

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

In the Matter of the Accusation Against:

Daniel Moreno
1510 South Melrose Drive, Apt 17
Vista, CA 92054

Pharmacy Technician Registration No.
TCH 90486

Respondent.

Case No. 4610

OAH No. 2013100758

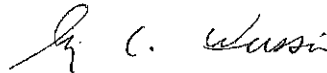
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 19, 2014.

It is so ORDERED on May 14, 2014.

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 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **DANIEL MORENO**
14 **1510 South Melrose Drive, Apartment 17**
Vista, California 92054
15 **Pharmacy Technician Registration No. TCH**
90486
16
17 Respondent.

Case No. 4610

OAH No. 2013100758

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibilities of the Board of Pharmacy of the Department of Consumer Affairs
20 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order for Public
21 Repeval which will be submitted to the Board for approval and adoption as the final disposition
22 of the Accusation

23 PARTIES

24 1. VIRGINIA HEROLD (Complainant) is the Executive Officer of the Board of
25 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
26 by Kamala D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy
27 Attorney General.
28

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 4610.

4 9. Respondent agrees that his Pharmacy Technician Registration is subject to discipline
5 and he agrees to be bound by the Disciplinary Order below.

6 CONTINGENCY

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

17 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including
19 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
20 effect as the originals.

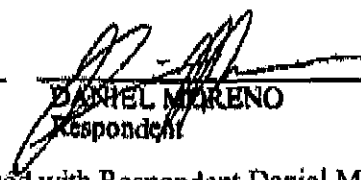
21 12. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
22 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
23 of their agreement. It supersedes any and all prior or contemporaneous agreements,
24 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
25 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,
26 supplemented, or otherwise changed except by a writing executed by an authorized representative
27 of each of the parties.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Repeval and have fully discussed it with my attorney, Cherie L. Brenner. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

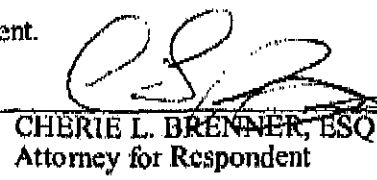
DATED: 4/10/2014


DANIEL MORENO
Respondent

SIGNATURE VIA
ATTACHED FACSIMILE
TRANSMISSION

I have read and fully discussed with Respondent Daniel Moreno the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 4/17/14


CHERIE L. BRENNER, ESQ.
Attorney for Respondent

SIGNATURE VIA
ATTACHED FACSIMILE
TRANSMISSION

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Repeval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

SD2013705130 70820983.doc

Exhibit A

Accusation No. 4610

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
Deputy Attorney General
4 State Bar No. 267200
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2634
7 Facsimile: (619) 645-2061
E-mail: Adrian.Contreras@doj.ca.gov
8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **DANIEL MORENO**
14 **1510 South Melrose Drive, Apartment 17**
Vista, California 92054
15 **Pharmacy Technician Registration No. TCH**
16 **90486**
17 Respondent.

Case No. 4610
A C C U S A T I O N

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about May 6, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 90486 to Daniel Moreno (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on July 31, 2014, unless renewed.

26 ///
27 ///
28 ///

1 **JURISDICTION**

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

5 4. Section 4300 of the Code states:

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

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

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

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

13 "(4) Revoking his or her license.

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

16 "...

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

22 5. Section 4300.1 of the Code states:

23 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
24 operation of law or by order or decision of the board or a court of law, the placement of a license
25 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
26 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
27 proceeding against, the licensee or to render a decision suspending or revoking the license."

28 ///

1 plant, cultivate, harvest, dry, or process marijuana in violation of Health and Safety Code section
2 11358. The circumstances are as follows:

3 13. On or about October 11, 2011, deputies from the Mendocino County Sheriff's Office
4 assisted local Fish and Game officers with the service of a search warrant for two parcels of
5 property. The search involved a potential illegal diversion of water from the Eel River to water
6 various marijuana gardens on this property.

7 14. The deputies arrived at the property and found six marijuana gardens with about 766
8 budding marijuana plants. They arrested one man in a wooden trimming and drying structure that
9 had large piles of marijuana trimmings and over fifty pounds of packaged bud marijuana in oven
10 bags. There were also hanging marijuana plants and drying trays with completely trimmed wet
11 marijuana buds in four 35-gallon trash cans. They searched a nearby barn and found wet hanging
12 marijuana plants and a "Twister" trim machine that is commonly used to trim marijuana. The
13 deputies searched several structures in the vicinity and found several more marijuana gardens that
14 contained hundreds of budding marijuana plants. The packaged marijuana alone that the
15 deputies found weighed about 61.2 pounds. The deputies found documents that appeared to be
16 pay/owe sheets.

17 15. Respondent was at the scene and spoke with the deputies. Respondent had arrived
18 four days earlier and said that he planned to make \$25 an hour trimming/processing marijuana at
19 the location. Respondent said that he did not have a medical marijuana recommendation and that
20 he was not a caregiver or member of a collective. Respondent said that someone hired
21 Respondent to work at the location for processing marijuana. He admitted to having knowledge
22 of the marijuana growing operation at this location.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct-Attempted Act of Moral Turpitude)**

25 16. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
26 (f) and (o) in that Respondent attempted to possess marijuana for sale and attempted to cultivate
27 or process marijuana, acts of moral turpitude. The circumstances are described in paragraphs 12-
28 15, above, and are hereby incorporated as if fully set forth herein.

1 **MATTER IN AGGRAVATION**

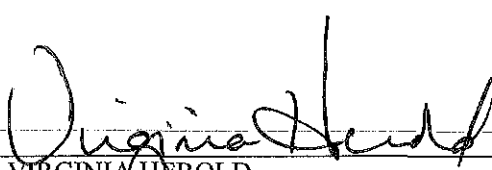
2 17. To determine the degree of discipline, if any, to be imposed on Respondent
3 Greenfield, Complainant alleges that on or about May 18, 2009, in San Diego County Superior
4 Court, Case No. CN257972, Respondent was convicted of violating Penal Code section 415,
5 subdivision (2), disturbing the peace, a misdemeanor. As a result of his conviction, Respondent
6 was sentenced to three years summary probation and ordered to pay a fine.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90486,
11 issued to Daniel Moreno;
- 12 2. Ordering Daniel Moreno to pay the Board of Pharmacy the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.
- 16
17

18 DATED: 9/19/13


19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

23 SD2013705130
24 80807726.doc

Exhibit B

Letter of Public Reproval in Case No. 4610



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834
Phone: (916) 574-7900
Fax: (916) 574-8618
www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

May 14, 2014

Daniel Moreno
1510 South Melrose Drive, Apartment 17
Vista, CA 92054

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Daniel Moreno, Pharmacy Technician Registration No. TCH 90486

Dear Mr. Moreno:

On September 19, 2013, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your Pharmacy Technician Registration. The Accusation alleged that you violated Business and Professions Code section 4301, subdivisions (f), (j), and (o), attempted act of moral turpitude and attempted violation of law regulating controlled substances. On October 11, 2011, you spoke to law enforcement officers after they had taken several people into custody at a marijuana growing operation in Mendocino County. You told the officers that you arrived there four days earlier and that you were hired to trim and process the marijuana.

Taking into consideration this happened about two and a half years ago; attempt is an inchoate offense and, thus, no violations of the laws regulating controlled substances were ultimately completed; there is no evidence of recurrence or subsequent violations; you have been licensed for almost five years without prior discipline; there is no evidence that you consume controlled substances illegally; and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a Pharmacy Technician, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs