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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5552

11 **DROGUERIA DE LA VILLA INC, Et;**  
12 **SONIA THUNA AND WAYNE S. THUNA,**  
**Owners**  
13 **Tuque Industrial Park ESQ Calle B**  
**Ponce, Puerto Rico 00728**

**SECOND AMENDED ACCUSATION**

14 **Out of State Distributor License No. OSD**  
15 **5317;**

16 **NOEL PADRO**  
17 **Ext Santa Elena St. Jaguey S11**  
**Guayanilla, Puerto Rico 00656**

18 **Designated Representative Certificate No.**  
19 **EXC 22404;**

20 **JARED THUNA**  
21 **351 Calle Falcon St.**  
**Ponce, Puerto Rico 00716**

22 **Designated Representative Certificate No.**  
23 **EXC 19514**

24 Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Anne Sodergren (Complainant) brings this Second Amended Accusation solely in her  
4 official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of  
5 Consumer Affairs.

6 2. On or about November 28, 2011, the Board of Pharmacy issued Out of State  
7 Distributor License Number OSD 5317 to Drogueria De La Villa Inc, Sonia Thuna and Wayne S.  
8 Thuna, Owners (Drogueria). The Out of State Distributor License was in full force and effect at  
9 all times relevant to the charges brought herein and expired on November 1, 2017.

10 3. On or about October 3, 2013, the Board of Pharmacy issued Designated  
11 Representative Certificate Number EXC 22404 to Noel Padro (Padro). The Designated  
12 Representative Certificate was in full force and effect at all times relevant to the charges brought  
13 herein and expired on October 1, 2017.

14 4. On or about October 3, 2007, the Board of Pharmacy issued Designated  
15 Representative Certificate Number EXC 19514 to Jared Thuna (Thuna). The Designated  
16 Representative Certificate was in full force and effect at all times relevant to the charges brought  
17 herein and expired on October 1, 2013.

18 **JURISDICTION**

19 5. This Second Amended Accusation is brought before the Board of Pharmacy (Board),  
20 Department of Consumer Affairs, under the authority of the following laws. All section  
21 references are to the Business and Professions Code unless otherwise indicated.

22 6. Section 4300 of the Code states:

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

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

27 "(1) Suspending judgment.

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

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

2           "(4) Revoking his or her license.

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

5           "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
6 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
7 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
8 may issue the license subject to any terms or conditions not contrary to public policy, including,  
9 but not limited to, the following:

10           "(1) Medical or psychiatric evaluation.

11           "(2) Continuing medical or psychiatric treatment.

12           "(3) Restriction of type or circumstances of practice.

13           "(4) Continuing participation in a board-approved rehabilitation program.

14           "(5) Abstention from the use of alcohol or drugs.

15           "(6) Random fluid testing for alcohol or drugs.

16           "(7) Compliance with laws and regulations governing the practice of pharmacy.

17           "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
18 certificate of licensure for any violation of the terms and conditions of probation. Upon  
19 satisfactory completion of probation, the board shall convert the probationary certificate to a  
20 regular certificate, free of conditions.

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

26           7.           Section 4300.1 of the Code states:

27           "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
28 operation of law or by order or decision of the board or a court of law, the placement of a license

1 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
2 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
3 proceeding against, the licensee or to render a decision suspending or revoking the license."

4 8. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional  
6 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
7 not limited to, any of the following:

8 "....

9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
11 whether the act is a felony or misdemeanor or not.

12 "(g) Knowingly making or signing any certificate or other document that falsely represents  
13 the existence or nonexistence of a state of facts.

14 "...

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

17 "...."

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

22 "(p) Actions or conduct that would have warranted denial of a license.

23 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the  
24 board.

25 "..."

26 9. Section 4022 of the Code states

27 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
28 humans or animals, and includes the following:

1           (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
2 prescription," "Rx only," or words of similar import.

3           (b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
4 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
5 in with the designation of the practitioner licensed to use or order use of the device.

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

8           10. Section 4081 of the Code states:

9           (a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
10 or dangerous devices shall be at all times during business hours open to inspection by authorized  
11 officers of the law, and shall be preserved for at least three years from the date of making. A  
12 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
13 food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian,  
14 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked  
15 certificate, license, permit, registration, or exemption under Division 2 (commencing with Section  
16 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of  
17 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or  
18 dangerous devices.

19           (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal  
20 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-  
21 charge, for maintaining the records and inventory described in this section.

22           (c) The pharmacist-in-charge or representative-in-charge shall not be criminally  
23 responsible for acts of the owner, officer, partner, or employee that violate this section and of  
24 which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or  
25 she did not knowingly participate."

26           11. Section 4332 states:

27           "Any person who fails, neglects, or refuses to maintain the records required by Section  
28 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects,

1 or refuses to produce or provide the records within a reasonable time, or who willfully produces  
2 or furnishes records that are false, is guilty of a misdemeanor.”

3 12. Section 4163 states:

4 “(a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous  
5 drug or dangerous device to an unauthorized person.

6 “(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by  
7 law to possess or furnish dangerous drugs or dangerous devices. If the person acquiring the  
8 dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be  
9 limited to obtaining confirmation of licensure of those sources from whom it has not previously  
10 acquired dangerous drugs or dangerous devices.”

11 13. Section 4169 subdivision (a)(1) states:

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

13 “(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or  
14 dangerous devices at wholesale with a person or entity that is not licensed with the board as a  
15 wholesaler, third-party logistics provider, or pharmacy.

16 “....”

17 14. Section 4059 states:

18 “... ”

19 “(b) This section does not apply to the furnishing of any dangerous drug or dangerous  
20 device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist,  
21 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a  
22 laboratory under sales and purchase records that correctly give the date, the names and addresses  
23 of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to  
24 the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical  
25 therapist acting within the scope of his or her license under sales and purchase records that  
26 correctly provide the date the device is provided, the names and addresses of the supplier and the  
27 buyer, a description of the device, and the quantity supplied.”

28 15. Section 4307 of the Code states:

1           “Individuals with Denied, Revoked, Suspended, etc. Licenses Prohibited from Pharmacy  
2 Ownership or Association with Board Licensed Entities”

3           “(a) Any person who has been denied a license or whose license has been revoked or is  
4 under suspension, or who has failed to renew his or her license while it was under suspension, or  
5 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
6 any partnership, corporation, firm, or association whose application for a license has been denied  
7 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
8 administrator, owner, member, officer, director, associate, or partner had knowledge of or  
9 knowingly participated in any conduct for which the license was denied, revoked, suspended, or  
10 placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
11 member, officer, director, associate, or partner of a licensee as follows:

12           “(1) Where a probationary license is issued or where an existing license is placed on  
13 probation, this prohibition shall remain in effect for a period not to exceed five years.

14           “(2) Where the license is denied or revoked, the prohibition shall continue until the license  
15 is issued or reinstated.

16           “(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as  
17 used in this section and Section 4308, may refer to a pharmacist or to any other person who serves  
18 in that capacity in or for a licensee.

19           “(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
20 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
21 However, no order may be issued in that case except as to a person who is named in the caption,  
22 as to whom the pleading alleges the applicability of this section, and where the person has been  
23 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
24 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
25 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
26 of law.”

27           16. Section 4301 subdivision (f) of the Code states:  
28







1 c. Respondents also failed to provide records of disposition for the drugs on Invoice  
2 No. 10211 and No. 10214 when requested to do so by the Board.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Non-Compliant Pedigree Requirements against Drogueria and Padro)

5 22. Respondents are subject to disciplinary action under the Prescription Drug Marketing  
6 Act and title 21 of Code of Federal Regulations section 203.50, subdivision (a), which states, in  
7 part, that before the completion of any wholesale distribution by a wholesale distributor of a  
8 prescription drug for which the seller is not an authorized distributor of record to another  
9 wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a statement  
10 identifying each prior sale, purchase, or trade of such drug. Respondents failed to comply with  
11 these requirements as follows:

12 23. Respondents provided fraudulent and non-compliant pedigrees from purchases  
13 supposedly from JD Pharmaceutical located at 417 W. Arden Ave. #114C, Glendale, CA 91203.  
14 These pedigrees failed to show the proprietary and established name of the drug; the business  
15 name and address of all parties to each prior transaction involving the drug, starting with the  
16 manufacturer; and the dates of each previous transaction on the following invoices and dates  
17 associated with:

18 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
19 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria De  
20 La Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

21 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
22 dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical, 417  
23 W. Arden Ave. #114C, Glendale, CA 91203.

24 c. Respondents also failed to provide pedigrees for all drugs sold on Invoice No.  
25 10211 and 10214 when requested by the Board.

26 24. Respondents further produced 135 transaction histories for sales to CT Pharmacy  
27 located at 709 N. Hill St, #23, Los Angeles CA 90012, which misrepresented the source of at  
28 least one drug. These transaction histories indicated that Respondents purchased dangerous drugs

1 from JD Pharmaceutical Wholesaler located at 417 West Arden Ave #114C, Glendale CA 91203,  
2 when the drugs in question were actually purchased from an unlicensed entity, Vardan Megroian  
3 and JD WHLS, INC.

4 **THIRD CAUSE FOR DISCIPLINE**

5 (Unauthorized Furnishing against Drogueria and Padro)

6 25. Respondents are subject to disciplinary action under section 4163, subdivision (b),  
7 which states that dangerous drugs or dangerous devices shall be acquired from a person  
8 authorized by law to possess or furnish dangerous drugs or dangerous devices. If the person  
9 acquiring the dangerous drugs or dangerous devices is a wholesaler, the obligation of the  
10 wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it  
11 has not previously acquired dangerous drugs or dangerous devices. Respondents failed to comply  
12 with these requirements as follows:

13 26. Specifically, Respondents between January 31, 2014 and November 18, 2014,  
14 Respondents purchased 48,140 units (i.e., bottles, inhalers tubes, etc.) of dangerous drugs for a  
15 total purchase price of approximately \$24,400,584.96 from an unlicensed entity Varden Megroian  
16 of JD WHLS INC”, which did not have a valid license with the Board, and Respondents failed to  
17 obtain confirmation of the licensure of this source.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Purchasing from an Unlicensed Entity against Drogueria and Padro)

20 27. Respondents are subject to disciplinary action under section 4169, subdivision (a)(1),  
21 in that Respondents purchased, traded, sold, warehoused, distributed, or transferred dangerous  
22 drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board  
23 as a wholesaler, third-party logistics provider, or pharmacy. The circumstances surrounding this  
24 violation are as follows:

25 28. Specifically, Respondents purchased dangerous drugs on the following invoices from  
26 an entity, “JD WHLS INC”, which did not have a valid license with the Board:  
27  
28

1 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
2 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria de  
3 la Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

4 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
5 dangerous drugs was supposedly sold to Drogueria de la Villa Inc by JD Pharmaceutical, 417 W.  
6 Arden Ave. #114C, Glendale, CA 91203.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 (Improper Sales and Purchase Records against Drogueria and Padro)

9 29. Respondents are subject to disciplinary action under section 4059, subdivision (b) in  
10 that they furnished dangerous drugs without a prescription and on improper sales and purchase  
11 records. The circumstances surrounding this violation are as follows:

12 30. Specifically, Respondents provided the following medications to JD Pharmaceutical  
13 without prescriptions or proper sales and purchase records that accurately denoted the supplier  
14 and buyer:

15 a. Two (2) Abilify and two (2) Nasonex Inhalers, referenced to PO 84832 and  
16 invoice No. 10211, dated February 6, 2014.

17 b. One (1) Combivent, One (1) Durezol, One (1) Januvia, Two (2) Latuda, One (1)  
18 Nexium, One (1) Spiriva inhaler, One (1) Tribenzor, and One (1) Vytorin referenced to PO 84886  
19 and Invoice No. 10214, dated February 24, 2014.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Prohibited Acts against Drogueria and Padro)

22 31. Respondents are subject to disciplinary action under section 4169 subdivision (a) of  
23 the Code in that they were prohibited from purchasing, trading, selling, warehousing, distributing  
24 or transferring dangerous drugs or devices at wholesale with a person or entity that is not licensed  
25 with the Board as a wholesaler, third party logistics provider, or pharmacy. The circumstances  
26 surrounding this violation are as follows:



1 5317, issued to Drogueria is placed on probation or until Out of State Distributor License OSD  
2 5317, issued to Drogueria is reinstated if it is revoked.

3 **DISCIPLINE CONSIDERATIONS**

4 36. To determine the degree of discipline, if any, to be imposed on Respondent Drogueria  
5 De La Villa Inc, Noel Padro, Designated Representative, Complainant alleges that on or about  
6 October 20, 2011, in a prior disciplinary action entitled In the Matter of the Statement of Issues  
7 Against Drogueria De La Villa, Inc. before the Board of Pharmacy, in Case Number 3405,  
8 Respondent's license was issued and immediately revoked. The revocation was stayed and  
9 Respondent was placed on three (3) years probation with terms and conditions for sustained  
10 violations. That decision is now final and is incorporated by reference as if fully set forth.

11 **PRAYER**

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

14 1. Revoking or suspending Out of State Distributor License Number OSD 5317, issued  
15 to Drogueria De La Villa Inc;

16 2. Revoking or suspending Designated Representative Certificate Number EXC 22404,  
17 issued to Noel Padro;

18 3. Prohibiting Sonia Thuna, Wayne S. Thuna and Noel Padro from serving as a  
19 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
20 five years if Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc is  
21 placed on probation or until Out of State Distributor License OSD 5317 issued to Drogueria De  
22 La Villa Inc is reinstated if Out of State Distributor License OSD 5317 issued to Drogueria De La  
23 Villa Inc issued is revoked

24 3. Ordering Drogueria De La Villa Inc and Noel Padro to pay the Board of Pharmacy  
25 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 125.3; and

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

DATED: May 21, 2019



ANNE SODERGREN  
Interim Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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Complainant alleges:

**PARTIES**

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

2. On or about November 28, 2011, the Board of Pharmacy issued Out of State Distributor License Number OSD 5317 to Drogueria De La Villa Inc, Sonia Thuna and Wayne S. Thuna, Owners (Drogueria). The Out of State Distributor License was in full force and effect at all times relevant to the charges brought herein and will expire on November 1, 2017, unless renewed.

3. On or about October 3, 2013, the Board of Pharmacy issued Designated Representative Certificate Number EXC 22404 to Noel Padro (Padro). The Designated Representative Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2017, unless renewed.

4. On or about October 3, 2007, the Board of Pharmacy issued Designated Representative Certificate Number EXC 19514 to Jared Thuna (Thuna). The Designated Representative Certificate was in full force and effect at all times relevant to the charges brought herein and expired on October 1, 2013.

**JURISDICTION**

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

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3           "(3) Suspending his or her right to practice for a period not exceeding one year.  
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5           "(5) Taking any other action in relation to disciplining him or her as the board in its  
6 discretion may deem proper.

7           "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
8 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
9 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
10 may issue the license subject to any terms or conditions not contrary to public policy, including,  
11 but not limited to, the following:

- 12           "(1) Medical or psychiatric evaluation.  
13           "(2) Continuing medical or psychiatric treatment.  
14           "(3) Restriction of type or circumstances of practice.  
15           "(4) Continuing participation in a board-approved rehabilitation program.  
16           "(5) Abstention from the use of alcohol or drugs.  
17           "(6) Random fluid testing for alcohol or drugs.  
18           "(7) Compliance with laws and regulations governing the practice of pharmacy.

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21 satisfactory completion of probation, the board shall convert the probationary certificate to a  
22 regular certificate, free of conditions.

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24 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
25 shall have all the powers granted therein. The action shall be final, except that the propriety of the  
26 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil  
27 Procedure."

28           7.           Section 4300.1 of the Code states:

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

6 8. Section 4301 of the Code states:

7 "The board shall take action against any holder of a license who is guilty of unprofessional  
8 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
9 not limited to, any of the following:

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11 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
12 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
13 whether the act is a felony or misdemeanor or not.

14 "(g) Knowingly making or signing any certificate or other document that falsely represents  
15 the existence or nonexistence of a state of facts.

16 "...

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

19 "..."

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

24 "(p) Actions or conduct that would have warranted denial of a license.

25 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the  
26 board.

27 "..."

28 9. Section 4022 of the Code states

1 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
2 humans or animals, and includes the following:

3 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
4 prescription," "Rx only," or words of similar import.

5 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by  
6 or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in  
7 with the designation of the practitioner licensed to use or order use of the device.

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

10 10. Section 4081 of the Code states:

11 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or  
12 dangerous devices shall be at all times during business hours open to inspection by authorized  
13 officers of the law, and shall be preserved for at least three years from the date of making. A  
14 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
15 food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian,  
16 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked  
17 certificate, license, permit, registration, or exemption under Division 2 (commencing with Section  
18 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of  
19 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or  
20 dangerous devices.

21 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal  
22 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge,  
23 for maintaining the records and inventory described in this section.

24 "(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible  
25 for acts of the owner, officer, partner, or employee that violate this section and of which the  
26 pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not  
27 knowingly participate."

28 11. Section 4332 states:

1           “Any person who fails, neglects, or refuses to maintain the records required by Section 4081  
2 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or  
3 refuses to produce or provide the records within a reasonable time, or who willfully produces or  
4 furnishes records that are false, is guilty of a misdemeanor.”

5           12. Section 4163 states:

6           “(a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug  
7 or dangerous device to an unauthorized person.

8           “(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by  
9 law to possess or furnish dangerous drugs or dangerous devices. If the person acquiring the  
10 dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be  
11 limited to obtaining confirmation of licensure of those sources from whom it has not previously  
12 acquired dangerous drugs or dangerous devices.”

13          13. Section 4169 subdivision (a)(1) states:

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

15                 “(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or  
16 dangerous devices at wholesale with a person or entity that is not licensed with the board as a  
17 wholesaler, third-party logistics provider, or pharmacy.

18          “....”

19          14. Section 4059 states:

20          “... ”

21          “(b) This section does not apply to the furnishing of any dangerous drug or dangerous device  
22 by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist, podiatrist,  
23 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a laboratory  
24 under sales and purchase records that correctly give the date, the names and addresses of the  
25 supplier and the buyer, the drug or device, and its quantity. This section does not apply to the  
26 furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical  
27 therapist acting within the scope of his or her license under sales and purchase records that

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1 correctly provide the date the device is provided, the names and addresses of the supplier and the  
2 buyer, a description of the device, and the quantity supplied.”

3 15. Section 4307 of the Code states:

4 “Individuals with Denied, Revoked, Suspended, etc. Licenses Prohibited from Pharmacy  
5 Ownership or Association with Board Licensed Entities”

6 “(a) Any person who has been denied a license or whose license has been revoked or is  
7 under suspension, or who has failed to renew his or her license while it was under suspension, or  
8 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
9 any partnership, corporation, firm, or association whose application for a license has been denied  
10 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
11 administrator, owner, member, officer, director, associate, or partner had knowledge of or  
12 knowingly participated in any conduct for which the license was denied, revoked, suspended, or 99  
13 placed on probation, shall be prohibited from serving as a manager, administrator, owner, member,  
14 officer, director, associate, or partner of a licensee as follows:

15 “(1) Where a probationary license is issued or where an existing license is placed on  
16 probation, this prohibition shall remain in effect for a period not to exceed five years.

17 “(2) Where the license is denied or revoked, the prohibition shall continue until the license is  
18 issued or reinstated.

19 “(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as  
20 used in this section and Section 4308, may refer to a pharmacist or to any other person who serves  
21 in that capacity in or for a licensee.

22 “(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
24 However, no order may be issued in that case except as to a person who is named in the caption,  
25 as to whom the pleading alleges the applicability of this section, and where the person has been  
26 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
27 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
28

1 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
2 of law.”

3 16. Section 4301 subdivision (f) of the Code states:

4 “The board shall take action against any holder of a license who is guilty of unprofessional  
5 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
6 not limited to, any of the following:

7 “...

8 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
9 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
10 whether the act is a felony or misdemeanor or not.

11 “....”

12  
13 17. Section 4169 subdivision (a)(1) of the Code states:

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

15 “(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or  
16 dangerous devices at wholesale with a person or entity that is not licensed with the board as a  
17 wholesaler, third-party logistics provider, or pharmacy

18 “....”

19 **FEDERAL REGULATIONS**

20 18. Title 21 of the Code of Federal Regulations, section 203.50 subdivision (a) states:

21 “(a) Identifying statement for sales by unauthorized distributors. Before the completion of  
22 any wholesale distribution by a wholesale distributor of a prescription drug for which the seller is  
23 not an authorized distributor of record to another wholesale distributor or retail pharmacy, the  
24 seller shall provide to the purchaser a statement identifying each prior sale, purchase, or trade of  
25 such drug. This identifying statement shall include:

26 “(1) The proprietary and established name of the drug;

27 “(2) Dosage;

28 “(3) Container size;

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“(4) Number of containers;

“(5) The drug's lot or control number(s);

“(6) The business name and address of all parties to each prior transaction involving the drug, starting with the manufacturer; and

“(7) The date of each previous transaction.

“....”

**COST RECOVERY**

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

**FIRST CAUSE FOR DISCIPLINE**

(Willful Production of False Records against Drogueria and Padro)

20. Respondents are subject to disciplinary action under section 4332 in conjunction with 4081 in that Respondents failed, neglected, or refused to maintain records required by section 4081 or, when requested to do so by the Board, failed, neglected, or refused to produce or provide the records within a reasonable time, or who willfully produced or furnished records that were false. The circumstances are as follows:

21. Respondents provided fraudulent records of acquisition from JD Pharmaceutical located at 417 W. Arden Ave. #114C, Glendale, CA 91203 on the following invoices and dates:

a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203. In truth, JD Pharmaceutical Wholesaler was not involved in said transactions and had no business relationship whatsoever with Respondents.

b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical, 417



1 W. Arden Ave. #114C, Glendale, CA 91203. In truth, JD Pharmaceutical Wholesaler was not  
2 involved in said transactions and had no business relationship whatsoever with Respondents.

3 c. Respondents also failed to provide records of disposition for the drugs on Invoice  
4 No. 10211 and No. 10214 when requested to do so by the Board.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Non-Compliant Pedigree Requirements against Drogueria and Padro)

7 22. Respondents are subject to disciplinary action under the Prescription Drug Marketing  
8 Act and title 21 of Code of Federal Regulations section 203.50, subdivision (a), which states, in  
9 part, that before the completion of any wholesale distribution by a wholesale distributor of a  
10 prescription drug for which the seller is not an authorized distributor of record to another  
11 wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a statement  
12 identifying each prior sale, purchase, or trade of such drug. Respondents failed to comply with  
13 these requirements as follows:

14 23. Respondents provided fraudulent and non-compliant pedigrees from purchases  
15 supposedly from JD Pharmaceutical located at 417 W. Arden Ave. #114C, Glendale, CA 91203.  
16 These pedigrees failed to show the proprietary and established name of the drug; the business  
17 name and address of all parties to each prior transaction involving the drug, starting with the  
18 manufacturer; and the dates of each previous transaction on the following invoices and dates  
19 associated with:

20 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
21 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria De  
22 La Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

23 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
24 dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical, 417  
25 W. Arden Ave. #114C, Glendale, CA 91203.

26 c. Respondents also failed to provide pedigrees for all drugs sold on Invoice No.  
27 10211 and 10214 when requested by the Board.

28



1 28. Specifically, Respondents purchased dangerous drugs on the following invoices from  
2 an entity, "JD WHLS INC", which did not have a valid license with the Board:

3 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
4 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria de  
5 la Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

6 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
7 dangerous drugs was supposedly sold to Drogueria de la Villa Inc by JD Pharmaceutical, 417 W.  
8 Arden Ave. #114C, Glendale, CA 91203.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 (Improper Sales and Purchase Records against Drogueria and Padro)

11 29. Respondents are subject to disciplinary action under section 4059, subdivision (b) in  
12 that they furnished dangerous drugs without a prescription and on improper sales and purchase  
13 records. The circumstances surrounding this violation are as follows:

14 30. Specifically, Respondents provided the following medications to JD Pharmaceutical  
15 without prescriptions or proper sales and purchase records that accurately denoted the supplier  
16 and buyer:

17 a. Two (2) Abilify and two (2) Nasonex Inhalers, referenced to PO 84832 and  
18 invoice No. 10211, dated February 6, 2014.

19 b. One (1) Combivent, One (1) Durezol, One (1) Januvia, Two (2) Latuda, One (1)  
20 Nexium, One (1) Spiriva inhaler, One (1) Tribenzor, and One (1) Vytorin referenced to PO 84886  
21 and Invoice No. 10214, dated February 24, 2014.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 (Prohibited Acts against Drogueria and Padro)

24 31. Respondents are subject to disciplinary action under section 4169 subdivision (a) of  
25 the Code in that they were prohibited from purchasing, trading, selling, warehousing, distributing  
26 or transferring dangerous drugs or devices at wholesale with a person or entity that is not licensed  
27 with the Board as a wholesaler, third party logistics provider, or pharmacy. The circumstances  
28 surrounding this violation are as follows:



1 DISCIPLINE CONSIDERATIONS

2 36. To determine the degree of discipline, if any, to be imposed on Respondent Drogueria  
3 De La Villa Inc, Noel Padro, Designated Representative, Complainant alleges that on or about  
4 October 20, 2011, in a prior disciplinary action entitled In the Matter of the Statement of Issues  
5 Against Drogueria De La Villa, Inc. before the Board of Pharmacy, in Case Number 3405,  
6 Respondent's license was issued and immediately revoked. The revocation was stayed and  
7 Respondent was placed on three (3) years probation with terms and conditions for sustained  
8 violations. That decision is now final and is incorporated by reference as if fully set forth.

9 PRAYER

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

- 12 1. Revoking or suspending Out of State Distributor License Number OSD 5317, issued  
13 to Drogueria De La Villa Inc;
- 14 2. Revoking or suspending Designated Representative Certificate Number EXC 22404,  
15 issued to Noel Padro;
- 16 3. Prohibiting Sonia Thuna, Wayne S. Thuna and Noel Padro from serving as a manager,  
17 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
18 Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc is placed on  
19 probation or until Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc  
20 is reinstated if Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc  
21 issued is revoked
- 22 3. Ordering Drogueria De La Villa Inc and Noel Padro to pay the Board of Pharmacy  
23 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 125.3; and

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

DATED: 10/19/17 *Virginia Herold*

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

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6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:  
11 **DROGUERIA DE LA VILLA INC, Et;**  
12 **SONIA THUNA AND WAYNE S. THUNA,**  
13 **Owners**  
**Tuque Industrial Park ESQ Calle B**  
**Ponce, Puerto Rico 00728**  
14  
15 **Out of State Distributor License No. OSD**  
**5317,**  
16 **and**  
17 **NOEL PADRO**  
**Ext Santa Elena St. Jaguey S11**  
18 **Guayanilla, Puerto Rico 00656**  
19 **Designated Representative Certificate No.**  
**EXC 22404**

Case No. 5552

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

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

- 24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as  
25 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
26 2. On or about November 28, 2011, the Board of Pharmacy issued Out of State  
27 Distributor License Number OSD 5317 to Drogueria De La Villa Inc, Sonia Thuna and Wayne S.  
28

1 Thuna, Owners. The Out of State Distributor License was in full force and effect at all times  
2 relevant to the charges brought herein and will expire on November 1, 2016, unless renewed.

3 3. On or about October 3, 2013, the Board of Pharmacy issued Designated  
4 Representative Certificate Number EXC 22404 to Noel Padro (Respondent). The Designated  
5 Representative Certificate was in full force and effect at all times relevant to the charges brought  
6 herein and will expire on October 1, 2016, unless renewed. Respondents Drogueria De La Villa  
7 Inc, Sonia Thuna and Wayne S. Thuna, Owners, and Noel Padro are collectively referred to herein  
8 as "Respondents".

### 9 JURISDICTION

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

13 5. Section 4300 of the Code states:

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

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

18 "(1) Suspending judgment.

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

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

21 "(4) Revoking his or her license.

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

24 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
25 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
26 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
27 may issue the license subject to any terms or conditions not contrary to public policy, including,  
28 but not limited to, the following:



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- "(1) Medical or psychiatric evaluation.
- "(2) Continuing medical or psychiatric treatment.
- "(3) Restriction of type or circumstances of practice.
- "(4) Continuing participation in a board-approved rehabilitation program.
- "(5) Abstention from the use of alcohol or drugs.
- "(6) Random fluid testing for alcohol or drugs.
- "(7) Compliance with laws and regulations governing the practice of pharmacy.

"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

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

6. Section 4300.1 of the Code states:

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

7. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

"....

1           (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
2           corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
3           whether the act is a felony or misdemeanor or not.

4           (g) Knowingly making or signing any certificate or other document that falsely represents  
5           the existence or nonexistence of a state of facts.

6           "..."

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

9           "..."

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

14          (p) Actions or conduct that would have warranted denial of a license.

15          (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the  
16          board.

17          "..."

18          8.     Section 4022 of the Code states

19           "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
20           humans or animals, and includes the following:

21           (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
22           prescription," "Rx only," or words of similar import.

23           (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by  
24           or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in  
25           with the designation of the practitioner licensed to use or order use of the device.

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          9.     Section 4081 of the Code states:

1           "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or  
2 dangerous devices shall be at all times during business hours open to inspection by authorized  
3 officers of the law, and shall be preserved for at least three years from the date of making. A  
4 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
5 food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian,  
6 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked  
7 certificate, license, permit, registration, or exemption under Division 2 (commencing with Section  
8 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of  
9 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or  
10 dangerous devices.

11           "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal  
12 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge,  
13 for maintaining the records and inventory described in this section.

14           "(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible  
15 for acts of the owner, officer, partner, or employee that violate this section and of which the  
16 pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not  
17 knowingly participate."

18           10. Section 4332 states:

19           "Any person who fails, neglects, or refuses to maintain the records required by Section 4081  
20 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or  
21 refuses to produce or provide the records within a reasonable time, or who willfully produces or  
22 furnishes records that are false, is guilty of a misdemeanor."

23           11. Section 4163 states:

24           "(a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug  
25 or dangerous device to an unauthorized person.

26           "(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by  
27 law to possess or furnish dangerous drugs or dangerous devices. If the person acquiring the  
28 dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be

1 limited to obtaining confirmation of licensure of those sources from whom it has not previously  
2 acquired dangerous drugs or dangerous devices.”

3 12. Section 4169 subdivision (a)(1) states:

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

5 “(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or  
6 dangerous devices at wholesale with a person or entity that is not licensed with the board as a  
7 wholesaler, third-party logistics provider, or pharmacy.

8 “....”

9 13. Section 4059 states:

10 “... ”

11 “(b) This section does not apply to the furnishing of any dangerous drug or dangerous device  
12 by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist, podiatrist,  
13 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a laboratory  
14 under sales and purchase records that correctly give the date, the names and addresses of the  
15 supplier and the buyer, the drug or device, and its quantity. This section does not apply to the  
16 furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical  
17 therapist acting within the scope of his or her license under sales and purchase records that  
18 correctly provide the date the device is provided, the names and addresses of the supplier and the  
19 buyer, a description of the device, and the quantity supplied.”

20 14. Section 4307 of the Code states:

21 “Individuals with Denied, Revoked, Suspended, etc. Licenses Prohibited From Pharmacy  
22 Ownership or Association with Board Licensed Entities”

23 “(a) Any person who has been denied a license or whose license has been revoked or is  
24 under suspension, or who has failed to renew his or her license while it was under suspension, or  
25 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
26 any partnership, corporation, firm, or association whose application for a license has been denied  
27 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
28 administrator, owner, member, officer, director, associate, or partner had knowledge of or

1 knowingly participated in any conduct for which the license was denied, revoked, suspended, or 99  
2 placed on probation, shall be prohibited from serving as a manager, administrator, owner, member,  
3 officer, director, associate, or partner of a licensee as follows:

4 “(1) Where a probationary license is issued or where an existing license is placed on  
5 probation, this prohibition shall remain in effect for a period not to exceed five years.

6 “(2) Where the license is denied or revoked, the prohibition shall continue until the license is  
7 issued or reinstated.

8 “(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as  
9 used in this section and Section 4308, may refer to a pharmacist or to any other person who serves  
10 in that capacity in or for a licensee.

11 “(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
13 However, no order may be issued in that case except as to a person who is named in the caption,  
14 as to whom the pleading alleges the applicability of this section, and where the person has been  
15 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
16 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
17 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
18 of law.”

### 19 FEDERAL REGULATIONS

20 15. Title 21 of the Code of Federal Regulations, section 203.50 subdivision (a) states:

21 “(a) Identifying statement for sales by unauthorized distributors. Before the completion of  
22 any wholesale distribution by a wholesale distributor of a prescription drug for which the seller is  
23 not an authorized distributor of record to another wholesale distributor or retail pharmacy, the  
24 seller shall provide to the purchaser a statement identifying each prior sale, purchase, or trade of  
25 such drug. This identifying statement shall include:

26 “(1) The proprietary and established name of the drug;

27 “(2) Dosage;

28 “(3) Container size;

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“(4) Number of containers;

“(5) The drug's lot or control number(s);

“(6) The business name and address of all parties to each prior transaction involving the drug, starting with the manufacturer; and

“(7) The date of each previous transaction.

“....”

**COST RECOVERY**

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

**FIRST CAUSE FOR DISCIPLINE**

(Willful Production of False Records)

17. Respondents are subject to disciplinary action under section 4332 in conjunction with 4081 in that Respondents failed, neglected, or refused to maintain records required by section 4081 or, when requested to do so by the Board, failed, neglected, or refused to produce or provide the records within a reasonable time, or who willfully produced or furnished records that were false. The circumstances are as follows:

18. Respondents provided fraudulent records of acquisition from JD Pharmaceutical located at 417 W. Arden Ave. #114C, Glendale, CA 91203 on the following invoices and dates:

a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203. In truth, JD Pharmaceutical Wholesaler was not involved in said transactions and had no business relationship whatsoever with Respondents.

b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical, 417

1 W. Arden Ave. #114C, Glendale, CA 91203. In truth, JD Pharmaceutical Wholesaler was not  
2 involved in said transactions and had no business relationship whatsoever with Respondents.

3 c. Respondents also failed to provide records of disposition for the drugs on Invoice  
4 No. 10211 and No. 10214 when requested to do so by the Board.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Non-Compliant Pedigree Requirements)

7 19. Respondents are subject to disciplinary action under the Prescription Drug Marketing  
8 Act and title 21 of Code of Federal Regulations section 203.50, subdivision (a), which states, in  
9 part, that that before the completion of any wholesale distribution by a wholesale distributor of a  
10 prescription drug for which the seller is not an authorized distributor of record to another  
11 wholesale distributor or retail pharmacy, the seller shall provide to the purchaser a statement  
12 identifying each prior sale, purchase, or trade of such drug. Respondents failed to comply with  
13 these requirements as follows:

14 20. Specifically, Respondents provided fraudulent and non-compliant pedigrees from  
15 purchases supposedly from JD Pharmaceutical located at 417 W. Arden Ave. #114C, Glendale,  
16 CA 91203. These pedigrees failed to show the proprietary and established name of the drug; the  
17 business name and address of all parties to each prior transaction involving the drug, starting with  
18 the manufacturer; and the dates of each previous transaction on the following invoices and dates  
19 associated with:

20 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
21 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria De  
22 La Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

23 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
24 dangerous drugs were supposedly sold to Drogueria De La Villa Inc by JD Pharmaceutical, 417  
25 W. Arden Ave. #114C, Glendale, CA 91203.

26 c. Respondents also failed to provide pedigrees for all drugs sold on Invoice No.  
27 10211 and 10214 when requested by the Board.

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**THIRD CAUSE FOR DISCIPLINE**

(Unauthorized Furnishing )

21. Respondents are subject to disciplinary action under section 4163, subdivision (b), which states that dangerous drugs or dangerous devices shall be acquired from a person authorized by law to possess or furnish dangerous drugs or dangerous devices. If the person acquiring the dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it has not previously acquired dangerous drugs or dangerous devices. Respondents failed to comply with these requirements as follows:

22. Specifically, Respondents purchased dangerous drugs on the following invoices from an entity, "JD WHLS INC", which did not have a valid license with the Board, and therefore did not verify their licensure:

a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria de la Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of dangerous drugs were supposedly sold to Drogueria de la Villa Inc by JD Pharmaceutical, 417 W. Arden Ave. #114C, Glendale, CA 91203.

**FOURTH CAUSE FOR DISCIPLINE**

(Purchasing from an Unlicensed Entity)

23. Respondents are subject to disciplinary action under section 4169, subdivision (a)(1), in that Respondents purchased, traded, sold, warehoused, distributed, or transferred dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler, third-party logistics provider, or pharmacy. The circumstances surrounding this violation are as follows:

24. Specifically, Respondents purchased dangerous drugs on the following invoices from an entity, "JD WHLS INC", which did not have a valid license with the Board:



1 a. Invoice No. 10211, dated January 30, 2014, with reference to PO No. 84832  
2 which indicated a total of \$432,778.95 of dangerous drugs were supposedly sold to Drogueria de  
3 la Villa Inc by JD Pharmaceutical Wholesaler, 417 W. Arden #114C, Glendale, CA 91203.

4 b. Invoice No. 10214, dated February 11, 2014 indicated a total of \$444,180.55 of  
5 dangerous drugs was supposedly sold to Drogueria de la Villa Inc by JD Pharmaceutical, 417 W.  
6 Arden Ave. #114C, Glendale, CA 91203.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 (Improper Sales and Purchase Records)

9 25. Respondents are subject to disciplinary action under section 4059, subdivision (b) in  
10 that Respondents furnished dangerous drugs without a prescription and on improper sales and  
11 purchase records. The circumstances surrounding this violation are as follows:

12 26. Specifically, Respondents provided the following medications to JD Pharmaceutical  
13 without prescriptions or proper sales and purchase records that accurately denoted the supplier  
14 and buyer:

15 a. Two (2) Abilify and two (2) Nasonex Inhalers, referenced to PO 84832 and  
16 invoice No. 10211, dated February 6, 2014.

17 b. One (1) Combivent, One (1) Durezol, One (1) Januvia, Two (2) Latuda, One (1)  
18 Nexium, One (1) Spiriva inhaler, One (1) Tribenzor, and One (1) Vytarin referenced to PO 84886  
19 and Invoice No. 10214, dated February 24, 2014.

20 **OTHER MATTERS**

21 27. Pursuant to Code section 4307, if discipline is imposed on Out of State Distributor  
22 License OSD 5317, issued to Drogueria De La Villa, Inc. (Drogueria), while Sonia Thuna, Wayne  
23 S. Thuna and Noel Padro have been acting as the manager, administrator, owner, member, officer,  
24 director, associate, or partner of Drogueria and had knowledge of or knowingly participated in any  
25 conduct for which Out of State Distributor License OSD 5317, issued to Drogueria was revoked,  
26 suspended or placed on probation, Sonia Thuna, Wayne S. Thuna and Padro shall be prohibited  
27 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
28 of a licensee for five years if Out of State Distributor License OSD 5317, issued to Drogueria is

1 placed on probation or until Out of State Distributor License OSD 5317, issued to Drogueria is  
2 reinstated if it is revoked.

3 **DISCIPLINE CONSIDERATIONS**

4 28. To determine the degree of discipline, if any, to be imposed on Respondent Drogueria  
5 De La Villa Inc, Noel Padro, Designated Representative, Complainant alleges that on or about  
6 October 20, 2011, in a prior disciplinary action entitled In the Matter of the Statement of Issues  
7 Against Drogueria De La Villa, Inc. before the Board of Pharmacy, in Case Number 3405,  
8 Respondent's license was issued and immediately revoked. The revocation was stayed and  
9 Respondent was placed on three (3) years probation with terms and conditions for sustained  
10 violations. That decision is now final and is incorporated by reference as if fully set forth.

11 **PRAYER**

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

14 1. Revoking or suspending Out of State Distributor License Number OSD 5317, issued  
15 to Drogueria De La Villa Inc;

16 2. Revoking or suspending Designated Representative Certificate Number EXC 22404,  
17 issued to Noel Padro;

18 3. Prohibiting Sonia Thuna, Wayne S. Thuna and Noel Padro from serving as a manager,  
19 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
20 Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc is placed on  
21 probation or until Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc  
22 is reinstated if Out of State Distributor License OSD 5317 issued to Drogueria De La Villa Inc  
23 issued is revoked

24 3. Ordering Drogueria De La Villa Inc and Noel Padro to pay the Board of Pharmacy  
25 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 125.3; and

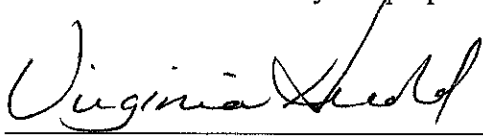
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4. Taking such other and further action as deemed necessary and proper.

DATED: 1/30/17



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

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