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SEP 3 2009

ACUPUNCTURE BOARD

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

12 In the Matter of the Accusation Against:

Case No. 1A-2009-60

13 **MICHAEL DAVID WOODWORTH, L.AC.**
14 **2530 Vista Way, #F 108**
Oceanside, CA 92054

A C C U S A T I O N

15 **Acupuncturist License No. AC 10818**

16 Respondent.

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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.

23 2. On or about December 5, 2005, the Acupuncture Board, Department of Consumer
24 Affairs, State of California (Board) issued Acupuncturist License Number AC 10818 to Michael
25 David Woodworth, L.Ac. (Respondent). The Acupuncturist license was in full force and effect at
26 all times relevant to the charges brought herein and will expire on February 28, 2011, unless
27 renewed.

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JURISDICTION

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

4. Section 4955 of the Code states:

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

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

"(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

"(b) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

"...

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

""

5. Section 4959 of the Code states:

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

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

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county

1 where the administrative hearing was held. This right of enforcement shall be in addition to any
2 other rights the board may have as to any licensee directed to pay costs.

3 “(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
4 conclusive proof of the validity of the order of payment and the terms for payment.

5 “(e) All costs recovered under this section shall be considered a reimbursement for costs
6 incurred and shall be deposited in the Acupuncture Fund.”

7 6. Section 4956 of the Code states:

8 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
9 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
10 is deemed to be a conviction within the meaning of this chapter.

11 “The board may order a license suspended or revoked, or may deny a license, or may
12 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
13 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
14 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
15 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
16 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
17 complaint, information, or indictment.”

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction of Crimes Substantially Related to the Practice of the Acupuncturist)

20 7. Respondent is subject to disciplinary action under section section 4955, as defined by
21 section 4955, subdivision (b) of the Code in that respondent has been convicted of crimes
22 substantially related to the qualifications, function and duties of the acupuncturist. The
23 circumstances are as follows:

24 The 2007 Conviction

25 A. On or about July 12, 2007, in the Superior Court of California, County of San Diego,
26 in the case of *People v. Michael D. Woodworth*, Case No. CN229233, respondent was convicted
27 on his own guilty plea, of one count of driving an automobile while under the influence resulting
28 in bodily injury to another person in violation of Vehicle Code section 23153, subdivision (a).

1 As a consequence of the conviction, respondent was sentenced to five (5) years summary
2 probation with terms and conditions including the requirement that he spend 120 days in jail, pay
3 restitution, attend an Alcohol Anonymous Program on a daily basis, and complete an alcohol
4 offender program.

5 B. The circumstances of the conviction are as follows: At about 12:46 a.m. on or about
6 May 19, 2007, while operating an automobile in the City of Oceanside, respondent crossed the
7 center line into traffic going the opposite direction. Consequently, respondent collided with
8 another vehicle causing injuries to the driver and passengers in that vehicle. When contacted by
9 the police, respondent smelled of alcohol, had bloodshot and/or watery eyes and could not sit up
10 without assistance. Respondent admitted to the police he had been drinking. Respondent was
11 arrested and blood sample was obtained.

12 C. On or about May 23, 2007, the District Attorney for the County of San Diego filed a
13 criminal felony complaint charging respondent with one count of driving an automobile while
14 under the influence of an alcoholic beverage or drugs and while concurrently neglecting a duty
15 imposed by law which proximately caused bodily injury to another in violation of Vehicle Code
16 section 23152, subdivision (a), a felony [Count 1]; and with a second count of driving an
17 automobile while having more than 0.08 percent by weight of alcohol in his blood and while
18 concurrently neglecting a duty imposed by law which proximately caused bodily injury to another
19 in violation of Vehicle Code section 23152, subdivision (b), a felony [Count 2].

20 The criminal complaint further alleged that respondent committed the charged offenses
21 within 10 years of a prior conviction for violating Vehicle Code section 23152, subdivision (a)
22 within the meaning of Vehicle Code sections 23626 and 23560.

23 Following respondent's guilty plea to Count 1 of the criminal complaint on July 12, 2007,
24 the District Attorney dismissed Count 2 of the criminal complaint on his own motion.

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1 3. Ordering Michael David Woodworth, L.Ac., to pay the Board the costs of probation
2 monitoring if respondent is placed on probation; and

3 4. Taking such other and further action as deemed necessary and proper.
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5 DATED: SEP 3 2009
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8 
9 JANELLE WEDGE
10 Executive Officer
11 Acupuncture Board
12 State of California
13 *Complainant*

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