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

In the Matter of the Statement of Issues Against: JOHN KOK-HONG CHEUNG 9471 Cortada Street, #28 El Monte, CA 91733 Applicant/Respondent.	))))))))))	Case No. 1A-2010-16

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on APR 08 2011.

It is so ORDERED MAR 09 2011.

Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

EDMUND G. BROWN JR.
Attorney General of California
GLORIA L. CASTRO
Supervising Deputy Attorney General
MARGARET PHE
Deputy Attorney General
State Bar No. 207205
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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

In the Matter of the Statement of Issues Against: JOHN KOK-HONG CHEUNG 9471 Cortada Street, #28 El Monte, California 91733, Respondent.	Case No. 1A-2010-16 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board of California (Board). She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Margaret Phe, Deputy Attorney General.

2. Respondent John Kok-Hong Cheung (Respondent) is represented in this proceeding by attorney Thomas A. Widger, whose address is:

Thomas A. Widger, Esq.
Johnson & Associates
350 South Figueroa Street, Suite 190
Los Angeles, California 90071

3. On or about March 22, 2010, Respondent filed an application dated March 18, 2010, with the Board to obtain an acupuncture license.

JURISDICTION

4. Statement of Issues No. 1A-2010-16 was filed before the Board, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on October 12, 2010. Respondent timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 1A-2010-16 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 1A-2010-16. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in paragraphs 8 and 9 of the Statement of Issues No. 1A-2010-16.

9. Respondent agrees that his application for licensure is subject to denial and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respondent will be issued a probationary acupuncture license, and it is revoked. However, the revocation is stayed, and Respondent is placed on a three-year (3) probation on the following terms and conditions.

1. COURSEWORK Respondent shall take and successfully complete not less than ten (10) semester units of coursework in ethics. All coursework shall be taken at the graduate level at a school approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all coursework must be completed within the first 3 years of probation. The required coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this decision, Respondent shall submit a plan for the Board's prior approval for meeting the educational requirements. All costs of the coursework shall be borne by the Respondent.

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

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

4. SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation surveillance program and shall, upon reasonable notice, report to the assigned investigative district office. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) victims or complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

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

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

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

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

9. VIOLATION OF PROBATION If Respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stated. If an Accusation or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an Accusation or petition to revoke probation pending against Respondent.

10. COMPLETION OF PROBATION Upon successful completion of probation, Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Thomas A. Widger. I understand the stipulation and the effect it will have on my acupuncture license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: December 21, 2010

JOHN KOK-HONG CHEUNG
Respondent

I have read and fully discussed with Respondent John Kok-Hong Cheung the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/21/2010

Thomas A. Widger
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board of California.

Dated: 12/28/10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
GLORIA L. CASTRO
Supervising Deputy Attorney General

Margaret J. Phe

MARGARET J. PHE
Deputy Attorney General
Attorneys for Complainant

LA2010503509

Exhibit A

Statement of Issues No. 1A-2010-16

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FILED

OCT 12 2010

ACUPUNCTURE BOARD

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

In the Matter of the Statement of Issues Against: JOHN KOK-HONG CHEUNG 9471 Cortada Street, #28 El Monte, California 91733, Respondent.	Case No. 1A-2010-16 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Janelle Wedge (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Acupuncture Board (Board).

2. On or about March 22, 2010, the Acupuncture Board received an application for an Acupuncture License from John Kok-Hong Cheung (Respondent). On or about March 18, 2010, John Kok-Hong Cheung certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on May 5, 2010.

JURISDICTION

3. This Statement of Issues is brought before the Board, 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 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 480 of the Code states in part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

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

"..."

6. Penal Code section 136.1, subdivision (a)(2), provides:

"(a) Except as provided in subdivision (c), any person who does any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

"...

"(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law."

COST RECOVERY

7. 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.
>
> "(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.
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> "(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."

CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime)

8. Respondent's application is subject to denial under sections 4955, subdivisions (b) and (i), 480, subdivision (a)(1), and Penal Code section 136.1, subdivision (a)(2), in that he was convicted of a crime substantially related to the qualifications, functions or duties of an acupuncturist. The circumstances are as follows:

June 1, 2001 Conviction

9. On or about June 1, 2001, in the Alhambra Superior Court of Los Angeles County, in proceedings entitled *The People of the State of California vs. John Kok Hong Cheung* case

number GA045669, Respondent was convicted of attempting to dissuade a witness from testifying at trial in violation of California Penal Code section 136.1, subdivision (a)(2), a felony.

10. The facts and circumstances surrounding the conviction referred to above were that on or about March 19, 2001, Los Angeles County Sheriff's Department (LASD) detectives from the Asian Crime Task Force conducted an investigation involving an attempt to dissuade a victim/witness from testifying at the Los Angeles County Criminal Court for a hearing related to a robbery/assault incident that involved a United Bamboo street gang member. At the time of the incident, Respondent was a member of the United Bamboo street gang. During their investigation, the LASD detectives learned that Respondent had made contact with a witness to the robbery/assault incident on two separate occasions. Specifically, on February 19, 2001, Respondent went to the witness's house and spoke to the witness regarding the criminal proceeding and incident that Respondent's then fellow gang member was involved in. Then, on or about March 4, 2001, while outside in the parking lot of a café where the witness was present inside, Respondent again spoke to the witness a second time via a cellular telephone about the same criminal proceeding.

11. On or about March 28, 2001, a felony complaint for arrest warrant was filed in *The People of the State of California vs. John Kok Hong Cheung*, et al. charging Respondent with the following:

Count 1: Knowingly and maliciously attempting to prevent and dissuade a witness from giving testimony at trial on or about February 19, 2001, in violation of Penal Code section 136.1, subdivision (a)(2), a felony;

Count 2: Unlawfully attempting to bribe to a witness upon the understanding that he shall not attend trial on or about February 19, 2001, in violation of Penal Code section 138, subdivision (a), a felony;

Count 3: Knowingly and maliciously attempting to prevent and dissuade a witness from giving testimony at trial on or about March 4, 2001, in violation of Penal Code section 136.1, subdivision (a)(2), a felony; and

Count 4: Unlawfully attempting to bribe to a witness upon the understanding that he shall not attend trial on or about March 4, 2001, in violation of Penal Code section 138, subdivision (a), a felony.

12. On or about June 1, 2001, the case was called for a preliminary setting/resetting hearing. Respondent was convicted by plea of nolo contendere to Count 1 (attempting to dissuade a witness from testifying). The Court suspended the imposition of sentence, and placed Respondent on formal probation for a period of five years. Additionally, Respondent was ordered to: (1) serve 364 days in Los Angeles County Jail (minus a credit of 133 days); (2) pay restitution in the amount of $500; (3) not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia, except with a valid prescription, and stay away from places where users, buyers or sellers congregate, except in an authorized drug counseling program; (4) not associate with persons believed to be or known to be narcotic or drug users, sellers or buyers, except in an authorized drug counseling program; (5) stay 100 yards away from the victims and gang members; (6) seek and maintain training, schooling or employment as approved by the probation officer; (7) maintain residence as approved by the probation officer; (8) not own, use or possess any dangerous or deadly weapons, including any firearms, knives or other concealable weapons; (9) submit to search or seizure at any time of the day or night by any law enforcement officer or by a probation officer with or without a warrant; (10) use only his true name with the government and police officials; (11) obey all rules and regulations of the probation department; (12) obey all laws and further orders of the court; (13) stay 100 yards away from Asian gang members, specifically Asian Boys, Oriental Thugz and United Bamboo; and (14) register as a gang member.

13. On or about September 14, 2006, the case was called for a readiness/termination/ dismissal/nonappearance hearing. Respondent was determined to be in full compliance with the terms and conditions of probation, and his motion for a reduction to a misdemeanor was granted. Additionally, the plea was set aside and vacated, and Count 1 was dismissed pursuant to Penal Code section 1203.4.

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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. Denying the application of John Kok-Hong Cheung for an Acupuncture License;

2. Directing John Kok-Hong Cheung to pay the Acupuncture Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring.

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

DATED: OCT 12 2010

JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

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