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

13 In the Matter of the Accusation Against:

Case No. 1A-2014-77

14 **LAUREN ANN MESSELBECK, L.Ac.**
15 **AKA LAUREN ANN KOELLER**
16 **2313 Half Moon Bay Lane**
Costa Mesa, CA 92627

ACCUSATION

17 **Acupuncturist License No. AC15149**

18
19 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
24 as the Acting Executive Officer of the Acupuncture Board (Board).

25 2. On or about March 19, 2013, the Board issued Acupuncturist License No. AC15149
26 to Lauren Ann Messelbeck, L.Ac., AKA Lauren Ann Koeller (respondent). The Acupuncturist
27 License was in full force and effect at all times relevant to the charges brought herein and will
28 expire on January 31, 2017, unless renewed.

COST RECOVERY

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2 5. Section 4959 of the Code states:

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
6 sum not to exceed actual and reasonable costs of the investigation and prosecution
7 of the case.

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

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

18 “(d) In any judicial action for the recovery of costs, proof of the board’s
19 decision shall be conclusive proof of the validity of the order of payment and the
20 terms for payment.

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

23 6. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licentiate found to have committed a
25 violation or violations of the licensing act to pay a sum not to exceed the reasonable
26 costs of the investigation and enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Excessive Use of Alcohol)**

3 7. Respondent has subjected her Acupuncture License No. AC15149 to disciplinary
4 action under section 4955(a), of the Code, in that she used alcoholic beverage to an extent
5 or in a manner dangerous to himself or herself, or to any other person, or to the public.

6 The circumstances are as follows:

7 (a) On or about June 22, 2014, at approximately 4:44 p.m., San Diego Harbor
8 Police Department officers (“HPD officers”) and California Highway Patrol officers (CHP
9 officers) responded to a call regarding a collision at 2725 Shelter Island Drive in San Diego,
10 California.

11 (b) When CHP officers arrived at the scene, witnesses M.D. and L.Q. explained
12 that they were sitting on the balcony at the Brigatine Restaurant with views facing out
13 towards the street. They observed a blue car [Toyota Prius driven by respondent] swerving
14 to the left then overcompensating to the right, colliding with a parked white truck from
15 behind. The Prius then “lifted straight into the air, twirled around, and dropped straight
16 down on it’s roof.”

17 (c) At the scene, CHP officers observed a 2012 blue Toyota Prius rolled over and
18 resting on its roof, its windshield shattered, and with white paint transfer along the left and
19 right bumpers and quarter panels. There were two hubcaps located in the roadway
20 approximately eight (8) feet behind the parked white truck, which was rendered inoperable
21 after sustaining major damage.

22 (d) HPD officers located respondent on the sidewalk near the blue Toyota Prius.
23 Respondent told officers that she was driving the vehicle and came from Bali-Hai restaurant
24 on Shelter Island [Drive]. Respondent added that the accident was “all her fault.” When
25 asked if she had anything to drink, respondent replied, “no.” During this contact, HPD
26 officers observed that respondent’s speech was slow and slurred, and that she had red,
27 watery eyes with a slight odor of alcohol emanating from her person. Respondent
28 unsuccessfully performed Field Coordination Tests.

1 (e) Respondent was arrested for DUI on or about June 22, 2014, at approximately
2 5:16 p.m., and transported to San Diego Harbor Police Department headquarters (HPD
3 headquarters) for processing. While at HPD headquarters, respondent was administered
4 two breath tests at 5:41 p.m. and 5:44 p.m., to measure her blood alcohol content (BAC).
5 Respondent's results were .24 BAC and .23 BAC, respectively. After the arrest, respondent
6 was asked to rate her level of intoxication on a scale of one to ten, with ten being most
7 intoxicated. Respondent estimated her level of intoxication as a "one" and added, "I don't
8 understand what happened."

9 (f) On or about July 21, 2014, the San Diego City Attorney filed a Criminal
10 Complaint against respondent in the matter of *The People of the State of California v.*
11 *Lauren Ann Koeller*, Superior Court Case No. M187139. Count One charged respondent
12 with driving under the influence of alcohol, in violation of Vehicle Code section 23152,
13 subdivision (a), a misdemeanor. Count Two charged respondent with driving with a blood
14 alcohol content level of 0.08 percent or more, in violation of Vehicle Code section 23152,
15 subdivision (b), a misdemeanor.

16 (g) On or about August 18, 2014, respondent was convicted upon her guilty plea to
17 Count One for violation of Vehicle Code 23152, subdivision (a). Count Two was
18 dismissed. After her guilty plea, respondent was sentenced to a five-year, informal
19 summary probation which included the following terms and conditions, among others: four
20 (4) days in custody; ten (10) days of Public Service Program; complete the nine (9) month
21 DUI program; complete the Mothers Against Drunk Driving (MADD) Impact Program;
22 submit to any chemical testing required by an officer; do not drive without a license or
23 insurance; and pay a fine of approximately \$2,133.00

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1 SECOND CAUSE FOR DISCIPLINE

2 **(Conviction of a Crime Substantially related to Qualifications, Functions, or Duties of an**
3 **Acupuncturist)**

4 8. Respondent has further subjected her Acupuncture License No. AC15149 to
5 disciplinary action under section 4955(b), of the Code, in that she has been convicted of a
6 crime substantially related to the qualifications, functions, or duties of an acupuncturist, as
7 more particularly alleged hereinafter:

8 (a) Paragraph 7, above, is hereby incorporated by reference and realleged as if fully
9 set forth herein.

10 PRAYER

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

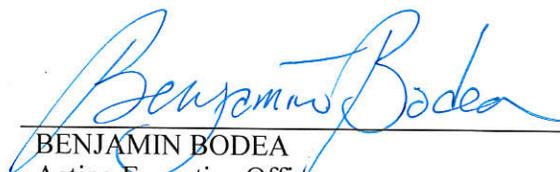
13 1. Revoking or suspending Acupuncturist License No. AC15149, issued to respondent
14 Lauren Ann Messelbeck, L.Ac.;

15 2. Ordering respondent Lauren Ann Messelbeck, L.Ac. to pay the Acupuncture Board
16 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 4959;

18 3. If placed on probation, ordering respondent Lauren Ann Messelbeck, L.Ac. to pay the
19 Acupuncture Board the costs of probation monitoring; and,

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

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22
23 DATED: MAR 14 2016



24 BENJAMIN BODEA
25 Acting Executive Officer
26 Acupuncture Board
27 State of California
28 *Complainant*