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

11 In the Matter of the Accusation Against,

Case No. 1A-2014-12

12 **JEFFREY KINGHAM, L.Ac.**
13 **P.O. Box 22645**
14 **Santa Barbara, CA 93121**
Acupuncturist License No. AC 11509,

DEFAULT DECISION
AND ORDER

15 Respondent. [Gov. Code, § 11520]

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18 **FINDINGS OF FACT**

19 1. On or about October 6, 2015, Complainant Terri Thorfinnson, in her official capacity
20 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs, filed
21 Accusation No. 1A-2014-12 against Jeffrey Kingham, L.Ac. (Respondent) before the
22 Acupuncture Board.

23 2. On or about December 13, 2006, the Acupuncture Board (Board) issued
24 Acupuncturist License No. AC 11509 to Respondent. The Acupuncturist License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on July 31,
26 2016, unless renewed.

27 3. On or about October 6, 2015, Acupuncture Board Enforcement Analyst Kristen
28 Borges (Borges), served by Certified Mail and First Class Mail a copy of the Accusation No. 1A-

1 2014-12, Statement to Respondent, Notice of Defense, Request for Discovery, and Government
2 Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board,
3 which was and is P.O. Box 22645, Santa Barbara, CA 93121. A copy of the Accusation, the
4 related documents, and Declaration of Service are attached as Exhibit A, and are incorporated
5 herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c).

8 5. The aforementioned documents were returned by the U.S. Postal Service marked
9 unclaimed.

10 6. No Notice of Defense was received by the Board.

11 7. A copy of the Declaration of Borges attesting to the foregoing facts is attached as
12 Exhibit B, and is incorporated herein by reference.

13 8. Deputy Attorney General Wendy Widlus (Widlus) is assigned to prepare the Default
14 Decision & Order in the above matter and has reviewed the file. No Notice of Defense was
15 received by the California Department of Justice, Health Quality Enforcement Section.

16 9. A copy of the Declaration of Widlus attesting to the fact that no Notice of Defense
17 from Respondent was ever received by the California Department of Justice, Health Quality
18 Enforcement Section is attached as Exhibit C, and is incorporated herein by reference.

19 10. Government Code section 11506 states, in pertinent part:

20 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
21 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
22 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
23 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

24 11. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 1A-2014-12.

27 12. California Government Code section 11520 states, in pertinent part:

28 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the

1 agency may take action based upon the respondent's express admissions or upon other evidence
2 and affidavits may be used as evidence without any notice to respondent."

3 13. Pursuant to its authority under Government Code section 11520, the Board finds
4 Respondent is in default. The Board will take action without further hearing and, based on
5 Respondent's express admissions by way of default and the evidence before it, contained in
6 Exhibits A, B, C and D finds that the allegations in Accusation No. 1A-2014-12 are true.

7 14. The Board further finds that pursuant to Business and Professions Code section 125.3,
8 the reasonable costs of enforcement of the case prayed for in the Accusation total \$ \$3,282.50,
9 based on the Certification of Costs contained in Exhibit C, and which is incorporated herein by
10 reference.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent JEFFREY KINGHAM, L.Ac.
13 has subjected his Acupuncturist License No. AC 11509 to discipline.

14 2. A copy of the Accusation and the related documents and Declaration of Service are
15 attached.

16 3. The agency has jurisdiction to adjudicate this case by default.

17 4. The Acupuncture Board is authorized to revoke Respondent's Acupuncturist License
18 based upon the following violations alleged in the Accusation:

19 Respondent illegally drove a vehicle while under the influence of an alcoholic
20 beverage and/or a drug and under their combined influence while having a 0.08% or higher blood
21 alcohol in violation of California Vehicle Code section 23152, subdivision (a), thereby violating
22 sections 4955, subdivision (b), of the Code (conviction of crimes which are substantially related
23 to the qualifications, functions, and duties of an acupuncturist); 4955, subdivision (a), of the Code
24 (acts involving unprofessional conduct).

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1 **ORDER**

2 **IT IS SO ORDERED** that Acupuncturist License No. AC 11509, heretofore issued to
3 Respondent JEFFREY KINGHAM, L.Ac., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on May 13, 2016.

9 It is so ORDERED April 13, 2016

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12 FOR THE ACUPUNCTURE BOARD

13 DEPARTMENT OF CONSUMER AFFAIRS
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