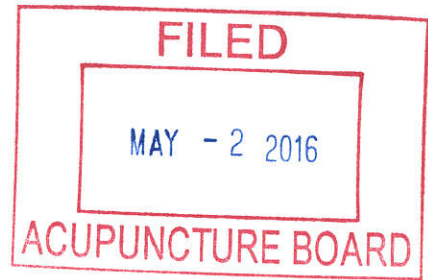


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9 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2015-50

12 **INGA WITFOTH, L.Ac.**  
13 **P.O. Box 3243**  
14 **La Habra, CA 90632**  
**Acupuncturist License No. AC 9541,**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity  
20 as the Acting Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

21 2. On or about December 18, 2003, the Acupuncture Board issued Acupuncturist  
22 License Number AC9541 to Inga Witfoth, L.Ac. (Respondent). The Acupuncturist License  
23 expired on January 31, 2015, has not been renewed, and is therefore delinquent.

24 **JURISDICTION**

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

28 //

1           4.     Section 4928.1 of the Code states:

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

6           5.     Section 4955 of the Code states in pertinent part:

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

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

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

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

17          “. . .”

18          6.     Section 4956 of the Code states:

19          “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a  
20 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist  
21 is deemed to be a conviction within the meaning of this chapter.

22          “The board may order a license suspended or revoked, or may deny a license, or may  
23 impose probationary conditions upon a license, when the time for appeal has elapsed, or the  
24 judgment of conviction has been affirmed on appeal, or when an order granting probation is made  
25 suspending the imposition of sentence irrespective of a subsequent order under the provisions of  
26 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to  
27 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
28 complaint, information, or indictment.”

1           7.     Section 490 of the Code states:

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

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

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

16           “(d) The Legislature hereby finds and declares that the application of this section has been  
17 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th  
18 554, and that the holding in that case has placed a significant number of statutes and regulations  
19 in question, resulting in potential harm to the consumers of California from licensees who have  
20 been convicted of crimes. Therefore, the Legislature finds and declares that this section  
21 establishes an independent basis for a board to impose discipline upon a licensee, and that the  
22 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not  
23 constitute a change to, but rather are declaratory of, existing law.”

24           8.     Section 493 of the Code states:

25           “Notwithstanding any other provision of law, in a proceeding conducted by a board within  
26 the department pursuant to law to deny an application for a license or to suspend or revoke a  
27 license or otherwise take disciplinary action against a person who holds a license, upon the  
28 ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
3 and the board may inquire into the circumstances surrounding the commission of the crime in  
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
5 qualifications, functions, and duties of the licensee in question.

6 “As used in this section, ‘license’ includes ‘certificate,’ ‘permit,’ ‘authority,’ and  
7 ‘registration.’”

8 9. California Vehicle Code Section 23152 states in pertinent part:

9 “(a) It is unlawful for any person who is under the influence of any alcoholic beverage or  
10 drug, or under the combined influence of any alcoholic beverage and drug, to drive the vehicle.

11 “(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his  
12 or her blood to drive the vehicle ...”

13 10. California Vehicle Code Section 23578 states:

14 “In addition to any other provision of this code, if a person is convicted of a violation of  
15 Section 23152 or 23153, the court shall consider a concentration of alcohol in the person's blood  
16 of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a  
17 special factor that may justify enhancing the penalties in sentencing, in determining whether to  
18 grant probation, and, if probation is granted, in determining additional or enhanced terms and  
19 conditions of probation.”

## 20 COSTS

21 11. Section 4959 of the Code states:

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

26 “(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in  
27 any event be increased by the board. When the board does not adopt a proposed decision and  
28 remands the case to an administrative law judge, the administrative law judge shall not increase

1 the amount of any costs assessed in the proposed decision.

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

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

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

### 10 **FIRST CAUSE FOR DISCIPLINE**

#### 11 (Conviction of a Crime)

12 12. Respondent is subject to disciplinary action for unprofessional conduct under Code  
13 section 4955, subdivision (b), in that she was convicted of violating California Vehicle Code  
14 section 23152, subdivision (b), commonly known as driving while having a 0.08% or higher  
15 blood alcohol, a crime which is substantially related to the qualifications, functions, and duties of  
16 an acupuncturist. The circumstances are as follows:

17 13. On or about July 28, 2014, in proceedings entitled *People of the State of California v.*  
18 *Inga Witfoth AKA Inga Tsyrlin, Inga Taras, Inga Thirun Farahanchi*, then pending in the  
19 Superior Court of California, case number 14NM11212, after a plea of guilty, Respondent was  
20 convicted of Count 2, a violation of Vehicle Code section 23152, subdivision (b). The remaining  
21 count as well as the special allegation pursuant to Vehicle Code section 23578 were dismissed by  
22 the Court in the interests of justice based on the plea and sentence agreement.

23 14. Following Respondent's plea of guilty, the Court placed Respondent on three (3)  
24 years informal probation, and ordered her, inter alia, to obey all laws, enroll in and complete the  
25 three (3) month First Offender Drinking Driver Program, pay a fine of \$390.00 plus penalty  
26 assessments, and not drive a motor vehicle with any measurable amount of alcohol in her blood.


27 15. The facts underlying Respondent's guilty plea to Count 2 in the above conviction are  
28 as follows:



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1. Revoking or suspending Acupuncturist License Number AC9541, issued to Inga Witfoth, L.Ac.;
2. Ordering Inga Witfoth, L.Ac. to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;
3. If placed on probation, ordering her to pay to the Acupuncture Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED:           MAY 02 2016          

  
BENJAMIN BODEA  
Acting Executive Officer  
Acupuncture Board  
Department of Consumer Affairs  
State of California  
*Complainant*

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