PROOF OF SERVICE

(Code Civ. Proc. §§ 1011, 1013, 1013a, 2015.5)

Document Name: **Notice of Adverse Action and Skelly Documents Exhibits 1-17**

1. At the time of service I was over 18 years of age and not a party to this action.

2. My business address is: 455 Golden Gate Avenue, 8th Floor, San Francisco, CA 94102

On November 7, 2018, I served the Notice of Adverse Action and Skelly Documents **Exhibits 1-17** on the person(s) listed below by placing true copies thereof in a sealed envelope addressed to Socorro P. Tongco as shown below for service as designated below:

(A) **By personal service. I personally delivered the documents to the persons at the addresses listed below.** (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party. (3) Delivery was made by leaving the documents at the party's residence with some person no less than 18 years of age between the hours of eight in the morning and six in the evening.

(B) **By United States mail**. I enclosed the documents in a sealed envelope or package addressed to the last known residence address of the persons at the address below and:

(1) ☐ deposited the sealed envelope in the United States mail at San Francisco, California, with the postage fully prepaid, certified with return receipt requested.

(2) ☐ deposited the sealed envelope in the United States mail with Express Mail with postage fully prepaid.

(C) **By overnight delivery**:

(1) ☐ I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

(2) ☐ The notice or other paper was deposited in a box or other facility regularly maintained by the carrier, or delivered to an authorized courier or driver authorized to receive documents, in an envelope or package designated by the carrier with delivery fees paid or provided for, addressed to the person to whom it is to be served, at the office address as last given by that person on the document filed in the cause and served on the party making service.

(D) **By messenger service**. I served the documents by placing them in an envelope or package addressed to the persons listed below and providing them to a professional messenger service for service.

(E) **By fax transmission**. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

(F) **By e-mail or electronic transmission**. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after transmission, any electronic message or other indication that the transmission was unsuccessful.

TYPE OF SERVICE	ADDRESS/FAX NO. (IF APPLICABLE)
A	Socorro P. Tongco 1515 Clay Street, Suite 1700 Oakland, CA 94612

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed at Oakland, California on November 7, 2018

Date: 11/7/18

Hilda Kurtovich

Social Security # XXX-XX-[redacted]

Socorro Tongco
Special Investigator
Department of Industrial Relations
1515 Clay Street, Suite 701
Oakland, California 94612

NOTICE OF ADVERSE ACTION

You are hereby notified that, pursuant to Government Code Section 19574, adverse action is being taken against you as follows.

I.

NATURE OF THE ACTION

Your appointment to the position of Special Investigator in the Anti-Fraud Unit at the Department of Industrial Relations is terminated.

II.

EFFECTIVE DATE

This termination shall be effective at close of business on November 15, 2018.

III.

STATEMENT OF CAUSES

This adverse action is being taken against you for the causes set forth in the following subsections of Government Code section 19572:

(d) Inexcusable Neglect of Duty;

(f) Dishonesty;

(p) Misuse of state property;

(t) Other failure of good behavior which is of such a nature that causes discredit to the appointing authority or the person's employment.

This adverse action is also being take against you for the causes set forth in the following subsections of Government Code section 19990:

(b) Using state time, facilities, equipment or supplies for private gain or advantage;

(g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

IV.

CURRENT ASSIGNMENT AND RELEVANT DUTIES AND RESPONSIBILITIES

1. You were appointed as a Special Investigator in the Office of Director, Legal Division in December 2006. In March 2014, you were appointed as Special Investigator, Performance Management Unit for the Department of Industrial Relations.

2. As a Special Investigator in the Performance Management Unit your specific duties included "responsibility to detect or verify suspected violations of government code laws pertaining to employee's performance and conduct, (2) investigate personnel matters within the Department of Industrial Relations (DIR); (3) take statements, locate and interview potential witnesses; (4) conduct investigative and Robinson interviews with employees suspected of improper conduct; (5) prepare witness summaries; (6) obtain and present facts and evidence in relation to their investigation; (7) prepare Notices of Adverse Actions (NAA), Notice of Rejection During Probationary Period (NOPR) and/or Absence Without Leave (AWOL) separation notices as appropriate; (8) testifies at CLAHR or State Personnel Board Conferences, hearings and judicial proceedings, if required, and, 9) other duties as required.

3. You also were required to "prepare cases and represent the Director as a witness in court or at administrative hearings to testify on direct and cross examination on the witness stand when requested."

4. On June 19, 2017, you were appointed as a Special Investigator in the Anti-Fraud Unit. In this position, you are "expected to handle the most difficult and complex investigations, both most time sensitive, and of the most confidential nature, including those with possible criminal intent."

5. Further, the position as Special Investigator required that you "establish and maintain confidence and cooperation of others, use good judgment, tact and maintain confidentiality."

6. As a Special Investigator in the Anti-Fraud Unit, you were required to "conduct difficult or confidential field or in office investigations to detect or verify suspected violations or provisions of workers' compensation laws." Among your duties relevant to this action were to "locate and interview workers' compensation health care providers, attorneys, claims adjusters, employers, injured workers and potential witnesses, take statements, analyze and evaluate their testimony; refer and participate

in criminal investigations with various law enforcement and government agencies dealing with fraud."

7. As a Special Investigator, you were required to be truthful and upfront with your colleagues and managers. Your duty to be truthful particularly applied to DIR investigations. DIR needed to trust in your honesty and good judgment, and to trust that you would be scrupulous in following Department policies.

8. Throughout the relevant time period, you understood that you were subject to the following policies applicable to all DIR employees:

a. Electronic Information/Communication Policy:

Among other things, this policy required that:

- DIR expects responsible employee use of electronic technology, including computers, the Internet and email, for communication, all computing needs, and information gathering.
- DIR employees may develop, process, acquire or transmit information electronically for official State business. Distribution of mail within and outside of DIR if limited to business-related communications or pursuant to applicable MOU.
- It is unacceptable for DIR employees to use, submit, publish, display, or transmit on the network or any other computer, any information which knowingly: ... Conduct any business or activity that is not work-related or not in compliance with applicable MOU, or conduct any activity that is not approved by the Director and/or Chief Deputy Director of DIR, provided that incidental and minimal use of the facilities consistent with Government Code section 8314(b) will be allowed; ...
- Email is considered network activity.... As such, unless otherwise authorized, email cannot be used for any non-business-related activities except as may be otherwise permitted under Government Code section 8314(b), or allowed pursuant to applicable MOU.

You admitted that, while you worked as a Special Investigator in the Performance Management Unit, you worked on disciplinary matters involving various policy violations. You specifically recalled working on cases involving the improper use of state resources and cases involving the electronic information/communication policy. You admitted that you had seen the EIC policy and knew it was on the intranet. You were thus aware that you would be subject to discipline for violation of policies regarding improper use of state resources and improper use of electronic information and communications.

b. Incompatible Activities Statement:

DIR has had an Incompatible Activities Statement (IAS) in effect since April 2013. DIR's Incompatible Activities Statement was put in place to memorialize the conduct DIR

deems incompatible with DIR employment in accordance with the requirements of Government Code section 19990. That section contains a general rule which prohibits employees from engaging in outside employment or activities which are "*clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee*." Further, that section contains a list of items which are always considered inconsistent with the duties of state employees which includes the following:

(a) Using the prestige or influence of the state of the appointing authority for the officer's private gain or for the gain or advantage of another, (b) Using state time, facilities, equipment, or supplies for private gain or advantage, (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized;... (g) Subject to any other laws, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee. (Gov. Code, § 19990.)

The Department's Incompatible Activities Statement repeats all of the foregoing and contains additional specific prohibitions as follows:

Using state time, facilities, equipment (including, but not limited to copy machines, telephones, vehicles, postage meters, data processing or word processing equipment or computers), or supplies for the employee's private financial gain or personal advantage, or for the private financial gain or personal advantage of another.

Disclosing confidential information to persons to whom issuance of this information has not been authorized.

You admitted that you had seen the Incompatible Activities Statement and knew that it was on the intranet. Thus, you were put on notice that improper use of state time and resources is prohibited by DIR, and that you would be subject to disciplinary action for violation of the incompatible activities policy.

V.

STATEMENT OF FACTS, ACTS OR OMISSIONS

Dishonesty in Communications with Supervisors and Investigators.

9. In 2012, you began a personal romantic relationship with Christopher Jagard, an attorney with the Department of Industrial Relations. Mr. Jagard was appointed Assistant Chief Counsel of DIR in 2013 and, in 2014, was appointed Chief Counsel. You did not disclose this romantic relationship to your DIR managers.

10. In late February 2016, you were dishonest when you advised your supervisor about a need to telework because you needed to be absent from the office due to medical appointments. Your statement to your supervisor was untrue, as you had planned to be absent from the office because you wanted to travel with Mr. Jagard to Southern California. Specifically, records reflect that you and Mr. Jagard flew out of Oakland at 7:00 p.m. on Wednesday, February 24, 2016, and travelled to Burbank and returned on Friday, February 26, 2016. (Exhibit 1, Email Correspondence between Jagard and Tongco; Exhibit 2, Boarding Pass for Flight to Los Angeles.)

11. You specifically arranged your work schedule so you could go on this trip without advising your supervisor at the time, Bob Brock, that you were travelling for personal reasons with Mr. Jagard. You lied to Mr. Brock, by informing him that you could not go to the office because of "safety" reasons related to your health. On February 18, 2016, at 3:55 p.m., you emailed Mr. Brock and told him the following:

May I extend informal telework via OWA for a few days next week? I'm having more swelling and need assistance to safely take myself to and from the office. Unfortunately, I'm unable to arrange for assistance throughout the week. I will be able to come in to the office on 2/23 & 2/24, Tuesday and Wednesday. If you'd allow, I'd like to telework on 2/22, 2/25 and 2/26 (Monday, Thursday and Friday). Also, I have a couple of appointments next week on Tuesday morning and Friday afternoon and will adjust my time accordingly.

Your dishonesty was particularly egregious because, not only could you have "safely "traveled to the office, you, in fact, did travel a longer distance by going to the Los Angeles area with Mr. Jagard. (Exhibit 3, February 18, 2016 Email from Tongco to Brock.)

12. Mr. Brock responded the next day and objected to your proposed telework arrangement based on work needs: "*Hello Socorro, Unless I see more being accomplished today on completing the investigation report, no more telework will be approved next week.*" Rather than fully disclose to Mr. Brock that the reason you wanted to be out of the office on those days was because you were going on a personal trip with Mr. Jagard, you improperly allowed Mr. Brock to continue to believe that you needed to be out of the office due to your health. You told Mr. Brock, "*I hope*

you'd reconsider my request for telework next week. ... Here's what I have regarding the investigative report so far. ... ." (Exhibit 3).

In addition, you forwarded Mr. Brock's approval following your intentional deception about the purpose of your request and stated "Not bad for Sleeping Beauty." This email indicates that you not only intentionally deceived your supervisor when making your request, but acted cavalierly in doing so, gloating overand showing no remorse for your intentional deception.

13. You again were dishonest with your supervisor about a purported need to work from home in early October 2017, when the truth was that you intended to travel with Mr. Jagard. Specifically, on Friday, September 29, 2017, you sent an email to your supervisor, Karina DeWald. You told Ms. DeWald, "*Hi Karina, I'm unable to come into the office on Monday, 10/2/17, if it's ok, will work from home.*" Ms. DeWald responded, "*No problem. Please submit your 634 today.* (Exhibit 4, Email from Tongco to Karina Dewald; Exhibit 5, Email from Tongco to Jagard.)

14. In fact, you were not actually working from home on October 2, 2017. Rather, the emails reflect that you were in Los Angeles with Mr. Jagard and flew back from Los Angeles the evening of October 2. Specifically, on October 2, 2017, at 12:18 p.m., you texted Mr. Jagard, "*can't text... you may reach me via email here at my sky office 70 floors above;).*" Later in the email string, Mr. Jagard respond to you, "*I did notice a brief respite in the volume of texts!! I'll email you later about after work plans...will walk back and we can grab food before LAX. Will need to be there by 8:15. So leave here by 7:15 or 7:30 maybe.*" (Exhibit 5) Those text messages clearly show that you were in the Los Angeles area, rather than at home, during the time you had represented to your supervisor that you would be working at home.

15. In mid-October 2017, you again obtained permission to telework under false pretenses by lying to your supervisor that you needed to work from home due to your health. In truth, you were travelling with Mr. Jagard that day for personal reasons. On Monday, October 9, 2017, you sent Ms. DeWald an email stating, "*Hi Karina, I coordinated my schedule with the AFU team and wanted to work from home tomorrow, if that's ok with you? I may be unavailable for part of the afternoon tomorrow and on Wednesday morning.*" Ms. DeWald responded, "*Sure.*" Then on Tuesday, October 10, 2017, at 1:22 p.m., you emailed Ms. DeWald and told her, "*Hi Karina, I wasn't feeling well and started work at noon. If it's ok, I'd like to use 2 hours of sick leave today. I'm working a couple of hours in the office right now and will work from home another 4 hours later today.*" (Exhibit 6, Email Correspondence between Tongco and DeWald.)

16. Emails between you and Mr. Jagard show that you were traveling with Mr. Jagard the afternoon of October 10, the day you told your supervisor you were feeling sick and

needed to work from home. On October 10, 2017, at 11:52 a.m., you emailed Mr. Jagard, "*I saw that you sent a text re: 3pm or something. but, my phone crashed (again!) and I can't access the message. Let's move to later flight?*" Mr. Jagard responded with "*Leave at 2:50? That's the message. Ok?*" You then responded at 11:58 a.m., "*I just saw the message now Sounds good... I'll drive and you can stay in the back to take your call, CEO tee hee.*" (Exhibit 7, October 10, 2017 Email correspondence between Tongco and Jagard.)

17. In addition, you improperly received confidential information from Mr. Jagard about an employee review-of-emails that he was conducting, and you were not forthcoming to DIR in a subsequent information about Mr. Jagard's improper disclosure to you. In early December 2017, Director Baker instructed Mr. Jagard and Mi Kim to conduct a review of emails involving current and former employees. This review was part of a confidential investigation designed to gather information to respond to an ongoing investigation by the California State Auditor's office. The evidence shows that Mr. Jagard shared with you that he was conducting this confidential email review. On December 11, 2017, you emailed Mr. Jagard and told him, "*I know you're busy with CB re vlh et al emails.*" The "VLH" referenced in this email is a reference to the former employee being investigated. Also, the reference to "CB" is clearly a reference to Director Christine Baker. (Exhibit 8, December 11, 2017 Email correspondence between Tongco and Jagard.)

18. During an investigation of his conduct, Mr. Jagard denied that he shared with you that the individual's emails were being reviewed even after being confronted with this email. You admitted that the email referenced the review of the individual's emails. Instead of acknowledging that you received this information from Mr. Jagard, you evasively claimed that you learned of this information from a person other than Mr. Jagard. However, your email indicates that Mr. Jagard was providing information about this investigation to you. The evidence indicates that Mr. Jagard relayed confidential information to you about this email review, and you were not forthcoming about this issue during the interview.

19. Further, Mr. Jagard improperly shared with you other confidential information regarding a DIR employee, Rita Anderson, and you were not forthcoming to DIR when questioned about this improper disclosure. This incident involved a 2016 investigation by the California State Auditor regarding potential misconduct by Julianna Baker. This investigation involved Mark Woo-Sam at the Labor Agency and Holly Ramsey at the Employment Development Department. The investigators had asked to interview Ms. Anderson, DIR's Human Resources Chief at the time. However, Ms. Anderson was on leave and was refusing to make herself available to be interviewed. Mr. Woo-Sam had been working with Mr. Jagard in an effort to secure Ms. Anderson's attendance at the interview. But Ms. Anderson was still refusing to attend. Therefore, Mr. Woo-Sam directed Mr. Jagard to inform Ms. Anderson that she would be subject to discipline if she did not appear for the interview. Mr. Woo-Sam

confirmed during his interview that this investigation was confidential, as were his communications with Mr. Jagard about the investigation.

20. It is clear from the emails that Mr. Jagard shared confidential information with you that Ms. Anderson was coming in for the interview and that Mr. Woo-Sam had instructed him to give Ms. Anderson an ultimatum. On April 19, 2016, you emailed Mr. Jagard stating, "*Rita meeting holly at 1.*" Mr. Jagard immediately responded, "*Right...and mark woo-sam.*" You then responded, "*apparently in response to your ultimatum...hmmm.*" Finally, Mr. Jagard responded, "*Not my ultimatem [sic]...mark's.*" Mr. Woo-Sam recalled the situation well and stated clearly that he directed Mr. Jagard to issue an ultimatum to Ms. Anderson to compel her to appear for an interview, and he believed that directive and his communications with Mr. Jagard about Ms. Anderson were confidential. (Exhibit 9, April 19, 2016 Email correspondence between Jagard and Tongco.)

21. Your explanation to DIR investigators about your April 19, 2016 email to Mr. Jagard is not credible. You claimed that you learned about the Anderson meeting from another source, not Mr. Jagard. But then you also claimed that the comment about the ultimatum had nothing to do with an ultimatum to Ms. Anderson. Rather, you said that you were referring to an ultimatum you gave to Mr. Jagard about your relationship. This explanation was dishonest in light of the plain text of the emails described above, which clearly was about Rita Anderson and not about your personal relationship with Mr. Jagard. (Exhibit 9)

In your role as an investigator, you have an obligation to maintain the highest ethical standards regarding honesty and work-place conduct, particularly as you are investigating other employees' conduct. Also, given the need for you to testify truthfully in hearings and other proceedings, your honesty in communicating must be beyond reproach. You have failed to act honestly with your superiors and with other investigators investigating DIR workplace matters.

Your dishonesty with your supervisors and during investigations violates your core duties as a DIR investigator. Further, your dishonest conduct impacts your ability to testify in judicial and administrative proceedings, which is an essential part of your job duties as a Special Investigator in the Anti-Fraud Unit. DIR has lost trust and confidence in your ability to be an investigator in the Department. In short, your dishonesty is unacceptable and merits your separation from employment at DIR.

Inexcusable Neglect of Duty/Misuse of State Resources/Failure to Devote Full Attention to State Duties

22. In addition to your dishonesty in your communications with supervisors and during DIR's investigation of employee misconduct, you also engaged in inexcusable neglect

of duty by spending a considerable amount of time on personal matters involving Mr. Jagard rather than on performing work while on duty. For example, you spent your time traveling with Mr. Jagard on personal business rather than devoting your time to working on days when you were authorized to telework.

23. Moreover, in 2014, you improperly spent time defending a personal lawsuit during work hours, and you also caused Mr. Jagard to spend time on your personal lawsuit during work hours. This 2014 personal litigation involved a lawsuit filed against you by your former fiancé regarding property that was purchased during your domestic partnership.

24. You told Mr. Jagard about this personal lawsuit, and he then agreed to represent you as your counsel of record. During the course of that representation, you improperly used the DIR email system and resources to discuss the case. Those emails reflect that you and Mr. Jagard used DIR resources, such as computers, scanners, and the email system, to prepare and send discovery and pleadings. (Exhibit 10; Various emails between Jagard and Tongco anddraft litigation documents and correspondence.)

25. Also in 2014, Mr. Jagard again improperly spent state time and resources working on another personal dispute in which you were involved – this time with Canadian Customs officials. This dispute involved the Canadian officials' seizure of an engagement ring that was given to you by your former fiancé. Mr. Jagard provided you with assistance and advice in connection with your efforts to retrieve the ring from Canadian Customs.

26. Both you and Mr. Jagard improperly used state resources to work on resolving your dispute with Canadian Customs. On February 18 and 19, 2014, Mr. Jagard and you exchanged at least five different emails via the DIR email system. You used your DIR email and computers to exchange drafts of letters to send to Canadian Customs. In particular, during work hours, you prepared an initial draft letter to Canadian Customs that you emailed to Mr. Jagard, who then revised the draft and emailed back to you. You exchanged further emails with Mr. Jagard to review drafts of a proposed letter from Ms. Tongco's mother to Canadian Customs. You conducted this review with Mr. Jagard by using DIR's email system. (Exhibit 11; Drafts of correspondence regarding customs dispute.)

27. Moreover, in May of 2014, you and Mr. Jagard exchanged additional emails with you about your dispute with Canadian Customs by using the DIR email system. On May 12, 2014, at 4:48 p.m., you sent an email to Mr. Jagard on his DIR email with the subject line "Canada." You included in the email a text of a proposed letter or application to Canadian Customs describing your domestic partnership agreement with your former fiancé and the circumstances under which Customs came to possess your engagement ring. Mr. Jagard responded at 4:49 p.m. stating "*I'll review now...I was just about to call you. I'm looking in my computer for an affidavit form.*" You

and Mr. Jagard then exchanged at least five more emails on DIR's email system that same day to discuss affidavits to send to Canadian Customs, and other personal matters relating to your efforts to secure the ring back from Customs. (Exhibit 12; May 12, 2014 Email Correspondence between Tongco and Jagard.).)

28. In addition, you improperly disclosed confidential personnel information to a former DIR employee. On December 15, 2016, a former DIR emailed you and asked, "*I also need a favor. Can you send me a sample rejection on probation for work performance issues/ not following orders?*" The next day, you sent this former employee highly sensitive and confidential personnel information by emailing two previous rejections on probation involving prior DIR employees. Both of these documents appeared to be in draft form and one of them even contained some red-lined comments. You did not redact names or any other confidential personnel information from the documents sent to the non-DIR employee. (Exhibit 13; December 15, 2016 Correspondence between Tongco and Corazon Celeste.)

29. You admitted in you interview during the investigation of your conduct that you knew that you were not supposed to distribute confidential personnel information. You worked in the DIR's Personnel Management Unit, and you were well aware of the highly confidential nature of employee personnel information. You admitted that you sent the confidential personnel documents to the former DIR employee, and you also admitted that you did not seek permission from anyone at DIR to send these documents to a non-employee.

30. You attempted to excuse your improper disclosure by stating that at least one of the Rejections on Probation was appealed and was therefore a public record. But you should have known that sending any confidential personnel information to a non-DIR employee was improper and violated DIR's policies. While documents maintained at the SPB may be public records, documents maintained by DIR's Human Resources Office are not public records. Also, drafts of personnel records, such are probation rejections, are not public records. Thus, you improperly relayed confidential personnel records and information to a non-DIR employee. In doing so, you displayed poor judgment and caused discredit to DIR.

31. In addition, review of your emails demonstrates that you spent many hours of every month engaging in personal discussions during working hours. You also improperly spent time during the work day on personal matters by using an application called "Viber" to communicate on your personal cell phone.

32. Aside from your frequent personal communications via the Viber application during work hours, you also engaged in numerous non-work related communications via the DIR email system. You sent an excess of 1,000 emails during work hours, which included emails discussing your personal lawsuit and jewelry dispute with Canadian Customs, among other things. Notably, these over-1,000 emails are just the emails that

DIR was able to recover. The excessive time you spent on personal matters during work hours and use of state equipment are unacceptable and warrant this adverse action. Your numerous emails demonstrate a substantial amount of time spent during the work week engaging in personal communications, constituting severe misuse of state time and resources. (Exhibit 14, Various emails between Tongco and Jagard.)

33. As noted in paragraph 10, your supervisors, including Bob Brock, had concerns about your productivity and delay in completing work assignments, which is likely attributable to the excessive amount of time you spent communicating about personal matters during work hours. Further, you acknowledged that, because of your work experience investigating employee misconduct, you were aware that misuse of state time and resources is prohibited by the Department and could lead to disciplinary action.

34. DIR cannot tolerate your dishonesty, lack of judgment, disclosure of confidential information, and excessive misuse of state time and resources. As a fraud investigator whose core job duties include investigating dishonest conduct and violations of policies and laws, your failure to fulfill your obligations to DIR by being truthful to your managers and complying with DIR policies is unacceptable and fundamentally undermines your ability to perform your job. Your actions have discredited DIR and its public mission, meriting your dismissal from employment.

VI.

APPEAL RIGHTS

1. Right to Respond to Appointing Power

In accordance with State Personnel Board Rule 52.6 (Skelly rule), you are entitled to at least five (5) working days within which to respond to this notice. You may respond orally or in writing to:

Elena Gonzales
Executive Director / Chief Administrative Law Judge
Unemployment Insurance Appeals Board
2400 Venture Oaks Way
Sacramento, California 95833
Elena.Gonzales@CUIAB.CA.GOV
916.263.6817

You are entitled to a reasonable amount of State time to prepare your response to the charges. If you desire such time, you may arrange for this in advance through your supervisor. You are not entitled to a formal hearing with examination of witnesses at this stage of the proceedings. However, you may be represented by another person in

presenting your response. The appointing power may sustain, amend, modify, or revoke the adverse action in whole or in part.

2. Right to Appeal to The State Personnel Board

Regardless of whether you respond to these charges to the appointing power, you are advised that you have the right to file a written answer to this notice with the **State Personnel Board, Appeals Division, 801 Capitol Mall, MS #22, Sacramento, California 95814,** in person, by mail, by email at appeals@spb.ca.gov, by fax at (916) 654-6055, or online at https://appeals.spb.ca.gov/aos, not later than thirty (30) calendar days after the effective date of this action. An answer shall be deemed to be a request for hearing or investigation as provided in Section 19575 of the Government Code. If you answer as provided, the Board of its authorized representative shall, within a reasonable time, hold a hearing and shall notify the parties of the time and place thereof. If you fail to answer within the time specified, the adverse action taken by the appointing power shall become final.

You are responsible for notifying the State Personnel Board and your appointing power of any changes to your address that occur after the effective date of this adverse action.

3. Right to Inspect Documents

Copies of documents or other materials giving rise to this adverse action are enclosed for your inspection. This documentation is not being provided to the State Personnel Board in advance of any appeal hearing which may be scheduled.

Andre Schoorl

Andre Schoorl
Acting Director
Dated: November 7, 2018

LIST OF EXHIBITS

Exhibit 1:	February 19/February 24. 2016 Email Correspondence between Socorro Tongco and Christopher Jagard.
Exhibit 2:	Boarding Pass for Flight to Los Angeles, California
Exhibit 3:	February 18, 2016 Email Correspondence between Tongco and Bob Brock.
Exhibit 4:	September 29, 2017 Email Correspondence from Tongco to Karina Dewald.
Exhibit 5:	October 2, 2017 Email Correspondence between Tongco and Jagard.
Exhibit 6:	October 9/10, 2017 Email Correspondence between Tongco and Dewald.
Exhibit 7:	October 10, 2017 Email Correspondence between Tongco and Jagard.
Exhibit 8:	December 12, 2017 Email Correspondence between Tongco and Jagard.
Exhibit 9:	April 19, 2016 Email Correspondence between Jagard and Tongco.
Exhibit 10:	Various Emails between Tongco and Jagard regarding personal lawsuit and Draft litigation documents and correspondence prepared by Tongco and Jagard
Exhibit 11:	Drafts of correspondence regarding Canadian Customs dispute.
Exhibit 12:	May 12, 2014 Email Correspondence between Tongco and Jagard.
Exhibit 13:	December 15, 2016 Correspondence between Tongco and Corazon Celeste.
Exhibit 14:	Various personal email correspondence exchanged between Tongco and Jagard during work hours on state equipment. (CD)
Exhibit 15:	Department of Industrial Relations Special Investigator, Performance Management Unit, Duty Statement
Exhibit 16:	Department of Industrial Relations Special Investigator, Anti Fraud Unit, Duty Statement
Exhibit 17:	September 26, 2018 Investigation Report for the California Governor's Office and the California Labor and Workforce Development Agency prepared by Supervising Deputy Attorney General Peter Halloran and All Accompanying Evidence and Exhibits.