

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

In the Matter of the Accusation Against:) Case No. 1A-2016-229
)
KYOUNG TEA KIM, L.AC.)
2248 South Stinson Avenue)
Hacienda Heights, CA 91745)
)
Acupuncture License No. AC 13341)
)
Respondent.)
_____)

DECISION AND ORDER

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

This Decision shall become effective on April 18, 2019.

It is so ORDERED March 19, 2019.



Amy Matecki, MD, L.Ac.
Acupuncture Board
Department of Consumer Affairs
State of California

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11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

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Case No. 1A-2016-229

15 **KYOUNG TEA KIM, L.Ac.**
16 **2248 South Stinson Avenue**
Hacienda Heights, CA 91745

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **Acupuncture License No. AC 13341**

18 Respondent.
19

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

23 **PARTIES**

24 1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board
25 (Board). He brought this action solely in his official capacity and is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney
27 General.
28

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 1A-2016-229.

4 10. Respondent agrees that his Acupuncture License is subject to discipline and he agrees
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 **CONTINGENCY**

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

16 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Settlement and Disciplinary Order shall have the same force and effect as
18 the originals.

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

22 **DISCIPLINARY ORDER**

23 **IT IS HEREBY ORDERED** that Acupuncture License No. AC 13341 issued to
24 Respondent Kyoung Tea Kim, L.Ac. is revoked. However, the revocation is stayed and
25 Respondent is placed on probation for four (4) years on the following terms and conditions.

26 1. **EXAMINATION** Respondent shall take and pass the licensure exam(s) currently
27 required of new applicants for the license possessed by Respondent. Respondent shall not
28 practice acupuncture until Respondent has taken and passed these examinations. Respondent

1 shall pay the established examination fees. If Respondent has not passed the examination within
2 18 months from the effective date of this Decision, Respondent shall be in violation of probation.

3 2. OBEY ALL LAWS Respondent shall obey all federal, state and local laws,
4 remain in full compliance with any court ordered criminal probation terms, payments, and/or
5 other orders, and all regulations governing the practice of acupuncture in California. A full and
6 detailed account of any and all violations of law shall be reported by the Respondent to the Board
7 or its designee in writing within 72 hours of occurrence. This condition applies to any
8 jurisdiction with authority over the Respondent, whether inside or outside California.

9 3. PRACTICE MONITOR Within 90 days of the effective date of this Decision,
10 Respondent shall submit to the Board or its designee for prior approval as a practice (i.e.,
11 practice, billing, or practice and billing) monitor(s), the name and qualifications of one or more
12 California licensed acupuncturists whose license is clear and active, in good standing and not
13 disciplined by the Board. Prior to the Board's approval, Respondent shall provide a copy of the
14 Board's Accusation and Decision to the monitor(s). A monitor shall have no prior or current
15 business or personal relationship with Respondent, or other relationship that could reasonably be
16 expected to compromise the ability of the monitor to render fair and unbiased reports to the Board
17 or its designee and must agree to serve as Respondent's monitor. Respondent shall pay all
18 monitoring costs. The Board in its sole discretion shall have the option of rejecting the proposed
19 monitor(s) for any reason and Respondent shall work to provide an alternative monitor(s) as set
20 forth above.

21 Upon approval of the monitor(s), the Board or its designee shall provide a monitoring plan.
22 Within 15 days of receipt of the monitoring plan, the monitor shall submit a signed statement that
23 the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor,
24 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
25 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
26 statement.

27 Within 120 days of the effective date of this Decision, and continuing through probation,
28 Respondent shall make all records available for immediate inspection and copying on the

1 premises by the monitor at all times during business hours and shall retain the records for the
2 entire term of probation.

3 Respondent shall notify all current and potential patients in writing of any term or condition
4 of probation which will affect their treatment or the confidentiality of their records (such as this
5 condition which requires a practice monitor). Such written notification shall be signed by each
6 patient prior to continuing or commencing treatment and the written notification shall be kept as
7 part of the patient's healthcare record.

8 The monitor(s) shall submit a quarterly written report to the Board or its designee which
9 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
10 are within the standards of practice of acupuncture or billing, or both, and whether Respondent is
11 practicing acupuncture safely, billing appropriately or both. It shall be the sole responsibility of
12 Respondent to ensure that the monitor submits written reports to the Board or its designee
13 quarterly.

14 If the monitor resigns or is no longer available, Respondent shall, within five days of such
15 resignation or unavailability notify the Board. Within 30 days, Respondent shall submit to the
16 Board or its designee, for prior approval, the name and qualifications of a replacement monitor.
17 Upon approval, the monitor shall assume immediate responsibility. If Respondent fails to obtain
18 approval of a replacement monitor within 60 days of the resignation or unavailability of the
19 monitor, after notification by the Board, Respondent shall be suspended from the practice of
20 acupuncture until a replacement monitor is approved and prepared to assume immediate
21 monitoring responsibility.

22 Failure to maintain all records, or to make all appropriate records available for immediate
23 inspection and copying on the premises, or to comply with this condition as outlined above, is a
24 violation of probation.

25 4. NO SOLO PRACTICE Respondent is prohibited from engaging in the solo
26 practice of Acupuncture. Prohibited solo practice includes, but is not limited to, a practice where
27 1) Respondent merely shares office space with another licensed practitioner but is not affiliated
28 for the purposed of providing patient care, or 2) Respondent is the sole licensed practitioner at

1 that location.

2 If Respondent fails to establish a practice with another licensed practitioner or secure
3 employment in an appropriate practice setting within 60 days of the effective date of this
4 Decision, Respondent shall receive notification from the Board or its designee to cease the
5 practice of acupuncture within three (3) days after being so notified. The Respondent shall not
6 resume practice until an appropriate practice setting is established.

7 If, during the course of the probation, the Respondent's practice setting changes and the
8 Respondent is no longer practice in a setting compliance with this Decision, the Respondent shall
9 notify the Board or its designee within five (5) days of the practice setting change. If Respondent
10 fails to establish a practice with another licensed practitioner or secure employment in an
11 appropriate practice setting within 60 days of the practice setting change, Respondent shall
12 receive a notification from the Board or its designee to cease the practice of acupuncture within
13 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
14 appropriate practice setting is established.

15 5. QUARTERLY REPORTS Respondent shall submit quarterly reports under
16 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
17 compliance with all the conditions of probation. If the final probation report is not submitted as
18 directed, probation shall be extended automatically until such time as the final report is submitted
19 and accepted by the Board or its designee.

20 6. MONITORING PROGRAM Respondent shall comply with the Board's
21 probation monitoring program and shall, upon reasonable notice, report to the assigned probation
22 monitor. Respondent shall contact the assigned probation monitor regarding any questions
23 specific to the probation order. Respondent shall not have any contact with (1) victims,
24 witnesses, and/or complainants associated with the case; (2) Board members and/or members of
25 its staff; (3) persons serving the Board as subject matter experts; and/or (4) persons who
26 previously rendered expert opinions on behalf of the Board in Respondent's disciplinary
27 proceeding unless the Respondent obtains prior approval from his assigned Board probation
28 monitor to allow for contact.

1 7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall
2 appear in person for interviews with the Board or its designee upon request at various intervals
3 and with or without prior notice throughout the term of probation.

4 8. CHANGES Of EMPLOYMENT Respondent shall notify the Board in writing,
5 through the assigned probation monitor of any and all changes of employment, location and
6 employment address within 30 days of such change.

7 9. EMPLOYMENT REQUIREMENTS During probation, Respondent shall work in
8 his capacity as an acupuncturist in the State of California. This practice shall consist of no less
9 than 40 hours per month.

10 10. COURSEWORK Respondent, at his own expense, shall enroll and successfully
11 complete not less than 20 hours of coursework in the area: Documentation/Record Keeping and
12 complete the Clean Needle Technique, 7th Edition, course offered by the Council of Colleges of
13 Acupuncture and Oriental Medicine. Classroom attendance must be specifically required.
14 Coursework must be completed no later than the end of the second year of probation. The
15 coursework shall be in addition to that required for license renewal. Within 30 days of the
16 effective date of the Decision, Respondent shall submit a written plan to comply with this
17 requirement to the Board or its designee. The Board or its designee shall approve such plan prior
18 to enrollment in any course of study.

19 Upon successful completion of the coursework, Respondent shall submit original
20 completion certificates to the Board within 30 days of course completion. All costs of the
21 coursework shall be borne by Respondent.

22 11. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event
23 Respondent should leave California for a period exceeding 30 days, Respondent must notify the
24 Board or its designee immediately in writing of the dates of departure and return. Periods
25 exceeding 30 days spent outside California will not apply to the reduction of this probationary
26 period.

27 For purposes of this condition, a Board ordered suspension or non-practice in compliance
28 with any other condition of probation shall not be tolled. Any order for payment of cost recovery

1 shall remain in effect whether or not probation is tolled.

2 12. RESTRICTION ON EMPLOYING AND SUPERVISION OF TRAINEES

3 Respondent shall not employ or supervise or apply to employ or supervise acupuncture
4 trainees during this probation. Respondent shall terminate any such supervisory relationship in
5 existence on the effective date of this probation. Respondent shall not teach at any Board
6 approved training program or continuing education courses during the course of this probation.

7 13. COST RECOVERY Respondent shall pay to the Board its costs of investigation
8 and enforcement in the amount of \$ 6,250.00. Respondent shall be permitted to pay these costs in
9 a payment plan approved by the Board or its designee, with payments to be completed no later
10 than three months prior to the end of the probation term. Cost recovery will not be tolled.

11 At Respondent's request, if Respondent has not complied with this condition during the
12 probationary term, and Respondent has presented sufficient documentation of his good faith
13 efforts to comply with this condition, and if no other conditions have been violated, the Board or
14 its designee, in its discretion, may grant an extension of Respondent's probation period up to two
15 years without further hearing in order to comply with this condition. During the two years
16 extension, all original conditions of probation will apply. The filing of bankruptcy by
17 Respondent shall not relieve Respondent of his/her responsibility to reimburse the Board for its
18 investigation and prosecution costs.

19 14. VIOLATION OF PROBATION If Respondent violates probation in any respect,
20 the Board may, after giving Respondent notice and the opportunity to be heard, revoke probation
21 and carry out the disciplinary order that was stayed. If an accusation or petition to revoke
22 probation is filed against Respondent during probation, the Board shall have continuing
23 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
24 is final. No petition for modification or termination of probation shall be considered while there
25 is an accusation or petition to revoke probation pending against Respondent. If Respondent has
26 not complied with any term or condition of probation, the Board shall have continuing
27 jurisdiction over Respondent, and probation shall automatically be extended until all terms and
28 conditions have been satisfied or the Board has taken other action as deemed appropriate to treat

1 the failure to comply as a violation of probation, to terminate probation, and to impose the penalty
2 which was stayed.

3 15. PROBATION MONITORING COSTS Respondent shall pay the costs associated
4 with probation monitoring each and every year of probation, as designated by the Board or its
5 designee, which may be adjusted on an annual basis. Such costs shall be payable to the Board on
6 a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s)
7 as directed shall be considered a violation of probation.

8 16. LICENSE SURRENDER Following the effective date of this Decision, if
9 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
10 the terms and conditions of probation, Respondent may request the voluntary surrender of his or
11 her license or registration. The Board or its designee reserves the right to evaluate Respondent's
12 request and to exercise its discretion whether or not to grant the request, or to take any other
13 action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of
14 the surrender, Respondent shall, within 15 days, deliver Respondent's pocket and/or wall
15 certificate to the Board or its designee and Respondent shall no longer practice acupuncture.
16 Upon formal acceptance of the tendered license, Respondent will no longer be subject to the
17 terms and conditions of probation.

18 Voluntary surrender of Respondent's license shall be considered disciplinary action and
19 shall become a part of Respondent's license history with the Board. If Respondent reapplies for
20 an acupuncture license, the application shall be treated as a petition for reinstatement of a revoked
21 or surrendered license.

22 17. SEVERABILITY CLAUSE Each condition of probation is a separate and distinct
23 condition. If any condition of this Decision and Order, or any application thereof, is declared
24 unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all
25 other applications thereof, shall not be affected. Each condition of this Decision and Order shall
26 separately be valid and enforceable to the fullest extent permitted by law.

27 18. NOTIFICATION OF NAME, ADDRESS, TELEPHONE NUMBER OR E-MAIL
28 ADDRESS CHANGES Respondent shall notify the assigned probation monitor, in writing

1 within 10 days, of any and all name, address, telephone and/or e-mail address changes.

2 19. MAINTENANCE OF CLEAR AND ACTIVE LICENSE Respondent shall, at all
3 times, maintain a clear and active current license with the Board, including any period of
4 suspension or tolled probation. If an initial license must be issued (Statement of Issues) or a
5 license is reinstated, probation shall not commence until a license is issued by the Board.
6 Respondent must complete the licensure process within two years from the effective date of the
7 Board's Decision. Should Respondent's license expire, by operation of law or otherwise, upon
8 renewal or reinstatement, Respondent's license shall be subject to any and all conditions of this
9 probation not previously satisfied.

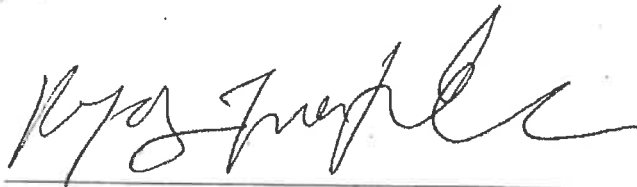
10 20. Completion of Probation Upon successful completion of probation, Respondent's
11 license will be fully restored.

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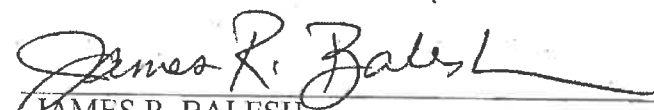
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, James R. Balesh. I understand the stipulation and the effect it will
4 have on my Acupuncture 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 DATED: 12/11/18 
8 KYOUNG TEA KIM, L.Ac.
9 Respondent

10 I have read and fully discussed with Respondent Kyoung Tea Kim, 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: 12/11/18 
14 JAMES R. BALESH
15 Attorney for Respondent

16 ENDORSEMENT

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

19 Dated: 12/12/18


20 Respectfully submitted,
21 XAVIER BECERRA
22 Attorney General of California
23 E. A. JONES III
24 Supervising Deputy Attorney General
25 
26 WENDY WIDLUS
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

Accusation No. 1A-2016-229