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FILED

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ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JYUNG WOOK EOM, L.Ac.** **Seocho Gu Seocho Dong 1714-33** **Seoul** **Acupuncturist License No. AC 12453,** Respondent.	Case No. 1A-2009-199 **ACCUSATION**

Complainant alleges:

PARTIES

1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about April 3, 2008, the Acupuncture Board issued Acupuncturist License Number AC 12453 to Jyung Wook Eom, L.Ac. (Respondent). The Acupuncturist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2016, unless renewed.

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JURISDICTION

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

4. Section 4955 of the Code states in pertinent part:

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

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

"....

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

"....

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

"...."

5. Section 4955.1 of the Code, subdivision (c) states:

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

"....

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

COST RECOVERY

6. Section 4959 of the Code states:

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

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

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

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

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

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime Substantially Related to Qualifications, Functions, or Duties of an Acupuncturist)

7. Respondent is subject to disciplinary action under section 4955, subdivision (b), of the Code in that he was convicted of crimes, to wit: violation of California Penal Code section 243(d) [battery with serious bodily injury] and California Penal Code section 245(a)(1) [assault by means likely to produce great bodily injury], substantially related to the qualifications, functions or duties of a an acupuncturist, as more particularly alleged hereinafter:

8. Respondent is an acupuncturist licensed to practice in California.

9. On or about October 15, 2009, at approximately 2:25 p.m., officers of the Los Angeles Police Department received a radio call indicating that there were two male Asians fighting against one male Asian inside a parking garage. Upon arrival at the scene, officers observed three male Asians, no longer fighting, with visible injuries to their faces. One of the men, later identified as the victim, was unable to respond to questions because he was too disoriented from his injuries.

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10. Respondent was under the influence of alcohol at the time of his interview at the scene. When first approached by one of the officers, Respondent spontaneously stated, "I'm an officer! I'm a bodyguard for famous people! I'm a black belt in Hapkido [a practice of martial arts]! I had to defend myself. He [the victim] was attacking me!" Respondent admitted to the officer that, prior to the fight, he had been drinking at a bar with his friend. Respondent claimed that, when they returned to his friend's home and were walking to the main lobby, the victim, for no apparent reason, started punching both Respondent and his friend. Respondent further claimed he punched the victim numerous times in self-defense.

11. The security guard of the building observed the fight and called the police. He was in the lobby of the building watching the live security camera footage. He observed two male Asians punching and kicking one male Asian who was down on the ground inside the parking garage.

12. Officer Chang watched the recording of the video camera footage, which showed the victim walking toward the garage exit. Respondent's friend followed after the victim. When both men reappeared on the footage, Respondent's friend was punching the victim who had already fallen to the ground. Respondent's friend stopped punching the victim. Respondent, who was sitting nearby, stood up and began kicking and stomping on the victim numerous times. Respondent's friend then attempted to stop Respondent from kicking the victim, however, Respondent was able to re-approach the victim and kick and stomp on him a few more times.

13. After interviewing all three men involved in the fight, an independent witness (the security guard) and observing the video camera footage, the officers concluded that the fight between Respondent's friend and the victim was a mutual combat. Respondent's kicking and stomping of the victim in the head and neck area causing the victim to nearly lose consciousness was beyond mutual combat. Due to the injuries caused by the Respondent, the officers determined that Respondent's battery caused great bodily injury to the victim.

14. In the case entitled *The People of the State of California v. Jyungwook Eom*, Los Angeles County Superior Court, Case No. BA364105, Respondent was charged with a felony in Count One, violation of California Penal Code section 243(d), for willfully and unlawfully using

force upon a person, resulting in the infliction of serious bodily injury, and a with a felony in Count Two, violation of California Penal Code section 245(a)(1), for willfully and unlawfully committing an assault by means of force likely to produce great bodily injury.

15. On or about September 14, 2011, the Court in *The People of the State of California v. Jyungwook Eom*, Los Angeles County Superior Court, Case No. BA364105, found Respondent guilty of Counts One and Two. Respondent remained on bail and was ordered to appear in court on October 27, 2011 for a probation and sentence hearing. Respondent failed to appear in court, without sufficient excuse, and a bench warrant was issued. Respondent never appeared in court thereafter.

16. In January 2012, Respondent applied for renewal of Acupuncturist License Number AC 12453. The renewal application asks the applicant whether he has been convicted of a crime in any state, the U.S.A. and its territories, military court or other country. Respondent failed to report his conviction in *The People of the State of California v. Jyungwook Eom*, Los Angeles County Superior Court, Case No. BA364105.

SECOND CAUSE FOR DISCIPLINE

(Conduct That Would Have Warranted Denial of License)

17. Respondent is subject to disciplinary action under section 4955, subdivision (i), of the Code in that his actions and conduct leading to his arrest and his conviction would have warranted the denial of an acupuncturist license, as more particularly alleged in paragraphs 8 through 16 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Act Involving Dishonesty)

18. Respondent is subject to disciplinary action under section 4955.1, subdivision (c) of the Code in that he lied to police officers about the circumstances of the fight leading to his arrest and conviction, and failed to report on his renewal application that he had been convicted of two felonies (violation of California Penal Code section 243(d) and California Penal Code section

245(a)(1)), as more particularly alleged in paragraphs 8 through 16 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

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

1. Revoking or suspending Acupuncturist License Number AC 12453, issued to Jyung Wook Eom;

2. Ordering Jyung Wook Eom 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. Ordering Jyung Wook Eom, if placed on probation, to pay the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: OCT 16 2014

TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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