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13 **BEFORE THE**
14 **BOARD OF PHARMACY**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

Case No. 3481

18 **ESP SERVICES**
19 8513 W. Washington Boulevard
20 Culver City, CA 90232

ACCUSATION

21 Original Wholesale Permit No. WLS 2329

22 and

23 **EAST SIDE PHARMACY**
24 8513 W. Washington Boulevard, Suite A
25 Culver City, CA 90232

26 Original Pharmacy Permit No. PHY. 39439

27 and

28 **ROBERT KARNEY**
9408 Beverlywood Street
Los Angeles, CA 90034

Designated Representative-in-Charge
Original Certificate Number EXC 10845

and

1 **HELEN MIZRAHIE-JONAH**
2 6317 Warner Drive
3 Los Angeles, CA 90048

4 Original Pharmacist License No. RPH 26276

5 and

6 **SHAUN LEE**
7 5829 Hazelbrook Avenue
8 Lakewood, CA 90712

9 Original Pharmacist License No. RPH 42786

10 Respondents.

11 Complainant alleges:

12 **PARTIES**

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

15 **ESP Services – Wholesale License**

16 2. On or about February 5, 1991, the Board of Pharmacy (Board) issued Original
17 Wholesale Permit Number WLS 2329 to ESP Medical Supply, Inc., to do business as ESP
18 Services (Respondent ESP). The Pharmacist License was in full force and effect at all times
19 relevant to the charges brought herein, and expired on February 1, 2009.

20 **Easy Side Pharmacy – Pharmacy License**

21 3. On or about August 9, 1993, the Board issued Original Permit Number 39439 to ESP
22 Medical Supply, Inc., to do business as East Side Pharmacy (Respondent East Side). The
23 Pharmacy permit was in full force and effect at all times relevant to the charges brought herein,
24 and will expire on August 1, 2010, unless renewed.

25 **Robert Karney – Designated Representative-in-Charge Certificate**

26 4. On or about July 26, 1991, the Board issued Original Certificate Number EXC 10845
27 to Robert Lloyd Karney (Respondent Karney). The Exemptee certificate was in full force and
28 effect at all times relevant to the charges brought herein, and expired on November 1, 2009.

1 **Helen Mizrahi-Jonah – Pharmacist License**

2 5. On or about July 26, 1991, the Board issued Original Pharmacist License Number
3 RPH 26276 to Helen Mizrahi-Jonah (Respondent Mizrahi-Jonah). The Pharmacist License was
4 in full force and effect at all times relevant to the charges brought herein, and will expire on
5 September 30, 2011, unless renewed.

6 **Shaun Lee – Pharmacist License**

7 6. On or about July 26, 1991, the Board issued Original Pharmacist License Number
8 RPH 42786 to Shaun Lee (Respondent Lee). The Pharmacist License was in full force and effect
9 at all times relevant to the charges brought herein, and will expire on May 31, 2011, unless
10 renewed.

11 **JURISDICTION**

12 7. This Accusation is brought before the Board, under the authority of the following
13 laws. All section references are to the Business and Professions Code unless otherwise indicated.

14 **STATUTORY PROVISIONS**

15 8. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license
16 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period
17 within which the license may be renewed, restored, reissued or reinstated.

18 9. Section 490 states, in pertinent part:

19 “(a) In addition to any other action that a board is permitted to take against a
20 licensee, a board may suspend or revoke a license on the ground that the licensee has been
21 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties
22 of the business or profession for which the license was issued.

23 (b) Notwithstanding any other provision of law, a board may exercise any
24 authority to discipline a licensee for conviction of a crime that is independent of the authority
25 granted under subdivision (a) only if the crime is substantially related to the qualifications,
26 functions, or duties of the business or profession for which the licensee's license was issued.

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1 (c) A conviction within the meaning of this section means a plea or verdict of
2 guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to
3 take following the establishment of a conviction may be taken when the time for appeal has
4 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting
5 probation is made suspending the imposition of sentence, irrespective of a subsequent order under
6 the provisions of Section 1203.4 of the Penal Code.”

7 10. Section 4059.5(a) states, in pertinent part:

8 “(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
9 devices may only be ordered by an entity licensed by the board and shall be delivered to the
10 licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to
11 operate through a designated representative, the designated representative shall sign for and
12 receive the delivery.”

13 11. Section 4060 states, in pertinent part:

14 “No person shall possess any controlled substance, except that furnished to a person upon
15 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
16 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
17 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
18 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
19 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
20 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
21 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
22 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
23 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
24 labeled with the name and address of the supplier or producer.”

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12. Section 4081 states, in pertinent part:

“(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

13. Section 4105 states, in pertinent part:

“(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.”

14. Section 4169(a)(1) states, in pertinent part:

“(a) A person or entity may not do any of the following:

(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy, in violation of Section 4163.”

15. Section 4300 states, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

16. Section 4301 states, in pertinent part:

“The board shall take action against any holder of a license who is guilty of unprofessional

1 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

2 Unprofessional conduct shall include, but is not limited to, any of the following:

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4 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
5 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
6 otherwise, and whether the act is a felony or misdemeanor or not.
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9 (j) The violation of any of the statutes of this state or of the United States
10 regulating controlled substances and dangerous drugs.

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12 (l) The conviction of a crime substantially related to the qualifications, functions,
13 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of
17 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the
18 meaning of this provision.
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21 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
22 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
23 applicable federal and state laws and regulations governing pharmacy, including regulations
24 established by the board or by any other state or federal regulatory agency.
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26 . . .

27 (q) Engaging in any conduct that subverts or attempts to subvert an investigation
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1 of the Board.”

2 17. Section 4342, states, in pertinent part:

3 “(a) The board may institute any action or actions as may be provided by law and
4 that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs
5 that do not conform to the standard and tests as to quality and strength, provided in the latest
6 edition of the United States Pharmacopoeia or the National Formulary, or that violate any
7 provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section
8 109875) of Division 104 of the Health and Safety Code).”

9 18. Health and Safety Code section 11350, states, in pertinent part:

10 “(a) Except as otherwise provided in this division, every person who possesses (1)
11 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
12 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
13 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
14 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
15 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
16 licensed to practice in this state, shall be punished by imprisonment in the state prison.”

17 19. Health and Safety Code section 11352 states, in pertinent part:

18 “(a) Except as otherwise provided in this division, every person who transports,
19 imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import
20 into this state, sell, furnish, administer, or give away, or attempts to import into this state or
21 transport (1) any controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of
22 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of
23 Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision
24 (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is
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1 a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
2 veterinarian licensed to practice in this state, shall be punished by imprisonment in the state
3 prison for three, four, or five years.”

4 20. Health and Safety Code section 11377 states, in pertinent part:

5 “(a) Except as authorized by law and as otherwise provided in subdivision (b) or
6 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
7 Business and Professions Code, every person who possesses any controlled substance which is
8 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in
9 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
10 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
11 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
12 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
13 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
14 than one year or in the state prison.”

15 21. Health and Safety Code section 111330 states:

16 “Any drug or device is misbranded if its labeling is false or misleading in any
17 particular.”

18 22. Health and Safety Code section 111430 states:

19 “A drug or device is misbranded if it was manufactured in an establishment not
20 duly registered with the Secretary of Health, Education, and Welfare of the United States.”

21 23. Health and Safety Code section 111440 states:

22 “It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale
23 any drug or device that is misbranded.”

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24. Health and Safety Code section 111450 states:

"It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device."

REGULATORY PROVISIONS

25. California Code of Regulations, title 16, section 1718, states, in pertinent part

"'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CPR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory."

26. California Code of Regulations, title 16, section 1770, states, in pertinent part:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially 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."

27. California Code of Regulations, title 16, section 1783, states, in pertinent part'

"(a) A manufacture or wholesaler shall furnish dangerous drugs or devices only to an authorized person; prior to furnishing dangerous drugs and devices to a person not known to the furnisher, the manufacturer or wholesaler shall contact the board or, if the person is licensed or registered by another government entity, that entity, to confirm the recipient is an authorized person."

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COST RECOVERY

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2 28. Section 125.3 states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

CONTROLLED SUBSTANCES

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8 29. "Cialis", brand name of tadalafil a treatment for erectile dysfunction, is categorized as
9 a dangerous drug pursuant to Business and Professions Code section 4022.

10 30. "Klonopin", a brand name for clonazepam, is an anti-anxiety benzodiazepine, and
11 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(7)
12 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

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14 31. "Restoril", a brand name for temazepam, is a Schedule IV controlled substance
15 pursuant to Health and Safety Code section 11057(d)(29) and a dangerous drug pursuant to
16 Business and Professions Code section 4022(c).

17 32. "Valium", a trade name for the chemical substance diazepam, a benzodiazepam
18 derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section
19 11057(d)(9) and is categorized as a dangerous drug pursuant to Business and Professions Code
20 section 4022.

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22 33. "Vicodin" and/or "Vicodin ES", trade name for a combination drug containing
23 hydrocodone bitartrate (opioid analgesic) and acetaminophen, is a Schedule III controlled
24 substance as defined in Health and Safety Code section 11056(e)(4) and is categorized as a
25 dangerous drug according to Business and Professions Code section 4022.

26 34. "Alprazolam" is a Schedule IV controlled substance as defined in Health and Safety
27 Code section 11057(d)(1) and is categorized as a dangerous drug according to Business and
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1 Professions Code section 4022.

2 **FIRST CAUSE FOR DISCIPLINE**

3 ***(Conviction of a Substantially-Related Crime)***

4 35. Respondent Karney is subject to disciplinary action under section 4301, subdivision
5 (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
6 Respondent Karney was convicted of a crime substantially related to the qualifications, functions
7 or duties of a designated representative-in-charge.
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9 a. On or about August 28, 2009, after pleading guilty, Respondent Karney was
10 convicted of one count of violating Health and Code section 11352, subdivision (a)
11 [transportation of a controlled substance], a felony, in the criminal proceeding entitled *The People*
12 *of the State of California v. Robert Lloyd Karney* (Super. Ct. Los Angeles County, 2009, No.
13 SA068964). Respondent Karney was placed on probation for 30 months with terms and
14 conditions.
15

16 b. The circumstances surrounding the conviction are that on or about September 1,
17 2008, Respondent Karney was involved in a traffic accident in Los Angeles County, arrested at
18 the scene, and booked for driving under the influence and for possession of controlled substances.
19 At the time of the arrest, large amounts of various controlled substances were found in
20 Respondent Karney's vehicle. Respondent Karney was subsequently charged with transporting
21 one thousand one hundred and sixty eight (1168) Vicodin pills, a controlled substance.
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23 **SECOND CAUSE FOR DISCIPLINE**

24 ***(Possession of a Controlled Substance without a Valid Prescription)***

25 36. Respondent Karney is subject to disciplinary action under section 4301, subdivision
26 (j), for violating section 4060, in conjunction with Health and Safety Code sections 11350,
27 subdivision (a), and 11377, subdivision (a), in that, on or about September 1, 2008, Respondent
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1 Karney was found to be in possession of controlled substances, including but not limited to thirty
2 three (33) Klonopin, eighty one (81) Valium 10mg., three hundred eighty two (382) Vicodin ES,
3 nine hundred thirty two (932) Hydrocodone APAP 10/325, thirty (30) brand and generic Valium
4 10 mg., one thousand 1000 Alprazolam 1 mg, and two hundred 200 Restoril 7.5 mg, without a
5 valid prescription. Complainant refers to, and by this reference incorporates, the allegations set
6 forth above in paragraph 35, subdivisions (a) and (b), as though fully set forth herein.
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8 **THIRD CAUSE FOR DISCIPLINE**

9 *(Unprofessional Conduct – Assisting in or Abetting Unlicensed Wholesale Activity)*

10 37. Respondent ESP Services and Respondent Karney are subject to disciplinary action
11 under section 4301, subdivision (o), in that, from on or about January 23, 2006 to December 14,
12 2006, Respondent ESP Services and Respondent Karney aided and abetted E-Tail Network, (an
13 entity which is not licensed as a wholesaler in California) in their unlicensed wholesale
14 distribution of dangerous drugs on twenty-nine (29) occasions to a California pharmacy, on one
15 (1) occasion to an out-of-state pharmacy, and on two (2) occasions to out-of-state wholesale
16 distributors.
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18 **FOURTH CAUSE FOR DISCIPLINE**

19 *(Receiving and Selling a Misbranded Dangerous Drug)*

20 38. Respondent ESP Services and Respondent Karney are subject to disciplinary action
21 under Health and Safety Code sections 111330, 111430, 111440 and 111450, in that, from on or
22 about February 10, 2006 to June 2, 2008, as follows:
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24 a. On twenty-five (25) different occasions, Respondent ESP Services and Respondent
25 Karney imported and received amino acids for injection from Laboratorios Calce de Mexico
26 which had no label, and were, therefore, misbranded because the labeling could not be accurate
27 and had to be false. The manufacturer of the amino acids was not registered with the U.S.
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1 Secretary of Health, Education and Welfare.

2 b. Respondent ESP Services and Respondent Karney received, held, offered for sale,
3 and sold the amino acids to five (5) businesses in California and out-of-state.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 *(Purchasing Dangerous Drugs at Wholesale from Unlicensed Entity)*

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7 39. Respondent ESP Services and Respondent Karney are subject to disciplinary action
8 under section 4169, subdivision (a)(1), in that, from on or about February 10, 2006 to June 2,
9 2008, Respondent ESP Services and Respondent Karney purchased amino acids at wholesale
10 from Laboratorios Calce de Mexico which business was not licensed as a wholesaler by the
11 Board.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 *(Furnishing Dangerous Drugs or Devices to an Unauthorized Person)*

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15 40. Respondent ESP Services and Respondent Karney are subject to disciplinary action
16 under section 4037, in conjunction with California Code of Regulations, title 16, section 1783,
17 subdivisions (a) and (b), in that, from on or about February 10, 2006 to June 2, 2008, on more
18 than three hundred (300) occasions, Respondent ESP Services and Respondent Karney sold
19 dangerous drugs by receiving individual prescriptions for individual patients instead of in
20 response to wholesaler orders. Respondent ESP Services sold the drugs without any prescription
21 labeling to one (1) California prescriber and four (4) out-of-state treatment centers. Respondent
22 ESP charged the five (5) businesses for the dangerous drugs instead of the patients for whom the
23 prescriptions were written. Drugs sold pursuant to a valid prescription must be dispensed from a
24 pharmacy, not a wholesale distributor.

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SEVENTH CAUSE FOR DISCIPLINE

(Expired Dangerous Drugs in Stock for Sale)

41. Respondent ESP Services and Respondent Karney are subject to disciplinary action under section 4342, subdivision (a), in that, during an inspection of the premises on July 28, 2008, Respondent ESP Services had at least one hundred and ninety-one (191) expired dangerous drugs in stock available for inspection.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Retain Acquisition and Disposition Records on Premises)

42. Respondent East Side Pharmacy is subject to disciplinary action under section 4105, subdivision (a), in that, between January 1, 2007 and July 28, 2008, Respondent East Side Pharmacy purchased four thousand (4000) Vicodin; nine thousand five hundred (9500) Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six thousand two hundred (6200) Valium 10 mg.; one thousand four hundred seventy (1470) Cialis; one thousand four hundred (1400) Klonopin and other dangerous drugs for a total of \$50,679.35 in purchases. During an inspection on July 28, 2008, Respondent East Side Pharmacy did not have records of acquisition and disposition for these drugs.

NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Current Inventory and Acquisition and Disposition Records for Inspection on Premises)

43. Respondent East Side Pharmacy is subject to disciplinary action under section 4081, subdivision (a), in conjunction with California Code of Regulations, title 16, section 1718, in that, between January 1, 2007 and July 28, 2008, Respondent East Side Pharmacy purchased four thousand (4000) Vicodin; nine thousand five hundred (9500) Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six thousand two hundred (6200) Valium 10 mg.; one thousand four hundred seventy (1470) Cialis; one thousand four hundred (1400) Klonopin and other dangerous

1 drugs for a total of \$50,679.35 in purchases. During an inspection on July 28, 2008, Respondent
2 East Side Pharmacy did not provide the records of acquisition and disposition for these drugs
3 either at the time of the inspection or when requested by Board inspectors. There were no
4 dangerous drugs at the pharmacy during the inspection on July 28, 2008. In the absence of drugs
5 and records, the inventory of dangerous drugs is not accurate.

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7 **TENTH CAUSE FOR DISCIPLINE**

8 ***(No Pharmacist' Signature for Receipt of Dangerous Drugs by Pharmacy)***

9 44. Respondent East Side Pharmacy is subject to disciplinary action under section
10 4059.5, subdivision (a), in that, on or about January 1, 2007 to July 28, 2008, Respondent East
11 Side Pharmacy purchased four thousand (4000) Vicodin; nine thousand five hundred (9500)
12 Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six thousand two hundred (6200)
13 Valium 10 mg.; one thousand four hundred seventy (1470) Cialis; one thousand four hundred
14 (1400) Klonopin and other dangerous drugs for a total of \$50,679.35 in purchases. No pharmacist
15 was present at the pharmacy to sign for or receive these drugs.
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17 **ELEVENTH CAUSE FOR DISCIPLINE**

18 ***(Unprofessional Conduct – Moral Turpitude)***

19 45. Respondent Karney is subject to disciplinary action under section 4301, subdivision
20 (f), in that, Respondent Karney committed an act involving moral turpitude between January 1,
21 2007 and July 28, 2008, when Respondent Karney ordered four thousand (4000) Vicodin; nine
22 thousand five hundred (9500) Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six
23 thousand two hundred (6200) Valium 10 mg.; one thousand four hundred seventy (1470) Cialis;
24 one thousand four hundred (1400) Klonopin and other dangerous drugs for a total of \$50,679.35
25 in purchases from Respondent East Side Pharmacy without the knowledge of the pharmacist-in-
26 charge, signed for and received those drugs when he was not authorized to do so, and diverted
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1 those drugs from Respondent East Side Pharmacy for his self use.

2 **TWELFTH CAUSE FOR DISCIPLINE**

3 ***(Failure to Retain Acquisition and Disposition Records on Premises)***

4 46. Respondent Helen Mizrahi-Jonah is subject to disciplinary action under section
5 4105, subdivision (a), in that, between January 1, 2007 and March 21, 2008, while pharmacist-in-
6 charge of Respondent East Side Pharmacy, four thousand (4000) Vicodin, six thousand (6000)
7 Vicodin ES, one thousand (1000) Hydrocodone/Acetaminophen 10/325, four thousand nine
8 hundred (4900) Valium 10 mg, nine hundred sixty (960) Cialis, one hundred (100) Klonopin and
9 other dangerous drugs totaling \$35,633.23 were purchased for the pharmacy. Respondent
10 Mizrahi-Jonah did not dispense any prescriptions during that time period, did not have
11 knowledge of any drug stock, and there were no records of acquisition and disposition in the
12 pharmacy during a Board inspection on July 28, 2008.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 ***(Failure to Maintain Current Inventory and Acquisition
15 and Disposition Records for Inspection on Premises)***

16 47. Respondent Mizrahi-Jonah is subject to disciplinary action under section 4081,
17 subdivision (a), in conjunction with California Code of Regulations, title 16, section 1718, in that,
18 between January 1, 2007 and March 21, 2008, while pharmacist-in-charge of Respondent East
19 Side Pharmacy, Respondent Mizrahi-Jonah was responsible for the records of acquisition and
20 disposition during that time period. Four thousand (4000) Vicodin, six thousand (6000) Vicodin
21 ES, one thousand (1000) Hydrocodone/Acetaminophen 10/325, four thousand nine hundred
22 (4900) Valium 10 mg, nine hundred sixty (960) Cialis, one hundred (100) Klonopin and other
23 dangerous drugs totaling \$35,633.23 were purchased for the pharmacy. Respondent Mizrahi-
24 Jonah did not dispense any prescriptions during that time period, did not have knowledge of any
25 drug stock, and there were no records of acquisition and disposition in the pharmacy during a
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1 Board inspection on July 28, 2008.

2 **FOURTEENTH CAUSE FOR DISCIPLINE**

3 *(Failure to Retain Acquisition and Disposition Records on Premises)*

4 48. Respondent Shaun Lee is subject to disciplinary action under section 4105,
5 subdivision (a), in that, between March 22, 2008 and September 1, 2008, while pharmacist-in-
6 charge of Respondent East Side Pharmacy, three thousand five hundred (3500) Vicodin ES, one
7 thousand three hundred (1300) Valium 10 mg, five hundred ten (510) Cialis, one thousand three
8 hundred (1300) Klonopin and other dangerous drugs totaling \$15,037.12 were purchased for the
9 pharmacy. Respondent Lee did not dispense any prescriptions during that time period, did not
10 have knowledge of any drug stock, and there were no records of acquisition and disposition in the
11 pharmacy during a Board inspection on July 28, 2008.
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13 **FIFTEENTH CAUSE FOR DISCIPLINE**

14 *(Failure to Maintain Current Inventory and Acquisition
15 and Disposition Records for Inspection on Premises)*

16 49. Respondent Lee is subject to disciplinary action under section 4081, subdivision (a),
17 in conjunction with California Code of Regulations, title 16, section 1718, in that, between March
18 22, 2008 and September 1, 2008, while pharmacist-in-charge of Respondent East Side Pharmacy,
19 Respondent Lee was responsible for the records of acquisition and disposition during that time
20 period. Three thousand five hundred (3500) Vicodin ES, one thousand three hundred (1300)
21 Valium 10 mg, five hundred ten (510) Cialis, one thousand three hundred (1300) Klonopin and
22 other dangerous drugs totaling \$15,037.12 were purchased for the pharmacy. Respondent Lee did
23 not dispense any prescriptions during that time period, did not have knowledge of any drug stock,
24 and there were no records of acquisition and disposition in the pharmacy during a Board
25 inspection on July 28, 2008.
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1 SIXTEENTH CAUSE FOR DISCIPLINE

2 *(Subverting an Investigation of the Board)*

3 50. Respondent Karney is subject to disciplinary action under section 4301, subdivision
4 (q), in that, on January 1, 2007 to July 28, 2008, Respondent Karney purchased and diverted 4000
5 tablets of Vicodin, 9500 tablets of Vicodin ES, 1000 Hydrocodone Apap 10/325, 6200 tablets of
6 Valium 10mg, 1470 tablets Cialis, 1400 Klonopin and other dangerous drugs for a total of
7 \$50,670.35 in purchases. Respondent Karney failed to cooperate and provide records of
8 acquisitions and disposition for the drugs and could not complete accountability when requested
9 by the Board. Respondent, by not cooperating interfered with, and delayed, the Board's
10 investigation.

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12 PRAYER

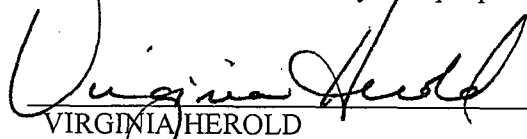
13 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board issue a decision:

- 15
16 1. Revoking or suspending Original Wholesale Permit No. WLS 2329 issued to
17 Respondent ESP Services;
- 18 2. Revoking or suspending Original Pharmacy Permit No. PHY 39439 issued to
19 Respondent East Side Pharmacy;
- 20 3. Revoking or suspending Designated Representative-in-Charge Original Certificate
21 Number EXC 10845 issued to Respondent Karney;
- 22 4. Revoking or suspending Original Pharmacist License No. RPH 26276 issued to
23 Respondent Helen Mizrahie-Jonah;
- 24 5. Revoking or suspending Original Pharmacist License No. RPH 42786
25 issued to Respondent Shaun Lee;
- 26 6. Ordering Respondents to pay the Board the reasonable costs of the investigation and
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1 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

2 7. Taking such other and further action as deemed necessary and proper.

3 DATED: 9/9/10



4 VIRGINIA HEROLD
5 Executive Officer
6 Board of Pharmacy
7 Department of Consumer Affairs
8 State of California
9 *Complainant*

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DAT/dat 6/21/10