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**FILED**

JUL 6 2010

**ACUPUNCTURE BOARD**

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

11 In the Matter of the Accusation Against:

Case No. 1A-2005-139

12 **TRACY STEVENSON, L.Ac.**  
13 **aka Yang Hong Cui**  
14 **2595 Atlanta Avenue, #75**  
15 **Riverside, CA 92507**

**ACCUSATION**

16 **Acupuncture License No. AC 6200**

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the California Acupuncture Board (Board).

22 2. On or about May 11, 1998, the Board issued Acupuncture License Number AC 6200  
23 to Tracy Stevenson, L.Ac., aka Yang Hong Cui (Respondent). This license was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on September 30, 2011,  
25 unless renewed.

26 **JURISDICTION**

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

1           4.    Section 4955 of the Code states:

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

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

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

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

13                "(c) False or misleading advertising.

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

17                "(e) Except for good cause, the knowing failure to protect patients by failing to  
18 follow infection control guidelines of the board, thereby risking transmission of  
19 blood-borne infectious diseases from licensee to patient, from patient to patient, and  
20 from patient to licensee. In administering this subdivision, the board shall consider  
21 referencing the standards, regulations, and guidelines of the State Department of  
22 Health Services developed pursuant to Section 1250.11 of the Health and Safety Code  
23 and the standards, regulations, and guidelines pursuant to the California Occupational  
24 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5  
25 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other  
26 blood-borne pathogens in health care settings. As necessary, the board shall consult  
27 with the Medical Board of California, the California Board of Podiatric Medicine, the  
28 Dental Board of California, the Board of Registered Nursing, and the Board of

1 Vocational Nursing and Psychiatric Technicians, to encourage appropriate  
2 consistency in the implementation of this subdivision.

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

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

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

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

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

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

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

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

1           5.    Section 4955.1 of the Code states:

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

5                 "(a) Securing a license by fraud or deceit.

6                 "(b) Committing a fraudulent or dishonest act as an acupuncturist.

7                 "(c) Committing any act involving dishonesty or corruption with respect to the  
8 qualifications, functions, or duties of an acupuncturist.

9                 "(d) Altering or modifying the medical record of any person, with fraudulent  
10 intent, or creating any false medical record.

11                 "(e) Failing to maintain adequate and accurate records relating to the provision  
12 of services to their patients."

13           6.    Section 4959 of the Code states:

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

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

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

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

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

6           7. Section 4961 of the Code states:

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

12           "(b) An acupuncturist licensee shall post his or her license in a conspicuous location in his  
13 or her place of practice at all times. If an acupuncturist has more than one place of practice, he or  
14 she shall obtain from the board a duplicate license for each additional location and post the  
15 duplicate license at each location.

16           "(c) Any licensee that changes the location of his or her place of practice shall register each  
17 change within 30 days of making that change. In the event a licensee fails to notify the board of  
18 any change in the address of a place of practice within the time prescribed by this section, the  
19 board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or  
20 her application whether or not there has been a change in the location of his or her place of  
21 practice and, if so, the date of that change. The board may accept that statement as evidence of  
22 the change of address."

23           8. Section 4956 of the Code states:

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

27           AThe board may order a license suspended or revoked, or may deny a license, or may  
28 impose probationary conditions upon a license, when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal, or when an order granting probation is made  
2 suspending the imposition of sentence irrespective of a subsequent order under the provisions of  
3 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to  
4 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
5 complaint, information, or indictment. @

6 9. Section 490 of the Code states:

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

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

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

21 "(d) The Legislature hereby finds and declares that the application of this section has been  
22 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
23 554, and that the holding in that case has placed a significant number of statutes and regulations  
24 in question, resulting in potential harm to the consumers of California from licensees who have  
25 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
26 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
27 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not  
28 constitute a change to, but rather are declaratory of, existing law."

1 10. Section 493 of the Code states:

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

11 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
12 'registration.'"

13 FIRST CAUSE FOR DISCIPLINE

14 (Conviction of a Crime)

15 11. Respondent is subject to disciplinary action under sections 490, 4955, subdivision (b),  
16 and 4956 of the Code. The facts and circumstances are as follows:

17 12. The initial Department of Health Care Services (DHS) investigation started when it  
18 was discovered that Respondent was one of the highest Medi-Cal billers in the San Gabriel Valley  
19 area for acupuncture services. Surveillance of Respondent's service address at 2403 San Gabriel  
20 Blvd., Rosemead, California, revealed that Respondent had minimal beneficiary activity.  
21 Respondent's billing records were obtained and eleven (11) Medi-Cal beneficiaries were  
22 interviewed. All eleven indicated that they had never received acupuncture treatment from  
23 Respondent. Respondent was contacted at her service location by investigators and she denied  
24 that she was Yang Hong Cui. The investigation also revealed that patient records on Klingerman  
25 letter head (Respondent's billing name), were completely forged. The date at the bottom of  
26 forms in the patient files were changed to correspond to "treatment" dates billed by Respondent.  
27 The treatment sections on all the forms of the eleven patients had forged signatures of the Medi-  
28 Cal beneficiary. As part of this investigation, an Extrapolation Packet was completed on

1 Respondent, an estimated overpayment for the random sample was \$142, 748.67. Respondent  
2 billed as follows:

- 3 a) Patient #1, A.A.,<sup>1</sup> an approximately 100-year-old female: Medi-Cal was billed by  
4 Respondent for 29 acupuncture treatments for this patient between December 14, 2001,  
5 and January 21, 2003. In fact, A.A., never received any acupuncture treatment from  
6 Respondent.
- 7 b) Patient #2, J.M., an approximately 62-year-old male: Medi-Cal was billed by  
8 Respondent for 6 acupuncture treatments for this patient between January 20, 2004, and  
9 March 6, 2004. The dates of treatment used for billing were: January 20, 2004;  
10 January 24, 2004; February 26, 2004; February 26, 2004; February 28, 2004; March 1,  
11 2001; and March 6, 2004. Medical records dated September 20, 2004, for J.M. from the  
12 Klingerman Medical Clinic (KMC) are false. In fact, J.M. never received any  
13 acupuncture treatment from Respondent or KMC.
- 14 c) Patient #3, P.T., an approximately 83-year-old male: Medi-Cal was billed by  
15 Respondent for 21 acupuncture treatments for this patient between April 26, 2003, and  
16 May 17, 2004. The dates of treatment used for billing included: July 14, 2003; July 17,  
17 2003; August 4, 2003; August 6, 2003; September 15, 2003; September 17, 2003;  
18 October 1, 2003; December 22, 2003; January 7, 2004; January 9, 2004; March 2, 2004;  
19 March 5, 2004; April 6, 2004; May 12, 2004 and May 17, 2004. Medical records  
20 including those dated: October 1, 2004; December 22, 2003; January 7, 2004;  
21 January 9, 2004; March 8, 2004; March 5, 2004; April 6, 2004; May 12, 2004; and  
22 May 17, 2004, for P.T. from KMC, are false. In fact, P.T. never received any  
23 acupuncture treatment from Respondent or KMC.
- 24 d) Patient #4, K.H., an approximately 35-year-old female: Medi-Cal was billed by  
25 Respondent for 11 acupuncture treatments for this patient between November 17, 2003,  
26 and April 10, 2004. The dates of treatment used for billing included: November 17,  
27

28 <sup>1</sup> Patients are referred to by their initials to protect confidentiality.



1 2003; November 19, 2003; December 1, 2003; December 4, 2003; January 7, 2004;  
2 January 8, 2004; February 13, 2004; March 13, 2004; March 15, 2004; April 8, 2004;  
3 and April 10, 2004. Medical records including those dated: January 7, 2004, for K.H.  
4 from KMC, are false. In fact, K.H. never received any acupuncture treatment from  
5 Respondent or KMC.

6 e) Patient #5, S.L., an approximately 88-year-old female: Medi-Cal was billed by  
7 Respondent for 47 acupuncture treatments for this patient between November 7, 2001,  
8 and May 21, 2004. The dates of treatment used for billing included: July 10, 2003;  
9 July 16, 2003; August 9, 2003; August 14, 2003; October 7, 2003; November 1, 2003;  
10 November 3, 2003; December 4, 2003; December 6, 2003; March 24, 2004; March 27,  
11 2004; April 15, 2004; April 20, 2004; May 18, 2004; and May 21, 2004. In fact, S.L.  
12 never received any acupuncture treatment from Respondent or KMC.

13 f) Patient #6, E.A., an approximately 54-year-old male: Medi-Cal was billed by  
14 Respondent for 9 acupuncture treatments for this patient between October 22, 2003, and  
15 May 21, 2004. The dates of treatment used for billing included: October 22, 2003;  
16 October 25, 2003; November 18, 2003; November 22, 2003; December 20, 2003;  
17 December 23, 2003; March 24, 2004; March 25, 2004; April 21, 2004; April 23, 2004;  
18 May 19, 2004; and May 21, 2004. Medical records including those dated: October 22,  
19 2003, for E.A.. from KMC, are false. In fact, E.A. never received any acupuncture  
20 treatment from Respondent or KMC.

21 g) Patient #7, C.G., an approximately 42-year-old female: Medi-Cal was billed by  
22 Respondent for 36 acupuncture treatments for this patient between December 12, 2001,  
23 and September 24, 2003. The dates of treatment used for billing included: July 21,  
24 2003; July 24, 2003; August 29, 2003; August 30, 2003; September 22, 2003; and  
25 September 24, 2003. In fact, C.G. never received any acupuncture treatment from  
26 Respondent or KMC.

27 h) Patient #8, S.Z., an approximately 68-year-old female: Medi-Cal was billed by  
28 Respondent for 25 acupuncture treatments for this patient between October 7, 2004, and

1 about September 14, 2005. The dates of treatment used for billing included:  
2 January 3, 2004; January 8, 2004; February 5, 2004; February 10, 2004; and March 8,  
3 2004. Medical records including those dated: January 3, 2004; January 8, 2004;  
4 February 5, 2004; February 10, 2004 and March 8, 2004, for S.Z. from KMC, are false.  
5 In fact, S.Z. never received any acupuncture treatment from Respondent or KMC.

6 i) Patient #9, A.G., an approximately 74-year-old female: Medi-Cal was billed by  
7 Respondent for 6 acupuncture treatments for this patient between January 24, 2004, and  
8 March 4, 2004. The dates of treatment used for billing included: January 24, 2004;  
9 January 26, 2004; February 3, 2004; February 5, 2004; March 2, 2004; and March 4,  
10 2004. Medical records including those dated January 24, 2004, for A.G. from KMC,  
11 are false. In fact, A.G. never received any acupuncture treatment from Respondent or  
12 KMC.

13 j) Patient #10, S.W., an approximately 18-year-old female: Medi-Cal was billed by  
14 Respondent for 33 acupuncture treatments for this patient between November 6, 2001,  
15 and October 18, 2003. The dates of treatment used for billing included: July 21, 2003;  
16 July 24, 2003; August 29, 2003; August 30, 2003; September 22, 2003; and  
17 September 24, 2003. In fact, S.W. never received any acupuncture treatment from  
18 Respondent or KMC.

19 k) Patient #11, L.P., an approximately 79-year-old female: Medi-Cal was billed by  
20 Respondent for 18 acupuncture treatments for this patient between May 10, 2003, and  
21 April 21, 2004. The dates of treatment used for billing included: July 12, 2003;  
22 July 21, 2003; September 22, 2003; September 24, 2003; October 6, 2003; October 8,  
23 2003; November 3, 2003; November 6, 2003; February 11, 2004; February 17, 2004;  
24 March 29, 2004; March 31, 2004; April 20, 2004; and April 23, 2004. Medical records  
25 including those dated September 22, 2003, for L.P. from KMC, are false. In fact, L.P.  
26 never received any acupuncture treatment from Respondent or KMC.

27 The case was referred for criminal prosecution.

1           13. On or about October 16, 2008, in the case entitled *People of the State of California*  
2 *vs. Tracy Stevenson*, Superior Court of California, County of Los Angeles, Case No. GA074829,  
3 a complaint was filed against Respondent. The complaint charged three counts: Count one  
4 Welfare and Institutions Code (W&I Code ) section 14107, subdivision (b)(1), (Presenting False  
5 Medi-Cal Claims); count two, W&I Code section 14107, subdivision (b)(4)(A), (Scheme to  
6 Defraud Medi-Cal); count three, Penal Code (PC) section 487 (Grand Theft); all felonies. This  
7 complaint will hereinafter be referred to as “the complaint.”

8           14. Specifically, Count Three of the complaint alleged, among other things:

9           “On or between January 1, 2001, to February 25, 2005, inclusive, in the County of Los  
10 Angeles, State of California, defendant YANG HONG CUI aka TRACY STEVENSON,  
11 unlawfully took from the State of California (Health Care Deposit Fund) property of a value  
12 in excess of four hundred dollars (\$400), in violation of section 487 of the Penal Code, a  
13 felony.”

14           15. On or about March 12, 2009, Respondent pled guilty to Count Three of the  
15 complaint, which was a felony. The Court adjudicated the defendant guilty as charged and  
16 convicted and it was ordered among other things that Respondent: be placed on formal probation  
17 for five years; pay \$400.34 in fees; perform 200 hours of community service, within one year;  
18 obey all laws and orders of the court; obey all rules and regulations of the probation department;  
19 report to the probation officer within 48 hours; seek and maintain training, schooling or  
20 employment as approved; not drive a motor vehicle without a valid drivers license in her  
21 possession or without liability insurance; and make restitution to the victim.

22           16. Respondent’s guilty plea on March 9, 2009, to one felony count of Grand Theft as  
23 alleged in the complaint, and the Court’s adjudication of guilt, constituted a conviction of a crime  
24 that is substantially related to the qualifications, functions, or duties of an acupuncturist, within  
25 the meaning of sections 490, 4955, subdivision (b), and 4956 of the Code.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Aiding and Abetting)

3 17. Respondent is subject to disciplinary action under section 4955, subdivision (d), of  
4 the Code in that she aided and abetted in the violation, or conspired in the violation of several  
5 sections of the Penal Code and Welfare & Institutions Code. The circumstances are as follows:

6 18. The facts and circumstances alleged in paragraphs 11 through 16 above, that occurred  
7 between July 6, 2003, to present, are incorporated herein as if fully set forth.

8 19. Respondent conspired with Luvun Zheng (Zheng) to perform the acts described  
9 above. In summary, Zheng provided Respondent with patient information. Respondent created  
10 false records and made false billings to Medi-Cal for services she did not provide and collected  
11 the payment. Respondent took 35% and Zheng took 65% of the proceeds.

12 THIRD CAUSE FOR DISCIPLINE

13 (Altering Medical Record with Fraudulent Intent)

14 20. Respondent is subject to disciplinary action under section 4955.1, subdivision (d), of  
15 the Code in that she altered or modified the medical records of persons, with fraudulent intent or  
16 created false medical records. The circumstances are as follows:

17 21. The facts and circumstances which occurred on or after July 6, 2003, to present  
18 alleged in paragraph 12 above are incorporated here as if fully set forth.

19 FOURTH CAUSE FOR DISCIPLINE

20 (Unregistered Place of Practice)

21 22. Respondent is subject to disciplinary action under section 4961, subdivision (a) of the  
22 Code in that she maintained an unregistered place of practice. The facts and circumstances are as  
23 follows:

24 23. Respondent worked as a licensed acupuncturist at the Pain Relief Center, 2812 W.  
25 Lincoln Avenue, Anaheim, California, for about four to five months in 2005 or 2006.  
26 Respondent failed to register this location of practice with the Board.

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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 or suspending Acupuncture Number AC 6200, issued to Tracy Stevenson,  
5 L.Ac., aka Yang Hong Cui.
- 6 2. Ordering Tracy Stevenson, L.Ac., aka Yang Hong Cui, to pay the Acupuncture Board  
7 the reasonable costs of the investigation and enforcement of this case, and, if placed on probation,  
8 the cost of probation monitoring; pursuant to Business and Professions Code section 4959.
- 9 3. Taking such other and further action as deemed necessary and proper.

10  
11  
12 DATED:       JUL 06 2010      

  
13 JANELLE WEDGE  
14 Executive Officer  
15 Acupuncture Board  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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