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

In the Matter of the Accusation Against:

**TUNG THANH NGUYEN  
3984 Pine Lake Circle  
Stockton, CA 95219**

**Pharmacy Technician License No. TCH  
54215**

Respondent.

Case No. 3665

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 6, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3665 against Tung Thanh Nguyen (Respondent) before the Board of Pharmacy.
2. On or about February 4, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 54215 to Respondent. The license was in full force and effect at all times relevant herein and is due to expire on January 31, 2012.
3. On or about May 11, 2010, Constance Ward, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3665, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

1  
2 3984 Pine Lake Circle  
3 Stockton, CA 95219.

4 A copy of the Accusation is attached as exhibit A, and is incorporated herein 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).

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

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

13 6. Respondent failed to file a Notice of Defense within 15 days after service upon  
14 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
15 No. 3665.

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

17 (a) If the respondent either fails to file a notice of defense or to appear at the  
18 hearing, the agency may take action based upon the respondent's express admissions  
19 or upon other evidence and affidavits may be used as evidence without any notice to  
20 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. 3665 are true.

24 9. The total cost for investigation and enforcement in connection with the Accusation  
25 are \$1,105.00 as of June 11, 2010.

26 DETERMINATION OF ISSUES

27 1. Based on the foregoing findings of fact, Respondent Tung Thanh Nguyen has  
28 subjected his Pharmacy Technician License No. TCH 54215 to discipline.

2. A copy of the Accusation is attached.

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



Exhibit A  
Accusation No. 3665

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3665

12 **TUNG THANH NGUYEN**  
13 **3984 Pine Lake Circle**  
**Stockton, California 95219**

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

14 **Pharmacy Technician Registration No.**  
15 **TCH 54215**

16 Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about February 4, 2004, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 54215 to Tung Thanh Nguyen (Respondent). The license was in full  
25 force and effect at all times mentioned herein, and will expire on January 31, 2012, unless  
26 renewed.

**JURISDICTION**

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

4. Section 4300 of the Code states in pertinent part:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

...

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4301 of the Code states in pertinent part:

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

...

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

4           ...

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

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 7. Respondent is subject to disciplinary action for unprofessional conduct under section  
4 4301(l) that he has been convicted of the following crime that is substantially related to the  
5 qualifications, functions, and duties of a pharmacy technician:

6 a. On February 24, 2009, in the Superior Court, Placer County, California, in the  
7 case entitled *People of the State of California v. Tung Thanh Nguyen aka Tung Nguyen*, Case No.  
8 62-86341, Respondent was convicted by the court following his plea of Nolo Contendere to a  
9 violation of Penal Code section 459 (second degree commercial burglary) a felony. The  
10 circumstances are as follows: On November 20, 2008, respondent was caught attempting to steal  
11 two cartons of cigarettes from Costco in Roseville, California. A search of respondent's vehicle  
12 uncovered additional cartons of various brands of cigarettes with no proof of purchase. The  
13 investigation further revealed that respondent's cell phone contained numerous text messages that  
14 appeared to be "orders" for the cartons of cigarettes found in his vehicle. During the  
15 investigation, respondent repeatedly lied to the investigating officer.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Acts of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

18 8. Respondent is subject to disciplinary action for unprofessional conduct under section  
19 4301(f) for acts of moral turpitude, dishonesty, fraud, deceit, or corruption as set forth in  
20 paragraph 7(a) above.

21 **PRAYER**

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

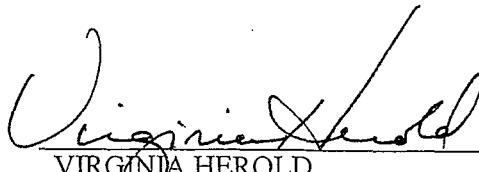
24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 54215,  
25 issued to Tung Thanh Nguyen.  
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1           2.    Ordering Tung Thanh Nguyen to pay the Board of Pharmacy the reasonable costs of  
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3;

4           3.    Taking such other and further action as deemed necessary and proper.  
5

6  
7 DATED: 5/6/10



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3665

12 **TUNG THANH NGUYEN**  
13 **3984 Pine Lake Circle**  
**Stockton, California 95219**

**STATEMENT TO RESPONDENT**

[Gov. Code §§ 11504, 11505(b)]

14 **Pharmacy Technician**  
15 **Registration No. TCH 54215**

16 Respondent.

17  
18 **TO RESPONDENT:**

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

21 Unless a written request for a hearing signed by you or on your behalf is delivered or  
22 mailed to the Board, represented by Deputy Attorney General Kent D. Harris, within fifteen (15)  
23 days after a copy of the Accusation was personally served on you or mailed to you, you will be  
24 deemed to have waived your right to a hearing in this matter and the Board may proceed upon the  
25 Accusation without a hearing and may take action thereon as provided by law.

26 ///

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28 ///

1 The request for hearing may be made by delivering or mailing one of the enclosed forms  
2 entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in  
3 section 11506 of the Government Code, to:

4  
5 **Kent D. Harris**  
6 **Deputy Attorney General**  
7 **1300 I Street, Suite 125**  
8 **P.O. Box 944255**  
9 **Sacramento, California 94244-2550**

10 You may, but need not, be represented by counsel at any or all stages of these proceedings.

11 The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a  
12 specific denial of all parts of the Accusation, but you will not be permitted to raise any objection  
13 to the form of the Accusation unless you file a further Notice of Defense as provided in section  
14 11506 of the Government Code within fifteen (15) days after service of the Accusation on you.

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

17 The hearing may be postponed for good cause. If you have good cause, you are obliged to  
18 notify the Office of Administrative Hearings, Attn: General Jurisdiction, 2349 Gateway Oaks,  
19 Suite 200, Sacramento, CA 95833-4231, within ten (10) working days after you discover the  
20 good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will  
21 deprive you of a postponement.

22 Copies of Sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

23 If you desire the names and addresses of witnesses or an opportunity to inspect and copy  
24 the items mentioned in Section 11507.6 of the Government Code in the possession, custody or  
25 control of the Board you may send a Request for Discovery to the above designated Deputy  
26 Attorney General.

### 27 **NOTICE REGARDING STIPULATED SETTLEMENTS**

28 It may be possible to avoid the time, expense and uncertainties involved in an  
administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
settlement is a binding written agreement between you and the government regarding the matters

1 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
2 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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

7 If you are interested in pursuing this alternative to a formal administrative hearing, or if you  
8 have any questions, you or your attorney should contact Deputy Attorney General Kent D. Harris  
9 at the earliest opportunity.

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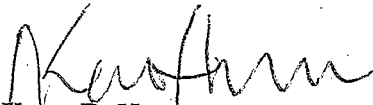
11 Dated: May 11, 2010

EDMUND G. BROWN JR.  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General

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KENT D. HARRIS  
Deputy Attorney General  
*Attorneys for Complainant*

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1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
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6 Telephone: (916) 324-7859  
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11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3665

12 **TUNG THANH NGUYEN**  
13 **3984 Pine Lake Circle**  
**Stockton, California 95219**

**REQUEST FOR DISCOVERY**

14 **Pharmacy Technician**  
15 **Registration No. TCH 54215**

16 Respondent.

17  
18 **TO RESPONDENT:**

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

23 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE**  
24 **HEREBY REQUESTED TO:**

- 25 1. Provide the names and addresses of witnesses to the extent known to the Respondent,  
26 including, but not limited to, those intended to be called to testify at the hearing, and  
27 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the  
28 following in the possession or custody or under control of the Respondent:

1 a. A statement of a person, other than the Respondent, named in the initial  
2 administrative pleading, or in any additional pleading, when it is claimed that the act or  
3 omission of the Respondent as to this person is the basis for the administrative proceeding;

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

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

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

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

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

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

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


28 ///

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  
6 the Government Code.

7  
8 Dated: May 11, 2010

EDMUND G. BROWN JR.  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General

9  
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11   
12 KENT D. HARRIS  
13 Deputy Attorney General  
14 *Attorneys for Complainant*

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**BEFORE THE  
BOARD OF PHARMACY  
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Case No. 3665

**TUNG THANH NGUYEN  
3984 Pine Lake Circle  
Stockton, California 95219  
Pharmacy Technician  
Registration No. TCH 54215**

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  
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Case No. 3665

**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 BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: Tung Thanh Nguyen**

No.: Board of Pharmacy Case No. 3665

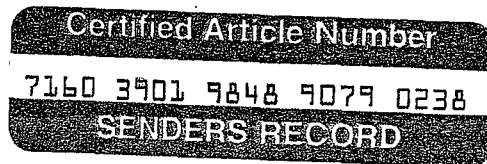
I declare:

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 11, 2010, I served the attached **Accusation; Statement to Respondent; Request for Discovery; Notice of Defense (2 blank copies) and Government Code sections** 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 **Accusation; Statement to Respondent; Request for Discovery; Notice of Defense (2 blank copies) and Government Code sections** 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:

**Service via Certified & US Mail Upon:**

Tung Thanh Nguyen  
3984 Pine Lake Circle  
Stockton, California 95219



**Courtesy Copy via US Mail Only To:**

Virginia K. Herold  
Executive Officer  
Board of Pharmacy  
1625 N. Market Blvd., Ste. N-219  
Sacramento, California 95834

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 11, 2010, at Sacramento, California.

Constance A. Ward

A handwritten signature in cursive script that reads "Constance A. Ward".

Declarant

Signature

7160 3901 9848 9079 0238

**TO:**  
Tung Thanh Nguyen  
3984 Pine Lake Circle  
Stockton, California 95219

**SENDER:** Kent D. Harris

**REFERENCE:** SA2010100823

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
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3. Service Type **CERTIFIED MAIL**

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3984 Pine Lake Circle  
Stockton, California 95219

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature  Agent  Addressee

D. Is delivery address different from item 1?  Yes  No  
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Kent D. Harris  
Accu Packet/ T. Nguyen