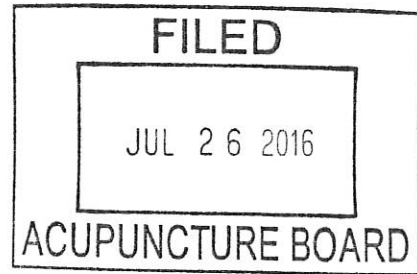


1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 NICHOLAS B.C. SCHULTZ
Deputy Attorney General
4 State Bar No. 302151
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-6564
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*



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

12 In the Matter of the Accusation Against:

Case No. 1A-2015-7

13 YONG BUM BAE, L.AC.
239 South La Cienega Boulevard, #101
Beverly Hills, California 90211

A C C U S A T I O N

14 Acupuncturist License No. AC12253,

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
20 as the Acting Executive Officer of the Acupuncture Board, Department of Consumer Affairs
21 (Board).

22 2. On or about March 13, 2008, the Acupuncture Board issued Acupuncturist License
23 Number AC12253 to Yong Bum Bae, L.Ac. (Respondent). The Acupuncturist License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on August
25 31, 2017, unless renewed.

26 **JURISDICTION**

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

1 4. Section 4955 of the Code states:

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

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

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

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

12 “... ”

13 “(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the violation
14 of the terms of this chapter or any regulation adopted by the board pursuant to this chapter.

15 “... ”

16 5. Section 4955.1 of the Code states:

17 “The board may deny, suspend, revoke, or impose probationary conditions upon the license
18 of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be
19 limited to, any of the following:

20 “... ”

21 “(c) Committing any act involving dishonesty or corruption with respect to the
22 qualifications, functions, or duties of an acupuncturist.

23 “... ”

24 6. Section 4956 of the Code states:

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

28 ///

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

8 7. Section 490 of the Code states:

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

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

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

23 “(d) The Legislature hereby finds and declares that the application of this section has been
24 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
25 554, and that the holding in that case has placed a significant number of statutes and regulations
26 in question, resulting in potential harm to the consumers of California from licensees who have
27 been convicted of crimes. Therefore, the Legislature finds and declares that this section
28 establishes an independent basis for a board to impose discipline upon a licensee, and that the

1 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not
2 constitute a change to, but rather are declaratory of, existing law.”

3 8. Section 493 of the Code states:

4 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
5 the department pursuant to law to deny an application for a license or to suspend or revoke a
6 license or otherwise take disciplinary action against a person who holds a license, upon the
7 ground that the applicant or the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, and duties of the licensee in question, the record of conviction of the
9 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
10 and the board may inquire into the circumstances surrounding the commission of the crime in
11 order to fix the degree of discipline or to determine if the conviction is substantially related to the
12 qualifications, functions, and duties of the licensee in question.

13 “...”

14 9. Section 498 of the Code states:

15 “A board may revoke, suspend, or otherwise restrict a license on the ground that the
16 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or
17 by knowingly omitting to state a material fact.”

18 COST RECOVERY

19 10. Section 4959 of the Code states:

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

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

28 ///

1 H. Not drive a motor vehicle with a measurable amount of alcohol or drugs in his
2 blood;

3 I. Not refuse to take and complete any blood alcohol or drug chemical test, any
4 field sobriety test, and any preliminary alcohol screening when requested by any peace officer;

5 J. Comply with the supplemental terms of probation regarding the installation of
6 an ignition interlock device;

7 K. Obey all laws and orders of the Superior Court; and

8 L. Pay any other fines, fees or costs at the direction of the Superior Court.

9 12. The circumstances leading to Respondent's conviction are as follows:

10 A. At approximately 3:10 a.m. on January 9, 2015, law enforcement officers with
11 the Los Angeles Police Department (LAPD) were dispatched to a traffic collision near the
12 intersection of Wilshire Boulevard and South Westmoreland Avenue in Los Angeles. The LAPD
13 officers arrived at the crash scene and quickly observed the victim-motorist standing outside of
14 his Jeep vehicle, which had significant damage to the right side. The victim-motorist told the
15 LAPD officers that he was driving his Jeep eastbound on Wilshire Boulevard when he stopped at
16 a red light near the intersection of South Westmoreland Avenue. The victim-motorist reported
17 that a black Mercedes vehicle "sideswiped" his Jeep and then drove away eastbound on Wilshire
18 Boulevard without stopping. A witness to the hit-and-run followed the black Mercedes to a
19 parking lot near Wilshire Boulevard and South Rampart Boulevard. The witness contacted and
20 briefly interacted with the driver of the black Mercedes, later identified as Respondent. The
21 witness later reported to the LAPD officers that Respondent appeared to be "drunk."

22 B. The LAPD officers located and contacted Respondent near his black Mercedes
23 at the intersection of Wilshire Boulevard and South Rampart Boulevard. The LAPD officers
24 inspected Respondent's black Mercedes and observed fresh damage to the left side of the vehicle.
25 The LAPD officers concluded that the damage to Respondent's vehicle was consistent with the
26 damage to the victim-motorist's vehicle.

27 C. Respondent told the LAPD officers that he did not recall the traffic crash, but
28 admitted to driving the black Mercedes to the parking lot where he parked his vehicle.

1 Respondent admitted to drinking "one beer" earlier that evening. During the LAPD officers'
2 contact with Respondent, he displayed symptoms of intoxication, including: the strong odor of
3 alcohol emitting from his breath; bloodshot and watery eyes; slurred speech; a flush, red face; and
4 poor coordination. Respondent agreed to take Standardized Field Sobriety Tests, but he was
5 ultimately unable to perform the tests as explained and demonstrated by the LAPD officers.
6 Consequently, the LAPD officers formed the opinion that Respondent was under the influence of
7 an intoxicant and was unable to operate a motor vehicle safely upon a highway.

8 C. Respondent was arrested for driving under the influence of an alcoholic
9 beverage and transported to the Olympic Station where he consented to and provided two breath
10 samples. The first sample revealed that Respondent's breath alcohol concentration was
11 approximately 0.17 percent. The second sample revealed that Respondent's breath alcohol
12 concentration was approximately 0.18 percent.

13 D. Respondent was booked into the Metropolitan Detention Center.

14 13. Respondent's acupuncturist license was previously due to expire on August 31, 2015.
15 On August 15, 2015, Respondent completed a license renewal application and further certified
16 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
17 license renewal application. In response to the question asking whether Respondent had been
18 convicted of any crime in any state since he last renewed his acupuncturist license, Respondent
19 indicated "no" by checking the appropriate box on the form. Respondent's acupuncturist license
20 was subsequently renewed and is now due to expire on August 31, 2017.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct –Use of an Alcoholic Beverage in a Dangerous Manner)**

23 14. By reason of the facts set forth in paragraphs 12 and 13 above, Respondent's license
24 is subject to disciplinary action under Section 4955, subdivision (a) of the Code, in that
25 Respondent used alcoholic beverages to the extent, or in such a manner, as to be dangerous and
26 injurious to himself, or to any other person or to the public.

27 15. Respondent's acts and/or omissions as set forth in paragraphs 12 and 13 above,
28 whether proven individually, jointly, or in any combination thereof, constitute Respondent's use

1 of alcoholic beverages to the extent, or in such a manner, as to be dangerous and injurious to
2 himself, or to any other person or to the public pursuant to Section 4955, subdivision (a) of the
3 Code. Therefore, cause for discipline exists.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Conviction of a Substantially Related Crime)**

6 16. By reason of the facts set forth in paragraphs 12 and 13 above, Respondent's license
7 is subject to disciplinary action under Section 4955, subdivision (b), Section 4956, and Section
8 490 of the Code, in that Respondent has been convicted of a crime substantially related to the
9 qualifications, functions or duties of an acupuncturist.

10 17. Respondent's acts and/or omissions as set forth in paragraphs 12 and 13 above,
11 whether proven individually, jointly, or in any combination thereof, constitute the conviction of a
12 crime substantially related to the qualifications, functions or duties of an acupuncturist pursuant
13 to Section 4955, subdivision (b), Section 4956, and Section 490 of the Code. Therefore, cause for
14 discipline exists.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Committing an Act of Dishonesty or Corruption)**

17 18. By reason of the facts set forth in paragraph 14 above, Respondent's license is subject
18 to disciplinary action under Section 4955, subdivision (d), Section 4955.1, subdivision (c), and
19 Section 498 of the Code, in that Respondent committed an act involving dishonesty or corruption
20 with respect to the qualifications, functions or duties of an acupuncturist, and knowingly omitted
21 to state a material fact in securing his renewed acupuncturist license.

22 19. Respondent's acts and/or omissions as set forth in paragraph 14 above, whether
23 proven individually, jointly, or in any combination thereof, constitute the commission of an act
24 involving dishonesty or corruption with respect to the qualifications, functions or duties of an
25 acupuncturist, and knowingly omitting to state a material fact in securing his renewed
26 acupuncturist license pursuant to Section 4955, subdivision (d), Section 4955.1, subdivision (c),
27 and Section 498 of the Code. Therefore, cause for discipline exists.

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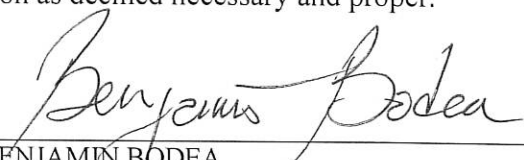
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PRAYER

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

1. Revoking or suspending Acupuncturist License Number AC12253, issued to Yong Bum Bae, L.Ac.
2. Ordering Yong Bum Bae, L.Ac. to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;
3. Ordering Yong Bum Bae, L.Ac., if placed on probation, to pay the Acupuncture Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: **JUL 26 2016**



BENJAMIN BODEA
Acting Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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