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10 **BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
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12 In the Matter of the Accusation Against:

Case No. 3300

13 ELIASVAL A. FORNOLES
aka ELIAS VAL A. FORNOLES
14 26844 Alexan Drive
Mission Viejo, CA 92691

ACCUSATION

15 Pharmacy Technician License No. TCH79276

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Respondent.

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18 Complainant alleges:

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PARTIES

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

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2. On or about November 2, 2007, the Board of Pharmacy issued Pharmacy
23 Technician License Number TCH79276 to Eliasval A. Fornoles aka Elias Val A. Fornoles
24 (Respondent). The Pharmacy Technician License will expire on February 28, 2011, unless
25 renewed.

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1 REGULATORY PROVISIONS

2 8. California Code of Regulations, title 16, section 1770 states:

3 For the purpose of denial, suspension, or revocation of a personal or
4 facility license pursuant to Division 1.5 (commencing with Section 475) of the
5 Business and Professions Code, a crime or act shall be considered substantially
6 related to the qualifications, functions or duties of a licensee or registrant if to a
7 substantial degree it evidences present or potential unfitness of a licensee or
8 registrant to perform the functions authorized by his license or registration in a
9 manner consistent with the public health, safety, or welfare.

7 COST RECOVERY

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

12 CAUSE FOR DISCIPLINE

13 **(Unprofessional Conduct - Possession of a Methamphetamine Pipe on December 20, 2007)**

14 10. Respondent subjected his license to discipline under section 4301,
15 subdivision (j) of the Code in that he was found in possession of a pipe used to smoke controlled
16 substances, an act substantially related to the qualifications, duties, and functions of a pharmacy
17 technician. The circumstances are as follows:

18 a. On or about December 20, 2007, an Orange County Sheriff's
19 Deputy pulled over Respondent for driving a vehicle without proper license plate lights. In a
20 search of Respondent's person, the deputy located a glass methamphetamine pipe in
21 Respondent's front pocket. Respondent told the deputy that he had last smoked meth two hours
22 earlier, that he buys it in Santa Ana for \$20, and had been smoking meth for two months.

23 b. On or about May 14, 2008, at a criminal proceeding entitled *People*
24 *of the State of California v. Eliasval Alteza Fornoles*, in Orange County Superior Court, case
25 number 08SM00723, Respondent pled guilty to violating Health and Safety Code section 11364,
26 subdivision (a), possession of controlled substance paraphernalia, a misdemeanor.

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c. As a result of the guilty plea, entry of judgment was deferred and Respondent was ordered to enroll in a drug program pursuant to Penal Code section 1000. On or about September 4, 2008, the court dismissed the charge against Respondent.

PRAYER

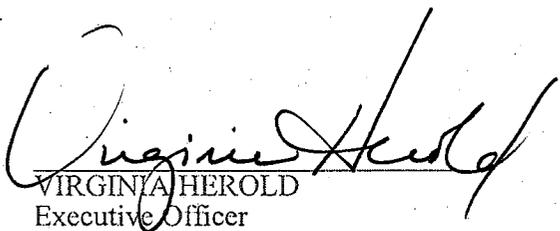
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License Number TCH79276, issued to Eliasval A. Fornoles;

2. Ordering Eliasval A. Fornoles to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 8/24/09



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

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