

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

In the Matter of the Accusation Against:

Case No. 3219

JOHN M. JELETI

7743 North West Lane, Suite B3
Stockton, CA 95210

Pharmacist License No. RPH 49954

Respondent.

REVISED DECISION AND ORDER

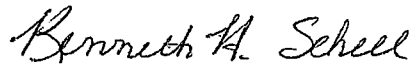
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 31, 2009.

It is so ORDERED on December 1, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR TAGGART
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 3219

12 **BLUEPOINT PHARMACY**

OAH No. 2009060228

13 7743 North West Lane, Suite B3
Stockton, California 95210
14 Pharmacist License No. PHY 43188

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 and

16 **JOHN M. JELETI**
17 7743 N. Westlake #B3
Stockton, California 95210
18 Pharmacist License No. RPH 49954

19 Respondents.
20

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 PARTIES

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

28 ///

2. Respondent John M. Jeleti is represented by Benjamin Robert Margolis, 1387 Monument Street, Pacific Palisades, California 90272-2544.

3. On or about March 18, 1998, the Board of Pharmacy issued Pharmacist License No. RPH 49954 to Respondent John M. Jeleti. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 3219 and will expire on April 30, 2011, unless renewed. At all relevant times, Respondent John M. Jeleti was pharmacist in charge for Bluepoint Pharmacy, Inc.

4. On or about September 12, 1997, the Board of Pharmacy issued Pharmacy License No. PHY 43188 to Brian Vu doing business as Bluepoint Pharmacy. On or about April 28, 2005, said license was issued to Bluepoint Pharmacy Inc., a pharmacy corporation doing business as Bluepoint Pharmacy (Respondent). The Pharmacy License will expire on September 1, 2009, unless renewed.

JURISDICTION

5. Accusation No. 3219 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent John M. Jeleti and Respondent Bluepoint Pharmacy (not included as part of this Stipulated Settlement and Disciplinary Order). The Accusation and all other statutorily required documents were properly served upon Respondent on March 12, 2009. Respondent John M. Jeleti (hereinafter "Respondent") timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 3219 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3219. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to

1 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
2 the attendance of witnesses and the production of documents; the right to reconsideration and
3 court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

5 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 CULPABILITY

8 9. Respondent admits the truth of each and every charge and allegation made against
9 them in Accusation No. 3219.

10 10. Respondent agrees that his Pharmacist License RPH 49954 is subject to discipline
11 and agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
12 Order below.

13 CIRCUMSTANCES IN MITIGATION

14 11. Respondent has not previously been the subject of disciplinary action. Respondent
15 submitted a detailed and extensive list of measures that have been taken to maintain adequate
16 security at Bluepoint Pharmacy and ensure that the losses of controlled substances and dangerous
17 drugs from the pharmacy do not recur. There is no evidence that Respondent personally
18 benefitted from the losses of medication, nor is there evidence of self-administration of
19 medications by Respondent. Respondent is admitting responsibility for being a cause of the losses
20 and now have a better understanding of his legal duties.

21 CONTINGENCY

22 12. This stipulation shall be subject to approval by the Board. Respondent understands
23 and agrees that counsel for Complainant and the Board's staff may communicate directly with the
24 Board regarding this stipulation and settlement, without notice to or participation by Respondent
25 or his respective counsel. By signing the stipulation, Respondent understands and agrees that he
26 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
27 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
28 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this

1 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
2 be disqualified from further action by having considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 14. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or formal proceeding, issue and enter the following
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that the Pharmacist License No RPH 49954 issued to
11 Respondent John M. Jeleti is revoked. However, the revocation is stayed and Respondent is
12 placed on probation for three (3) years on the following terms and conditions.

13 1. **Actual Suspension.** Pharmacist License No. RPH 49954 issued to Respondent
14 John M. Jeleti is suspended for a period of thirty (30) calendar days, beginning on the effective
15 date of this decision.

16 During suspension, Respondent shall not enter any pharmacy area or any portion of the
17 licensed premises of a wholesaler, medical device retailer or any other distributor of drugs which
18 is licensed by the Board, or any manufacturer, or where dangerous drugs, controlled substances or
19 legend drugs are maintained. Respondent shall not practice pharmacy nor do any act involving
20 drug selection, selection of stock, manufacturing, compounding, dispensing or patient
21 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
22 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
23 or controlled substances of dangerous drugs or controlled substances. Respondent shall not direct
24 or control any aspect of the practice of pharmacy. Subject to the above restrictions, Respondent
25 may continue to own or hold an interest in any pharmacy in which he held an interest at the time
26 this decision becomes effective.

27 2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations
28 substantially related to or governing the practice of pharmacy.

1 Respondent shall report any of the following occurrences to the Board, in writing, within 72
2 hours of such occurrence:

3 • an arrest or issuance of a criminal complaint for violation of any provision of the
4 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
5 laws

6 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
7 criminal complaint, information or indictment

8 • a conviction of any crime

9 • discipline, citation, or other administrative action filed by any state and federal agency
10 which involves either Respondents' license or which is related to the practice of pharmacy or the
11 manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or
12 controlled substance.

13 3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The
14 report shall be made either in person or in writing, as directed. Respondent shall state under
15 penalty of perjury whether there has been compliance with all the terms and conditions of
16 probation. If the final probation report is **not** made as directed, probation shall be extended
17 automatically until such time as the final report is made and accepted by the Board.

18 4. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall
19 appear in person for interviews with the Board upon request at various intervals at a location to be
20 determined by the Board. Failure to appear for a scheduled interview without prior notification to
21 Board staff shall be considered a violation of probation.

22 5. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's
23 inspectional program and in the Board's monitoring and investigation of Respondent's
24 compliance with the terms and conditions of his probation. Failure to comply shall be considered
25 a violation of probation.

26 6. **Continuing Education.** Respondent shall provide evidence of his efforts to
27 maintain skill and knowledge as a pharmacist as directed by the Board.

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1 7. **Notice to Employers.** Respondent shall notify all present and prospective
2 employers of the decision in Case No. 3219 and the terms, conditions and restrictions imposed
3 upon him by the decision. Within 30 days of the effective date of this decision, and within 15
4 days of undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-
5 in-charge and/or owner to report to the Board in writing acknowledging the employer has read the
6 decision in Case No. 3219.

7 If Respondent works for or is employed by or through a pharmacy employment service,
8 then Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every
9 pharmacy of the and terms conditions of the decision in Case No. 3219 in advance of the
10 Respondent commencing work at each pharmacy.

11 "Employment" within the meaning of this provision shall include any full-time, part-time,
12 temporary, relief or pharmacy management service as a pharmacist, whether the Respondent is
13 considered an employee or independent contractor.

14 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge**
15 **(PIC), or Serving as a Consultant.** Respondent shall not supervise any intern pharmacist or
16 perform any of the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any
17 entity licensed by the Board unless otherwise specified in this order.

18 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board costs of
19 investigation and prosecution in the amount of \$2,500.00 within thirty (30) days of the effective
20 date of the decision, or by installments on terms first approved by the Board.

21 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility
22 and liability to reimburse the Board for its costs of investigation and prosecution in the sum
23 stated.

24 10. **Probation Monitoring Costs.** Respondent shall pay the costs associated with
25 probation monitoring as determined by the Board each and every year of probation. Such costs
26 shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall
27 be considered a violation of probation.

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1 11. **Status of License.** Respondent shall, at all times while on probation, maintain an
2 active current license with the Board, including any period during which suspension or probation
3 is tolled.

4 If Respondent's license expires or is cancelled by operation of law or otherwise, then upon
5 renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this
6 probation not previously satisfied.

7 12. **License Surrender while on Probation/Suspension.** Following the effective
8 date of this decision, should Respondent cease practice due to retirement or health, or be
9 otherwise unable to satisfy the terms and conditions of probation, then Respondent may tender his
10 license to the Board for surrender. The Board shall have the discretion whether to grant the
11 request for surrender or take any other action it deems appropriate and reasonable. Upon formal
12 acceptance of the surrender of the license, Respondent will no longer be subject to the terms and
13 conditions of probation.

14 Upon acceptance of the surrender, Respondent shall relinquish his pocket license to the
15 Board within 10 days of notification by the Board that the surrender is accepted. Respondent may
16 not reapply for any license from the Board for three years from the effective date of the surrender.
17 Respondent shall meet all requirements applicable to the license sought as of the date the
18 application for that license is submitted to the Board.

19 13. **Notification of Employment/Mailing Address Change.** Respondent shall notify
20 the Board in writing within 10 days of any change of employment. Said notification shall include
21 the reasons for leaving and/or the address of the new employer, supervisor or owner and work
22 schedule if known. Respondent shall notify the Board in writing within 10 days of a change in
23 name, mailing address or phone number.

24 14. **Tolling of Probation.** Should Respondent, regardless of residency and for any
25 reason, cease practicing pharmacy for a minimum of 40 hours per calendar month in California,
26 then Respondent must notify the Board in writing within 10 days of cessation of the practice of
27 pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to
28 the reduction of the probation period. It is a violation of probation for Respondent's probation to

1 remain tolled pursuant to the provisions of this condition for a period exceeding three years.

2 "Cessation of practice" means any period of time exceeding 30 days in which Respondent
3 is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and
4 Professions Code.

5 Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least
6 an average of 80 hours per month in any six consecutive months. Failure to do so will be a
7 violation of probation. If Respondent has not complied with this condition during the
8 probationary term, and Respondent has presented sufficient documentation of their good faith
9 efforts to comply with this condition, and if no other conditions have been violated, the Board, in
10 its discretion, may grant an extension of Respondent's probation period up to one year without
11 further hearing in order to comply with this condition.

12 15. **Violation of Probation.** If Respondent violates probation in any respect, the
13 Board, after giving him notice and an opportunity to be heard, may revoke probation and carry
14 out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is
15 filed against Respondent during probation, the Board shall have continuing jurisdiction and the
16 period of probation shall be extended, until the petition to revoke probation or accusation is heard
17 and decided.

18 If Respondent has not complied with any term or condition of probation, the Board shall
19 have continuing jurisdiction over Respondent, and probation shall automatically be extended until
20 all terms and conditions have been satisfied or the Board has taken other action as deemed
21 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
22 to impose the penalty which was stayed.

23 16. **Completion of Probation.** Upon successful completion of the probationary
24 terms, Respondent's license will be fully restored.

25 17. **Tolling of Suspension.** If Respondent leaves California to reside or practice
26 outside this state, for any period exceeding 10 days (including vacation), Respondent must notify
27 the Board in writing of the dates of departure and return. Periods of residency or practice outside
28 the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the

1 suspension period.

2 Respondent shall not practice pharmacy upon returning to this state until notified by the
3 Board that the period of suspension has been completed.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order, and have fully
6 discussed it with Benjamin Robert Margolis, my attorney. I understand the stipulation and the
7 effect it will have on Pharmacist License No. RPH 49954. I enter into this Stipulated Settlement
8 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
9 Decision and Order of the Board of Pharmacy.

10 DATED: 8/6/09

John M. Jeleti
John M. Jeleti, Respondent

12 I have read and fully discussed with Respondent Bluepoint Pharmacy Inc. the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15 DATED: 8/6/09

Benjamin Robert Margolis
Benjamin Robert Margolis, Counsel for John M. Jeleti

17 ENDORSEMENT

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

20 Dated: 8/7/09

21 Respectfully Submitted,

22 EDMUND G. BROWN JR.
Attorney General of California
23 ARTHUR TAGGART
Supervising Deputy Attorney General

24 Sterling A. Smith
25 STERLING A. SMITH
26 Deputy Attorney General
27 Attorneys for Complainant
28

Exhibit A

Accusation No. 3219

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 ARTHUR TAGGART,
Supervising Deputy Attorney General
3 STERLING A. SMITH, State Bar No. 83287
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
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8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3219

12 BLUEPOINT PHARMACY
7743 North West Lane, Suite B3
13 Stockton, CA 95210
14 Pharmacy License No. PHY 43188
15 And
16 JOHN M. JELETI
7743 North West Lane, Suite B3
17 Stockton, CA 95210
18 Pharmacy License RPH 49954

ACCUSATION

19 Respondents.

20
21 Complainant alleges:

22 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of
24 Consumer Affairs.

25 LICENSE HISTORY

26 2. On March 18, 1998, the Board issued Pharmacist License RPH No. 49554
27 to Respondent John M. Jeleti to practice pharmacy in California. Mr. Jeleti's pharmacy license
28 was in full force and effect at all times relevant to the charges brought herein and will expire on

1 April 30, 2009, unless renewed. Mr. Jeleti was the Pharmacist-in-Charge of Respondent
2 Bluepoint Pharmacy continuously from on or about July 31, 2006, until on or about
3 July 24, 2008.

4 3. On or about September 12, 1997, the Board issued Original Pharmacy
5 Permit No. PHY 43188 to Brian Vu, to do business as Bluepoint Pharmacy. Respondent
6 Bluepoint Pharmacy is located at 7743 North West Lane, Suite B3, Stockton, California 95210.
7 Mr. Vu now is, and has been since on or about July 24, 2008, the Pharmacist-in-Charge of
8 Respondent Bluepoint Pharmacy. Respondent Bluepoint Pharmacy's pharmacy permit was in
9 full force and effect at all times relevant to the charges brought herein and will expire on
10 September 1, 2009, unless renewed.

11 STATUTORY PROVISIONS

12 4. Under Business and Professions Code section 4300, the Board may
13 discipline any license, for any reason provided in the Pharmacy Law, (i.e., Business &
14 Professions Code sections 4000 et. seq.)

15 5. Business & Professions Code section 4301 states, in pertinent part:

16 § 4301. Unprofessional conduct; licenses procured through
17 misrepresentation, fraud, or mistake

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

20

21 (j) The violation of any of the statutes of this state or of the United States
22 regulating controlled substances and dangerous drugs.

23

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

26 ...

27 ///

28 ///

1 6. Business & Professions Code section 4059.5(a) states as follows:

2 § 4059.5. Dangerous drugs and devices; license necessary to
3 order; transfer, sale or delivery; deliveries to hospitals and
4 pharmacies

5 (a) Except as otherwise provided in this chapter, dangerous drugs or
6 dangerous devices may only be ordered by an entity licensed by the board
7 and must be delivered to the licensed premises and signed for and received
8 by a pharmacist-in-charge or, in his or her absence, another pharmacist
9 designated by the pharmacist-in-charge. Where a licensee is permitted to
10 operate through an exemptee, the exemptee may sign for and receive the
11 delivery.

12 7. Business & Professions Code section 4081, states, in pertinent part, the
13 following:

14 § 4081. Records; hours; preservation; violations

15 (a) All records of manufacture and of sale, acquisition, or
16 disposition of dangerous drugs or dangerous devices shall be at all
17 times during business hours open to inspection by authorized
18 officers of the law, and shall be preserved for at least three years
19 from the date of making. A current inventory shall be kept by
20 every manufacturer, wholesaler, pharmacy, . . . who maintains a
21 stock of dangerous drugs or dangerous devices.

22 (b) The owner, officer, and partner of any pharmacy, . . . shall be
23 jointly responsible, with the pharmacist-in-charge or exemptee, for
24 maintaining the records and inventory described in this section.

25 8. Business & Professions Code section 4113, states, in pertinent part, the
26 following:

27 § 4113. Pharmacists-in-charge; designation; responsibilities;
28 notifications

29 (a) Every pharmacy shall designate a pharmacist-in-charge and
30 within 30 days thereof, shall notify the board in writing of the
31 identity and license number of that pharmacists and the date he or
32 she was designated.

33 (b) The pharmacist-in-charge shall be responsible for a
34 pharmacy's compliance with all state and federal laws and
35 regulations pertaining to the practice of pharmacy.

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1 9. California Code of Regulations, title 16, section 1714(b) and (d), state the
2 following:

3 § 1714. Operational Standards and Security.

4 ...
5 (b) Each pharmacy licensed by the board shall maintain its facilities,
6 space, fixtures, and equipment so that drugs are safely and properly
7 prepared, maintained, secured and distributed. The pharmacy shall be
8 sufficient size and unobstructed area to accommodate the safe practice of
9 pharmacy.

10 (d) Each pharmacist while on duty shall be responsible for the
11 security of the prescription department, including provisions for
12 effective control against theft or diversion of dangerous drugs and
13 devices, and records for such drugs and devices. Possession of a
14 key to the pharmacy where dangerous drugs and controlled
15 substances are stored shall be restricted to a pharmacist.

16 10. California Code of Regulations, title 16, section 1718, states as follows:

17 § 1718. Current Inventory Defined.

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

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

25 11. Business & Professions Code section 118 (b), states:

26 The suspension, expiration, or forfeiture by operation of law of a license
27 issued by a board in the department, or its suspension, forfeiture, or
28 cancellation by order of the board or by order of a court of law, or its
surrender without the written consent of the board, shall not, during any
period in which it may be renewed, restored, reissued, or reinstated,
deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to
enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

29 12. Bus. & Prof. Code section 125.3 states, in pertinent part, that the Board
30 may request the administrative law judge to direct a licentiate found to have committed a
31 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
32 investigation and enforcement of the case.

1 CONTROLLED SUBSTANCES/DANGEROUS DRUGS AT ISSUE

2 13. “Promethazine with Codeine” is a dangerous drug, and a Schedule V
3 controlled substance as designated by Health & Safety Code section 11058 (c)(1).

4 14. “Norco”, a brand name for Hydrocodone/acetaminophen, is a dangerous
5 drug, and a Schedule III controlled substance as designated by Health & Safety Code section
6 11056 (c)(1)

7 15. “Valium”, a brand name for Diazepam, is a dangerous drug, and a
8 Schedule IV controlled substance as designated by Health & Safety Code section 11057 (d)(9).

9 16. “Phentermine” is a dangerous drug, and a Schedule IV controlled
10 substance as designated by Health & Safety Code section 11057 (f)(4)

11 17. “Acetaminophen with Codeine” is a dangerous drug, and a Schedule III
12 controlled substance as designated by Health & Safety Code section 11056(e)(2).

13 18. On or about March 3, 2008, Brian Vu, owner of Bluepoint Pharmacy,
14 caused invoices for its medication orders to be checked against Valley Wholesale Drug
15 Company, Inc.’s monthly billing statement of February 15, 2008. Bluepoint Pharmacy
16 discovered that invoices identified in said monthly billing statement were missing from its
17 records, and obtained copies from Valley Wholesale Drug Company, Inc. Bluepoint Pharmacy
18 found that two invoices were for orders of controlled substances not dispensed by Bluepoint
19 Pharmacy, and in package sizes not ordered by Bluepoint Pharmacy. Subsequent investigation
20 showed that between on or about June 20, 2007, and on or about May 28, 2008, significant
21 quantities of dangerous drugs/controlled substances purchased by Bluepoint Pharmacy from
22 Valley Wholesale Drug Company, Inc. could not be accounted for, and were believed to have
23 been stolen by / , a former sales clerk for Bluepoint Pharmacy.

24 19. (Bluepoint Pharmacy’s controlled substance shortages)

25 From on or about June 20, 2007 through on or about May 28, 2008, Bluepoint
26 Pharmacy suffered thefts/losses of dangerous drugs/controlled substances. The estimated
27 thefts/losses are as follows:

28 ///

- a. 84,261 dosage units of Hydrocodone/APAP (multiple strengths);
- b. 1,641 dosage units of APAP/Codeine (300mg/30mg and 300 mg/60 mg);
- c. 330 dosage units of Diazepam also known as Valium (5mg and 10mg);
- d. 3,000 dosage units of Phentermine (37.5 mg); and
- e. 567 (16oz) bottles of Promethazine with Codeine Syrup.

20. (Failure to Provide Effective Control of Security of Controlled Substances/Dangerous Drugs by Bluepoint Pharmacy)

From on or about June 20, 2007 through on or about May 28, 2008, Bluepoint Pharmacy failed to provide an effective control on the security of its facilities, space, fixtures and equipment to prevent theft, diversion or other loss of dangerous drugs/controlled substances as alleged in Paragraph 19 above.

21. (Failure to Maintain Current Inventory of Dangerous Drugs/Controlled Substances by Bluepoint Pharmacy)

During the period of on or about June 20, 2007 through on or about May 28, 2008, Bluepoint Pharmacy failed to maintain a current inventory of its stock of dangerous drugs and could not account for the dangerous drugs/controlled substances alleged in Paragraph 19 above.

22. (Receipt of Deliveries and Delivery Signatures by non-pharmacists by Bluepoint Pharmacy)

From on or about June 20, 2007 through on or about May 28, 2008, Bluepoint Pharmacy allowed _____, a non-pharmacist and sales clerk, to receive and sign for deliveries of dangerous drugs/controlled substances to Bluepoint Pharmacy by Valley Wholesale Drug Company, Inc.

23. (Ineffective Security and Controlled Substance Shortages under PIC Jeleti)

From on or about July 31, 2006, until on or about July 24, 2008, Respondent John M. Jeleti was Bluepoint Pharmacy's pharmacist-in-charge. During that time period, Bluepoint Pharmacy suffered the thefts/losses of dangerous drugs/controlled substances as alleged in Paragraph 19 above.

24. (Failure to Maintain Current Inventory by PIC Jeleti)

From on or about July 31, 2006, until on or about July 24, 2008, Respondent John M. Jeleti was Bluepoint Pharmacy's pharmacist-in-charge. During that time period, Bluepoint Pharmacy failed to maintain a current inventory of its dangerous drugs, and could not account for the dangerous drugs/controlled substances alleged in Paragraph 19 above.

25. (John M. Jeleti's Allowance of Non-Pharmacist to accept Delivery of Controlled Substances/Dangerous Drugs)

From on or about July 31, 2006, until on or about July 24, 2008, Respondent John M. Jeleti was Bluepoint Pharmacy's pharmacist-in-charge. During that time period Mr. Jeleti allowed a non-pharmacist and sales clerk for Bluepoint Pharmacy, to sign for and receive delivery of controlled substances/dangerous drugs to Bluepoint Pharmacy made by Valley Wholesale Drug Company, Inc.

FIRST CAUSE FOR DISCIPLINE

(Failure to Provide Effective Control of Security by Bluepoint Pharmacy)

26. Paragraphs 13 through 19, and 20 above are incorporated herein by reference. Respondent Bluepoint Pharmacy is subject to disciplinary action pursuant to Business & Professions Code section 4301(o) on the ground of unprofessional conduct. Respondent violated section 1714(d), title 16, California Code of Regulations by failing to maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly maintained, secured and distributed.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Current Inventory of Dangerous Drugs by Bluepoint Pharmacy)

27. Paragraphs 13 through 19 and 21 above are incorporated herein by reference. Respondent Bluepoint Pharmacy is subject to disciplinary action pursuant to Business & Professions Code section 4301(o) on the ground of unprofessional conduct. Respondent violated Business & Professions Code section 4081(a) and section 1718(b), title 16, California

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1 Code of Regulations, by failing to maintain a current inventory of its stock of dangerous drugs
2 and its inability to account for the dangerous drugs/controlled substances as alleged in Paragraph
3 19 above.

4 **THIRD CAUSE FOR DISCIPLINE**

5 (Allowing Non-pharmacist to Sign for and Receive Dangerous Drugs Against Bluepoint
6 Pharmacy)

6 28. Paragraphs 13 through 19 and 22 above are incorporated herein by
7 reference. Respondent Bluepoint Pharmacy is subject to disciplinary action pursuant to Business
8 & Professions Code sections 4301(j) and 4301(o) on the ground of unprofessional conduct.
9 Respondent violated Business & Professions Code section 4059.5 by allowing a non-pharmacist
10 to sign for and receive dangerous drugs/controlled substances purchased by Respondent from
11 Valley Wholesale Drug Company.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Failure to Provide Effective Control of Security by John M. Jeleti)

14 29. Paragraphs 13 through 19 and 23 above are incorporated herein by
15 reference. Respondent John M. Jeleti is subject to disciplinary action pursuant to Business &
16 Professions Code sections 4301(o) and 4301(j) on the ground of unprofessional conduct. As the
17 pharmacist in charge of Bluepoint Pharmacy under Business & Professions Code section
18 4113(b), Respondent violated section 1714(d), title 16, California Code of Regulations, by failing
19 to maintain the facilities, space, fixtures, and equipment of Bluepoint Pharmacy so that drugs are
20 safely and properly maintained, secured and distributed.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 (Failure to Maintain Current Inventory of Dangerous Drugs by John M. Jeleti)

23 30. Paragraphs 13 through 19 and 24 above are incorporated herein by
24 reference. Respondent John M. Jeleti is subject to disciplinary action pursuant to Business &
25 Professions Code sections 4301(j) and 4301(o) on the ground of unprofessional conduct. As the
26 pharmacist in charge of Bluepoint Pharmacy under Business & Professions Code section
27 4113(b), Respondent violated Business & Professions Code section 4081 and section 1718, title
28 16, California Code of Regulations, by failing to keep a current inventory of the stock of

1 dangerous drugs at Bluepoint Pharmacy so as to maintain complete accountability for all
2 such dangerous drugs.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 (Allowing Non-pharmacist to Sign for and Receive Dangerous Drugs Against John M. Jeleti)

5 31. Paragraphs 13 through 19 and 25 above are incorporated herein by
6 reference. Respondent John M. Jeleti is subject to disciplinary action pursuant to Business &
7 Professions Code sections 4301(j) and 4301(o) on the ground of unprofessional conduct. As the
8 pharmacist in charge of Bluepoint Pharmacy under Business & Professions Code section
9 4113(b), Respondent violated Business & Professions Code section 4059.5 by allowing
10 a non-pharmacist and former sales clerk for Bluepoint Pharmacy, to sign for and receive
11 dangerous drugs/controlled substances delivered to Bluepoint Pharmacy by Valley Wholesale
12 Drug Company.

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3 PRAYER

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

6 1. Revoking or suspending Pharmacist License No.49954, issued to John
7 M. Jeleti;

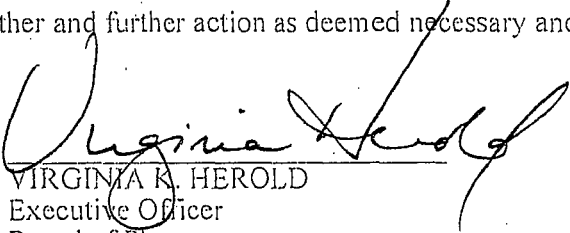
8 2. Revoking or suspending Pharmacy Permit No. PHY 43188, issued to
9 Bluepoint Pharmacy;

10 3. Ordering Respondent John M. Jeleti to pay the Board of Pharmacy the
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
12 Professions Code section 125.3;

13 4. Ordering Respondent Blue Point Pharmacy to pay the Board of Pharmacy
14 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

16 5. Taking such other and further action as deemed necessary and proper.

17 DATED: 3/9/09

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