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7

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-2009-67

12 **LILY SHANNON COOGAN**  
13 **892 Wisconsin Street**  
**Chico, CA 95928**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

14 **Acupuncture License No. AC 7115**

15 Respondent.

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17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board,  
22 Department of Consumer Affairs. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Brenda P. Reyes, Deputy Attorney General.

25 2. Respondent Lily Shannon Coogan (respondent) is represented in this proceeding by  
26 attorney Burleigh E. Sabin, whose address is Burton, Schmal & DiBenedetto, LLP,  
27 133 Mission Street, Suite 102, Santa Cruz, CA 95060.  
28

1           3. On or about February 9, 2000, the Acupuncture Board issued Acupuncture License  
2 No. AC 7115 to respondent. The Acupuncture License was in full force and effect at all times  
3 relevant to the charges brought in Accusation No. 1A-2009-67, and will expire on  
4 March 31, 2011, unless renewed.

5                               **JURISDICTION**

6           4. Accusation No. 1A-2009-67 was filed before the Acupuncture Board (Board),  
7 Department of Consumer Affairs, and is currently pending against respondent. The Accusation  
8 and all other statutorily required documents were properly served on respondent on  
9 August 25, 2009. Respondent timely filed her Notice of Defense contesting the Accusation. A  
10 copy of Accusation No. 1A-2009-67 is attached as Exhibit A and incorporated herein by  
11 reference.

12                              **ADVISEMENT AND WAIVERS**

13           5. Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. 1A-2009-67. Respondent has also carefully read, fully  
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
16 Order.

17           6. Respondent is fully aware of her legal rights in this matter, including the right to a  
18 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
19 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
20 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
21 compel the attendance of witnesses and the production of documents; the right to reconsideration  
22 and court review of an adverse decision; and all other rights accorded by the California  
23 Administrative Procedure Act and other applicable laws.

24           7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
25 every right set forth above.

26                              **ADMISSIONS**

27           8. Respondent admits the truth of each and every charge and allegation in Accusation  
28 No. 1A-2009-67.

1 9. Respondent agrees that her Acupuncture License No. AC 7115 is subject to discipline  
2 and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
3 Order below.

4 **RESERVATION**

5 10. The admissions made by Respondent herein are only for the purposes of this  
6 proceeding, or any other proceedings in which the Acupuncture Board or other professional  
7 licensing agency is involved, and shall not be admissible in any other criminal or civil  
8 proceeding.

9 **CONTINGENCY**

10 11. This stipulation shall be subject to approval by the Acupuncture Board. Respondent  
11 understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may  
12 communicate directly with the Board regarding this stipulation and settlement, without notice to  
13 or participation by respondent or her counsel. By signing the stipulation, respondent understands  
14 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the  
15 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
16 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
17 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
18 and the Board shall not be disqualified from further action by having considered this matter.

19 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
20 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
21 effect as the originals.

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
23 the Board may, without further notice or formal proceeding, issue and enter the following  
24 Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Acupuncture License No. AC 7115, issued to respondent  
3 Lily Shannon Coogan is revoked. However, the revocation is stayed and respondent is placed on  
4 probation for three (3) years on the following terms and conditions.

5 1. **ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND**  
6 **SAMPLES** Respondent shall abstain completely from the personal use or possession of  
7 controlled substances as defined in the California Uniform Controlled Substances Act (Division  
8 10, commencing with section 11000, Health and Safety Code) and any dangerous drugs as  
9 defined by Section 4022 of the Business and Professions Code, or any drugs requiring a  
10 prescription. This prohibition does not apply to medications lawfully prescribed to respondent by  
11 a medical practitioner for a bona fide illness or condition. Respondent shall abstain completely  
12 from the use of alcoholic beverages. Respondent shall undergo random, biological fluid testing  
13 as determined by the Board. Respondent shall bear all costs of such testing. The length of time  
14 and frequency will be determined by the Board. Any confirmed positive finding will be  
15 considered a violation of probation.

16 2. **REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING**  
17 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to  
18 ensure compliance for the duration of the probation period.

19 3. **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws and all  
20 regulations governing the practice of acupuncture in California. A full and detailed account of  
21 any and all violations of law shall be reported by the respondent to the Board in writing within  
22 seventy-two (72) hours of occurrence.

23 4. **QUARTERLY REPORTS** Respondent shall submit quarterly declarations under  
24 penalty of perjury on forms provided by the Board, stating whether there has been compliance  
25 with all the conditions of probation.

26 5. **SURVEILLANCE PROGRAM** Respondent shall comply with the Board's probation  
27 surveillance program and shall, upon reasonable notice, report to the assigned investigative  
28 district office. Respondent shall contact the assigned probation surveillance monitor regarding

1 any questions specific to the probation order. Respondent shall not have any unsolicited or  
2 unapproved contact with 1) victims or complainants associated with the case; 2) Board members  
3 or members of its staff; or 3) persons serving the Board as expert examiners.

4 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in  
5 person for interviews with the Board or its designee upon request at various intervals and with  
6 reasonable notice.

7 7. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,  
8 through the assigned probation surveillance compliance officer of any and all changes of  
9 employment, location and address within 30 days of such change.

10 8. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event  
11 respondent should leave California to reside or to practice outside the State, respondent must  
12 notify the Board in writing of the dates of departure and return. Periods of residency or practice  
13 outside California will not apply to the reduction of this probationary period.

14 9. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not  
15 employ or supervise or apply to employ or supervise acupuncture trainees during the course of  
16 this probation. Respondent shall terminate any such supervisorial relationship in existence on the  
17 effective date of this probation.

18 10. COST RECOVERY Respondent shall pay to the Board its costs of enforcement in  
19 the amount of \$2,250.

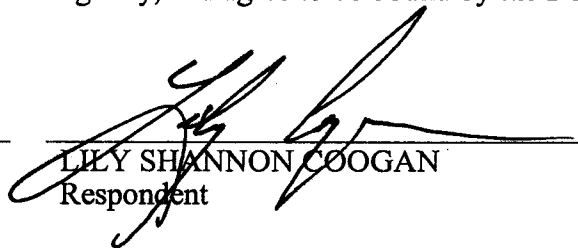
20 11. VIOLATION OF PROBATION If respondent violates probation in any respect, the  
21 Board may, after giving respondent notice and the opportunity to be heard, revoke probation and  
22 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is  
23 filed against respondent during probation, the Board shall have continuing jurisdiction until the  
24 matter is final, and the period of probation shall be extended until the matter is final. No petition  
25 for modification or termination of probation shall be considered while there is an accusation or  
26 petition to revoke probation pending against respondent.

27 12. COMPLETION OF PROBATION Upon successful completion of probation,  
28 respondent's license will be fully restored.

1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Burleigh E. Sabin, Esq. I understand the stipulation and the effect  
4 it will have on my Acupuncture License. I enter into this Stipulated Settlement and Disciplinary  
5 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
6 of the Acupuncture Board.

7 DATED: Oct 19, 2009

  
LILY SHANNON COOGAN  
Respondent

10 I have read and fully discussed with Respondent Lily Shannon Coogan the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13 DATED: Nov 2, 2009

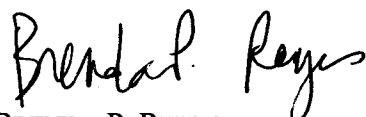
  
BURLEIGH E. SABIN, Esq.  
Attorney for Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

20 Dated: November 30, 2009

21 EDMUND G. BROWN JR.  
Attorney General of California  
22 JOSE R. GUERRERO  
Supervising Deputy Attorney General

23   
24 BRENDA P. REYES  
25 Deputy Attorney General  
26 *Attorneys for Complainant*

**Exhibit A**

**Accusation No. 1A-2009-67**



**FILED**

AUG 25 2009

**ACUPUNCTURE BOARD**

1 EDMUND G. BROWN JR.  
 Attorney General of California  
 2 JOSE R. GUERRERO  
 Supervising Deputy Attorney General  
 3 BRENDA P. REYES  
 Deputy Attorney General  
 4 State Bar No. 129718  
 455 Golden Gate Avenue, Suite 11000  
 5 San Francisco, CA 94102-7004  
 Telephone: (415) 703-5541  
 6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 1A-2009-67

12 **LILY SHANNON COOGAN**  
**1103 East Cliff Drive, #3**  
 13 **Santa Cruz, CA 95062**

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

14 **Acupuncture License No. AC 7115**

15 Respondent.

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 Acupuncture Board, Department of Consumer Affairs.

22 2. On or about February 9, 2000, the Acupuncture Board issued Acupuncture License  
 23 Number AC 7115 to Lily Shannon Coogan (respondent). The Acupuncture License was in full  
 24 force and effect at all times relevant to the charges brought herein and will expire on  
 25 March 31, 2011, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4955 of the Code states, in relevant part:

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

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

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

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

17 5. Section 4956 of the Code states:

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

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

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1 **COST RECOVERY**

2 6. Section 4959 of the Code states, in relevant part:

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Criminal Convictions)**

10 7. Respondent is subject to disciplinary action under section 4955, subdivision (b), of  
11 the Code in that respondent has been convicted of criminal offenses substantially related to the  
12 qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

13 a. On or about January 14, 2000, respondent was arrested for driving while under  
14 the influence of alcohol in San Luis Obispo, California. A blood draw at the time of arrest  
15 revealed a BAC of .23. On or about February 2, 2000, in a criminal proceeding entitled *People v.*  
16 *Lily Shannon Coogan*, San Luis Obispo County Municipal Court No. M292781, respondent was  
17 convicted by plea of guilty to a violation of Vehicle Code section 23152 (a) (DUI), a  
18 misdemeanor. Respondent was sentenced to three years probation; ordered to attend a DUI first  
19 offender program; her driver's license was restricted for 90 days; and, she was ordered to pay a  
20 fine in the amount of \$1,280.

21 b. On or about June 1, 2002, respondent was arrested for attempting to steal a  
22 bottle of wine from a Safeway store at 2:40 a.m. in Santa Cruz, California. On or about July 3,  
23 2002, in a criminal proceeding entitled *People v. Lily Shannon Coogan*, Santa Cruz County  
24 Superior Court No. M12761, respondent was convicted by plea of guilty to a violation of Penal  
25 Code section 484 (a), petty theft, a misdemeanor. Respondent was sentenced to one year  
26 probation; ordered to pay fines in the amount of \$181; and, she was ordered to complete 24 hours  
27 of community service. On or about April 24, 2003, respondent wrote a letter of explanation to the  
28 Board, stating that at the time of the incident she was drunk and oblivious to her actions.

1 c. On or about July 5, 2008, respondent was arrested for driving while under the  
2 influence of alcohol in an unincorporated area of Humboldt County. A Breath Test at the time of  
3 arrest revealed a BAC of .11/.10. In a criminal complaint filed on or about August 12, 2008, in  
4 *People v. Lily Shannon Coogan*, Humboldt County Superior Court No. CR084647, respondent  
5 was charged with violations of Vehicle Code section 23152 (a) (DUI) (Count I); and, 23152 (b)  
6 (driving with a .08 or more BAC) (Count II). On or about November 14, 2008, respondent was  
7 convicted by plea of guilty to a violation of Vehicle Code section 23103.5, reckless driving/  
8 alcohol related, a misdemeanor lesser included DUI offense. Respondent was sentenced to three  
9 years probation; ordered to attend an alcohol education program; and, order to pay fines in the  
10 amount \$1,407.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Dangerous Use of Alcohol)**

13 8. The allegations of the First Cause for Discipline, above, are incorporated herein by  
14 reference as if fully set forth.

15 9. Respondent is subject to disciplinary action under section 4955, subdivision (a),  
16 in that respondent has used alcoholic beverages to an extent or in a manner dangerous to  
17 herself, or to other persons, or to the public, and to an extent that such use impairs her  
18 ability to engage in the practice of acupuncture with safety to the public.

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1 **PRAYER**

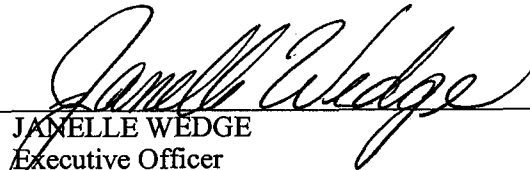
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Acupuncture Board issue a decision:

4 1. Revoking or suspending Acupuncture License Number AC 7115, issued to Lily  
5 Shannon Coogan.

6 2. Ordering Lily Shannon Coogan to pay the Acupuncture Board the reasonable costs of  
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 4959.

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

10  
11 DATED: AUG 25 2009

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

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