

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

In the Matter of the Accusation Against:

\*Case No. 3481

**ESP SERVICES**

8513 W. Washington Boulevard  
Culver City, CA 90232

**Original Wholesale Permit No. WLS 2329**

and

**EAST SIDE PHARMACY**

8515 W. Washington Boulevard  
Culver City, CA 90232

**Original Pharmacy Permit No. PHY 39439**

and

**ROBERT LLOYD KARNEY**

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Address not in teale

**Designated Representative-in Charge**

**Original Certificate Number EXC 10845**

and

**HELEN MIZRAHIE-JOHAH**

6317 Warner Drive

Los Angeles, CA 90048

**Original Pharmacist License No. RPH 26276**

re: **ESP SERVICES**

**EAST SIDE PHARMACY**

**ROBERT LLOYD KARNEY**

**SHAUN LEE**  
5829 Hazelbrook Avenue  
Lakewood, CA 90712  
**Original Pharmacist License No. RPH 42786**

**Respondents.**

**DECISION AND ORDER**

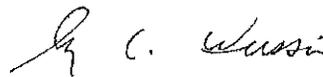
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on September 17, 2012.

It is so ORDERED on August 16, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



---

STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 DESIREE TULLENERS  
Deputy Attorney General  
4 State Bar No. 157464  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the Accusation Against:

12 **ESP SERVICES**  
13 8513 W. Washington Boulevard  
Culver City, CA 90232  
14 **Original Wholesale Permit No. WLS 2329**

15 and

16 **EAST SIDE PHARMACY**  
17 8513 W. Washington Boulevard, Suite A  
Culver City, CA 90232  
18 **Original Pharmacy Permit No. PHY**  
**39439**

19 and

21 **ROBERT LLOYD KARNEY**  
22 9408 Beverlywood Street  
Los Angeles, CA 90034  
23 **Designated Representative-in-Charge**  
**Original Certificate Number EXC 10845**

24 and

25 **HELEN MIZRAHIE-JONAH**  
26 6317 Warner Drive  
Los Angeles, CA 90048  
27 **Original Pharmacist License No. RPH**  
**26276**  
28

Case No. 3481

OAH No. L-2011060632

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

re: **ESP SERVICES**  
**EAST SIDE PHARMACY**  
**ROBERT KARNEY**

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and  
**SHAUN LEE**  
5829 Hazelbrook Avenue  
Lakewood, CA 90712  
**Original Pharmacist License No. RPH  
42786**  
  
Respondents.

**PARTIES**

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Desiree Tulleners, Deputy Attorney General.

2. This stipulated settlement pertains to Respondents ESP Services, East Side Pharmacy, and Robert Lloyd Karney only. (Respondents ESP, East Side, and Karney). Respondents ESP, East Side and Karney are represented in this proceeding by attorney Peter Osinoff, whose address is: Peter Osinoff, Esq., Bonne, Bridges, Mueller, O'Keefe & Nichols, 3699 Wilshire Boulevard, 10th Floor, Los angeles, CA 90010, telephone number 480-1900.

**ESP Services – Wholesale License**

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

**East Side Pharmacy – Pharmacy License**

4. On or about August 9, 1993, the Board issued Original Permit Number 39439 to ESP Medical Supply, Inc., to do business as East Side Pharmacy (Respondent East Side). The Pharmacy permit was in full force and effect at all times relevant to the charges brought herein, but expired on August 1, 2010.

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1 CULPABILITY

2 11. Respondents understand and agree that the charges and allegations in Accusation No.  
3 3481, if proven at a hearing, constitute cause for imposing discipline upon their wholesale  
4 permit, pharmacy permit, and designated representative-in-charge certificate.

5 12. For the purpose of resolving the Accusation without the expense and uncertainty of  
6 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual  
7 basis for, and a prima facie case of proof of, the charges against them in the Accusation, and  
8 Respondents hereby give up their right to contest those charges.

9 13. Respondents agree that their wholesale permit, pharmacy permit and designated  
10 representative-in-charge certificate are subject to discipline, and they agree to be bound by the  
11 Board's imposition of discipline as set forth in the Disciplinary Order below.

12 14. In consideration for the stay of the order for recovery of costs pursuant to Business  
13 and Professions Code section 125.3, Respondent Karney agrees to waive his right to petition for  
14 reinstatement of any license, permit, or certificate issued to him by this Board, and to waive his  
15 right to apply for any new license, permit or certificate issued by this Board.

16 15. Respondents agree that the Board has incurred costs in excess of twenty-seven  
17 thousand dollars (\$27,000) for the investigation and prosecution of this case against them  
18 pursuant to Business and Professions Code section 125.3.

19 RESERVATION

20 16. The admissions made by Respondents herein are only for the purposes of this  
21 proceeding, or any other proceedings in which the Board of Pharmacy or other professional  
22 licensing agency is involved, and shall not be admissible in any other criminal or civil  
23 proceeding, except as to other named Respondents in this matter.

24 CONTINGENCY

25 17. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents  
26 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may  
27 communicate directly with the Board regarding this stipulation and settlement, without notice to  
28 or participation by Respondents or their counsel. By signing the stipulation, Respondents

1 understand and agree that they may not withdraw their agreement or seek to rescind the  
2 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
3 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of  
4 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between  
5 the parties, and the Board shall not be disqualified from further action by having considered this  
6 matter.

7 18. The parties understand and agree that facsimile copies of this Stipulated Settlement  
8 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
9 effect as the originals.

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

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

19 **DISCIPLINARY ORDER**

20 *IT IS HEREBY ORDERED* that Original Wholesale Permit No. WLS 2329, Original  
21 Pharmacy Permit No. PHY 39439, and Designated Representative-in-Charge Original Certificate  
22 Number EXC 10845 issued to Robert Lloyd Karney are all revoked.

23 *IT IS FURTHER ORDERED* Robert Lloyd Karney shall reimburse the Board for its costs  
24 for the investigation and prosecution of this case in the amount of \$27,000. However, this costs  
25 reimbursement order is stayed unless and until Robert Lloyd Karney applies for reinstatement of,  
26 or the issuance of any new license, permit or certificate by this Board, or if he is a subject of any  
27 future action by the Board within the Board's jurisdiction, or if he is a subject of, or party to, any  
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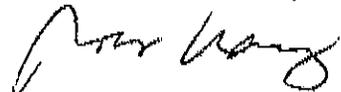
1 other matter to which the Board is a party, at which time the stay will be lifted and the amount of  
2 \$27,000 will be immediately due and payable, as part of the costs, if any, in that matter.

3 *IT IS FURTHER ORDERED* that Robert Lloyd Karney return to the Board any and all  
4 licenses, permits, and certificates pertaining to this matter within ten (10) days of the effective  
5 date of the Decision and Order adopting this stipulation.

6 **ACCEPTANCE**

7 We have carefully read the above Stipulated Settlement and Disciplinary Order and have  
8 fully discussed it with our attorney, Peter Osinoff. We understand the stipulation and the effect it  
9 will have on our Original Wholesale Permit, Original Pharmacy Permit and Designated  
10 Representative-in-Charge Original Certificate. We enter into this Stipulated Settlement and  
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
12 Decision and Order of the Board of Pharmacy.

13  
14 DATED: 1/24/12



15 ROBERT LLOYD KARNEY  
16 for Respondents ESP SERVICES, EAST SIDE  
17 PHARMACY and ROBERT LLOYD KARNEY

18  
19  
20 I have read and fully discussed with Respondents ESP, East Side, and Karney the terms and  
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
22 I approve its form and content.

23  
24 DATED: 1/24/12



25 Peter Osinoff  
26 Attorney for Respondents ESP, East Side and Karney

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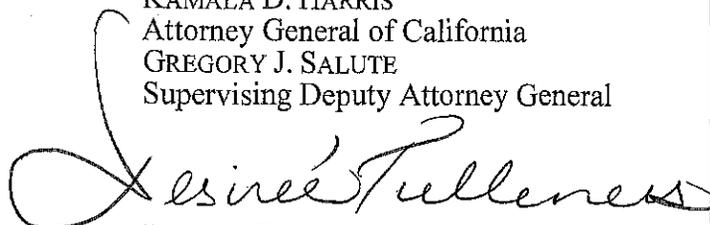
ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



DESIREE TULLENERS  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 3481**

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GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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Facsimile: (213) 897-2804

*Attorneys for Complainant*

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and  
  
**EAST SIDE PHARMACY**  
8513 W. Washington Boulevard, Suite A  
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Original Pharmacy Permit No. PHY 39439  
  
and  
  
**ROBERT KARNEY**  
9408 Beverlywood Street  
Los Angeles, CA.90034  
  
Designated Representative-in-Charge  
Original Certificate Number EXC 10845  
  
and

Case No. 3481

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

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HELEN MIZRAHIE-JONAH  
6317 Warner Drive  
Los Angeles, CA 90048

Original Pharmacist License No. RPH 26276

and

SHAUN LEE  
5829 Hazelbrook Avenue  
Lakewood, CA 90712

Original Pharmacist License No. RPH 42786

Respondents.

Complainant alleges:

PARTIES

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

ESP Services – Wholesale License

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

Easy Side Pharmacy – Pharmacy License

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

Robert Karney – Designated Representative-in-Charge Certificate

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



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

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

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

14 11. Section 4060 states, in pertinent part:

15 “No person shall possess any controlled substance, except that furnished to a person upon  
16 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
17 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
18 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
19 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
20 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
22 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
23 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
24 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
25 labeled with the name and address of the supplier or producer.”  
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1           12.    Section 4081 states, in pertinent part:

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

13           13.    Section 4105 states, in pertinent part:

14                   “(a)    All records or other documentation of the acquisition and disposition of  
15 dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on  
16 the licensed premises in a readily retrievable form.”  
17

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

19                   “(a)    A person or entity may not do any of the following:  
20                   (1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at  
21 wholesale with a person or entity that is not licensed with the board as a  
22 wholesaler or pharmacy, in violation of Section 4163.”  
23

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

26           16.    Section 4301 states, in pertinent part:

27                   “The board shall take action against any holder of a license who is guilty of unprofessional  
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1 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

3  
4 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
5 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
6 otherwise, and whether the act is a felony or misdemeanor or not.  
7

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

11  
12 (l) The conviction of a crime substantially related to the qualifications, functions,  
13 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
15 substances or of a violation of the statutes of this state regulating controlled substances or  
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of  
17 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
18 meaning of this provision.  
19

20  
21  
22 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
23 abetting the violation of or conspiring to violate any provision or term of this chapter or of the  
24 applicable federal and state laws and regulations governing pharmacy, including regulations  
25 established by the board or by any other state or federal regulatory agency.  
26

27 (q) Engaging in any conduct that subverts or attempts to subvert an investigation  
28

1 of the Board.”

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

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

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

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

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

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

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

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

15 21. Health and Safety Code section 111330 states:

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

18 22. Health and Safety Code section 111430 states:

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

21 23. Health and Safety Code section 111440 states:

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

24 ///



1 COST RECOVERY

2 28. Section 125.3 states, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.  
6

7 CONTROLLED SUBSTANCES

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

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

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

17 32. "Valium", a trade name for the chemical substance diazepam, a benzodiazepam  
18 derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section  
19 11057(d)(9) and is categorized as a dangerous drug pursuant to Business and Professions Code  
20 section 4022.  
21

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

26 34. "Alprazolam" is a Schedule IV controlled substance as defined in Health and Safety  
27 Code section 11057(d)(1) and is categorized as a dangerous drug according to Business and  
28

1 Professions Code section 4022.

2 FIRST CAUSE FOR DISCIPLINE

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

4 35. Respondent Karney is subject to disciplinary action under section 4301, subdivision  
5 (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,  
6 Respondent Karney was convicted of a crime substantially related to the qualifications, functions  
7 or duties of a designated representative-in-charge.

8  
9 a. On or about August 28, 2009, after pleading guilty, Respondent Karney was  
10 convicted of one count of violating Health and Code section 11352, subdivision (a)  
11 [transportation of a controlled substance], a felony, in the criminal proceeding entitled *The People*  
12 *of the State of California v. Robert Lloyd Karney* (Super. Ct. Los Angeles County, 2009, No.  
13 SA068964). Respondent Karney was placed on probation for 30 months with terms and  
14 conditions.

15  
16 b. The circumstances surrounding the conviction are that on or about September 1,  
17 2008, Respondent Karney was involved in a traffic accident in Los Angeles County, arrested at  
18 the scene, and booked for driving under the influence and for possession of controlled substances.  
19 At the time of the arrest, large amounts of various controlled substances were found in  
20 Respondent Karney's vehicle. Respondent Karney was subsequently charged with transporting  
21 one thousand one hundred and sixty eight (1168) Vicodin pills, a controlled substance.

22 SECOND CAUSE FOR DISCIPLINE

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

24  
25 36. Respondent Karney is subject to disciplinary action under section 4301, subdivision  
26 (j), for violating section 4060, in conjunction with Health and Safety Code sections 11350,  
27 subdivision (a), and 11377, subdivision (a), in that, on or about September 1, 2008, Respondent  
28

1 Karney was found to be in possession of controlled substances, including but not limited to thirty  
2 three (33) Klonopin, eighty one (81) Valium 10mg., three hundred eighty two (382) Vicodin ES,  
3 nine hundred thirty two (932) Hydrocodone APAP 10/325, thirty (30) brand and generic Valium  
4 10 mg., one thousand 1000 Alprazolam 1 mg, and two hundred 200 Restoril 7.5 mg, without a  
5 valid prescription. Complainant refers to, and by this reference incorporates, the allegations set  
6 forth above in paragraph 35, subdivisions (a) and (b), as though fully set forth herein.  
7

### 8 THIRD CAUSE FOR DISCIPLINE

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

10 37. Respondent ESP Services and Respondent Karney are subject to disciplinary action  
11 under section 4301, subdivision (o), in that, from on or about January 23, 2006 to December 14,  
12 2006, Respondent ESP Services and Respondent Karney aided and abetted E-Tail Network, (an  
13 entity which is not licensed as a wholesaler in California) in their unlicensed wholesale  
14 distribution of dangerous drugs on twenty-nine (29) occasions to a California pharmacy, on one  
15 (1) occasion to an out-of-state pharmacy, and on two (2) occasions to out-of-state wholesale  
16 distributors.  
17

### 18 FOURTH CAUSE FOR DISCIPLINE

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

20 38. Respondent ESP Services and Respondent Karney are subject to disciplinary action  
21 under Health and Safety Code sections 111330, 111430, 111440 and 111450, in that, from on or  
22 about February 10, 2006 to June 2, 2008, as follows:  
23

24 a. On twenty-five (25) different occasions, Respondent ESP Services and Respondent  
25 Karney imported and received amino acids for injection from Laboratorios Calce de Mexico  
26 which had no label, and were, therefore, misbranded because the labeling could not be accurate  
27 and had to be false. The manufacturer of the amino acids was not registered with the U.S.  
28

1 Secretary of Health, Education and Welfare.

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

4 **FIFTH CAUSE FOR DISCIPLINE**

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

6  
7 39. Respondent ESP Services and Respondent Karney are subject to disciplinary action  
8 under section 4169, subdivision (a)(1), in that, from on or about February 10, 2006 to June 2,  
9 2008, Respondent ESP Services and Respondent Karney purchased amino acids at wholesale  
10 from Laboratorios Calce de Mexico which business was not licensed as a wholesaler by the  
11 Board.

12 **SIXTH CAUSE FOR DISCIPLINE**

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

14  
15 40. Respondent ESP Services and Respondent Karney are subject to disciplinary action  
16 under section 4037, in conjunction with California Code of Regulations, title 16, section 1783,  
17 subdivisions (a) and (b), in that, from on or about February 10, 2006 to June 2, 2008, on more  
18 than three hundred (300) occasions, Respondent ESP Services and Respondent Karney sold  
19 dangerous drugs by receiving individual prescriptions for individual patients instead of in  
20 response to wholesaler orders. Respondent ESP Services sold the drugs without any prescription  
21 labeling to one (1) California prescriber and four (4) out-of-state treatment centers. Respondent  
22 ESP charged the five (5) businesses for the dangerous drugs instead of the patients for whom the  
23 prescriptions were written. Drugs sold pursuant to a valid prescription must be dispensed from a  
24 pharmacy, not a wholesale distributor.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 *(Expired Dangerous Drugs in Stock for Sale)*

3 41. Respondent ESP Services and Respondent Karney are subject to disciplinary action  
4 under section 4342, subdivision (a), in that, during an inspection of the premises on July 28, 2008,  
5 Respondent ESP Services had at least one hundred and ninety-one (191) expired dangerous drugs  
6 in stock available for inspection.  
7

8 EIGHTH CAUSE FOR DISCIPLINE

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

10 42. Respondent East Side Pharmacy is subject to disciplinary action under section 4105,  
11 subdivision (a), in that, between January 1, 2007 and July 28, 2008, Respondent East Side  
12 Pharmacy purchased four thousand (4000) Vicodin; nine thousand five hundred (9500) Vicodin  
13 ES; one thousand (1000) Hydrocodone APAP 10/325; six thousand two hundred (6200) Valium  
14 10 mg.; one thousand four hundred seventy (1470) Cialis; one thousand four hundred (1400)  
15 Klonopin and other dangerous drugs for a total of \$50,679.35 in purchases. During an inspection  
16 on July 28, 2008, Respondent East Side Pharmacy did not have records of acquisition and  
17 disposition for these drugs.  
18

19 NINTH CAUSE FOR DISCIPLINE

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

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

1 drugs for a total of \$50,679.35 in purchases. During an inspection on July 28, 2008, Respondent  
2 East Side Pharmacy did not provide the records of acquisition and disposition for these drugs  
3 either at the time of the inspection or when requested by Board inspectors. There were no  
4 dangerous drugs at the pharmacy during the inspection on July 28, 2008. In the absence of drugs  
5 and records, the inventory of dangerous drugs is not accurate.  
6

7 **TENTH CAUSE FOR DISCIPLINE**

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

9 44. Respondent East Side Pharmacy is subject to disciplinary action under section  
10 4059.5, subdivision (a), in that, on or about January 1, 2007 to July 28, 2008, Respondent East  
11 Side Pharmacy purchased four thousand (4000) Vicodin; nine thousand five hundred (9500).  
12 Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six thousand two hundred (6200)  
13 Valium 10 mg.; one thousand four hundred seventy (1470) Cialis; one thousand four hundred  
14 (1400) Klonopin and other dangerous drugs for a total of \$50,679.35 in purchases. No pharmacist  
15 was present at the pharmacy to sign for or receive these drugs.  
16

17 **ELEVENTH CAUSE FOR DISCIPLINE**

18 *(Unprofessional Conduct – Moral Turpitude)*

19 45. Respondent Karney is subject to disciplinary action under section 4301, subdivision  
20 (f), in that, Respondent Karney committed an act involving moral turpitude between January 1,  
21 2007 and July 28, 2008, when Respondent Karney ordered four thousand (4000) Vicodin; nine  
22 thousand five hundred (9500) Vicodin ES; one thousand (1000) Hydrocodone APAP 10/325; six  
23 thousand two hundred (6200) Valium 10 mg.; one thousand four hundred seventy (1470) Cialis;  
24 one thousand four hundred (1400) Klonopin and other dangerous drugs for a total of \$50,679.35  
25 in purchases from Respondent East Side Pharmacy without the knowledge of the pharmacist-in-  
26 charge, signed for and received those drugs when he was not authorized to do so, and diverted  
27  
28

1 those drugs from Respondent East Side Pharmacy for his self use.

2 **TWELFTH CAUSE FOR DISCIPLINE**

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

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

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

16 47. Respondent Mizrahie-Jonah is subject to disciplinary action under section 4081,  
17 subdivision (a), in conjunction with California Code of Regulations, title 16, section 1718, in that,  
18 between January 1, 2007 and March 21, 2008, while pharmacist-in-charge of Respondent East  
19 Side Pharmacy, Respondent Mizrahie-Jonah was responsible for the records of acquisition and  
20 disposition during that time period. Four thousand (4000) Vicodin, six thousand (6000) Vicodin  
21 ES, one thousand (1000) Hydrocodone/Acetaminophen 10/325, four thousand nine hundred  
22 (4900) Valium 10 mg, nine hundred sixty (960) Cialis, one hundred (100) Klonopin and other  
23 dangerous drugs totaling \$35,633.23 were purchased for the pharmacy. Respondent Mizrahie-  
24 Jonah did not dispense any prescriptions during that time period, did not have knowledge of any  
25 drug stock, and there were no records of acquisition and disposition in the pharmacy during a  
26  
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1 Board inspection on July 28, 2008.

2 FOURTEENTH CAUSE FOR DISCIPLINE

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

4 48. Respondent Shaun Lee is subject to disciplinary action under section 4105,  
5 subdivision (a), in that, between March 22, 2008 and September 1, 2008, while pharmacist-in-  
6 charge of Respondent East Side Pharmacy, three thousand five hundred (3500) Vicodin ES, one  
7 thousand three hundred (1300) Valium 10 mg, five hundred ten (510) Cialis, one thousand three  
8 hundred (1300) Klonopin and other dangerous drugs totaling \$15,037.12 were purchased for the  
9 pharmacy. Respondent Lee did not dispense any prescriptions during that time period, did not  
10 have knowledge of any drug stock, and there were no records of acquisition and disposition in the  
11 pharmacy during a Board inspection on July 28, 2008.  
12

13 FIFTEENTH CAUSE FOR DISCIPLINE

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

16 49. Respondent Lee is subject to disciplinary action under section 4081, subdivision (a),  
17 in conjunction with California Code of Regulations, title 16, section 1718, in that, between March  
18 22, 2008 and September 1, 2008, while pharmacist-in-charge of Respondent East Side Pharmacy,  
19 Respondent Lee was responsible for the records of acquisition and disposition during that time  
20 period. Three thousand five hundred (3500) Vicodin ES, one thousand three hundred (1300)  
21 Valium 10 mg, five hundred ten (510) Cialis, one thousand three hundred (1300) Klonopin and  
22 other dangerous drugs totaling \$15,037.12 were purchased for the pharmacy. Respondent Lee did  
23 not dispense any prescriptions during that time period, did not have knowledge of any drug stock,  
24 and there were no records of acquisition and disposition in the pharmacy during a Board  
25 inspection on July 28, 2008.  
26  
27

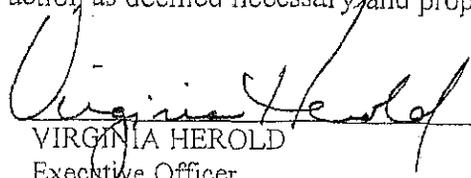
28 ///



1 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

3 DATED: 9/9/10



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

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