BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LARRY FORSBERG** **2824 East 23rd Street** **Oakland, CA 94601** **Acupuncture License No. AC 3022** Respondent.	Case No. 1A-2013-62

DECISION AND ORDER

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

This Decision shall become effective on December 9, 2015.

It is so ORDERED November 9, 2015.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **LARRY FORSBERG** **2824 East 23rd Street** **Oakland, CA 94601** **Acupuncture License No. AC 3022** Respondent.	Case No. 1A-2013-62 **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. Terri Thorfinnson ("Complainant") is the Executive Officer of the Acupuncture Board. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Greg W. Chambers, Deputy Attorney General.

2. Larry Forsberg ("Respondent") is represented in this proceeding by attorney Robert Hodges, Esq., whose address is: McNamara, Ney, Beatty, Slattery, Borges & Ambacher LLP, 1211 Newell Avenue, Walnut Creek, CA 94596.

3. On or about December 1, 1987, the Acupuncture Board issued Acupuncture License No. AC 3022 to Respondent. The Acupuncture License was in full force and effect at all times

relevant to the charges brought in Accusation No. 1A-2013-62 and will expire on September 30, 2016, unless renewed.

JURISDICTION

4. Accusation No. 1A-2013-62 was filed before the Acupuncture Board ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 29, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 1A-2013-62 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2013-62. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; 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.

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

CULPABILITY

9. Respondent does not contest that at an administrative hearing Complainant could establish a prima facie case with respect to the charges and allegations set forth in in Accusation No. 1A-2013-62.

10. Respondent agrees that his Acupuncture License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

12. The parties understand and agree that Portable Document Format ("PDF") and facsimile copies of this Stipulated Settlement and Disciplinary Order, PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. 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 Acupuncture License No. AC 3022 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. ALCOHOL AND DRUG ABUSE TREATMENT Effective 30 days from the date of this decision, Respondent shall commence attending Twelve-Step meetings or the equivalent, as approved by the Board. Attendance shall be at least three (3) times a week during the first year of probation. Proof of attendance at these meetings must be submitted quarterly to the Board. Failure to attend the meetings or to timely submit proof of attendance will be considered a violation of probation.

2. ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND SAMPLES Respondent shall completely abstain from the personal use or possession of alcohol and controlled substances as defined in the California Uniform Controlled Substances Act (Division 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall undergo random, biological fluid testing, as determined by the Board. Respondent shall bear all costs of such testing. The length of time and frequency will be determined by the Board. Any confirmed positive finding will be considered a violation of probation.

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

4. PSYCHOLOGICAL EVALUATION Within 90 days of the effective date of this decision and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a licensed psychologist approved by the Board. The Board shall receive a written report regarding the Respondent's judgment and/or ability to function independently as an acupuncturist with safety to the public, and whatever other information the Board deems relevant to the case. Respondent shall execute a release authorizing the evaluator to release all information to the Board. The completed evaluation is the sole property of the Board.

If the Board concludes from the results of the evaluation that Respondent is unable to practice independently and safely, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. If the Board concludes from the results of the evaluation that Respondent would benefit from ongoing psychotherapy, Respondent shall comply with the Board's directives in that regard.

Respondent shall pay all costs associated with the psychological evaluation. Failure to pay costs will be considered a violation of the probation order.

5. COURSEWORK Respondent shall take and provide evidence of successful completion of the 52 week domestic violence course required by the Alameda County Superior Court in the matter *People of the State of California v. Larry Carl Forsberg*, Case No. 586281-6.

6. COMMUNITY SERVICE Respondent shall perform 100 hours of community service. The services rendered shall be professional in nature and under the auspices of a governmental entity or a non-profit corporation tax exempt under the Internal Revenue Code. Within sixty (60) days of the effective date of this decision, Respondent shall submit to the Board for its prior approval a community service plan. Prior to engaging in the community service, Respondent shall provide a copy of the decision in this matter to the manager, director or other person in charge of the organization ("Decision Maker") where this service will be performed. Within fifteen (15) days of providing the documentation to the Decision Maker, as required, Respondent shall submit written proof of compliance to the Acupuncture Board. In no event shall such proof be provided later than two weeks after having engaged in the community service. Additionally, Respondent shall have the manager, director, or other person in charge of the organization submit confirmation directly to the Board when Respondent has completed the 100 hours of community service required by this agreement.

7. 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.

8. 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.

9. 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 outside of that

contact permitted by the Alameda County Superior Court in the matter *People of the State of California v. Larry Carl Forsberg*, Case No. 586281-6; 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

10. 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.

11. 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.

12. 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.

13. 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.

14. COST RECOVERY Respondent shall pay to the board its costs of investigation and enforcement in the amount of $422.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term. Cost recovery will not be tolled. Respondent understands that failure to make payments in accordance with any formal agreement entered into with the board or pursuant to any Decision by the board shall be considered a violation of probation.

15. 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.

16. 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, Robert Hodges, Esq. 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 Acupuncture Board.

DATED: 9/23/2015

Larry Forsberg
Respondent

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

DATED: 9/27/2015

Robert Hodges
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.

Dated: 10/7/2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

GREG W. CHAMBERS
Deputy Attorney General
Attorneys for Complainant

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