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

12 In the Matter of the Second Amended
13 Accusation/Petition to Revoke Probation
Against:

14 **ANDREW SUNG YOUNG LEE, L.Ac.**
15 **2840 Francis Avenue, #302**
Los Angeles, CA 90005
16 **Acupuncture License No. AC 6060,**

17 Respondent.

Case No. D1-2010-217

OAH No. 2019071238

**SECOND AMENDED ACCUSATION
AND PETITION TO REVOKE
PROBATION**

18
19 Complainant alleges:

20 **PARTIES**

21 1. Benjamin Bodea (Complainant) brings this Second Amended Accusation solely in his
22 official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
23 Affairs.

24 2. On or about September 30, 1997, the Acupuncture Board issued Acupuncture License
25 Number AC 6060 to Andrew Sung Young Lee, L.Ac. (Respondent). The Acupuncture License
26 was in full force and effect at all times relevant to the charges brought herein and will expire on
27 September 30, 2020, unless renewed.

28 3. In a disciplinary action entitled "*In the Matter of Accusation Against Andrew Sung*

1 *Young Lee, L.Ac.*,” Case No. 1A-2010-217, the Acupuncture Board issued a decision, effective
2 June 14, 2015, in which Respondent’s Acupuncturist License was revoked. However, the
3 revocation was stayed and Respondent’s Acupuncturist License was placed on probation for a
4 period of seven (7) years with certain terms and conditions. A copy of that decision is attached as
5 Exhibit A and is incorporated by reference.

6 **JURISDICTION**

7 3. This Second Amended Accusation is brought before the Acupuncture Board (Board),
8 Department of Consumer Affairs, under the authority of the following laws. All section
9 references are to the Business and Professions Code unless otherwise indicated.

10 4. Section 4928.1 of the Code states:

11 “Protection of the public shall be the highest priority for the Acupuncture Board in
12 exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the
13 public is inconsistent with other interests sought to be promoted, the protection of the public shall
14 be paramount.”

15 5. Section 4927, of the Code states:

16 “As used in this chapter, unless the context otherwise requires:

17 “...

18 “(d)

19 “‘Acupuncture’ means the stimulation of a certain point or points on or near the surface of
20 the body by the insertion of needles to prevent or modify the perception of pain or to normalize
21 physiological functions, including pain control, treatment of certain diseases or dysfunctions of
22 the body and includes the techniques of electroacupuncture, cupping, and moxibustion.”

23 6. Section 4937 of the Code states:

24 "An acupuncturist’s license authorizes the holder thereof:

25 “(a) To engage in the practice of acupuncture.

26 “(b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques,
27 exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and
28 dietary supplements to promote, maintain, and restore health. Nothing in this section prohibits

1 any person who does not possess an acupuncturist's license or another license as a healing arts
2 practitioner from performing, or prescribing the use of any modality listed in this subdivision.

3 “(c) For purposes of this section, a ‘magnet’ means a mineral or metal that produces a
4 magnetic field without the application of an electric current.

5 “(d) For purposes of this section, ‘plant, animal, and mineral products’ means naturally
6 occurring substances of plant, animal, or mineral origin, except that it does not include synthetic
7 compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a
8 controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the
9 Health and Safety Code.

10 “(e) For purposes of this section, ‘dietary supplement’ has the same meaning as defined in
11 subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary
12 supplement does not include controlled substances or dangerous drugs as defined in Section 4021
13 or 4022, or a controlled substances listed in Chapter 2 (commencing with Section 11053) of
14 Division 10 of the Health and Safety Code.”

15 7. Section 4955 of the Code states, in pertinent part:

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

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

19 “. . .

20 “(b) Conviction of a crime substantially related to the qualifications, functions or
21 duties of an acupuncturist

22 “(c) False or misleading advertising.

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

26 “(h) Disciplinary action taken by any public agency for any act substantially related
27 to the qualifications, functions, or duties of an acupuncturist or any professional health care
28 licensee.

1 “(i) Any action or conduct that would have warranted the denial of the
2 acupuncture license.

3 “(j) The violation of any law or local ordinance on an acupuncturist's business
4 premises by an acupuncturist's employee or a person who is working under the acupuncturist's
5 professional license or business permit, that is substantially related to the qualifications,
6 functions, or duties of an acupuncturist. These violations shall subject the acupuncturist who
7 employed the individuals, or under whose acupuncturist license the employee is working, to
8 disciplinary action.

9 “ . . . ”

10 8. Section 4955.1 of the Code states, in pertinent part:

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

14 “ . . .

15 “(b) Committing a fraudulent or dishonest act as an acupuncturist.

16 “ . . . ”

17 9. Section 4961 of the Code states, in pertinent part:

18 “(a) Every person who is now or hereafter licensed to practice acupuncture in this state
19 shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he
20 or she has more than one place of practice, all of the places of practice. If the licensee has no
21 place of practice, he or she shall notify the board of that fact. A person licensed by the board
22 shall register within 30 days after the date of his or her licensure.

23 “ . . .

24 “(c) Any licensee that changes the location of his or her place of practice shall register each
25 change within 30 days of making that change. In the event a licensee fails to notify the board of
26 any change in the address of a place of practice within the time prescribed by this section, the
27 board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his
28 or her application whether or not there has been a change in the location of his or her place of

1 practice and, if so, the date of that change. The board may accept that statement as evidence of
2 the change of address.”

3 10. Section 731 of the Code states:

4 “(a) Any person licensed, certified, registered, or otherwise subject to regulation pursuant
5 to this division [Division 2, Healing Arts, commencing with section 500 of the Business and
6 Professions Code] who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315,
7 316, or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work
8 premises of, or work area under the direct professional supervision or control of, that person, shall
9 be guilty of unprofessional conduct. The license, certification, or registration of that person shall
10 be subject to denial, suspension, or revocation by the appropriate regulatory entity under this
11 division.

12 “(b) In addition to any penalty provided under any other provision of law, a violation of
13 subdivision (a) shall subject the person to a civil penalty in an amount not to exceed two thousand
14 five hundred dollars (\$2,500) for the first offense, and not to exceed five thousand dollars
15 (\$5,000) for each subsequent offense, which may be assessed and recovered in a civil action
16 brought by any district attorney. If the action is brought by a district attorney, the penalty
17 recovered shall be paid to the treasurer of the county in which the judgment was entered.”

18 11. California Code of Regulations, title 16, section 1399.469.2 states:

19 “In addition to the conduct described in Section 4955 of the Business and Professions Code,
20 ‘unprofessional conduct’ also includes but is not limited to the following: (a) Including or
21 permitting to be included any of the following provisions in an agreement to settle a civil dispute
22 arising from the licensee’s practice to which the licensee is or expects to be named as a party,
23 whether the agreement is made before or after the filing of an action:

24 “(1) A provision that prohibits another party to the dispute from contacting, cooperating, or
25 filing a complaint with the board.

26 “(2) A provision that requires another party to the dispute to attempt to withdraw a
27 complaint the party has filed with the board.
28

1 “(b) Failure to provide to the board, as directed, lawfully requested copies of documents
2 within 15 days of receipt of the request or within the time specified in the request, whichever is
3 later, unless the licensee is unable to provide the documents within this time period for good
4 cause, including but not limited to, physical inability to access the records in the time allowed due
5 to illness or travel. This subsection shall not apply to a licensee who does not have access to, and
6 control over, medical records.

7 “(c) Failure to cooperate and participate in any board investigation pending against the
8 licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed
9 by the Fifth Amendment to the Constitution of the United States, or any other constitutional or
10 statutory privileges. This subsection shall not be construed to require a licensee to cooperate with
11 a request that would require the licensee to waive any constitutional or statutory privilege or to
12 comply with a request for information or other matters within an unreasonable period of time in
13 light of the time constraints of the licensee’s practice. Any exercise by a licensee of any
14 constitutional or statutory privilege shall not be used against the licensee in a regulatory or
15 disciplinary proceeding against the licensee.

16 “(d) Failure to report to the board within 30 days any of the following:

17 “(1) The bringing of an indictment or information charging a felony against the licensee.

18 “(2) The arrest of the licensee.

19 “(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no
20 contest, of any felony or misdemeanor.

21 “(4) Any disciplinary action taken by another licensing entity or authority of this state or of
22 another state or an agency of the federal government or the United States military.

23 “(e) Failure or refusal to comply with a court order, issued in the enforcement of a
24 subpoena, mandating the release of records to the board.”

25 12. California Penal Code Section 315 states:

26 “Every person who keeps a house of ill-fame in this state, resorted to for the purposes of
27 prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and
28 in all prosecutions for keeping or resorting to such a house common repute may be received as

1 competent evidence of the character of the house, the purpose for which it is kept or used, and the
2 character of the women inhabiting or resorting to it.”

3 //

4 13. California Penal Code section 647 states, in pertinent part:

5 “. . .

6 “(b)(1) (b) (1) An individual who solicits, or who agrees to engage in, or who engages in,
7 any act of prostitution with the intent to receive compensation, money, or anything of value from
8 another person. An individual agrees to engage in an act of prostitution when, with specific intent
9 to so engage, he or she manifests an acceptance of an offer or solicitation by another person to so
10 engage, regardless of whether the offer or solicitation was made by a person who also possessed
11 the specific intent to engage in an act of prostitution.

12 14. California Penal Code section 415 states:

13 “Any of the following persons shall be punished by imprisonment in the county jail for a
14 period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such
15 imprisonment and fine:

16 “(1) Any person who unlawfully fights in a public place or challenges another person in a
17 public place to fight.

18 “(2) Any person who maliciously and willfully disturbs another person by loud and
19 unreasonable noise.

20 “(3) Any person who uses offensive words in a public place which are inherently likely to
21 provoke an immediate violent reaction.”

22 15. California Penal Code section 11225 states:

23 “(a)(1) Every building or place used for the purpose of illegal gambling as defined by state
24 law or local ordinance, lewdness, assignation, or prostitution, and every building or place in or
25 upon which acts of illegal gambling as defined by state law or local ordinance, lewdness,
26 assignation, or prostitution, are held or occur, is a nuisance which shall be enjoined, abated, and
27 prevented, and for which damages may be recovered, whether it is a public or private nuisance.

28

1 “(2) Nothing in this subdivision shall be construed to apply the definition of a nuisance to a
2 private residence where illegal gambling is conducted on an intermittent basis and without the
3 purpose of producing profit for the owner or occupier of the premises.

4 “(b)(1) Notwithstanding any other law, every building or place used for the purpose of
5 human trafficking, and every building or place in or upon which acts of human trafficking are
6 held or occur, is a nuisance which shall be enjoined, abated, and prevented, and for which
7 damages may be recovered, whether it is a public or private nuisance.

8 “(2) For purposes of this subdivision, human trafficking is defined in Section 236.1.

9 “(c)(1) Every building or place used as a bathhouse which as a primary activity encourages
10 or permits conduct that according to the guidelines of the federal Centers for Disease Control and
11 Prevention can transmit AIDS, including, but not limited to, anal intercourse, oral copulation, or
12 vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which
13 damages may be recovered, whether it is a public or private nuisance.

14 “(2) For purposes of this subdivision, a “bathhouse” means a business which, as its primary
15 purpose, provides facilities for a spa, whirlpool, communal bath, sauna, steam bath, mineral bath,
16 mud bath, or facilities for swimming.”

17 16. California Civil Code section 3479 states:

18 “Anything which is injurious to health, including, but not limited to, the illegal sale of
19 controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of
20 property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully
21 obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay,
22 stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.”

23 17. California Civil Code section 3480 states:

24 “A public nuisance is one which affects at the same time an entire community or
25 neighborhood, or any considerable number of persons, although the extent of the annoyance or
26 damage inflicted upon individuals may be unequal.”

27 18. Oakland Municipal Code section 5.36.250 states:

28 “5.36.250 - Operating requirements—Massage therapist and massage therapist trainees.

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

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

5 **Factual Allegations**

6 20. On or about January 6, 2014, the Board filed a disciplinary action entitled “*In the*
7 *Matter of Accusation Against Andrew Sung Young Lee, L.Ac.*,” (“prior Accusation”) which
8 alleged in the First Cause for Discipline that Respondent had been convicted by his plea of guilty
9 to a misdemeanor violation of Business and Professions Code section 315 (e), keeping a house of
10 prostitution, a crime substantially related to the qualifications, functions or duties of an
11 acupuncturist; in the Second Cause for Discipline that Respondent had engaged in conduct that
12 would have warranted the denial of his acupuncture license; in the Third Cause for Discipline that
13 Respondent had engaged in Unprofessional Conduct; in the Fourth Cause for Discipline that
14 Respondent had engaged in conduct involving corruption with respect to the qualifications,
15 furnishing or duties of an acupuncturist; and in the Fifth and Sixth Causes for Discipline that
16 Respondent failed to Notify the Board of All Places of Practice.

17 21. On September 11, 2014, Respondent signed a Stipulated Settlement Order. On May
18 14, 2015 the Board adopted the stipulation as its Decision and Order, effective June 14, 2015.
19 Respondent admitted the truth of each and every charge and allegation of the prior Accusation
20 which resolved the disciplinary action entitled “*In the Matter of Accusation Against Andrew Sung*
21 *Young Lee, L.Ac.*,” Case No. 1A-2010-217, and placed Respondent on probation for seven (7)
22 years under certain terms and conditions of probation. On or about June 8, 2015, the Board’s
23 probation monitor sent Respondent a letter enclosing a copy of the May 14, 2015, Decision and
24 Order and noting the June 14, 2015, effective date. The June 8, 2015, letter provided Respondent
25 with the Board’s probation monitor’s contact information should Respondent require further
26 information.

27 22. On or about June 17, 2015, Respondent participated in an initial telephonic probation
28 meeting with the Board’s probation monitor during which each and every term of Respondent’s

1 probation was discussed with Respondent. On or about June 17, 2015, following the telephonic
2 probation meeting the Board's probation monitor sent Respondent a letter reiterating the terms
3 and conditions of his probation.

4 23. The circumstances underlying the prior Accusation as stated above and Respondent's
5 actions subsequent to being placed on probation effective June 14, 2015, are as follows:

6 **Montebello, California: 2010**

7 24. Early in 2010 the Montebello California Police Department (Montebello) conducted
8 an investigation with regard to a citizen's complaint of alleged prostitution activity in the
9 acupuncture clinic "JJ Acup," located at 2124 West Beverly Boulevard, in the city of Montebello,
10 California. Subsequent investigation determined that "JJ Acup" was owned by Respondent.

11 25. On or about March 31, 2010 the Montebello California Police Department conducted
12 an undercover investigation and operation at "JJ Acup" by having Montebello Detective Camuy
13 (Camuy) enter the business posing as a customer. Camuy paid \$40.00 to a "JJ Acup" employee
14 for a massage and was escorted into a room which contained a bed.

15 26. "JJ Acup" employee Mikung Kim (Kim) entered the room, directed Camuy to
16 remove all of his clothes and lie face down on the bed. After Camuy complied with Kim's
17 directions she massaged his back, stroked his crotch, and told him to lie on his back. Kim then
18 moved her body in a thrusting motion simulating sexual intercourse, and requested \$140.00 from
19 Camuy. Camuy arrested Kim for violating Penal Code Section 647, subsection (b).

20 27. The misdemeanor criminal charge filed against Kim for violating Penal Code Section
21 647, subsection (b), were dismissed after Kim served 35 days in county jail and provided proof of
22 completion of AIDS testing and education.

23 **Redondo Beach: 2013**

24 28. On or about June 23, 2013, Redondo Beach Police Department (RBPD) detectives
25 performed an undercover operation with regard to suspected prostitution at "Lee's Accu Massage"
26 located at 1503 Aviation Boulevard, Redondo Beach, California.

27 29. The Redondo Beach City Business License Section records show Respondent initially
28 applied for business licensure with the city on February 5, 2010 and later cancelled the

1 application because he was unable to secure a lease at a specific location. On February 23, 2010,
2 Respondent applied for and obtained a business license for "Lee Acupuncture" located at 1503
3 1503 Aviation Boulevard, Redondo Beach, California, the same address where RBPB conducted
4 the undercover operation at "Lee's Accu Massage."

5 30. RBPB Detective Carlborg, (Carlborg) in an undercover capacity, went to "Lee's Accu
6 Massage" and posed as customer seeking a massage. An Asian woman requested \$40.00 from
7 Carlborg, who noted the woman never asked whether he wanted acupressure or massage services.
8 As Carlborg was escorted into a room the woman asked if he preferred Asian or Latina girls.

9 31. After entering a room, Carlborg disrobed and laid face down on a massage table.
10 Moments later a female later identified as Ruth Dubon (Dubon) entered and locked the door.
11 Dubon began to rub Carlborg's neck and back area, and then slapped his buttocks with her hand.
12 Dubon touched Carlborg's testicles and Carlborg pulled away. Dubon again touched Carlborg's
13 testicles and asked, "Do you want something else?" Carlborg said he wanted to have intercourse
14 and asked her how much she wanted to have intercourse. Dubon requested \$140.00 and Carlborg
15 alerted other detectives that a violation had occurred and they should enter the business.

16 Prior to the other detectives' arrival Dubon removed all of her clothing, placed a rolled
17 condom onto the tip of Carlborg's penis, opened her mouth and moved her head towards his
18 penis, as if she was going to use her mouth to unroll the condom. RBPB arrested Dubon for a
19 violation of Penal Code 647, subsection (b).

20 **Redondo Beach: 2013**

21 32. On or about October 13, 2013, RBPB detectives performed an undercover operation
22 with regard to suspected prostitution at "Lee's Accu Massage" located at 1503 Aviation
23 Boulevard, Redondo Beach, California. Officer Booth (Booth) in an undercover capacity, went to
24 "Lee's Accu Massage" and posed as a customer seeking a massage.

25 33. Booth was greeted at the front entrance of the business by an older Asian woman later
26 identified as Wi Chu Han (Han). Booth requested a "30- minute service" and Han asked him for
27 \$50.00. Han pointed to a room on the west side of the business and Booth entered the room,
28 closed the door, disrobed down to his underwear, and lay on the bed. Moments later a woman

1 later identified as Vilma Ramirez (Ramirez) entered the room and sat on the bed. Ramirez pulled
2 on Booth's legs indicating she wanted him to roll onto his back, straddled Booth near his hip area,
3 took his left hand and placed it into her crotch area. Booth pulled her hand away. Ramirez pulled
4 down the front of her top exposing her breast, grabbed Booth's left hand, and rubbed it back and
5 forth on her breasts. Ramirez pulled off her pants, grabbed Booth's right hand and pushed it up
6 into her crotch area, straddled him, and pulled down his underwear exposing his penis and
7 scrotum. Ramirez began to rub his penis and scrotum. At that point Officer Booth alerted other
8 officers and RBPD arrested Ramirez for a violation of Penal Code 647, subsection (b).

9 34. As a result of the undercover operations described in paragraphs 29-34 above, the
10 Redondo Beach City Attorney's Office (RBCA) filed two separate misdemeanor complaints
11 against Respondent, alleging a series of violations of the Redondo Beach City Municipal Code as
12 well as California Penal Code violations alleging Respondent kept a place of prostitution and
13 received money as the result of another person's acts of prostitution.

14 35. On or about September 27, 2011, Respondent pled no contest to count 12 in
15 misdemeanor criminal complaint entitled *People v. Andrew Sung Young Lee*, Los Angeles County
16 Superior Court Case No. 0SY08852, a violation of Penal Code section 315 (operating a brothel).
17 The remaining 11 counts in that case as well as the four counts pending against him in *People v.*
18 *Andrew Sung Young Lee*, Los Angeles County Superior Court Case No. 0SY09435 were
19 dismissed in the interests of justice based on his no contest plea.

20 36. On or about March 7, 2012, following Respondent's no contest plea in misdemeanor
21 criminal complaint entitled *People v. Andrew Sung Young Lee*, Case No. 0SY08852, the Court
22 sentenced Respondent to summary probation for three years, and ordered Respondent to obey all
23 laws, to pay various fines, and to complete an AIDS education program.

24 **Garden Grove: 2014: Silver Cosmos Inc. dba C & C Acupuncture Therapy**

25 37. On or about January 22, 2014, Respondent filed a Statement of Information with the
26 California Secretary of State stating he was the president, chief executive officer, secretary, chief
27 financial officer, sole director, and agent for service of process for *Silver Cosmos Inc.* located at
28 9880 Katella Avenue, Anaheim, California. Respondent signed the Statement of Information

1 using the title of president of the corporation, and certifying thereby that all of the information
2 contained in the form was true and correct.

3 38. On or about January 28, 2014, Respondent filed a signed document for a business
4 identified on the application as *Silver Cosmos Inc.* located at 9880 Katella Avenue, Garden
5 Grove, California, regarding changing the name of the business owner from Young C. Kwak to
6 Andrew S. Lee.

7 39. On or about January 28, 2014, Respondent signed under penalty of perjury a City of
8 Garden Grove Business Tax application for a business identified on the application as *Silver*
9 *Cosmos Inc.* located at 9880 Katella Avenue, Garden Grove, California.

10 40. Under the printed box which asked for the business description or business activity
11 were the words “ACUPUNCTURE CLINIC (NO MASSAGE).”

12 41. On or about January 28, 2014, Respondent filled out a form entitled “MASSAGE
13 THERAPIST APPLICATION FOR CERTIFICATE OF EXEMPTION” requesting a certificate
14 of exemption from the City of Garden Grove’s licensing requirements for massage therapy and/or
15 operation of a massage establishment because he was an acupuncturist licensed by the State of
16 California. The form specifically noted that the exemption only applied to the applicant, and that
17 the applicant’s employees must comply with all laws which govern massage and massage
18 therapy. Respondent listed the address of the business as 9880 Katella Avenue, Anaheim,
19 California, for which he was requesting the certificate of exemption from the City of Garden
20 Grove.

21 42. On or about May 21, 2014, Respondent signed under penalty of perjury a City of
22 Garden Grove Business Tax application for a business identified on the application as *Silver*
23 *Cosmos Inc.* located at 9880 Katella Avenue, Garden Grove, California.

24 43. On or about June 3, 2014, Respondent signed under penalty of perjury a City of
25 Garden Grove Business Tax application for a business identified on the application as *Silver*
26 *Cosmos Inc.* located at 9880 Katella Avenue, Garden Grove, California.

27 44. Under the printed box which asked for the business description or business activity
28 were the words “ACUPUNCTURE CLINIC.”

1 45. On or about November 19, 2014, Garden Grove Police Department (GGPD) officers
2 went to the business located at 9880 Katella Avenue, Garden Grove, California, to ascertain if the
3 business was in violation of the Garden Grove Municipal code for performing massage at that
4 location. *Silver Cosmos Inc.* was identified on the Garden Grove City business license as the
5 business operating at that location.

6 46. The GGPD officers observed the business at that address to be *C & C Acupuncture*
7 *Therapy*. The Garden Grove business tax licensing system showed the *C & C Acupuncture*
8 *Therapy* had a valid business license to operate as an acupuncture clinic at that location, with a
9 specific condition on the business license which stated that “Acupuncturist Must Be Responsible
10 For All **Massage** Activity.”

11 47. The GGPD officers observed Respondent sitting in an office behind the open counter
12 reception window. Respondent did not speak with the officers. Respondent went to the rear of
13 the business and returned with a woman who discussed the details of receiving a massage with
14 one of the officers.

15 48. One of the officers paid the woman \$40.00 in cash and was permitted to choose one
16 of two women to give him a massage. The woman directed the officer to remove his clothes and
17 lie down on the massage table.

18 49. After uniformed officers entered the business all of the people in the business
19 provided identification to the officers. The woman who directed the GGPD officer to remove his
20 clothes did not have a California Massage Therapy Council License nor was she a certified
21 massage therapist.

22 50. In the business office behind the open counter reception window the GGPD officers
23 found Respondent’s Acupuncture License Number AC 6060 next to the City of Garden Grove
24 Business License. Respondent verified that he was the primary business owner and the
25 acupuncturist for the business.

26 51. The GGPD officer issued Respondent Administrative Citations for failure to have a
27 massage operator permit and for failure to have a massage business license.

28 **Garden Grove: 2015; 2016: *Silver Cosmos Inc. dba C & C Acupuncture Therapy***

1 52. On or about May 12, 2015, Respondent signed under penalty of perjury a City of
2 Garden Grove Business Tax application for a business identified on the application as *Silver*
3 *Cosmos Inc.* located at 9880 Katella Avenue, Garden Grove, California.

4 53. Under the printed box which asked for the business description or business activity
5 were the words “ACUPUNCTURE CLINIC.”

6 54. On or about March 16, 2016, an undercover GGPD officer conducted a business
7 check of *C & C Acupuncture Therapy* business located at 9880 Katella Avenue, Garden Grove,
8 California, regarding possible prostitution activity.

9 55. The undercover GGPD officer entered *C & C Acupuncture Therapy* and walked to
10 the receptionist area for assistance and was greeted by a woman who asked the undercover officer
11 to pay her \$50 for a half hour session. After payment the woman escorted the undercover officer
12 into a private room at the rear portion of the business.

13 56. The undercover officer undressed and laid face down on the massage table with a
14 towel covering his buttocks. A second woman, later identified as Soon Kim (Kim) entered and
15 gave the undercover officer a massage.

16 57. At the conclusion of the massage, Kim lowered the towel which partially exposed the
17 undercover officer’s buttocks which Kim began to scratch. Kim then rapped the undercover
18 officer’s buttocks to prompt him to turn over.

19 58. The undercover officer turned over and asked Kim if he could have “everything”
20 which term is used to refer to full sex. Kim shook her head up and down in agreement, the
21 undercover officer asked how much to which Kim responded, “You know.”

22 59. The undercover officer asked Kim if \$100 was okay, and she said it was. The
23 undercover officer gave Kim the money and she left the room. The undercover officer notified
24 uniformed GGPD officers and Kim was arrested.

25 60. As a result of the undercover operations described in paragraphs 53-60 above, on or
26 about August 22, 2016, the Orange County District Attorney’s Office filed misdemeanor criminal
27 complaint against Kim entitled *People v. Eunjung Kim*, Orange County Superior Court Case No.
28 16WM12147, alleging a violation of Penal Code Section 647, subsection (b).

1 61. Kim elected to have a jury trial which lasted three days and ended in a mistrial when
2 the jurors were unable to reach a unanimous verdict.

3 62. On May 16, 2017, Kim pled guilty to Count 2 in *People v. Eunjung Kim*, Orange
4 County Superior Court Case No. 16WM12147, which had been amended by the District
5 Attorney's Office to allege a violation of Penal Code Section 415, subdivision (2), disturbing the
6 peace. The Court dismissed Count 1 in the interests of justice.

7 63. On or about June 1, 2016, Respondent signed under penalty of perjury a City of
8 Garden Grove Business Tax application for a business identified on the application as *Silver*
9 *Cosmos Inc.*, an acupuncture practice located at 9880 Katella Avenue, Garden Grove, California.

10 64. Respondent failed to notify the Board or his probation monitor that on or about June
11 1, 2016, he filed a City of Garden Grove Business Tax application for an acupuncture practice
12 identified as *Silver Cosmos Inc.*, located at 9880 Katella Avenue, Garden Grove, California.

13 65. On or about June 16, 2016, Respondent signed a City of Garden Grove Business Tax
14 closing bill for a business identified on the application as *Silver Cosmos Inc.* located at 9880
15 Katella Avenue, Anaheim, California.

16 66. In his June 1, 2016, tax application Respondent stated his gross earnings from the
17 business during the time period June 1, 2015, to May 31, 2016, were \$73,240.00.

18 67. In his June 16, 2016, City of Garden Grove Business Tax closing bill Respondent
19 stated his gross earnings from the business during the time period June 1, 2015, to June 16, 2016,
20 were \$0.00.

21 **Oakland: 2014, 2015, 2016, 2017: *Evergreen* aka *Ever Green***

22 68. Respondent owned *Evergreen* aka *Ever Green* located at 3200 Telegraph Avenue,
23 Oakland, California from 2014 to 2017. On his new business application with the City of
24 Oakland Respondent described *Evergreen* aka *Ever Green* as an acupuncture clinic. From 2014
25 to 2017 Respondent annually renewed his business tax permit with the City of Oakland but never
26 applied for, or obtained, a massage establishment permit.

27 69. The City of Oakland issued a business tax certificate for Respondent and *Ever Green*
28 which was valid through December 31, 2018.

1 70. During the time Respondent owned *Evergreen* aka *Ever Green*, the business
2 advertised on websites known to be used by purchasers of sex, and had a reputation for being
3 used for the purposes of assignation and prostitution. During that period Oakland Police
4 Department (OPD) officers conducted undercover operations at the business which resulted in
5 eight prostitution arrests after the officers were offered sex in exchange for money by women
6 who were ostensibly licensed massage professionals.

7 71. On or about April 28, 2017, the Oakland California City Attorney (OCA) filed civil
8 complaint RG17858447 (complaint RG17858447) in Alameda Superior Court against
9 Respondent and other defendants. The complaint was filed for injunctive relief, other equitable
10 relief and civil penalties. Complaint RG17858447 alleged violations of Penal Code section
11 11225, subdivision (a) (Red Light Abatement Act), California Civil Code sections 3479 and 3480
12 (public nuisance), and Oakland Municipal Code section 5.36.250, subdivision (a), which
13 regulates massage establishments and massage therapists.

14 72. Complaint RG17858447 alleged the piece of commercial property located at 3200
15 Telegraph Avenue, Oakland, California, owned and maintained by Respondent since 2013 as
16 *Evergreen* aka *Ever Green*, created a public nuisance due to its reputation and actual use for
17 prostitution.

18 73. Complaint RG17858447 alleged defendants failed to maintain and operate a massage
19 establishment with a valid City of Oakland massage establishment permit, utilized online
20 advertisements which were overtly sexual in nature, in violation of Oakland Municipal Code
21 (OMC) Section 5.36.160, subsection (j), employed massage therapists who failed to remain
22 appropriately and fully clothed at all times during work hours, in violation of OMC section
23 5.36.250, subsection (c), employed massage therapists who touched patron's clothed or unclothed
24 erogenous areas before, after, or during any massage service in violation of OMC section
25 5.36.250 subsection, (a), employed massage therapists who did not have City of Oakland massage
26 therapist permits in violation of OMC section 5.36.250, subsection (a), and employed massage
27 therapists who failed to carry identification badges at all times in violation of OMC section
28 5.36.250, subsection (a).

1 74. Respondent failed to notify the Board or his probation monitor that he owned
2 *Evergreen* aka *Ever Green*.

3 75. Respondent failed to register *Evergreen* aka *Ever Green* as a place of practice with
4 the Board.

5 76. Respondent failed to notify the Board or his probation monitor that the City of
6 Oakland filed complaint RG17858447 against him.

7 77. On or about February 27, 2019, during a meeting with Respondent the Board’s
8 probation monitor told Respondent the Board had received information he traveled out of the
9 country to Korea on six (6) occasions since being placed on probation without providing written
10 notice to the Board, thereby violating condition 9 of his probation. Respondent agreed he had
11 traveled out of the country to Korea on six (6) occasions since being placed on probation without
12 providing written notice to the Board.

13 78. On or about August 12, 2019, Respondent stipulated to an Order and Permanent
14 Injunction regarding complaint RG17858447 by signing an agreement (Agreement) which was
15 entered as a final judgement of the matter on August 29, 2019.

16 79. The Agreement stated that “Plaintiffs have the authority under the laws of the State of
17 California to maintain this action for the protection of the People of the State of California and the
18 City of Oakland concerning the conduct alleged in the complaint.” [emphasis added.]

19 80. The Agreement stated that “Defendants are permanently enjoined and restrained from
20 violating California Penal Code § 11225 including, but not limited to, the following acts.

21 A. Any further operation of Pinetree, Evergreen or any other business, association,
22 occupation, or activity on or about the premises of 3200 Telegraph Avenue, Oakland, CA 94609.”

23 81. The Agreement stated that “Defendants are permanently enjoined from engaging in
24 any of the following acts or practices in Alameda County. . . [O]wning, operating, managing, or
25 supervising any business that is . . . acupuncture (sic). . . any business where partial or full nudity
26 is necessary to receive services. . . [O]btaining or maintaining any . . . California Acupuncture
27 Board license.”

28 82. Respondent failed to notify the Board of the outcome of complaint RG17858447 as a

1 result of his stipulation to an Order and Permanent Injunction regarding complaint RG17858447
2 on August 12, 2019, which became a final judgement on August 29, 2019.

3 83. Respondent failed to notify the Board of his new employment restrictions as a result
4 of his stipulation to an Order and Permanent Injunction regarding complaint RG17858447 on
5 August 12, 2019,

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Unprofessional Conduct)

8 84. Respondent is subject to disciplinary action under Code section 4955, subdivisions
9 (c), (d), (h), (i) and (j), in that he utilized false or misleading advertising, aided or abetted,
10 violated and conspired in, directly and indirectly, in the violation of the laws and/or regulations
11 adopted by the board, was subjected to disciplinary action taken by a public agency for acts
12 substantially related to the qualifications, functions, or duties of an acupuncturist or any
13 professional health care licensee, engaged in actions and conduct which would have warranted
14 the denial of his acupuncture license, and permitted and allowed the violation of laws or local
15 ordinances on his business premises by an employee or a person working under his professional
16 license or business permit, which is substantially related to the qualifications, functions, or duties
17 of an acupuncturist, thereby engaging in unprofessional conduct. The circumstances are as
18 follows:

19 85. The facts and circumstances in paragraphs 53 through 84 are incorporated by
20 reference as if set forth in full herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 (Commission of Fraudulent Acts)

23 86. Respondent is subject to disciplinary action under Code section 4955.1, subdivision
24 (b), in that he committed fraudulent acts. The circumstances are as follows:

25 87. The facts and circumstances in paragraphs 53 through 84 are incorporated by
26 reference as if set forth in full herein.

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THIRD CAUSE FOR DISCIPLINE

(Violation of Practice Act)

88. Respondent is subject to disciplinary action under Code section 4961, subdivisions (a) and (c), in that he failed to register all his places of practice, and failed to register changes of his places of practice within 30 days of making that change thereby violating the Practice Act. The circumstances are as follows:

89. The facts and circumstances in paragraphs 53 through 84 are incorporated by reference as if set forth in full herein.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Pay Probation Surveillance Monitoring Costs)

90. At all times after the effective date of Respondent’s probation, Condition 2, Reimbursement For Probation Surveillance Monitoring, stated:

“Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.”

91. Respondent’s probation is subject to revocation because he failed to comply with Probation Condition 2, referenced above. The facts and circumstances regarding this violation are as follows:

A. The Board’s monitor sent Respondent a June 8, 2015, letter enclosing a copy of the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

B. On or about June 17, 2015, Respondent participated in an initial telephonic probation meeting with the Board’s probation monitor during which each and every term of Respondent’s probation was discussed with Respondent.

C. The Board monitor’s June 17, 2015, letter informed Respondent that his probation surveillance monitoring costs of \$500.00 were due annually by June 13 for the following seven years.

D. Pursuant to his participation in the June 17, 2015, initial telephonic probation meeting with the Board’s probation monitor and the Board monitor’s June 17, 2015, letter, Respondent knew his probation costs for 2016 were due June 13, 2016. Respondent’s

1 2016 annual fee payment for probation surveillance monitor was not received by the
2 Board's probation monitor on June 13, 2016.

3 E. On or about October 6, 2016, the Board sent Respondent a letter at his address
4 of record regarding his violation of his terms and conditions of probation, which stated that
5 Respondent was in violation of Condition 2 of his probation as a result of his failure to
6 provide the Board with his 2016 annual fee payment by June 13, 2016.

7 F. Respondent's 2016 annual fee payment for probation surveillance monitor was
8 received by the Board's probation monitor on October 27, 2016.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 (Failure to Obey All Laws)

11 92. At all times after the effective date of Respondent's probation, Condition 5, Obey All
12 Laws, stated:

13 "Respondent shall obey all local, State, and Federal laws and all regulations
14 governing the practice of acupuncture in California. A full detailed account of any violations of
15 law shall be reported to the Board within seventy-two (72) hours of occurrence."

16 93. Respondent's probation is subject to revocation because he failed to comply with
17 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
18 are as follows:

19 A. The Board's monitor sent Respondent a June 8, 2015, letter enclosing a copy of
20 the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

21 B. On or about June 17, 2015, Respondent participated in an initial telephonic
22 probation meeting with the Board's probation monitor during which each and every term of
23 Respondent's probation was discussed with Respondent.

24 C. Pursuant to his participation in the June 17, 2015, initial telephonic probation
25 meeting with the Board's probation monitor and the Board monitor's June 17, 2015, letter,
26 Respondent knew he was required to obey all laws and to provide a full and detailed
27 account of any and all violations of law to the Board in writing within 72 hours of
28 occurrence.

1 D. Pursuant to the Board monitor's June 17, 2015, letter, and his participation in
2 the June 17, 2015, initial telephonic probation meeting with the Board's probation monitor
3 Respondent he was required to disclose to the Board the filing of City of Oakland
4 Complaint RG17858447 against him.

5 E. Respondent failed to notify the Board or his probation monitor that the City of
6 Oakland filed complaint RG17858447 against him.

7 F. Respondent failed to notify the Board of the outcome of complaint
8 RG17858447 as a result of his stipulation to an Order and Permanent Injunction regarding
9 complaint RG17858447 on August 12, 2019, which became a final judgement on August
10 29, 2019.

11 G. Respondent failed to notify the Board of his new employment restrictions as a
12 result of his stipulation to an Order and Permanent Injunction regarding complaint
13 RG17858447 on August 12, 2019, which became a final judgement on August 29, 2019.

14 **THIRD CAUSE TO REVOKE PROBATION**

15 (Failure to Provide Quarterly Reports)

16 94. At all times after the effective date of Respondent's probation, Condition 6, Quarterly
17 Reports, stated:

18 "Respondent shall submit quarterly declarations under the penalty of perjury on forms
19 provided by the Board, stating whether there has been compliance with all the conditions of
20 probation."

21 95. Respondent's probation is subject to revocation because he failed to comply with
22 Probation Condition 6, referenced above. The facts and circumstances regarding this violation
23 are as follows:

24 A. The Board's monitor sent Respondent a June 8, 2015, letter enclosing a copy of
25 the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

26 B. The June 8, 2015, letter contained two blank reporting forms for submitting
27 Quarterly Written Probation Reports (Reports) and a list of dates on which the completed
28 Reports were due to be submitted to the Board, starting on September 5, 2015.

1 C. On or about June 17, 2015, Respondent participated in an initial telephonic
2 probation meeting with the Board's probation monitor during which each and every term of
3 Respondent's probation was discussed with Respondent.

4 D. Pursuant to his participation in the June 17, 2015, initial telephonic probation
5 meeting with the Board's probation monitor and the Board monitor's June 17, 2015, letter,
6 Respondent was aware of what information he was required to place in the quarterly report
7 and the dates his quarterly reports were due.

8 E. On or about May 26, 2016, the Board sent Respondent a letter at his address of
9 record regarding his violation of his terms and conditions of probation, which stated that
10 Respondent was in violation of Condition 6 of his probation as a result of his failure to
11 provide the Board with his quarterly report due no later than December 5, 2015.

12 F. Respondent did not provide the Board with his quarterly report due no later
13 than December 5, 2015, until June 6, 2016.

14 G. On or about May 26, 2016, the Board sent Respondent a letter at his address of
15 record regarding his violation of his terms and conditions of probation, which stated that
16 Respondent was in violation of Condition 6 of his probation as a result of his failure to
17 provide the Board with his quarterly report due no later than March 5, 2016.

18 H. Respondent did not provide the Board with his quarterly report due no later
19 than March 5, 2016, until June 6, 2016.

20 G. Respondent did not provide the Board with his complete quarterly report due no
21 later than April 5, 2018.

22 H. On or about April 9, 2018, the Board sent Respondent a letter at his address of
23 record regarding his violation of his terms and conditions of probation, which stated that
24 Respondent was in violation of Condition 6 of his probation as a result of his failure to
25 provide the Board with a complete quarterly report.

26 I. Respondent provided the Board with his complete quarterly report April 16,
27 2018.

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1 **FOURTH CAUSE TO REVOKE PROBATION**

2 (Failure to Notify Board of Changes of Employment)

3 96. At all times after the effective date of Respondent’s probation, Condition 8, Changes
4 Of Employment, stated:

5 “Respondent shall notify the Board in writing, through the assigned probation
6 surveillance compliance officer of any and all changes of employment, location and address
7 within 30 days of such change.”

8 97. Respondent’s probation is subject to revocation because he failed to comply with
9 Probation Condition 8, referenced above. The facts and circumstances regarding this violation
10 are as follows:

11 A. The Board’s monitor sent Respondent a June 8, 2015, letter enclosing a copy of
12 the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

13 B. On or about June 17, 2015, Respondent participated in an initial telephonic
14 probation meeting with the Board’s probation monitor during which each and every term of
15 Respondent’s probation was discussed with Respondent.

16 C. Pursuant to his participation in the June 17, 2015, initial telephonic probation
17 meeting with the Board’s probation monitor and the Board monitor’s June 17, 2015, letter,
18 Respondent knew he was to notify the Board in writing, of any and all changes of
19 employment, location and address within 30 days of such change.

20 D. All of the Quarterly Reports Respondent submitted to the Board throughout his
21 probation stated he was not employed.

22 E. On or about June 1, 2016, Respondent signed under penalty of perjury a City of
23 Garden Grove Business Tax application for a business identified on the application as
24 *Silver Cosmos Inc.*, an acupuncture practice located at 9880 Katella Avenue, Garden Grove,
25 California.

26 F. Respondent failed to notify the Board or his probation monitor that on or about
27 June 1, 2016, he filed a City of Garden Grove Business Tax application for an acupuncture
28 practice identified as *Silver Cosmos Inc.*, located at 9880 Katella Avenue, Garden Grove,

1 California.

2 G. Respondent stated his gross earnings from the business during the time period
3 June 1, 2015, to May 31, 2016, were \$73,240.00 in his June 1, 2016, tax application.

4 H. On October 6, 2016, the Board's probation monitor sent Respondent a letter
5 which stated: "Changes in Employment (Term 8) - A business search on the CA Secretary
6 of State website indicates you are still the contact for the Active Corporation Silver
7 Cosmos, Inc., also known as C&C Acupuncture Therapy, 9880 Katella Avenue, Garden
8 Grove, CA 92840. Please provide to the Board a copy of your business license for this
9 location and advise the Board if you still currently own and operate this location. Further,
10 advise the Board if you are still currently the contact agent for this location for the
11 Secretary of State. Should you not be affiliated with this business any longer, please
12 provide proof of such termination/separation from the company and the specific date.
13 Please provide the requested information by October 21, 2016."

14 I. Respondent failed to provide the Board with written notification of any and all
15 changes to his employment, location and address within 30 days of such change.

16 J. Respondent owned *Evergreen* aka *Ever Green* located in Oakland, California
17 from 2014 to 2017.

18 K. Respondent renewed his business tax permit for *Evergreen* aka *Ever Green*
19 with the City of Oakland annually during 2014 to 2017.

20 L. The City of Oakland issued a business tax certificate for Respondent and *Ever*
21 *Green* which was valid through December 31, 2018.

22 M. All of the Quarterly Reports Respondent submitted to the Board throughout his
23 probation failed to notify the Board or his probation monitor that he owned *Evergreen* aka
24 *Ever Green*.

25 N. On November 8, 2018, the Board's probation monitor sent Respondent a letter
26 which stated: "[d]ocumentation received from the City of Oakland indicates you were the
27 sole owner of Ever Green, an Acupuncture Clinic, in Oakland, from 2014 to approximately
28 2017, while your probation period was in effect. In our conversation about Ever Green, you

1 were asked if you were required to renew the business tax certificate annually with the City
2 of Oakland. You confirmed, you were required to renew annually. According to the City
3 of Oakland, you renewed the business tax certificate annually for 2015 and 2016, which
4 updated the Businesses Tax Certificate to reflect you as the owner, and the expiration date
5 of December 31, 2016 and December 31, 2017. You failed to disclose this acupuncture
6 business to the Board which is a violation of your probation.”

7 O. Respondent failed to notify the Board of his new employment restrictions as a
8 result of his stipulation to an Order and Permanent Injunction regarding complaint
9 RG17858447 on August 12, 2019, which included *Evergreen aka Ever Green*, which Order
10 and Permanent Injunction became a final judgement on August 29, 2019.

11 **FIFTH CAUSE TO REVOKE PROBATION**

12 (Failure to Pay Costs)

13 98. At all times after the effective date of Respondent’s probation, Condition 10, Cost
14 Recovery, stated:

15 “Respondent shall pay to the Board its cost of investigation and enforcement in the
16 amount of \$4,632.50.”

17 99. Respondent’s probation is subject to revocation because he failed to comply with
18 Probation Condition 10, referenced above. The facts and circumstances regarding this violation
19 are as follows:

20 A. The Board’s monitor sent Respondent a June 8, 2015, letter enclosing a copy of
21 the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

22 B. On or about June 17, 2015, Respondent participated in an initial telephonic
23 probation meeting with the Board’s probation monitor during which each and every term of
24 Respondent’s probation was discussed with Respondent.

25 C. Pursuant to his participation in the June 17, 2015, initial telephonic probation
26 meeting with the Board’s probation monitor and the Board monitor’s June 17, 2015, letter,
27 Respondent was aware that his total cost recovery must be paid in full six months prior to
28 the 2022 end date of his probation. Respondent and the Board reached agreement on a

1 payment plan which required Respondent to make 59 monthly payments of \$77.20 per
2 month and a final payment of \$77.70 to complete his cost recovery.

3 D. Pursuant to his participation in the June 17, 2015, initial telephonic probation
4 meeting with the Board's probation monitor and the Board monitor's June 17, 2015, letter,
5 Respondent was aware of the amount of his monthly cost payment to the Board, and the
6 date on which the payment was required to be received by the Board.

7 E. Respondent failed to submit his April 2016 cost recovery to the Board.

8 F. On or about May 26, 2016, the Board sent Respondent a letter at his address of
9 record regarding his violation of the terms and conditions of probation, which stated that
10 Respondent was in violation of Condition 10 of his probation as a result of his failure to pay
11 the Board his April 2016 payment.

12 **SIXTH CAUSE TO REVOKE PROBATION**

13 (Failure to Notify the Board of Non Residency)

14 100. At all times after the effective date of Respondent's probation, Condition 9, Tolling
15 For Out Of State Practice of Residence, stated:

16 "In the event Respondent should leave California to reside or to practice outside the
17 State, Respondent must notify the Board in writing of the dates of departure and return. Periods
18 of residency or practice outside California will not apply to the reduction of this probationary
19 period."

20 101. Respondent's probation is subject to revocation because he failed to comply with
21 Probation Condition 10, referenced above. The facts and circumstances regarding this violation
22 are as follows:

23 A. The Board's monitor sent Respondent a June 8, 2015, letter enclosing a copy of
24 the May 14, 2015, Decision and Order and noting the June 14, 2015, effective date.

25 B. On or about June 17, 2015, Respondent participated in an initial telephonic
26 probation meeting with the Board's probation monitor during which each and every term of
27 Respondent's probation was discussed with Respondent.

28 C. Pursuant to his participation in the June 17, 2015, initial telephonic probation

1 meeting with the Board's probation monitor and the Board monitor's June 17, 2015, letter,
2 Respondent was aware that he was required to notify the Board in writing of the dates of
3 any of his departures from and return to California to ensure the Board could accurately
4 calculate the number of days his probation would be tolled.

5 D. On or about January 22, 2019, the Board sent Respondent a letter at his address
6 of record which notified him he was to appear for a probation compliance meeting to verify
7 his dates of entrance and departures from the United States of America.

8 E. On or about February 28, 2019, the Board sent Respondent a letter at his
9 address of record regarding his participation in a probation compliance meeting with the
10 Board's probation monitor on February 27, 2019.

11 F. The Board's February 28, 2019, letter noted that during the probation
12 compliance meeting Respondent admitted he had travelled out of the United States of
13 America to Korea June 2 and returned to the United States of America on June 11, 2016,
14 while on probation without providing written notice to the Board thereby violating
15 condition 9 of his probation.

16 G. The Board's February 28, 2019, letter noted that during the probation
17 compliance meeting Respondent admitted he had travelled out of the United States of
18 America to Korea February 9, 2017, and returned to the United States of America on
19 February 25, 2017, while on probation without providing written notice to the Board
20 thereby violating condition 9 of his probation.

21 H. The Board's February 28, 2019, letter noted that during the probation
22 compliance meeting Respondent admitted he had travelled out of the United States of
23 America to Korea December 7, 2017, and returned to the United States of America on
24 January 13, 2018, while on probation without providing written notice to the Board thereby
25 violating condition 9 of his probation.

26 I. The Board's February 28, 2019, letter noted that during the probation
27 compliance meeting Respondent admitted he had travelled out of the United States of
28 America to Korea April 19, 2018, and returned to the United States of America on June 8,

1 2018, while on probation without providing written notice to the Board thereby violating
2 condition 9 of his probation.

3 J. The Board's February 28, 2019, letter noted that during the probation
4 compliance meeting Respondent admitted he had travelled out of the United States of
5 America to Korea August 13, 2018, and returned to the United States of America on
6 November 5, 2018, while on probation without providing written notice to the Board
7 thereby violating condition 9 of his probation.

8 K. The Board's February 28, 2019, letter noted that during the probation
9 compliance meeting Respondent admitted he had travelled out of the United States of
10 America to Korea November 15, 2018, and returned to the United States of America on an
11 unknown date while on probation without providing written notice to the Board thereby
12 violating condition 9 of his probation.

13 **DISCIPLINE CONSIDERATIONS**

14 102. To determine the degree of discipline, if any, to be imposed on Respondent,
15 Complainant alleges that on or about May 14, 2015, in a prior disciplinary action effective June
16 14, 2015, entitled "*In the Matter of Accusation Against Andrew Sung Young Lee, L.Ac.*," before
17 the Acupuncture Board, in Case No. 1A-2010-217, Respondent's license was revoked, the
18 revocation was stayed and Respondent's Acupuncturist License was placed on probation for a
19 period of seven (7) years with certain terms and conditions. That decision is now final and is
20 incorporated by reference as if fully set forth.

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1 **PRAYER**

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

4 1. Revoking the probation that was granted by the Acupuncture Board in Case No. 1A-
5 2010-217 and imposing the disciplinary order that was stayed thereby revoking Acupuncture
6 License Number AC 6060 issued to Andrew Sung Young Lee, L.Ac.;

7 2. Revoking or suspending Acupuncture License Number AC 6060, issued to Andrew
8 Sung Young Lee, L.Ac.;

9 3. Ordering Andrew Sung Young Lee, L.Ac. to pay the Acupuncture Board the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 4959;

12 4. If placed on probation, ordering him to pay to the Acupuncture Board the costs of
13 probation monitoring; and,

14 5. Taking such other and further action as deemed necessary and proper.

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17 DATED: December 13, 2019

Original Signature on File

18 BENJAMIN BODEA
19 Executive Officer
20 Acupuncture Board
21 Department of Consumer Affairs
22 State of California
23 *Complainant*

24 LA2018502611
25 53969319.docx