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

10 In the Matter of the Accusation Against:

Case No. 3357

11 **JAYNA F. MANTO**
12 **aka Jaynalee F. Manto**
13 **5737 Everwood Court**
14 **Richmond, California 94806**

DEFAULT DECISION AND ORDER

15 Pharmacy Technician License No. TCH 73450

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

18 1. On or about July 8, 2009, Complainant Virginia Herold, in her official capacity as the
19 Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation
20 No. 3357 against Jayna F. Manto (Respondent) before the Board of Pharmacy.

21 2. On or about December 11, 2006, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 73450 to Jayna F. Manto (Respondent). The License was in full force and
23 effect at all times relevant to the charges brought herein. On or about September 15, 2008, on
24 request from the Board of Pharmacy under Penal Code section 23, an order entered in Contra
25 Costa County Superior Court, Case No. 02-299320-2, prohibited Respondent from continuing to
26 practice as a Pharmacy Technician during the pendency of the criminal and/or subsequent license
27 discipline proceedings, and required Respondent to return all originals and copies of her License
28 to the Board of Pharmacy. The License will expire on May 31, 2010, unless renewed.

3. On or about July 16, 2009, Fe M. Domingo, employee of the Department of Justice,
served by Certified and First Class Mail a copy of Accusation No. 3357, a Statement to

1 Respondent, two copies of a form Notice of Defense, a Request for Discovery, and copies of
2 Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record
3 with the Board, which was and is: 5737 Everwood Court, Richmond, California 94806. Copies
4 of the Accusation and service materials are attached as exhibit A, and incorporated by reference.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c). In addition, on or about July 20, 2009, the
7 Certified Mail Return Receipt card was returned to the Department of Justice, dated July 17, 2009
8 for receipt of the Accusation materials, with what appears to be a signature bearing the same last
9 name as Respondent. A copy of the Certified Mail Return Receipt card is included in exhibit A.

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

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3225.

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

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 evidence on file herein, finds that the allegations in Accusation No. 3218 are true.

24 9. The total costs for investigation and enforcement in connection with the Accusation
25 are \$6,978.50 as of September 18, 2009.

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2 DETERMINATION OF ISSUES

3 1. Based on the foregoing findings of fact, Respondent Jayna F. Manto has subjected her
4 Pharmacy Technician License No. TCH 73450 to discipline.

5 2. A copy of the Accusation is attached.

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

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

9 a. In violation of Business and Professions Code section 4301(f), between in or around
10 February 2008 and June 2008, while employed as a pharmacy technician at a Lucky Pharmacy in
11 San Pablo, California, Respondent committed acts involving moral turpitude, dishonesty, fraud,
12 deceit or corruption when she forged/created fraudulent prescription documents in the name(s) of
13 fictitious patients, and signed the names of the fictitious patients to steal or divert the drugs (at at
14 least thirty-two (32) bottles, containing one hundred (100) tablets each, of **Hydrocodone with**
15 **APAP** (or name brand versions), and forty (40) bottles, containing sixteen (16) ounces (one pint)
16 of liquid syrup each, of **Phenergan with Codeine** or **Promethazine with Codeine**. Respondent
17 admitted to stealing drugs to sell outside the pharmacy, without prescription, for financial gain.

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

21 c. In violation of Business and Professions Code sections 4301(l) and or 490, based on
22 the conduct described in paragraph 4(a) above, on or about March 27, 2009 Respondent entered a
23 plea of no contest and was convicted of was convicted of violating Penal Code section 487(a)/508
24 (Grand Theft – Embezzlement) a felony, and Business and Professions Code section 4324(a)
25 (Passing a Forged Prescription), a felony. Both substantially related crimes.

26 d. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
27 4059, and/or Health and Safety Code section 11170, Respondent, by way of the conduct
28

1 described in paragraph 4(a) above, furnished to herself or another without a valid prescription,
2 and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

3 e. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
4 4060, and/or Health and Safety Code section 11350, Respondent, by way of the conduct
5 described in paragraph 4(a) above, possessed, conspired to possess, and/or assisted in or abetted
6 possession of, a controlled substance, without a prescription.

7 f. In violation of Business and Professions Code section(s) 4301(j) and/or (o), and/or
8 Health and Safety Code section 11173(a), Respondent, by way of the conduct described in
9 paragraph 4(a) above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of
10 a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

11 g. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
12 4324, and/or Health and Safety Code section 11157 and/or 11368, Respondent, by way of the
13 conduct described in paragraph 4(a) above, falsely made, altered, forged, uttered, published,
14 passed, or attempted to pass, a false, forged, fictitious or altered prescription for a (narcotic) drug,
15 had in her possession a (narcotic) drug secured by a false, forged, fictitious or altered
16 prescription, or conspired and/or assisted in or abetted any of these acts.

17 h. In violation of Business and Professions Code section(s) 4301(j) and/or (o), and/or
18 Health and Safety Code section 11150 and/or 11175, Respondent, by way of the conduct
19 described in paragraph 4(a) above, issued prescriptions without authority to do so, obtained or
20 possessed an invalid prescription, obtained or possessed a controlled substance by means of such
21 invalid prescription, or conspired and/or assisted in or abetted any of these acts.

22 i. In violation of Business and Professions Code section(s) 4301(j) and/or (o), and/or
23 Health and Safety Code section 11351, Respondent, by way of the conduct described in
24 paragraph 4(a) above, possessed or purchased a narcotic drug for sale, or conspired and/or
25 assisted in or abetted such possession or purchase for sale.

26 j. In violation of Business and Professions Code section 4301, by way of the actions
27 described in paragraph(s) 4(a) to 4(i) above, Respondent engaged in unprofessional conduct.

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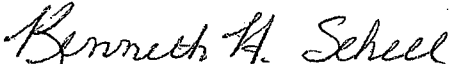
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 73450, heretofore issued to Jayna F. Manto (Respondent), is revoked.

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

This Decision shall become effective on February 10, 2010.

It is so ORDERED January 11, 2010.



KENNETH H. SCHELL, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

40377550.DOC
DOJ docket number:SF2008200610

Attachment:

Exhibit A: Accusation Packet No.3357 and Service Documents

Exhibit A

Accusation Packet No. 3357 and Service Documents

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

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 **aka Jaynalee F. Manto**
13 **5737 Everwood Court**
Richmond, California 94806

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 73450

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about December 11, 2006, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 73450 to Jayna F. Manto (Respondent). The License was in full force and
23 effect at all times relevant to the charges brought herein. On or about September 15, 2008, on
24 request from the Board of Pharmacy under Penal Code section 23, an order entered in Contra
25 Costa County Superior Court, Case No. 02-299320-2, prohibited Respondent from continuing to
26 practice as a Pharmacy Technician during the pendency of the criminal and/or subsequent license
27 discipline proceedings, and required Respondent to return all originals and copies of her License
28 to the Board of Pharmacy. The License will expire on May 31, 2010, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

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

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

10 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
11 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
12 disciplinary action during the period within which the license may be renewed, restored, reissued
13 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
14 renewed within three years following its expiration may not be renewed, restored, or reinstated
15 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
16 the Code provides that any other license issued by the Board may be canceled by the Board if not
17 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
18 reissued but will instead require a new application to seek reissuance.

STATUTORY AND REGULATORY PROVISIONS

19
20 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
21 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
22 not be limited to, any of the following:

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

26 (g) Knowingly making or signing any certificate or other document that falsely represents
27 the existence or nonexistence of a state of facts.

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

3 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
4 of a licensee under this chapter.

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

9 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
10 revoke a license when it finds that the licensee has been convicted of a crime substantially related
11 to the qualifications, functions or duties of the license.

12 9. California Code of Regulations, title 16, section 1770, states:

13 "For the purpose of denial, suspension, or revocation of a personal or facility license
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
17 licensee or registrant to perform the functions authorized by her license or registration in a
18 manner consistent with the public health, safety, or welfare."

19 10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
20 drug or dangerous device except upon the prescription of an authorized prescriber.

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

23 12. Section 4324 of the Code, in pertinent part, makes it unlawful for a person to falsely
24 make, alter, forge, utter, publish, pass, or attempt to pass, as genuine, a prescription for a drug, or
25 to have in his or her possession a drug secured by a forged prescription.

26 13. Health and Safety Code section 11150 provides, in pertinent part, that no person other
27 than an authorized prescriber shall write or issue a prescription.

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1 14. Health and Safety Code section 11157 provides that no person shall issue a
2 prescription that is false or fictitious in any respect.

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

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

9 17. Health and Safety Code section 11175 makes it unlawful for any person to obtain or
10 possess a prescription that does not comply with the Uniform Controlled Substances Act [Health
11 & Safety Code, § 11000 et seq.], to obtain a controlled substance by means of such non-compliant
12 prescription, or to possess a controlled substance obtained by such a prescription.

13 18. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
14 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
15 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

16 19. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess
17 or purchase for sale, inter alia, any narcotic drug in Schedules III-V.

18 20. Health and Safety Code section 11368, in pertinent part, makes it unlawful to forge or
19 alter a prescription, to issue or utter an altered prescription, to issue or utter a prescription bearing
20 a forged or fictitious signature for any narcotic drug, to obtain a narcotic drug by any forged,
21 fictitious, or altered prescription, or to possess any narcotic drug secured by a forged, fictitious, or
22 altered prescription.

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

26 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

27 22. Section 4021 of the Code states:
28

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

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

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

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

8 ...

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

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

16 25. **Phenergan with Codeine** is a brand name for a compound of the antihistamine
17 **promethazine**, a dangerous drug as designated by Business and Professions Code section 4022,
18 and **codeine**, a Schedule V controlled substance as designated by Health and Safety Code section
19 11058 and a dangerous drug as designated by Business and Professions Code section 4022. In its
20 generic form it is also known as **Promethazine with Codeine**. It is a narcotic drug.

21 FACTUAL BACKGROUND

22 26. Between on or about June 11, 2007 and on or about July 17, 2008, Respondent was
23 employed as a pharmacy technician at a Lucky Pharmacy (PHY 48509) in San Pablo, California.
24 In that position, she had access to controlled substances and dangerous drugs.

25 27. Between in or about March 2008 and in or about June 2008, Respondent made use of
26 that access to divert/steal controlled substances and dangerous drugs. Specifically, Respondent
27 forged/created fraudulent prescription documents in the name(s) of fictitious patients, and signed
28 the names of the fictitious patients in the customer log while stealing/diverting the drugs.

1 28. By this and/or other methods of theft from the pharmacy, Respondent admitted to
2 taking/diverting at least thirty-two (32) bottles, containing one hundred (100) tablets each, of
3 **Hydrocodone with APAP** (or name brand versions), and forty (40) bottles, containing sixteen
4 (16) ounces (one pint) of liquid syrup each, of **Phenergan with Codeine** or **Promethazine with**
5 **Codeine**. An audit conducted by Lucky for the period from February 23, 2007 to July 22, 2008
6 revealed shortages/losses for that period of 5,524 tablets of **Hydrocodone with APAP** and
7 26,260 mls (56 one pint bottles) of **Phenergan** or **Promethazine with Codeine** syrup. During
8 interviews with loss prevention and/or with police, Respondent admitted to stealing the drugs for
9 purposes of sale outside of the pharmacy, without prescription, for financial gain.

10 FIRST CAUSE FOR DISCIPLINE

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

12 29. Respondent is subject to discipline under section 4301(f) of the Code in that
13 Respondent, as described in paragraphs 26 to 28 above, committed numerous acts involving
14 moral turpitude, dishonesty, fraud, deceit, or corruption.

15 SECOND CAUSE FOR DISCIPLINE

16 (Creation/Signature of False Documents)

17 30. Respondent is subject to discipline under section 4301(g) of the Code in that
18 Respondent, as described in paragraphs 26 to 28 above, created and/or signed documents that
19 falsely represented the existence or nonexistence of a state of facts.

20 THIRD CAUSE FOR DISCIPLINE

21 (Conviction of Substantially Related Crime(s))

22 31. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
23 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
24 substantially related crime(s), in that on or about March 27, 2009, in a criminal case titled *People*
25 *v. Jaynalee Fajilagutan Manto*, Case No. 02-299320-2 in Contra Costa County Superior Court,
26 Respondent was convicted of one (1) count of violating Penal Code section(s) 487(a)/508 (Grand
27 Theft – Embezzlement) a felony, and one (1) count of violating Business and Professions Code
28 section 4324(a) (Passing a Forged Prescription), a felony. The conviction was entered as follows:

1 a. On or about July 17, 2008, based on the conduct described in paragraphs 26 to
2 28 above, Respondent was arrested and subsequently charged in *People v. Jaynalee Fajilagutan*
3 *Manto*, Case No. 02-299320-2 in Contra Costa County Superior Court, with one (1) count of
4 violating Penal Code section(s) 487(a)/508 (Grand Theft – Embezzlement) a felony, thirteen (13)
5 counts (Two to Fourteen) of violating Business and Professions Code section 4324(a) (Passing a
6 Forged Prescription), all felonies, and three (3) counts (Fifteen to Seventeen) of violating Health
7 and Safety Code section 11351 (Possessing Controlled Substances for Sale), all felonies;

8 b. On or about March 27, 2009, Respondent pleaded no contest and was found
9 guilty of Count One (Penal Code section(s) 487(a)/508 [Grand Theft – Embezzlement]), a felony,
10 and Count Two (Business and Professions Code section 4324(a) [Passing a Forged Prescription]),
11 also a felony. The remaining counts (Three to Seventeen) were dismissed by motion of the DA.
12 Imposition of sentence was suspended in favor of a period of formal probation of three (3) years,
13 on terms and conditions including 180 days in jail (2 days credit) or electronic home detention,
14 counseling as directed by probation, search conditions, abstention from use, fines and fees, and a
15 prohibition on acting as a fiduciary for any other person.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Furnishing of Controlled Substance)

18 32. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
19 4059 of the Code, and/or Health and Safety Code section 11170 in that Respondent, as described
20 in paragraphs 26 to 28 above, furnished to herself or another without a valid prescription, and/or
21 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

22 FIFTH CAUSE FOR DISCIPLINE

23 (Possession of Controlled Substance)

24 33. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
25 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
26 in paragraphs 26 to 28 above, possessed, conspired to possess, and/or assisted in or abetted
27 possession of, a controlled substance, without a prescription.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

3 34. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
5 26 to 28 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
6 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

7 SEVENTH CAUSE FOR DISCIPLINE

8 (Making, Uttering and/or Using False or Forged Prescriptions)

9 35. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
10 4324 of the Code, and/or Health and Safety Code section(s) 11157 and/or 11368, in that
11 Respondent, as described in paragraphs 26 to 28 above, falsely made, altered, forged, uttered,
12 published, passed, or attempted to pass, a false, forged, fictitious or altered prescription for a
13 (narcotic) drug, had in her possession a (narcotic) drug secured by a false, forged, fictitious or
14 altered prescription, or conspired and/or assisted in or abetted any of these acts.

15 EIGHTH CAUSE FOR DISCIPLINE

16 (Issuance and/or Use of Invalid Prescription(s))

17 36. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
18 and/or Health and Safety Code section(s) 11150 and/or 11175, in that Respondent, as described in
19 paragraphs 26 to 28 above, issued prescriptions without authority to do so, obtained or possessed
20 an invalid prescription, obtained or possessed a controlled substance by means of such invalid
21 prescription, or conspired and/or assisted in or abetted any of these acts.

22 NINTH CAUSE FOR DISCIPLINE

23 (Possession or Purchase of Controlled Substance for Sale)

24 37. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
25 and/or Health and Safety Code section(s) 11351, in that Respondent, as described in paragraphs
26 26 to 28 above, possessed or purchased a narcotic drug for sale, or conspired and/or assisted in or
27 abetted such possession or purchase for sale.

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1 TENTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 38. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 26 to 37 above, engaged in unprofessional conduct.

5
6 PRAYER

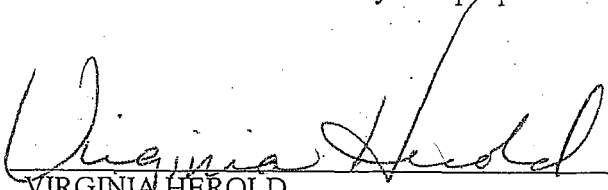
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Pharmacy issue a decision;

9 1. Revoking or suspending Pharmacy Technician License Number TCH 73450, issued
10 to Jayna F. Manto (Respondent);

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

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

14
15 DATED: 7/8/09


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

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28 SF2008200610
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1 EDMUND G. BROWN JR.
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2 FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant

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STATE OF CALIFORNIA

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Case No. 3357

11 **JAYNA F. MANTO**

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.

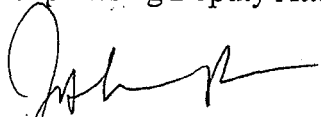
23 Any stipulation must be consistent with the Board's established disciplinary guidelines;
24 however, all matters in mitigation or aggravation will be considered. A copy of the Board's
25 Disciplinary Guidelines will be provided to you on your written request to the state agency
26 bringing this action.

27
28

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

4 Dated: July 16, 2009

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:

JAYNA F. MANTO

Respondent.

Case No. 3357

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:

JAYNA F. MANTO

Respondent.

Case No. 3357

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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. 3357

11 JAYNA F. MANTO

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;

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

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

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

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

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

17
18 For the purpose of this Request for Discovery, "statements" include written statements by
19 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
20 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
21 summaries of these oral statements.

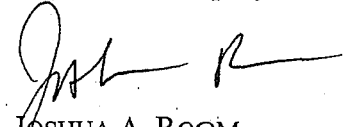
22
23 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
24 should be deemed to authorize the inspection or copying of any writing or thing which is
25 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
26 product.

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

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

7
8 Dated: July 16, 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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**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

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

SECTION 11507.6: Request for discovery

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

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

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

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

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

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

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

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

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

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

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

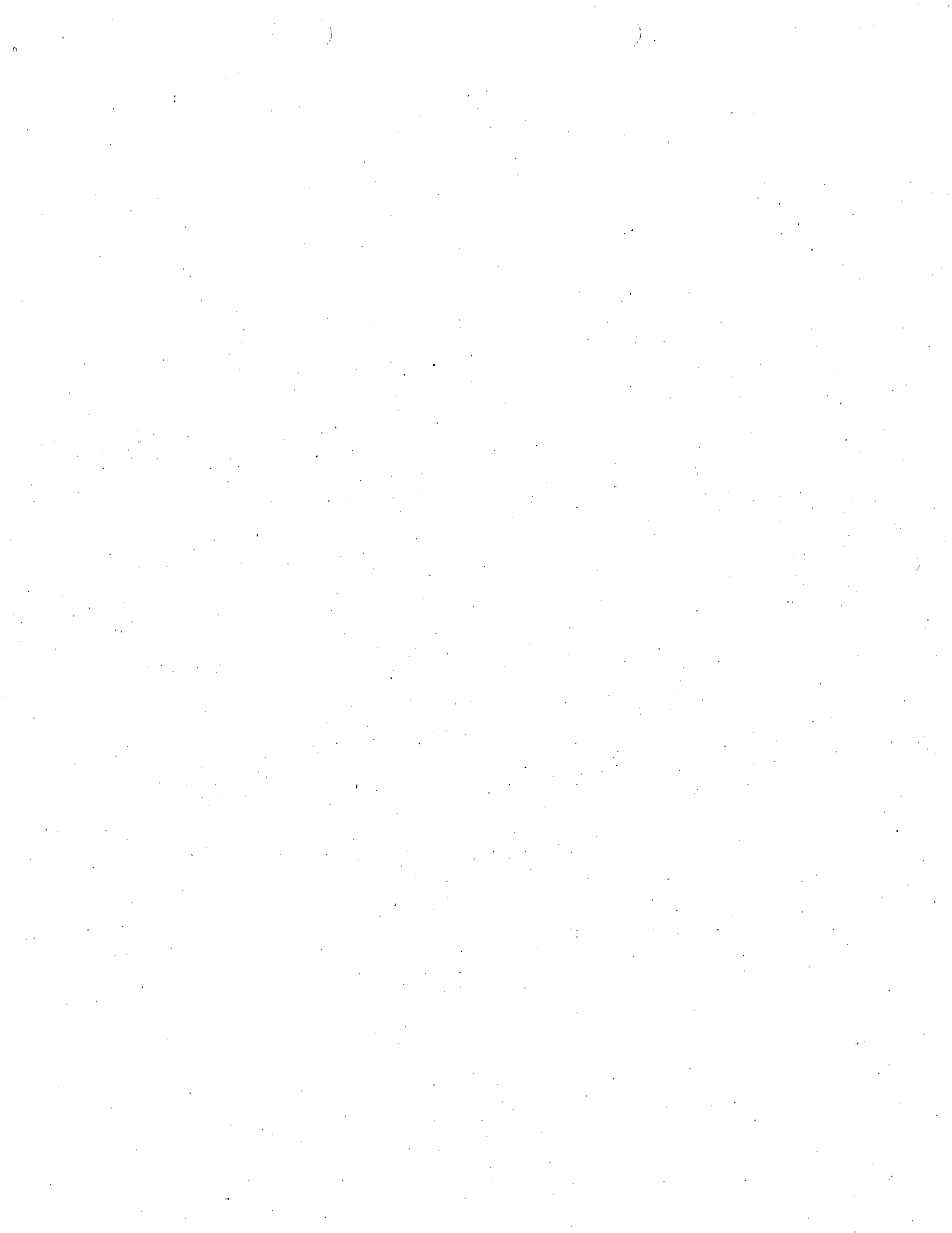
(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation,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

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

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

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

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



DECLARATION OF SERVICE
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Jayna F. Manto*
Agency Case No. 3357

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 July 16, 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:

JAYNA F. MANTO
Aka Jaynalee F. Manto
5737 Everwood Court
Richmond, CA 94806

Certified Article Number

7160 3901 9849 2870 0260

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 July 16, 2009 at San Francisco, California.

FE M. DOMINGO

Typed Name

F M Domingo

Signature

Number



7160 3901 9849 2870 0260

Type CERTIFIED MAIL

Registered Delivery? (Extra Fee) Yes

Addressed to:

A F. MANTO
Jaynalee F. Manto
Everwood Court
Richmond, CA 94806

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery
C. Signature	<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
D. Is delivery address different from item 1? If YES, enter delivery address below:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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JAR

PS Form 3811, January 2005

Domestic Return Receipt

7160 3901 9849 2870 0260

TO:

JAYNA F. MANTO
Aka Jaynalee F. Manto
5737 Everwood Court
Richmond, CA 94806

SENDER: JAR

REFERENCE:

SF2008200610

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	