
10 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
11 3280.

12 7. California Government Code section 11520 states, in pertinent part:

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

16 8. Pursuant to its authority under Government Code section 11520, the Board finds  
17 Respondent is in default. The Board will take action without further hearing and, based on the  
18 evidence on file herein, finds that the allegations in Accusation No. 3280 are true.

19 9. The total costs for investigation and enforcement in connection with the Accusation  
20 are \$2,288.75 as of September 21, 2009.

21 DETERMINATION OF ISSUES

22 1. Based on the foregoing findings of fact, Respondent Tristan Tolosa has subjected his  
23 Pharmacy Technician License No. TCH 50743 to discipline.

24 2. A copy of the Accusation is attached.

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

26 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
27 License based upon the following violations alleged in the Accusation:  
28

1 a. In violation of Business and Professions Code section 4301(h), in or around August  
2 2007, Respondent self-administered methamphetamine, a controlled substance, on repeated  
3 occasions.

4 b. In violation of Business and Professions Code sections 4301(j) and/or (o) and/or  
5 section 4060 of the Code, and/or Health and Safety Code section 11377 in or around August  
6 2007, Respondent, possessed, conspired to possess, and/or assisted in or abetted possession of  
7 methamphetamine, a controlled substance, without a prescription.

8 c. In violation of Business and Professions Code section 4301 (j) and/or (o) of the Code,  
9 and/or Health and Safety Code section(s) 11170 and/or 11550, in or around August 2007,  
10 Respondent self-administered/used, conspired to self-administer/use, and/or assisted in/abetted  
11 self-administration/use of a controlled substance, without prescription.

12 d. In violation of Business and Professions Code section 4301, by way of the actions  
13 described in paragraph(s) 4(a) through 4(c) above, Respondent engaged in unprofessional  
14 conduct.

15 ORDER

16 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 50743, heretofore  
17 issued to Respondent Tristan Andrew Tolosa, is revoked.

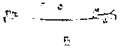
18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
19 written motion requesting that the Decision be vacated and stating the grounds relied on within  
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
21 vacate the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

22 This Decision shall become effective on February 10, 2010.

23 It is so ORDERED January 11, 2010.

24   
25 \_\_\_\_\_  
26 KENNETH H. SCHELL, BOARD PRESIDENT  
27 FOR THE BOARD OF PHARMACY  
28 DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Accusation No. 3280



**Exhibit A**  
**Accusation Packet No. 3280 and Service Documents**

2009 JUN -2 AM 9:07

1 EDMUND G. BROWN JR., 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  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-1299  
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3280

11 TRISTAN ANDREW TOLOSA  
12 1156 Balclutha Drive  
Foster City, CA 94404

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

13 Pharmacy Technician License No. TCH 50743

14 Respondent.  
15

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 Consumer Affairs.

21 2. On or about September 11, 2003, the Board of Pharmacy issued Pharmacy  
22 Technician License Number TCH 50743 to Tristan Andrew Tolosa (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on May 31, 2011, unless renewed.

25 JURISDICTION

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



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

3           9.       Health and Safety Code section 11170 provides that no person shall  
4 prescribe, administer, or furnish a controlled substance for himself or herself.

5           10.      Health and Safety Code section 11377, in pertinent part, makes it unlawful  
6 to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

7           11.      Health and Safety Code section 11550, in pertinent part, makes it unlawful  
8 for any person to use or be under the influence of any controlled substance in Schedule II (Health  
9 and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules  
10 III-V, except when administered by or under the direction of an authorized licensee.

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

14                                   CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15           13.      Section 4021 of the Code states:

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

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

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

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

23                                   .....  
24                                   “(c) Any other drug or device that by federal or state law can be lawfully  
25 dispensed only on prescription or furnished pursuant to Section 4006.”

26           15.      Methamphetamine is a Schedule II controlled substance as designated by  
27 Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and  
28 Professions Code section 4022. It is a stimulant drug.





1                                                        FOURTH CAUSE FOR DISCIPLINE

2                                                        (Unprofessional Conduct)

3                                                        20.      Respondent is subject to discipline under section 4301 of the Code in that  
4 Respondent, as described in paragraphs 16-19 above, engaged in unprofessional conduct.

5  
6                                                        PRAYER

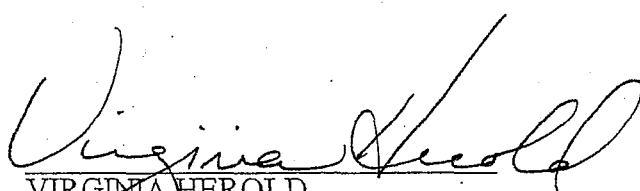
7                                                        WHEREFORE, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

9                                                        A.      Revoking or suspending Pharmacy Technician License Number TCH  
10 50743, issued to Tristan Andrew Tolosa (Respondent);

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

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

14  
15 DATED: 5/14/09

16                                                          
17 VIRGINIA HEROLD  
18 Executive Officer  
19 Board of Pharmacy  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant

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

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3280

11 **TRISTAN ANDREW TOLOSA**

**STATEMENT TO RESPONDENT**

12 Respondent.

[Gov. Code §§ 11504, 11505(b)]

13  
14  
15 **TO RESPONDENT:**

16 Enclosed is a copy of the Accusation that has been filed with the Board of Pharmacy of the  
17 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 or  
19 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 forms  
24 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in  
25 section 11506 of the Government Code, to

26  
27 **Joshua A. Room**  
**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 proceedings.  
2 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
3 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
4 to the form of the Accusation unless you file a further Notice of Defense as provided in section  
5 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

6 If you file any Notice of Defense within the time permitted, a hearing will be held on the  
7 charges made in the Accusation.

8 The hearing may be postponed for good cause. If you have good cause, you are obliged to  
9 notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, CA 94612,  
10 within ten (10) working days after you discover the good cause. Failure to notify the Office of  
11 Administrative Hearings within ten (10) days will deprive you of a postponement.

12 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

13 If you desire the names and addresses of witnesses or an opportunity to inspect and copy  
14 the items mentioned in section 11507.6 of the Government Code in the possession, custody or  
15 control of the Board you may send a Request for Discovery to the above designated Deputy  
16 Attorney General.

17 **NOTICE REGARDING STIPULATED SETTLEMENTS**

18 It may be possible to avoid the time, expense and uncertainties involved in an  
19 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
20 settlement is a binding written agreement between you and the government regarding the matters  
21 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
22 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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

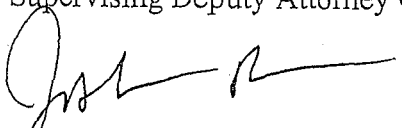
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If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Joshua A. Room at the earliest opportunity

Dated: May 29, 2009

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JOSHUA A. ROOM  
Deputy Attorney General  
*Attorneys for Complainant*

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1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
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Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3280

11 TRISTAN ANDREW TOLOSA

**REQUEST FOR DISCOVERY**

12 Respondent.  
13

14 TO RESPONDENT:

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

19  
20 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE  
21 HEREBY REQUESTED TO:

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

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

c. Statements of witnesses then proposed to be called by the Respondent 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 Respondent now proposes to offer in evidence;

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

f. Investigative reports made by or on behalf of the Respondent 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 Request for Discovery, "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.

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's 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: May 29, 2009

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JOSHUA A. ROOM  
Deputy Attorney General  
*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:

Case No. 3280

**TRISTAN ANDREW TOLOSA**

Respondent.

**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: \_\_\_\_\_

**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:

Case No. 3280

**TRISTAN ANDREW TOLOSA**

Respondent.

**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: \_\_\_\_\_

**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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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.

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DECLARATION OF SERVICE  
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Tristan Andrew Tolosa*  
Agency Case No. 3280

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 May 29, 2009, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2 copies), Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the same document(s) was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

TRISTAN ANDREW TOLOSA  
1156 Balclutha Drive  
Foster City, CA 94404

**Certified Article Number**

7160 3901 9849 2869 7584

**SENDER'S RECORD**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 29, 2009 at San Francisco, California.

FE M. DOMINGO  
\_\_\_\_\_  
Typed Name

*Fm Domingo*  
\_\_\_\_\_  
Signature

7160 3901 9849 2869 7584

TO:

TRISTAN ANDREW TOLOSA  
1156 Balclutha Drive  
Foster City, CA 94404

SENDER: JAR

REFERENCE:

SF2009403318

PS Form 3800, January 2005

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