

**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

HELEN MIZRAHIE-JONAH ONLY

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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Designated Representative-in Charge

Original Certificate Number EXC 10845

and

HELEN MIZRAHIE-JONAH

6317 Warner Drive

Los Angeles, CA 90048

Original Pharmacist License No. RPH 26276

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

Respondents.

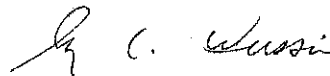
DECISION AND ORDER

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
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

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

15 and

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

19 and

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

24 and

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

Case No. 3481

OAH No. L-2011060632

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

re: **HELEN MIZRAHIE-JONAH**

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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 Respondent Helen Mizrahie Jonah only (Respondent Jonah). Respondent Jonah is represented in this proceeding by attorney Herbert L. Weinberg, whose address is: McGuire Woods LLP, 1800 Century Park East, 8th Floor, Los Angeles, CA 90067, telephone number 310-315-8200.

Helen Mizrahie-Jonah – Pharmacist License

3. On or about July 26, 1991, the Board of Pharmacy (Board) issued Original Pharmacist License Number RPH 26276 to Helen Mizrahie-Jonah. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein, and will expire on September 30, 2013.

JURISDICTION

4. Accusation No. 3481 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 16, 2010. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 3481 is attached as Exhibit A, and incorporated herein by reference.

1 **ADVISEMENT AND WAIVERS**

2 6. Respondent has carefully read, fully discussed with counsel, and understands the
3 charges and allegations in Accusation No. 3481. Respondent has also carefully read, fully
4 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
5 Order.

6 7. Respondent is fully aware of her legal rights in this matter, including the right to a
7 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
8 her own expense; the right to confront and cross-examine the witnesses against her; the right to
9 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
10 compel the attendance of witnesses and the production of documents; the right to reconsideration
11 and court review of an adverse decision; and all other rights accorded by the California
12 Administrative Procedure Act and other applicable laws.

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

15 **CULPABILITY**

16 9. Respondent admits that at hearing Complainant could establish a factual basis for the
17 charges and allegations in Accusation No. 3481, and that those charges and allegation are cause
18 for discipline. Respondent hereby gives up her right to contest those charges

19 10. Respondent agrees that her Pharmacist License is subject to discipline, and she agrees
20 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

21 **CONTINGENCY**

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

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

3 12. 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 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

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

15 **DISCIPLINARY ORDER**

16 1. *IT IS HEREBY ORDERED* that Original Pharmacist License Number RPH 26276
17 issued to Respondent Helen Mizrahie-Jonah is revoked; however, said revocation shall be stayed
18 and Respondent's license shall be placed on probation for a period of two (2) years on the
19 following terms and conditions.

20 2. **Obey All Laws**

21 Respondent shall obey all state and federal laws and regulations.

22 Respondent shall report any of the following occurrences to the board, in writing, within
23 seventy-two (72) hours of such occurrence:

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws
27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 criminal complaint, information or indictment

- 1 • a conviction of any crime
- 2 • discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's pharmacist license or which is related to the practice of
- 4 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 5 for any drug, device or controlled substance.

6 Failure to timely report such occurrence shall be considered a violation of probation.

7 **3. Report to the Board**

8 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
9 designee. The report shall be made either in person or in writing, as directed. Among other
10 requirements, respondent shall state in each report under penalty of perjury whether there has
11 been compliance with all the terms and conditions of probation. Failure to submit timely reports
12 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
13 in submission of reports as directed may be added to the total period of probation. Moreover, if
14 the final probation report is not made as directed, probation shall be automatically extended until
15 such time as the final report is made and accepted by the board.

16 **4. Interview with the Board**

17 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
18 with the board or its designee, at such intervals and locations as are determined by the board or its
19 designee. Failure to appear for any scheduled interview without prior notification to board staff,
20 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
21 the period of probation, shall be considered a violation of probation.

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the board's inspection program and with the board's
24 monitoring and investigation of respondent's compliance with the terms and conditions of her
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Continuing Education**

27 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
28 pharmacist as directed by the board or its designee.

1 7. **Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the Decision in Accusation No. 3481 and the terms, conditions and restrictions
4 imposed on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the Decision in Accusation No. 3481, and terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
11 supervisor(s) submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the board of the terms and conditions of the decision in case number 3481 in advance
15 of the respondent commencing work at each licensed entity. A record of this notification must be
16 provided to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause her direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that she has read the decision in case number 3481
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time,
27 part-time, temporary, relief or pharmacy management service as a pharmacist or any
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1 position for which a pharmacist license is a requirement or criterion for employment,
2 whether the respondent is an employee, independent contractor or volunteer.

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
4 **Designated Representative-in-Charge, or Serving as a Consultant**

5 During the period of probation, respondent shall not supervise any intern pharmacist, be the
6 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
7 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
8 unauthorized supervision responsibilities shall be considered a violation of probation.

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of three thousand dollars
12 (\$3,000.00). Respondent shall make said payments as follows: The first payment of three
13 hundred and seventy five dollars (\$375.00) shall be due and paid within thirty (30) days of the
14 effective date assigned to the Order adopting this stipulation. Thereafter, twenty- three (23)
15 subsequent payments of \$375 each shall be due and paid each month on or before the same date.

16 There shall be no deviation from this schedule absent prior written approval by the board or
17 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
18 probation.

19 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
20 reimburse the board its costs of investigation and prosecution.

21 **10. Probation Monitoring Costs**

22 Respondent shall pay any costs associated with probation monitoring as determined by the
23 board each and every year of probation. Such costs shall be payable to the board on a schedule as
24 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
25 be considered a violation of probation.

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1 **11. Status of License**

2 Respondent shall, at all times while on probation, maintain an active, current license with
3 the board, including any period during which suspension or probation is tolled. Failure to
4 maintain an active, current license shall be considered a violation of probation.

5 If respondent's license expires or is cancelled by operation of law or otherwise at any time
6 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
7 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
8 probation not previously satisfied.

9 **12. License Surrender While on Probation/Suspension**

10 Following the effective date of this decision, should respondent cease practice due to
11 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
12 respondent may tender her license to the board for surrender. The board or its designee shall have
13 the discretion whether to grant the request for surrender or take any other action it deems
14 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
15 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
16 record of discipline and shall become a part of the respondent's license history with the board.

17 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
18 the board within ten (10) days of notification by the board that the surrender is accepted.
19 Respondent may not reapply for any license from the board for three (3) years from the effective
20 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
21 of the date the application for that license is submitted to the board, including any outstanding
22 costs.

23 **13. Notification of a Change in Name, Residence Address, Mailing Address,**
24 **Employment, Schedule and Work Hours**

25 Respondent shall notify the board in writing within ten (10) days of any change of
26 employment. Said notification shall include the reasons for leaving, the address of the new
27 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
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1 shall further notify the board in writing within ten (10) days of a change in name, residence
2 address, mailing address, or phone number.

3 Within 10 days of the Decision and Order adopting this stipulation, Respondent shall notify
4 the Board of the name of the pharmacy, address, telephone number, and work schedule and hours
5 worked per week for her current employment. Respondent shall notify the Board of any change to
6 that employment and/or work schedule and hours worked per week prior to commencing a
7 change during the term of probation. Failure to provide this required notification shall be
8 considered a violation of probation.

9 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
10 phone number(s), schedule and location shall be considered a violation of probation.

11 14. **Tolling of Probation**

12 Except during periods of suspension, respondent shall, at all times while on probation, be
13 employed as a pharmacist in California for a minimum of twenty (20) hours per calendar month.
14 Any month during which this minimum is not met shall toll the period of probation, i.e., the
15 period of probation shall be extended by one month for each month during which this minimum is
16 not met. During any such period of tolling of probation, respondent must nonetheless comply
17 with all terms and conditions of probation.

18 Should respondent, regardless of residency, for any reason (including vacation) cease
19 practicing as a pharmacist for a minimum of twenty (20) hours per calendar month in California,
20 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
21 must further notify the board in writing within ten (10) days of the resumption of practice. Any
22 failure to provide such notification(s) shall be considered a violation of probation.

23 It is a violation of probation for respondent's probation to remain tolled pursuant to the
24 provisions of this condition for a total period, counting consecutive and non-consecutive months,
25 exceeding thirty-six (36) months.

26 "Cessation of practice" means any calendar month during which respondent is
27 not practicing as a pharmacist for at least twenty (20) hours, as defined by Business
28 and Professions Code section 4000 et seq. "Resumption of practice" means any

1 calendar month during which respondent is practicing as a pharmacist for at least
2 twenty (20) hours as a pharmacist as defined by Business and Professions Code
3 section 4000 et seq.

4 **15. Violation of Probation**

5 If a respondent has not complied with any term or condition of probation, the board shall
6 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
7 all terms and conditions have been satisfied or the board has taken other action as deemed
8 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
9 to impose the penalty that was stayed.

10 If respondent violates probation in any respect, the board, after giving respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
13 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
14 a petition to revoke probation or an accusation is filed against respondent during probation, the
15 board shall have continuing jurisdiction and the period of probation shall be automatically
16 extended until the petition to revoke probation or accusation is heard and decided.

17 **16. Completion of Probation**

18 Upon written notice by the board or its designee indicating successful completion of
19 probation, respondent's license will be fully restored.

20 **17. No Ownership of Licensed Premises**

21 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
22 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
23 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
24 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
25 days following the effective date of this decision and shall immediately thereafter provide written
26 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
27 documentation thereof shall be considered a violation of probation.

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1 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
2 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
3 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
4 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
5 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
6 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
7 that interest, but only to the extent of that position or interest as of the effective date of this
8 decision. Violation of this restriction shall be considered a violation of probation.

9 **18. Self-Assessment**

10 Respondent shall complete a community pharmacy self-assessment within thirty (30) days of the
11 effective date assigned to the Decision and Order adopting this stipulation, and complete another
12 self-assessment every six (6) months thereafter while on probation. The completed self-
13 assessment form shall be mailed to the board within fourteen (14) days of the due date. Violation
14 of this condition shall be considered a violation of probation.

15 **19. Remedial Education**

16 Within ten (10) days of the effective date of the Decision and Order adopting this
17 stipulation, respondent shall submit to the board or its designee, for prior approval, an appropriate
18 program of remedial education related to records-keeping and pharmacy law. The program of
19 remedial education shall consist of at least seven (7) hours, which shall be completed within
20 ninety (90) days of the effective date of the Decision and Order adopting this stipulation at
21 respondent's own expense. All remedial education shall be in addition to, and shall not be
22 credited toward, continuing education (CE) courses used for license renewal purposes.

23 Failure to timely submit or complete the approved remedial education shall be considered a
24 violation of probation. The period of probation will be automatically extended until such
25 remedial education is successfully completed and written proof, in a form acceptable to the board,
26 is provided to the board or its designee.

27 Following the completion of each course, the board or its designee may require the
28 respondent, at her own expense, to take an approved examination to test the respondent's

1 knowledge of the course. If the respondent does not achieve a passing score on the examination,
2 this failure shall be considered a violation of probation. Any such examination failure shall
3 require respondent to take another course approved by the board in the same subject area.

4 **20. Ethics Course**

5 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
6 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
7 Failure to initiate the course during the first year of probation, and complete it within the second
8 year of probation, is a violation of probation.

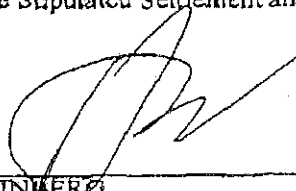
9 Respondent shall submit a certificate of completion to the board or its designee within five
10 days after completing the course.

11 **ACCEPTANCE**

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Herb Weinberg. I understand the stipulation and the effect it will
14 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
15 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
16 Board of Pharmacy.

17
18 DATED: 1-26-12 
19 HELEN MIZRAHIE-JONAH
20 Respondent

21 I have read and fully discussed with Respondent Helen Mizrahie-Jonah the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24
25 DATED: 1-26-12 
26 HERB WEINBERG
27 Attorney for Respondent HELEN MIZRAHIE-JONAH
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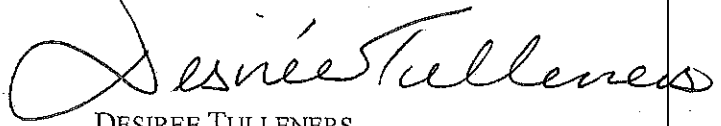
ENDORSEMENT

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: 1-30-12

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

1 EDMUND G. BROWN JR.
2 Attorney General of California
3 GREGORY J. SALUTE
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Attorneys for Complainant

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21 and

22 **ROBERT KARNEY**

23 9408 Beverlywood Street
24 Los Angeles, CA 90034

25 Designated Representative-in-Charge
26 Original Certificate Number EXC 10845

27 and

ACCUSATION

1 **HELEN MIZRAHIE-JONAH**

2 6317 Warner Drive
3 Los Angeles, CA 90048

4 Original Pharmacist License No. RPH 26276

5 and

6 **SHAUN LEE**

7 5829 Hazelbrook Avenue
8 Lakewood, CA 90712

9 Original Pharmacist License No. RPH 42786

10 Respondents.

11 Complainant alleges:

12 **PARTIES**

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

15 **ESP Services -- Wholesale License**

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

20 **Easy Side Pharmacy -- Pharmacy License**

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

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

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

1 Helen Mizrahie-Jonah – Pharmacist License

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

6 Shaun Lee – Pharmacist License

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

11 JURISDICTION

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

14 STATUTORY PROVISIONS

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

18 9. Section 490 states, in pertinent part:

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

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

27 ///

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

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

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

13 11. Section 4060 states, in pertinent part:

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

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

26 ...

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

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

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

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

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

18
19
20 19. Health and Safety Code section 11352 states, in pertinent part:

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

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

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

15 21. Health and Safety Code section 111330 states:

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

18 22. Health and Safety Code section 111430 states:

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

21 23. Health and Safety Code section 111440 states:

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

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24. Health and Safety Code section 111450 states:

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

REGULATORY PROVISIONS

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

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

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

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

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

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

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

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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 CONTROLLED SUBSTANCES

7
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
14 31. "Restoril", a brand name for temazepam, is a Schedule IV controlled substance
15 pursuant to Health and Safety Code section 11057(d)(29) and a dangerous drug pursuant to
16 Business and Professions Code section 4022(c).

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

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

2 **TWELFTH CAUSE FOR DISCIPLINE**

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

4 46. Respondent Helen 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.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

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

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

2 **FOURTEENTH CAUSE FOR DISCIPLINE**

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

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

2 *(Subverting an Investigation of the Board)*

3 50. Respondent Karney is subject to disciplinary action under section 4301, subdivision
4 (q), in that, on January 1, 2007 to July 28, 2008, Respondent Karney purchased and diverted 4000
5 tablets of Vicodin, 9500 tablets of Vicodin ES, 1000 Hydrocodone Apap 10/325, 6200 tablets of
6 Valium 10mg, 1470 tablets Cialis, 1400 Klonopin and other dangerous drugs for a total of
7 \$50,670.35 in purchases. Respondent Karney failed to cooperate and provide records of
8 acquisitions and disposition for the drugs and could not complete accountability when requested
9 by the Board. Respondent, by not cooperating interfered with, and delayed, the Board's
10 investigation.
11

12 PRAYER

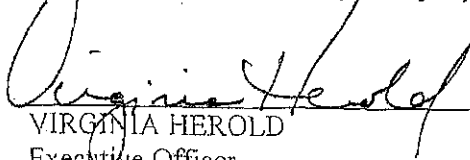
13 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board issue a decision:
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- 16 1. Revoking or suspending Original Wholesale Permit No. WLS 2329 issued to
17 Respondent ESP Services;
- 18 2. Revoking or suspending Original Pharmacy Permit No. PHY 39439 issued to
19 Respondent East Side Pharmacy;
- 20 3. Revoking or suspending Designated Representative-in-Charge Original Certificate
21 Number EXC 10845 issued to Respondent Karney;
- 22 4. Revoking or suspending Original Pharmacist License No. RPH 26276 issued to
23 Respondent Helen Mizrahi-Jonah;
- 24 5. Revoking or suspending Original Pharmacist License No. RPH 42786
25 issued to Respondent Shaun Lee;
- 26 6. Ordering Respondents to pay the Board the reasonable costs of the investigation and
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1 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

3 DATED: 9/9/10



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

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DAT/dat 6/21/10