

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

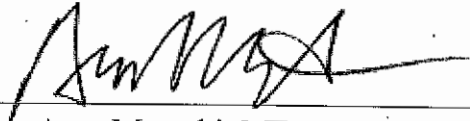
In the Matter of the Petition to Revoke	)	Case No. D1-2012-151
Probation Against:	)	
	)	
Frank J R Shyu	)	
2162 S. Garfield Avenue	)	
Monterey Park, CA 91754	)	
	)	
Acupuncture License No. AC-850	)	
	)	
Respondent.	)	
_____	)	

**DECISION AND ORDER**

The attached Default Decision and Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on                     **OCT 18 2017**                    .

IT IS SO ORDERED                     **SEP 18 2017**                    .

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

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

11  
12 In the Matter of the Petition to Revoke  
Probation Against,

13 **FRANK SHYU, L.Ac.**  
14 **2162 S. Garfield Avenue**  
**Monterey Park, CA 91754**  
15 **Acupuncturist License No. AC 850,**

16 Respondent.

Case No. D1-2012-151

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

17  
18 **FINDINGS OF FACT**

19 1.00 On or about July 11, 2017, Complainant Benjamin Bodea, in his official capacity asoo  
20 the Executive Officer of the Acupuncture Board, Department of Consumer Affairs, filed Petition  
21 to Revoke Probation No. D1-2012-151 against Frank Shyu, L.Ac. (Respondent) before the  
22 Acupuncture Board.

23 2.00 On or about August 21, 1978, the Acupuncture Board (Board) issued Acupuncturistoo  
24 License No. AC 850 to Respondent. The Acupuncturist License was in full force and effect at all  
25 times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

26 3.00 On or about July 11, 2017, Kristen Borges (Borges) an employee of the Complainantoo  
27 Agency, served by Certified mail a copy of the Petition to Revoke Probation No. D1-2012-151,  
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
2 was and is 2162 S. Garfield Avenue, Monterey Park, CA 91754. A copy of the Petition to  
3 Revoke Probation, the related documents, and Declaration of Service are attached as exhibit A,  
4 and are incorporated herein by reference.

5 4.ee Service of the Petition to Revoke Probation was effective as a matter of law under these  
6 provisions of Government Code section 11505, subdivision (c).

7 5.ee On or about July 13, 2017, the aforementioned documents were delivered to e  
8 Respondent.

9 6.ee On or about July 17, 2017, the signed green certified mail card was returned to these  
10 Board by the U.S. Postal Service. A copy of the card returned by the post office is attached as  
11 exhibit B, and is incorporated herein by reference.

12 7. No Notice of Defense was received by the Board.

13 8. A copy of the Declaration of Borges attesting to the foregoing facts is attached as  
14 Exhibit C, and is incorporated herein by reference.

15 9.ee Deputy Attorney General Wendy Widlus (Widlus) is assigned to prepare the Defaulted  
16 Decision & Order in the above matter and has reviewed the file. No Notice of Defense was  
17 received by the California Department of Justice, Health Quality Enforcement Section.

18 10.ee A copy of the Declaration of Widlus attesting to the fact that no Notice of Defense  
19 from Respondent was ever received by the California Department of Justice, Health Quality  
20 Enforcement Section is attached as Exhibit D, and is incorporated herein by reference.

21 5.ee Government Code section 11506 states, in pertinent part:ee

22 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
23 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
24 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
25 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

26 Respondent failed to file a Notice of Defense within 15 days after service upon him of the  
27 Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of Petition  
28 to Revoke Probation No. D1-2012-151.ee

1 6.00 California Government Code section 11520 states, in pertinent part:00

2 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the  
3 agency may take action based upon the respondent's express admissions or upon other evidence  
4 and affidavits may be used as evidence without any notice to respondent."

5 7.00 Pursuant to its authority under Government Code section 11520, the Board findsoo  
6 Respondent is in default. The Board will take action without further hearing and, based on  
7 Respondent's express admissions by way of default and the evidence before it, contained in  
8 exhibits A, B, C, and D finds that the allegations in Petition to Revoke Probation No. D1-2012-  
9 151 aretrue.

10 **DETERMINATION OF ISSUES**

11 1. Based on the foregoing findings of fact, Respondent Frank Shyu, L.Ac. has subjected  
12 his Acupuncturist License No. AC 850 to discipline.

13 2.00 A copy of the Petition to Revoke Probation and the related documents andoo  
14 Declaration of Service are attached.

15 3. The agency has jurisdiction to adjudicate this case by default.oo

16 4.00 The Acupuncture Board is authorized to revoke Respondent's Acupuncturist Licenseoo  
17 based upon the following violations alleged in the Petition to Revoke Probation:

18 a.oo First Cause To Revoke Probation: Failure to Interview with the Board or Itsoo  
19 Designee.

20 b. Second Cause To Revoke Probation: Failure To Pay Costs.oo

21 c. Third Cause To Revoke Probation: Failure to Provide Quarterly Reportoo

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1 **ORDER**

2 **IT IS SO ORDERED** that Acupuncturist License No. AC 850, heretofore issued to  
3 Respondent Frank Shyu, L.Ac., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
5 written motion requesting that the Decision be vacated and stating the grounds relied on within  
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on \_\_\_\_\_.

9 It is so ORDERED \_\_\_\_\_

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12 FOR THE ACUPUNCTURE BOARD

13 DEPARTMENT OF CONSUMER AFFAIRS  
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