

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

In the Matter of the Accusation Against:

Case No. 3300

**ELIAS FORNOLES**  
26844 Alexan Dr  
Mission Viejo, CA 92691

Original Pharmacy Technician  
Registration No. TCH 79276

Respondent.

**DECISION AND ORDER**

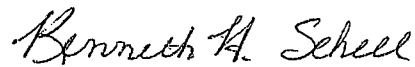
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 18, 2010.

It is so ORDERED on January 19, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR  
Deputy Attorney General  
4 State Bar No. 174721  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2611  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3300

12 **ELIASVAL A. FORNOLES**  
13 26844 Alexan Drive  
14 Mission Viejo, CA 92691

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 Pharmacy Technician License No.  
16 TCH79276

17 Respondent.

18  
19 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs  
21 the parties hereby agree to the following Stipulated Surrender of License and Order which will be  
22 submitted to the Board for approval and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
25 She brought this action solely in her official capacity and is represented in this matter by Edmund  
26 G. Brown Jr., Attorney General of the State of California, by Diane De Kervor, Deputy Attorney  
27 General.



1 9. Respondent understands that by signing this stipulation he enables the Board to issue  
2 an order accepting the surrender of his Pharmacy Technician License without further process.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
6 communicate directly with the Board regarding this stipulation and surrender, without notice to or  
7 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
8 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
9 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
10 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
11 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
12 be disqualified from further action by having considered this matter.

13 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
14 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
15 the originals.

16 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
19 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
20 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
21 executed by an authorized representative of each of the parties.

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
23 the Board may, without further notice or formal proceeding, issue and enter the following Order:

24 ORDER

25 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH79276, issued to  
26 Respondent Eliasval A. Fornoles, is surrendered and accepted by the Board of Pharmacy.

27 14. The surrender of Respondent's Pharmacy Technician License and the acceptance of  
28 the surrendered license by the Board shall constitute the imposition of discipline against

1 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
2 Respondent's license history with the Board.

3 15. Respondent shall lose all rights and privileges as a Pharmacy Technician in California  
4 as of the effective date of the Board's Decision and Order.

5 16. Respondent shall cause to be delivered to the Board both his wall license certificate  
6 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

7 17. If he ever applies for licensure or petitions for reinstatement in the State of California,  
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the  
9 laws, regulations and procedures for licensure in effect at the time the application or petition is  
10 filed, and all of the charges and allegations contained in Accusation No. 3300 shall be deemed to  
11 be true, correct and admitted by Respondent when the Board determines whether to grant or deny  
12 the application or petition.

13 18. Respondent may not apply, reapply, or petition for any licensure or registration of the  
14 Board for three (3) years from the effective date of the Decision and Order.

15 19. Should Respondent ever apply or reapply for a new license or certification, or petition  
16 for reinstatement of a license, by any other health care licensing agency in the State of California,  
17 all of the charges and allegations contained in Accusation No. 3300 shall be deemed to be true,  
18 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other  
19 proceeding seeking to deny or restrict licensure.

20 20. Respondent shall pay the Board its costs of investigation and enforcement in the  
21 amount of \$1,597.50 prior to issuance of a new or reinstated license.

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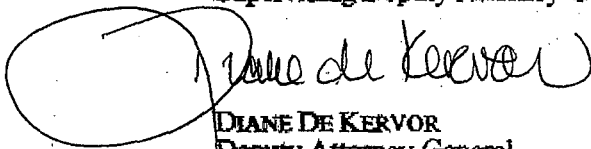
ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: September 24, 2009   
ELIASVAL A. FORNOLES  
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: October 6, 2009  
~~September 16, 2009~~ Respectfully submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
  
DIANE DE KERVOR  
Deputy Attorney General  
Attorneys for Complainant

SD2009803821

**Exhibit A**

**Accusation No. 3300**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR, State Bar No. 174721  
Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5  
6 P.O. Box 85266  
San Diego, CA 92186-5266  
Telephone: (619) 645-2611  
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8 Attorneys for Complainant

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10 **BEFORE THE  
BOARD OF PHARMACY  
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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

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

15 Pharmacy Technician License No. TCH79276

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

- 20 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.  
22 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 JURISDICTION

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

5 4. Section 118, subdivision (b), of the Code provides that the suspension,  
6 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
7 proceed with a disciplinary action during the period within which the license may be renewed,  
8 restored, reissued or reinstated.

9 5. Section 4300, subdivision (a) of the Code states that "Every license issued  
10 may be suspended or revoked."

11 STATUTORY PROVISIONS

12 6. Section 492 of the Code states:

13 Notwithstanding any other provision of law, successful completion of any  
14 diversion program under the Penal Code, or successful completion of an alcohol  
15 and drug problem assessment program under Article 5 (commencing with section  
16 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
17 any agency established under Division 2 ([Healing Arts] commencing with  
Section 500) of this code, or any initiative act referred to in that division, from  
taking disciplinary action against a licensee or from denying a license for  
professional misconduct, notwithstanding that evidence of that misconduct may  
be recorded in a record pertaining to an arrest.

18 This section shall not be construed to apply to any drug diversion program  
19 operated by any agency established under Division 2 (commencing with Section  
500) of this code, or any initiative act referred to in that division.

20 7. Section 4301 of the Code states:

21 The board shall take action against any holder of a license who is guilty of  
22 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:

23 .....

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

26 .....

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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  
substantial degree it evidences present or potential unfitness of a licensee or  
registrant to perform the functions authorized by his license or registration in a  
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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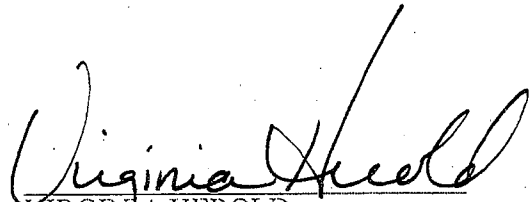
c. As a result of the guilty plea, entry of judgment was deferred and Respondent was ordered to enroll in a drug program pursuant to Penal Code section 1000. On or about September 4, 2008, the court dismissed the charge against Respondent.

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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