

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

In the Matter of the Accusation Against:

Case No. 1A-2009-30

**RAUL L. CAOILI, L.A.C.  
5129 Surfbreaker Point  
San Diego, CA 92154**

**Acupuncturist License No. AC 8111**

Respondent.

**DECISION AND ORDER**

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

This Decision shall become effective on DEC 4 2009.

It is so ORDERED NOV 4 2009

  
\_\_\_\_\_  
FOR THE ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 STEVEN V. ADLER  
Supervising Deputy Attorney General  
3 DOUGLAS LEE  
Deputy Attorney General  
4 State Bar No. 222806  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2580  
7 Facsimile: (619) 645-2883  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:

Case No. 1A-2009-30

13 **RAUL L. CAOILI, L.AC.**  
14 **5129 Surfbreaker Point**  
**San Diego, CA 92154**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 **Acupuncturist License No. AC 8111**

16 Respondent.  
17

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

- 22 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.  
23 She brought this action solely in her official capacity and is represented in this matter by Edmund  
24 G. Brown Jr., Attorney General of the State of California, by Douglas Lee, Deputy Attorney  
25 General.  
26 2. Raul L. Caoili, L.Ac. (Respondent) is represented in this proceeding by attorney  
27 Jeffrey E. Estes, whose address is 501 West Broadway, Suite 1650, San Diego, CA 92101.  
28



1 CULPABILITY

2 8. Respondent agrees that, at an administrative hearing, complainant could establish a  
3 *prima facie* case with respect to the charges and allegations contained in Accusation No. 1A-  
4 2009-30, a true and correct copy of which is attached hereto as Exhibit A.

5 9. Respondent agrees that if he ever petitions for early termination or modification of  
6 probation, or if an accusation and/or petition to revoke probation is filed against him before the  
7 Acupuncture Board of California, all of the charges and allegations contained in Accuation No.  
8 1A-2009-30, shall be deemed true, correct and fully admitted by respondent for purposes of any  
9 such proceeding or any other licensing proceeding involving respondent in the State of California.

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

13 RESERVATION

14 11. The admissions made by Respondent herein are only for the purposes of this  
15 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
16 involved, and shall not be admissible in any other criminal or civil proceeding.

17 CONTINGENCY

18 12. This stipulation shall be subject to approval by the Board. Respondent understands  
19 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
20 with the Board regarding this stipulation and settlement, without notice to or participation by  
21 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he  
22 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
23 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
24 the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this  
25 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
26 be disqualified from further action by having considered this matter.

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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Acupuncturist License No. AC 8111 issued to  
9 Respondent RAUL L. CAOILI, L.Ac. (Respondent) is revoked. However, the revocation is  
10 stayed and Respondent is placed on probation for three (3) years on the following terms and  
11 conditions.

12 1. PSYCHOLOGICAL EVALUATION Within 90 days of the completion date of the  
13 probationary period, respondent shall undergo a psychological evaluation (and psychological  
14 testing, if deemed necessary) by a Board appointed California licensed psychologist, who shall  
15 receive and review a copy of this Stipulated Settlement and Disciplinary Order. The Board shall  
16 receive a written report including respondent's judgment respondent's judgment and/or ability to  
17 practice acupuncture independently and safely, a current DSM IV diagnosis if any, and whatever  
18 other information the Board deems relevant to the case. Respondent shall execute a release  
19 authorizing the evaluator to release all information to the Board. The completed evaluation is the  
20 sole property of the Board.

21 If the Board concludes from the results of the evaluation that respondent is unable to  
22 practice independently and safely he shall be suspended by Order of the Board and shall not  
23 resume practice until notified by the Board. If the Board concludes from the results of the  
24 evaluation that respondent would benefit from ongoing psychotherapy or any other public  
25 protection measure, respondent shall comply with the Board's directives in that regard. Failure to  
26 comply with this condition constitutes a violation of this Order and will be deemed general  
27 unprofessional conduct.

28

1 Respondent shall pay all costs associated with the psychological evaluation. Failure to  
2 pay costs will be considered a violation of the probation order.

3 2. PRACTICE MONITOR Within 90 days of the effective date of this decision,  
4 respondent shall submit to the Board for its prior approval, the name and qualifications of one or  
5 more California licensed acupuncturists whose license is clear (no record of complaints) and  
6 current and who has agreed to serve as a practice monitor. Once approved, the monitor shall  
7 submit to the Board a plan by which respondent's practice shall be monitored; the plan shall be  
8 subject to approval by the Board. The monitor's education and experience shall be in the same  
9 field of practice as that of the respondent. The monitor shall submit written reports to the Board  
10 on a quarterly basis verifying that monitoring has taken place and providing an evaluation of  
11 respondent's performance. It shall be respondent's responsibility to assure that the required  
12 reports are filed in a timely fashion. The respondent shall provide access to the monitor to  
13 respondent's fiscal and client records and shall be permitted to make direct contact with patients.  
14 Further, the monitor shall have no prior business, professional, personal or other relationship with  
15 respondent. Respondent shall execute a release authorizing the monitor to divulge any  
16 information that the Board may request.

17 Respondent shall notify all current and potential patients of any term or condition of  
18 probation which will affect their treatment or the confidentiality of their records (such as this  
19 condition which requires a practice monitor). Such notification shall be signed by each patient  
20 prior to continuing or commencing treatment.

21 If the monitor quits or is otherwise no longer available, respondent shall not practice until a  
22 new monitor has been approved by the Board. All costs of monitoring shall be borne by the  
23 respondent. Monitoring shall consist of at least one hour per week of individual face to face  
24 meetings.

1           3.     RESTRICTION OF PATIENT POPULATION Respondent is prohibited from  
2 evaluating, treating, or otherwise seeing any female patients for the duration of the probationary  
3 period.

4           After the effective date of this Decision, the first time that a female patient seeking  
5 services makes an appointment, respondent shall orally notify the patient that respondent does not  
6 see female patients. Respondent shall maintain a log of all patients to whom the required oral  
7 notification was made. The log shall contain the: 1) patient's name, address, and phone number;  
8 2) patient's medical record number, if available; 3) the full name of the person making the  
9 notification; 4) the date the notification was made; and 5) a description of the notification given.  
10 Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the  
11 log available for immediate inspection and copying on the premises at all times during business  
12 hours by the Board or its designee, and shall retain the log for the entire term of probation.  
13 Failure to maintain a log as defined in the section, or to make the log available for immediate  
14 inspection and copying on the premises during business hours is a violation of probation.

15           In addition to the required oral notification, after the effective date of this Decision, the first  
16 time that a female patient who seeks services presents to respondent, respondent shall provide a  
17 written notification to the patient stating that respondent does not see female patients.  
18 Respondent shall maintain a copy of the written notification in the patient's file, shall make the  
19 notification available for immediate inspection and copying on the premises at all times during  
20 business hours by the Board or its designee, and shall retain the notification for the entire term of  
21 probation. Failure to maintain the written notification as defined in the section, or to make the  
22 notification available for immediate inspection and copying on the premises during business  
23 hours is a violation of probation.

24           4.     PROFESSIONAL BOUNDARIES PROGRAM Within 60 calendar days from the  
25 effective date of this Decision, respondent shall enroll in a professional boundaries program, at  
26 respondent's expense, equivalent to the Professional Boundaries Program, Physician Assessment  
27 and Clinical Education Program at the University of California, San Diego School of Medicine  
28 ("Program"). Respondent, at the Program's discretion, shall undergo and complete the Program's

1 assessment of respondent's competency, mental health and/or neuropsychological performance,  
2 and at a minimum, a 24 hour program of interactive education and training in the area of  
3 boundaries, which takes into account data obtained from the assessment and from the Decision(s),  
4 Accusation(s), and any other information that the Board or its designee deems relevant. The  
5 Program shall evaluate respondent at the end of the training and the Program shall provide any  
6 data from the assessment and training as well as the results of the evaluation to the board or its  
7 designee.

8 Failure to complete the entire Program not later than six months after respondent's initial  
9 enrollment shall constitute a violation of probation unless the Board or its designee agrees in  
10 writing to a later time for completion. Based on respondent's performance in and evaluations  
11 from the assessment, education, and training, the Program shall advise the Board or its designee  
12 of its recommendation(s) for additional education, training, psychotherapy and other measures  
13 necessary to ensure that respondent can practice safely. Respondent shall comply with Program  
14 recommendations. At the completion of the Program, respondent shall submit to a final  
15 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.

16 The Program's determination whether or not respondent successfully completed the  
17 Program shall be binding.

18 Failure to participate in and complete successfully all phases of the Program, as outlined  
19 above, is a violation of probation.

20 If respondent fails to complete the Program within the designated time period, respondent  
21 shall cease the practice of medicine within 72 hours after being notified by the Board or its  
22 designee that respondent failed to complete the Program.

23 5. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

24 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to  
25 ensure compliance for the duration of the probation period.

26 6. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and  
27 all regulations governing the practice of acupuncture in California. A full and detailed account of  
28



1 any and all violations of law shall be reported by the respondent to the Board in writing within  
2 seventy-two (72) hours of occurrence.

3 7. QUARTERLY REPORTS Respondent shall submit quarterly declarations under  
4 penalty of perjury on forms provided by the Board, stating whether there has been compliance  
5 with all the conditions of probation.

6 8. SURVEILLANCE PROGRAM Respondent shall comply with the Board's  
7 probation surveillance program and shall, upon reasonable notice, report to the assigned  
8 investigative district office. Respondent shall contact the assigned probation surveillance monitor  
9 regarding any questions specific to the probation order. Respondent shall not have any  
10 unsolicited or unapproved contact with 1) victims or complainants associated with the case;  
11 2) Board members or members of its staff; or 3) persons serving the Board's as expert examiners.

12 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall  
13 appear in person for interviews with the Board or its designee upon request at various intervals  
14 and with reasonable notice.

15 10. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,  
16 through the assigned probation surveillance compliance officer of any and all changes of  
17 employment, location and address within 30 days of such change.

18 11. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event  
19 respondent should leave California to reside or to practice outside the State, respondent must  
20 notify the Board in writing of the dates of departure and return. Periods of residency or practice  
21 outside California will not apply to the reduction of this probationary period.

22 12. COST RECOVERY Respondent shall pay to the Board its costs of investigation  
23 and enforcement in the amount of \$5143.00, within 12 months of the effective date of this  
24 decision.

25 13. VIOLATION OF PROBATION If respondent violates probation in any respect,  
26 the Board may, after giving respondent notice and the opportunity to be heard, revoke probation  
27 and carry out the disciplinary order that was stated. If an accusation or petition to revoke  
28 probation is filed against respondent during probation, the Board shall have continuing

1 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
2 is final. No petition for modification or termination of probation shall be considered while there  
3 is an accusation or petition to revoke probation pending against respondent.

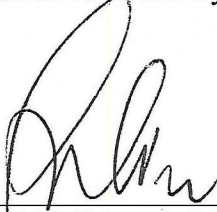
4 14. COMPLETION OF PROBATION Upon successful completion of probation,  
5 respondent's license will be fully restored.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Jeffrey E. Estes. I understand the stipulation and the effect it will  
4 have on my Acupuncturist License. I enter into this Stipulated Settlement and Disciplinary Order  
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
6 Acupuncture Board.

7  
8 DATED: 9/22/09

  
9 RAUL L. CAOILI, L.AC.  
Respondent

10 I have read and fully discussed with Respondent RAUL L. CAOILI, L.Ac., the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13 DATED: 9/22/09

  
14 Jeffrey E. Estes  
Attorney for Respondent


15  
16 ENDORSEMENT

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

19 Dated: 9/22/09

20 Respectfully Submitted,

21 EDMUND G. BROWN JR.  
Attorney General of California  
22 STEVEN V. ADLER  
Supervising Deputy Attorney General

23   
24 DOUGLAS LEE  
25 Deputy Attorney General  
26 *Attorneys for Complainant*

**Exhibit A**

**Accusation No. 1A-2009-30**

AUG 24 2009

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.  
 Attorney General of California  
 2 STEVEN V. ADLER  
 Supervising Deputy Attorney General  
 3 DOUGLAS LEE  
 Deputy Attorney General  
 4 State Bar No. 222806  
 110 West "A" Street, Suite 1100  
 5 San Diego, CA 92101  
 P.O. Box 85266  
 6 San Diego, CA 92186-5266  
 Telephone: (619) 645-2580  
 7 Facsimile: (619) 645-2883  
*Attorneys for Complainant*

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

11  
 12 In the Matter of the Accusation Against:

Case No. 1A-2009-30

13 **RAUL L. CAOILI, L.AC.**  
 5129 Surfbreaker Point  
 14 San Diego, CA 92154

**ACCUSATION**

15 **Acupuncturist License No. AC 8111**

16 Respondent.

17  
 18  
 19 Complainant alleges:

20 **PARTIES**

21 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as  
 22 the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

23 2. On or about September 19, 2001, the Acupuncture Board issued Acupuncturist  
 24 License No. AC 8111 to RAUL L. CAOILI, L.Ac. (Respondent). The Acupuncturist License was  
 25 in full force and effect at all times relevant to the charges brought herein and will expire on  
 26 October 31, 2010, unless renewed.

JURISDICTION

1  
2 3. This Accusation is brought before the Acupuncture Board (Board), Department of  
3 Consumer Affairs, under the authority of the following laws. All section references are to the  
4 Business and Professions Code unless otherwise indicated.

5 4. Section 726 of the code states in pertinent part:

6 "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,  
7 or customer constitutes unprofessional conduct and grounds for disciplinary action for any person  
8 licensed under this division, under any initiative act referred to in this division and under Chapter  
9 17 (commencing with Section 9000) of Division 3."

10 "...."

11 5. Section 820 of the Code states:

12 "Whenever it appears that any person holding a license, certificate or permit under this  
13 division or under any initiative act referred to in this division may be unable to practice his or her  
14 profession safely because the licentiate's ability to practice is impaired due to mental illness, or  
15 physical illness affecting competency, the licensing agency may order the licentiate to be  
16 examined by one or more physicians and surgeons or psychologists designated by the agency.  
17 The report of the examiners shall be made available to the licentiate and may be received as direct  
18 evidence in proceedings conducted pursuant to Section 822."

19 6. Section 822 of the Code states:

20 "If a licensing agency determines that its licentiate's ability to practice his or her profession  
21 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the  
22 licensing agency may take action by any one of the following methods:

23 "(a) Revoking the licentiate's certificate or license.

24 "(b) Suspending the licentiate's right to practice.

25 "(c) Placing the licentiate on probation.

26 "(d) Taking such other action in relation to the licentiate as the licensing agency in its  
27 discretion deems proper.

28

1 "The licensing agency shall not reinstate a revoked or suspended certificate or license until  
2 it has received competent evidence of the absence or control of the condition which caused its  
3 action and until it is satisfied that with due regard for the public health and safety the person's  
4 right to practice his or her profession may be safely reinstated."

5 7. Section 4955 of the Code states:

6 "The board may deny, suspend, or revoke, or impose probationary conditions upon the  
7 license of any acupuncturist if he or she is guilty of unprofessional conduct."

8 "Unprofessional conduct shall include, but not be limited to, the following:

9 "...."

10 "(i) Any action or conduct that would have warranted the denial of the acupuncture license.

11 "...."

12 8. Unprofessional conduct under Code section 2234 is conduct which breaches the rules  
13 or ethical code of the medical profession, or conduct which is unbecoming to a member in good  
14 standing of the medical profession, and which demonstrates an unfitness to practice medicine.  
15 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575).

16 9. California Code of Regulations, title 19, section 1399.453, states:

17 "An acupuncturist shall keep complete and accurate records on each patient who is given  
18 acupuncture treatment, including but not limited to, treatments given and progress made as a  
19 result of the acupuncture treatments."

20 10. Section 4959 of the Code states:

21 "(a) The board may request the administrative law judge, under his or her proposed  
22 decision in resolution of a disciplinary proceeding before the board, to direct any licensee found  
23 guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable  
24 costs of the investigation and prosecution of the case.

25 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in  
26 any event be increased by the board. When the board does not adopt a proposed decision and  
27 remands the case to an administrative law judge, the administrative law judge shall not increase  
28 the amount of any costs assessed in the proposed decision."





1 (d) Respondent entered the room and told victim A.B. to remove the towel covering her  
2 breasts. When victim A.B. told respondent that she would prefer to lie on her stomach during the  
3 examination, respondent said that she needed her to remain sitting. Respondent also told victim  
4 A.B. to remove the towel so he could properly perform the examination.

5 (e) Victim A.B. removed the towel. Respondent began rubbing both of victim A.B.'s  
6 breasts with his hands. Respondent squeezed victim A.B.'s breast and told her she had a lump on  
7 the side of her left breast. Victim A.B. grabbed the towel and covered her breasts.

8 (f) Respondent looked at victim A.B.'s stomach and said, "You're hairy aren't you?"  
9 Respondent began unbuttoning the top button of victim A.B.'s jeans. Victim A.B. pushed  
10 respondent's hands away. Respondent was able to unfasten one of victim A.B.'s buttons and stuck  
11 his hand down her pants.

12 (g) Eventually, victim A.B. was able to get respondent to remove his hand from her  
13 jeans. Respondent kissed victim A.B. on the cheek and said, "You're a pretty girl. Take care of  
14 yourself." No examination was ever conducted on victim A.B.'s shoulders by respondent.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Mental and/or Physical Illness Affecting Competency)**

17 13. Respondent is subject to disciplinary action under sections 820 and 822 of the Code  
18 in that his ability to practice Acupuncture safely is impaired because of mental and/or physical  
19 illness. The circumstances are as follows:

20 (a) Paragraph 12, above, is hereby incorporated by reference and realleged as if set forth  
21 hereinafter;

22 (b) On or about January 30, 2009, the San Diego County District Attorney's Office in  
23 Case No. CS226051, before the Superior Court of California, County of San Diego, South County  
24 Division, charged respondent with three (3) felonies: Sexual Battery - Fraudulent Professional  
25 Purpose [Pen. Code § 243.4, subd. (c); count 1]; Rape By Foreign Object - Unconscious Victim  
26 [Pen. Code § 289, subd. (d); count 2]; and, Sexual Battery - Fraudulent Professional Purpose  
27 [Pen. Code § 243.4, subd. (c); count 3].  
28

1 (c) Counts 1 and 2, above related to second victim, victim F., whose name is being kept  
2 confidential pending resolution of the criminal charges. Specifically, in June of 2007, respondent.  
3 during a patient visit, inserted his finger into victim F.'s vagina and attempted to kiss her during a  
4 massage therapy session.

5 (d) On or about July 2, 2009, respondent's criminal defense attorney referred him to  
6 K.R.D., a licensed psychologist, for a psychological evaluation to determine the nature and extent  
7 of psychological and psycho-sexual problems, treatment needs and amenability to treatment.

8 (e) On or about July 13, 2009, K.R.D., prepared a written psychological evaluation in  
9 which was provided to the San Diego County District Attorney's Office. In that written  
10 evaluation, K.R.D. made the following conclusions regarding respondent:

11 (1) Respondent is confused and conflicted about his sexual needs as well as his  
12 needs for emotional intimacy;

13 (2) It is very likely that working closely with women in an intimate setting is very  
14 stimulating to respondent and respondent does not always know how to handle this erotic  
15 stimulation; and,

16 (3) Respondent should not treat women in his acupuncture practice and any woman  
17 who works for him should be told of the allegations against him.

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PRAYER

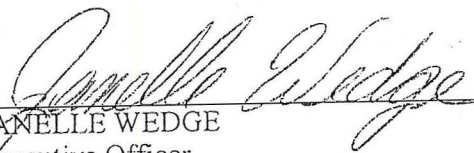
1  
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged.  
3 and that following the hearing, the Acupuncture Board issue a decision:

4 1. Revoking or suspending Acupuncturist License No. AC 8111, issued to respondent,  
5 Raul L. Caoili, L.Ac..

6 2. Ordering Raul L. Caoili, L.Ac. to pay the Acupuncture Board the reasonable costs of  
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 4959; and,

9 3. Taking such other and further action as deemed necessary and proper.

10  
11  
12 DATED:           AUG 24 2009          

  
13 JANELLE WEDGE  
14 Executive Officer  
15 Acupuncture Board  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant