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FILED

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ACUPUNCTURE BOARD

7
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-2013-168

13 **MICHAEL JOHN GUEN**

A C C U S A T I O N

14 **130 Steiner Court**
15 **Santa Rosa, CA 95404**
16 **Acupuncturist License No. AC 4412**

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

21 2. On or about October 15, 1992, the Acupuncture Board issued Acupuncturist License
22 Number AC 4412 to Michael John Guen (Respondent). The License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on February 29, 2016, unless
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Acupuncture Board (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 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

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

8

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

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11 5. Section 726 of the Code states:

12 The commission of any act of sexual abuse, misconduct, or relations with a patient,
13 client, or customer constitutes unprofessional conduct and grounds for disciplinary
14 action for any person licensed under this division, under any initiative act referred to
15 in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

15 COST RECOVERY

16 6. Section 4959 of the Code states:

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

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

25 (c) When the payment directed in the board's order for payment of costs is not made
26 by the licensee, the board may enforce the order for payment in the superior court in
27 the county where the administrative hearing was held. This right of enforcement shall
28 be in addition to any other rights the board may have as to any licensee directed to pay
costs.

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

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

1 CAUSE FOR DISCIPLINE

2 (Sexual Misconduct)

3 7. Patient [REDACTED] was an acupuncture patient of Respondent Michael John Guen from
4 approximately July 6, 2004 until at least March 6, 2013. During this time, Respondent provided
5 acupuncture treatment to [REDACTED] on at least the following occasions:

- 6 • 2004: July 6, 2004; July 16, 2004; July 27, 2004; September 17, 2004;
- 7 • 2005: November 29, 2005;
- 8 • 2006: May 26, 2006; October 18, 2006;
- 9 • 2007: May 14, 2007; June 27, 2007; August 6, 2007; September 11, 2007;
- 10 September 24, 2007
- 11 • 2008: May 13, 2008;
- 12 • 2009: August 19, 2009; October 20, 2009; October 26, 2009; November 2, 2009;
- 13 November 9, 2009; November 16, 2009;
- 14 • 2011: January 28, 2011; February 23, 2011; March 16, 2011; March 21, 2011;
- 15 March 30, 2011; April 5, 2011; April 13, 2011; April 20, 2011; April 27, 2011;
- 16 May 25, 2011; May 31, 2011; June 8, 2011; June 17, 2011; June 29, 2011;
- 17 July 13, 2011; July 27, 2011; August 3, 2011; August 10, 2011; August 18, 2011;
- 18 August 25, 2011; September 1, 2011; September 7, 2011; September 15, 2011;
- 19 September 22, 2011; September 27, 2011; October 4, 2011; October 25, 2011;
- 20 November 1, 2011; November 8, 2011; November 30, 2011; December 7, 2011;
- 21 December 14, 2011; December 21, 2011;
- 22 • 2012: January 10, 2012; January 17, 2012; January 26, 2012; January 31, 2012;
- 23 February 7, 2012; February 16, 2012; February 23, 2012; February 28, 2012;
- 24 March 8, 2012; March 16, 2012; March 23, 2012; March 27, 2012; April 5, 2012;
- 25 April 10, 2012; April 18, 2012; April 23, 2012; May 1, 2012; May 10, 2012;
- 26 May 16, 2012; May 24, 2012; May 29, 2012; June 5, 2012; June 14, 2012;

27 ¹ Patient names are abbreviated to protect patient privacy. Respondent will have the
28 opportunity to identify the patient and to obtain the records of the investigation during discovery.

1 June 19, 2012; July 6, 2012; July 12, 2012; July 25, 2012; August 1, 2012;
2 August 15, 2012; August 24, 2012; August 29, 2012; September 7, 2012;
3 September 12, 2012; September 19, 2012; September 26, 2012; October 10, 2012;
4 October 17, 2012; October 24, 2012; December 18, 2012;
5 • 2013: February 6, 2013; March 6, 2013.

6 8. Respondent also treated Patient [REDACTED] on other occasions, including during treatment
7 sessions that he did not document.

8 9. Patient [REDACTED] was not only an acupuncture patient of Respondent's, but also a paying
9 client of his who attended a weekly group class taught by Respondent. From approximately 2003
10 until approximately 2013, [REDACTED] paid Respondent to attend a weekly "women's group" at which he
11 instructed clients in martial arts, Chinese culture, medicine, and women's empowerment, among
12 other things.

13 10. From approximately 2006 through 2012, Patient [REDACTED] received additional instruction
14 from Respondent (in addition to that provided at his weekly class) in exchange for massages that
15 she gave him. Initially, [REDACTED] massaged Respondent at her home. Later, she massaged him at his
16 home. During this time, Respondent took [REDACTED] out to dinner on several occasions.

17 11. Between approximately 2007 and 2011, Respondent and Patient [REDACTED] had multiple
18 encounters involving sexual acts and sexual relations, including but not limited to the following
19 examples.

20 12. In 2009, while Patient [REDACTED] was giving Respondent a massage, [REDACTED] removed her pants,
21 shirt, and underwear. [REDACTED] then told Respondent that she was attracted to him and rubbed her hips
22 against his arm. Respondent was lying naked on his back, covered by a sheet. [REDACTED] lifted the sheet
23 and put Respondent's penis in her mouth. She then climbed on top of him and attempted to sit on
24 his penis. After this, Respondent continued to take [REDACTED] out to dinner.

25 13. On or about 2010, Patient [REDACTED] moved into Respondent's home and began to pay him
26 rent. She resided at his home and continued to pay him rent until approximately February 2013.
27 [REDACTED] regularly complimented Respondent on the appearance of his body.

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3. Taking such other and further action as deemed necessary and proper.

DATED: AUG 05 2015



TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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