

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

In the Matter of the Statement of Issues)
Against:)
)
DIXIE SHANNON WALL)
1100 Irvine Blvd., #187)
Tustin, CA 92780)
)
)
Applicant/Respondent.)
_____)


Case No. 1A-2010-45

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 **MAR 12 2011** .

It is so ORDERED **FEB 10 2011** .



Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California.
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2083
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:
13 **DIXIE SHANNON WALL**
14 **1100 Irvine Blvd., #187**
Tustin, CA 92780
15 **Acupuncture License**
16 Respondent.

Case No. 1A-2010-45
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Edmund G. Brown Jr., Attorney General of the State of California, by Samuel K. Hammond,
24 Deputy Attorney General.

25 2. Respondent DIXIE SHANNON WALL (Respondent) is represented in this
26 proceeding by attorney Michael J. Schroeder, Esq., whose address is 1851 East First Street,
27 Suite 1160, Santa Ana, California 92705.

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JURISDICTION

3. On or about October 5, 2010, Statement of Issues No. 1A-2010-45 was filed before the Acupuncture Board, Department of Consumer Affairs, State of California, and is currently pending against Respondent. A true and correct copy of the Statement of Issues and all other statutorily required documents were properly served on Respondent on October 5, 2010. Respondent timely filed her Notice of Defense contesting the Statement of Issues. A true and correct copy of Statement of Issues No. 1A-2010-45 is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 1A-2010-45. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

5. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

7. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 1A-2010-45.

8. Respondent agrees that her Acupuncture License is subject to denial and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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CONTINGENCY

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2 9. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
3 submitted to the Board for its consideration in the above-entitled matter and, further, that the
4 Board shall have a reasonable period of time in which to consider and act on this Stipulated
5 Settlement and Disciplinary Order after receiving it.

6 10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
7 and void and not binding upon the parties unless approved and adopted by the Board, except for
8 this paragraph, which shall remain in full force and effect. Respondent fully understands and
9 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
10 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
11 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify
12 the Board, any member thereof, and/or any other person from future participation in this or any
13 other matter affecting or involving respondent. In the event that the Board, in its discretion, does
14 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of
15 this paragraph, it shall not become effective, shall not be of evidentiary value whatsoever, and
16 shall not be relied upon or introduced in any disciplinary action by either party hereto.

17 Respondent further agrees that should the Board reject this Stipulated Settlement and
18 Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member
19 thereof, was prejudiced by it/his/her review, discussion and/or consideration of this Stipulated
20 Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

21
22 11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
23 be an integrated writing representing the complete, final and exclusive embodiment of the
24 agreements of the parties in the above-entitled matter.

25 12. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
26 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
27 signatures and, further, that facsimile copies shall have the same force and effect as originals.

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1 2. ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND
2 SAMPLES Respondent shall abstain completely from the personal use or possession of
3 controlled substances as defined in the California Uniform Controlled Substances Act (Division
4 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by
5 section 4211 of the Business and Professions Code, or any drugs requiring a prescription.
6 Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall
7 undergo random, biological fluid testing as determined by the Board. Respondent shall bear all
8 costs of such testing. The Length of time and frequency will be determined by the Board. Any
9 confirmed positive finding will be considered a violation of probation.

10 3. COST RECOVERY The respondent is ordered to reimburse the Board the actual and
11 reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$2,500.
12 Said costs may be paid by installment provided the entire amount is paid within 24 months of the
13 effective date of the Decision. Failure to pay the ordered reimbursement, or any agreed upon
14 payment, constitutes a violation of the probation order. The filing of bankruptcy by respondent
15 shall not relieve respondent of her responsibility to reimburse the Board. If respondent is in
16 default of her responsibility to reimburse the Board, the Board will collect cost recovery from the
17 Franchise Tax Board, the Internal Revenue Service or by any other means of attachment thereof.

18 4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, the
19 statutes and regulations governing the practice of physical therapy, and remain in full compliance
20 with any court ordered criminal probation. This condition applies to any jurisdiction with
21 authority over respondent, whether it is inside or outside of California.

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

25 6. SURVEILLANCE PROGRAM Respondent shall comply with the Board's
26 probation surveillance program and shall, upon reasonable notice, report to the assigned
27 investigation district office. Respondent shall contact the assigned probation surveillance monitor
28 regarding any questions specific to the probation order. Respondent shall not have any

1 unsolicited or unapproved contact with: (1) victims or complainants associated with the case;
2 (2) Board members or members of its staff; or (3) persons serving the Board as expert examiners.

3 7. NOTIFICATION TO EMPLOYER AND CHANGES OF EMPLOYMENT

4 Respondent shall notify any future employers, supervisors, or contractors of her probationary
5 status with the Board prior to accepting employment. Respondent shall provide to the Board the
6 names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

7 Respondent shall complete the required consent forms and sign an agreement with the
8 employer and supervisor, or the contractor, and the Board to allow the Board to communicate
9 with the employer and supervisor or contractor.

10 Respondent shall cause each employer and supervisor or contractor to submit quarterly
11 written declarations to the Board. These declarations shall include a performance evaluation.

12 Respondent shall notify the Board in writing of any change in her employment status within
13 ten (10) days of such change.

14 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
15 person for interviews with the Board, or its designee, upon request at various intervals.

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

20 10. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
21 employ or supervise acupuncture trainees during the course of this probation. Respondent shall
22 terminate any such supervisory relationship in existence on the effective date of the probation.

23 11. VIOLATION OF PROBATION If respondent violates probation in any respect, the
24 Board, after giving respondent notice and the opportunity to be heard, may revoke probation and
25 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is
26 filed against respondent during probation, the Board shall have continuing jurisdiction until the
27 matter is final, and the period of probation shall be extended until the matter is final. No petition.

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1 or modification or termination of probation shall be considered while there is an accusation or
2 petition to revoke probation pending against respondent.

3 12. COMPLETION OF PROBATION Upon successful completion of probation,
4 respondent's license shall be fully restored.

5 13. REIMBURSEMENT FOR PROBATION SURVEILLANCE Respondent shall
6 reimburse the Board for the hourly costs it incurs in the monitoring of probation to ensure
7 compliance for the duration of probation.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Michael J. Schroeder, Esq. I understand the stipulation and the
11 effect it will have on my Acupuncture License. I enter into this Stipulated Settlement and
12 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
13 Decision and Order of the Acupuncture Board, Department of Consumer Affairs, State of
14 California.

15 DATED: 11/10/10 Dixie Shannon Wall
16 DIXIE SHANNON WALL
Respondent

17 I have read and fully discussed with Respondent DIXIE SHANNON WALL the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

19 I approve its form and content.
20 DATED: 11/10/10 Michael J. Schroeder
21 MICHAEL J. SCHROEDER, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

Dated: 12 | 2 | 10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General



SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 1A-2010-45

1 EDMUND G. BROWN JR.
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2083
7 Facsimile: (619) 645-2061
Attorneys for Complainant

FILED

OCT 5 2010

ACUPUNCTURE BOARD

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 1A-2010-45

13 **DIXIE SHANNON WALL**
14 **1100 IRVINE BLVD., SUITE 187**
TUSTIN, CA 92780

STATEMENT OF ISSUES

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 15, 2010, the Acupuncture Board, Department of Consumer
23 Affairs, received an application for an acupuncture license from DIXIE SHANNON WALL
24 (Respondent). On or about March 12, 2010, Dixie Shannon Wall certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on or about May 5, 2010.

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1 **JURISDICTION**

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

5 Section 4955 of the Code states:

6 "The board may deny, suspend, or revoke, or impose probationary conditions upon,
7 the 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 "(a) Using or possessing any controlled substance as defined in Division 10
10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug
11 or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or
12 to any other person, or to the public, and to an extent that the use impairs his or her
13 ability to engage in the practice of acupuncture with safety to the public.

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

17 "(c) False or misleading advertising.

18 "(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly,
19 the violation of the terms of this chapter or any regulation adopted by the board
20 pursuant to this chapter.

21 "(e) Except for good cause, the knowing failure to protect patients by failing to
22 follow infection control guidelines of the board, thereby risking transmission of
23 blood-borne infectious diseases from licensee to patient, from patient to patient, and
24 from patient to licensee. In administering this subdivision, the board shall consider
25 referencing the standards, regulations, and guidelines of the State Department of
26 Health Services developed pursuant to Section 1250.11 of the Health and Safety Code
27 and the standards, regulations, and guidelines pursuant to the California Occupational
28 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5

1 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other
2 blood-borne pathogens in health care settings. As necessary, the board shall consult
3 with the Medical Board of California, the California Board of Podiatric Medicine, the
4 Dental Board of California, the Board of Registered Nursing, and the Board of
5 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
6 consistency in the implementation of this subdivision.

7 "The board shall seek to ensure that licensees are informed of the responsibility
8 of licensees and others to follow infection control guidelines, and of the most recent
9 scientifically recognized safeguards for minimizing the risk of transmission of
10 blood-borne infectious diseases.

11 "(f) The use of threats or harassment against any patient or licensee for
12 providing evidence in a disciplinary action, other legal action, or in an investigation
13 contemplating a disciplinary action or other legal action.

14 "(g) Discharging an employee primarily for attempting to comply with the
15 terms of this chapter.

16 "(h) Disciplinary action taken by any public agency for any act substantially
17 related to the qualifications, functions, or duties of an acupuncturist or any
18 professional health care licensee.

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

21 "(j) The violation of any law or local ordinance on an acupuncturist's business
22 premises by an acupuncturist's employee or a person who is working under the
23 acupuncturist's professional license or business permit, that is substantially related to
24 the qualifications, functions, or duties of an acupuncturist. These violations shall
25 subject the acupuncturist who employed the individuals, or under whose
26 acupuncturist license the employee is working, to disciplinary action.

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1 (k) The abandonment of a patient by the licentiate without written notice to the
2 patient that treatment is to be discontinued and before the patient has had a reasonable
3 opportunity to secure the services of another practitioner.

4 (l) the failure to notify the board of the use of any false, assumed, or fictitious
5 name other than the name under which he or she is licensed as an individual to
6 practice acupuncture."

7 4. Section 480 of the Code states:

8 (a) A board may deny a license regulated by this code on the grounds that the
9 applicant has one of the following:

10 (1) Been convicted of a crime. A conviction within the meaning of this section
11 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
12 Any action that a board is permitted to take following the establishment of a
13 conviction may be taken when the time for appeal has elapsed, or the judgment of
14 conviction has been affirmed on appeal, or when an order granting probation is made
15 suspending the imposition of sentence, irrespective of a subsequent order under the
16 provisions of Section 1203.4 of the Penal Code.

17 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
18 substantially benefit himself or herself or another, or substantially injure another.

19 (3) (A) Done any act that if done by a licentiate of the business or profession
20 in question, would be grounds for suspension or revocation of license.

21 (B) The board may deny a license pursuant to this subdivision only if the
22 crime or act is substantially related to the qualifications, functions, or duties of the
23 business or profession for which application is made.

24 (b) Notwithstanding any other provision of this code, no person shall be denied a
25 license solely on the basis that he or she has been convicted of a felony if he or she has
26 obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section
27 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a
28 misdemeanor if he or she has met all applicable requirements of the criteria of

1 rehabilitation developed by the board to evaluate the rehabilitation of a person when
2 considering the denial of a license under subdivision (a) of Section 482.

3 "(c) A board may deny a license regulated by this code on the ground that the
4 applicant knowingly made a false statement of fact required to be revealed in the
5 application for the license."

6 5. Section 493 of the Code provides

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

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 **(Conviction of Crimes Substantially Related to the Practice of an Acupuncturist)**

19 6. Respondent's application is subject to denial under section 4955, as defined by section
20 4955, subdivision (b), of the Code, in that respondent has been convicted of crimes substantially
21 related to the qualifications, functions, and duties of an acupuncturist. The circumstances are as
22 follows:

23 A. On or about August 25, 2000, in the Superior Court of California, County of
24 County of Orange in the case of *People v. Wall, Dixie Shannon*, Case No. 00SF0561, respondent
25 was convicted on her plea of guilty, of one felony count of possession of methamphetamine¹ in
26 violation of Health and Safety Code section 11379, subdivision (a); one misdemeanor count of

27 ¹ Methamphetamine is a Schedule II controlled substance under Health and Safety Code
28 section 11055, subsection (d)(2) and a dangerous drug under Code section 4022.

1 use of methamphetamine in violation of Health and Safety Code section 11550, subdivision (a);
2 and one misdemeanor count of unlawful possession of less than one ounce of marijuana² in
3 violation of Health and Safety Code section 11357, subdivision (b).

4 B. As a consequence of these convictions, respondent was sentenced to three (3) years
5 formal probation with terms and conditions including the requirement that she complete
6 a six-month residential drug rehabilitation program, spend 180 days in jail (which was stayed
7 pending completion of the drug rehabilitation program) and payment of \$200 in fines.

8 C. The circumstances leading to these convictions are as follows: On or about August
9 17, 2000, an Orange County Sheriff's Department officers stopped respondent for driving an
10 automobile with an obstructed rear view window. Upon contact by the officer, respondent
11 appeared sweaty and her hands were trembling. The officers conducted an evaluation and
12 determined respondent was under the influence of a stimulant. Respondent was arrested and a
13 search of respondent's vehicle was conducted. The officers found approximately two grams of
14 methamphetamine and two grams of marijuana in respondent's vehicle.

15 D. On or about August 21, 2000, the District Attorney for the County of Orange filed a
16 criminal complaint charging respondent with one count of possession of methamphetamine for
17 sale in violation of Health and Safety Code section 11378, a felony [Count 1]; one count of
18 unlawful transporting of methamphetamine in violation of Health and Safety Code section 11379,
19 subdivision (a), a felony [Count 2]; one count of unlawful possession of a methamphetamine in
20 violation of Health and Safety Code section 11377, subdivision (a) a misdemeanor [Count 3]; one
21 count of unlawful use of methamphetamine in violation of Health and Safety Code section
22 11500, a misdemeanor [Count 4]; and one count of unlawful possession of marijuana in violation
23 of Health and Safety Code section 11377, subdivision (b), a misdemeanor [Count 5].

24 E. Following respondent's guilty plea to Counts 3, 4 and 5 of the criminal complaint on
25 August 25, 2000, the District Attorney dismissed Counts 1 and 2 of the criminal complaint on his

26 _____
27 ² Marijuana is a Schedule 1 controlled substance under Health and Safety Code section
28 11054, subsection (d)(13).

1 own motion. On that same date, entry of judgment was deferred, and respondent was ordered to
2 enroll in a drug rehabilitation program pursuant to the provisions of Penal Code section 1000. On
3 or about October 5, 2000, the "deferred judgment entry" order was vacated because respondent
4 suffered a "relapse" while in the drug rehabilitation program. On or about November 30, 2000,
5 respondent was sentenced to three (3) years formal probation with specified terms and conditions.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 **(Convictions of Crimes Substantially Related to the Practice of an Acupuncturist)**

8 7. Respondent's application is further subject to denial under section 480, subdivision
9 (b), of the Code, in that she has been convicted of crimes substantially related to the
10 qualifications, functions, and duties of an acupuncturist as more particularly alleged in paragraph
11 6, above, which is hereby incorporated by reference as if fully set forth herein.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Unlawful Use or Possession of Controlled Substance)**

14 8. Respondent's application is further subject to denial under section 4955, as defined
15 by section 4955, subdivision (a), of the Code, in that she unlawfully used and possessed
16 methamphetamine and unlawfully possessed marijuana, as more particularly alleged in paragraph
17 6, above, which is hereby incorporated by reference as if fully set forth herein.

18 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

19 **(Conduct Which Would Warrant Denial of a License)**

20 9. Respondent's application is further subject to denial under section 4955, as
21 defined by section 4955, subdivision (i), of the Code, in that she has been engaged in
22 conduct that would have warranted the denial of an acupuncture license, as more
23 particularly alleged in paragraph 6, above, which is hereby incorporated by reference as if
24 fully set forth herein.


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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. Denying the application of respondent Dixie Shannon Wall for an acupuncturist license;
2. Directing respondent Dixie Shannon Wall to pay the Acupuncture Board the costs of investigation and prosecution of this case, and if placed on probation, the costs of probation monitoring; and
3. Taking such other and further action as deemed necessary and proper.

DATED: **OCT 05 2010**



JANELLE WEDGE
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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