

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

In the Matter of the Accusation Against:

Case No. 3807

**JOLENE ANTONETTE FREITAS**  
40761 Sundale Drive  
Fremont, CA 94538

Pharmacy Technician Registration No. TCH  
40917

Respondent.

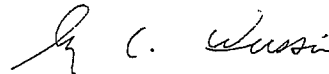
**DECISION AND ORDER**

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 May 11, 2011.

It is so ORDERED April 11, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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13 **40761 Sundale Drive**  
**Fremont, CA 94538**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 **Pharmacy Technician License No. TCH 40917**

15 Respondent.

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

20 PARTIES

21 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought  
22 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,  
23 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

24 2. Jolene Antonette Freitas (Respondent) is representing herself in this proceeding and  
25 has chosen not to exercise her right to be represented by counsel.

26 3. On or about March 29, 2002, the Board of Pharmacy issued Pharmacy Technician  
27 License No. TCH 40917 to Respondent. The License was in full force and effect at all times  
28 relevant to the charges in Accusation No. 3807 and will expire on June 30, 2011, unless renewed.

1 JURISDICTION

2 4. Accusation No. 3807 was filed before the Board of Pharmacy (Board), Department of  
3 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
4 statutorily required documents were properly served on Respondent on November 5, 2010.  
5 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation  
6 No. 3807 is attached as exhibit A and incorporated by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands, the charges and allegations in  
9 Accusation No. 3807. Respondent also has carefully read, and understands, the effects of this  
10 Stipulated Surrender of License and Order.

11 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
12 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
13 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
14 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
15 compel the attendance of witnesses and the production of documents; the right to reconsideration  
16 and court review of an adverse decision; and all other rights accorded by the California  
17 Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
19 every right set forth above.

20 CULPABILITY

21 8. Respondent admits the truth of each and every charge and allegation in Accusation  
22 No. 3807, agrees that cause exists for discipline, and hereby surrenders her Pharmacy Technician  
23 License No. TCH 40917 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation she enables the Board to issue  
25 an order accepting the surrender of her Pharmacy Technician License without further process.

26 CONTINGENCY

27 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
28 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may

1 communicate directly with the Board regarding this stipulation and surrender, without notice to or  
2 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
3 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board  
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this stipulation, including  
9 facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

18 **ORDER**

19 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 40917, issued to  
20 Respondent Jolene Antonette Freitas, is surrendered and accepted by the Board of Pharmacy.

21 14. The surrender of Respondent's Pharmacy Technician License and the acceptance of  
22 the surrendered license by the Board shall constitute the imposition of discipline against  
23 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
24 Respondent's license history with the Board.

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

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

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

3 18. If Respondent ever applies for licensure or petitions for reinstatement in the State of  
4 California, the Board shall treat it as a new application for licensure. Respondent must comply  
5 with all the laws, regulations and procedures for licensure in effect at the time the application or  
6 petition is filed, and all of the charges and allegations contained in Accusation No. 3807 shall be  
7 deemed to be true, correct and admitted by Respondent when the Board determines whether to  
8 grant or deny the application or petition.

9 19. If Respondent ever applies or reapplies for a new license or certification, or petitions  
10 for reinstatement of a license, from or by any other health care licensing agency in the State of  
11 California, all of the charges and allegations contained in Accusation No. 3807 shall be deemed to  
12 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
13 other proceeding seeking to deny or restrict licensure.

14 20. Respondent shall pay the Board its costs of investigation and enforcement in the  
15 amount of \$2,072.50 prior to issuance of a new or reinstated license.

16  
17 ACCEPTANCE

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

22  
23 DATED: 2-24-11

*Jolene Antonette Freitas*  
24 JOLENE ANTONETTE FREITAS  
Respondent

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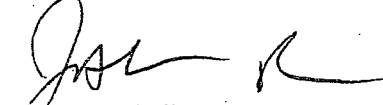
ENDORSEMENT

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: 3/2/2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

  
JOSHUA A. ROOM  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3807**

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  
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5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
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12 **40761 Sundale Drive**  
13 **Fremont, CA 94538**

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

14 **Pharmacy Technician License No. TCH 40917**

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 March 29, 2002, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 40917 to Jolene Antonette Freitas (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on June 30, 2011, unless renewed.

25 JURISDICTION

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



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

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

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

#### 15   STATUTORY PROVISIONS

16           7.     Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but  
18 not be limited to, any of the following:

19           (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
20 drug or alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself,  
21 to any other person or to the public, or to the extent that the use impairs the ability of the person  
22 to conduct with safety to the public the practice authorized by the license.

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

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

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

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

5 10. Health and Safety Code section 11364, in pertinent part, makes it unlawful to possess  
6 an opium pipe or other paraphernalia used to inject or smoke controlled substances.

7 11. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess  
8 any controlled substance in Schedule II, subdivision (d), without a prescription.

9 12. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any  
10 person to use or be under the influence of any controlled substance in Schedule II (Health and  
11 Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V,  
12 except when administered by or under the direction of an authorized licensee.

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

16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 14. Section 4021 of the Code states:

18 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
19 11053) of Division 10 of the Health and Safety Code.”

20 15. Section 4022 of the Code states, in pertinent part:

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

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

25 ...

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

28 ///



1 FOURTH CAUSE FOR DISCIPLINE

2 (Self-Administration/Use of Controlled Substance)

3 21. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
4 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in  
5 paragraph 17 above, self-administered/used, conspired to self-administer/use, and/or assisted  
6 in/abetted self-administration/use of a controlled substance, without prescription.

7  
8 FIFTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

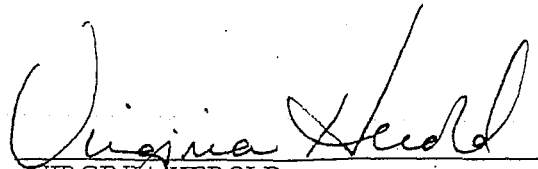
10 22. Respondent is subject to discipline under section 4301 of the Code in that  
11 Respondent, as described in paragraphs 17-21 above, engaged in unprofessional conduct.

12  
13  
14 PRAYER

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

- 17 1. Revoking or suspending Pharmacy Technician License Number TCH 40917, issued
- 18 to Jolene Antonette Freitas (Respondent);
- 19 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 20 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 21 3. Taking such other and further action as is deemed necessary and proper.

22  
23 DATED: 11/2/10

24   
 25 VIRGINIA HEROLD  
 26 Executive Officer  
 27 Board of Pharmacy  
 28 Department of Consumer Affairs  
 State of California  
 Complainant