BEFORE THE
BoardUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: SUBHASH RAMCHANDRA GHARMALKAR, L.Ac. 1530 Baker Street, #G Costa Mesa, CA 92626-3572 Acupuncturist's License No. AC 4473 Respondent.	Case No. 1A-2011-97 OAH No. 2014080110

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 May 18, 2016.

It is so ORDERED April 18, 2016.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General
CINDY M. LOPEZ
Deputy Attorney General
State Bar No. 119988
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-7373
Facsimile: (213) 897-9395
Attorneys for Complainant

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In the Matter of the Accusation Against: SUBHASH RAMCHANDRA GHARMALKAR, L.Ac. 1530 Baker Street, #G Costa Mesa, CA 92626-3572 Acupuncturist's License No. AC 4473 Respondent.	Case No. 1A-2011-97 OAH No. 2014080110 **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 Cindy M. Lopez, Deputy Attorney General.

2. SUBHASH RAMCHANDRA GHARMALKAR, L.Ac. ("Respondent") is represented in this proceeding by attorney David M. Liberman, whose address is: 9709 Venice Boulevard, No. 4, Los Angeles, CA 90034.

3. On or about August 6, 1993, the Acupuncture Board issued Acupuncturist's License

No. AC 4473 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2011-97 and will expire on January 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. 1A-2011-97 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 April 25, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 1A-2011-97 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-2011-97. 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 understands and agrees that the charges and allegations in Accusation No. 1A-2011-97, if proven at a hearing, constitute cause for imposing discipline upon his Acupuncturist's License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Acupuncturist's 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

12. 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.

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

14. 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 Acupuncturist's License No. AC 4473 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. THIRD-PARTY CHAPERONE During probation, Respondent shall have a third-party chaperone present while examining or treating female patients. Respondent shall, within 30

calendar days of the effective date of the Decision, submit to the Board or its designee for prior approval name(s) of persons who will act as the third-party chaperone.

If Respondent fails to obtain approval of a third-party chaperone within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of acupuncture within three (3) calendar days after being so notified. Respondent shall cease the practice of acupuncture until a chaperone is approved to provide monitoring responsibility.

Each third-party chaperone shall sign (in ink or electronically) and date each patient medical record at the time the chaperone's services are provided. Each third-party chaperone shall read the Decision(s) and the Accusation(s), and fully understand the role of the third-party chaperone.

Respondent shall maintain a log of all patients seen for whom a third-party chaperone is required. The log shall contain the: 1) patient initials, address and telephone number; 2) medical record number; and 3) date of service. Respondent shall keep this log in a separate file or ledger, in chronological order, shall make the log available for immediate inspection and copying on the premises at all times during business hours by the Board or its designee, and shall retain the log for the entire term of probation.

Respondent is prohibited from terminating employment of a Board-approved third-party chaperone solely because that person provided information as required to the Board or its designee.

If the third-party chaperone resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name of the person(s) who will act as the third-party chaperone. If Respondent fails to obtain approval of a replacement chaperone within 60 calendar days of the resignation or unavailability of the chaperone, Respondent shall receive a notification from the Board or its designee to cease the practice of acupuncture within three (3) calendar days after being so notified. Respondent shall cease the practice of acupuncture until a replacement chaperone is approved and assumes monitoring responsibility.

2. 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.

3. COURSEWORK Respondent shall take and successfully complete not less than ten (10) semester units of coursework in the areas of boundary issues, ethics, laws and regulations. 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 three (3) years of probation. The required coursework must be in addition to any continuing education courses that may be required for license renewal.

Within ninety (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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. COST RECOVERY Respondent is ordered to reimburse the Board the reasonable investigative and prosecutorial costs incurred by the Board in the amount of $7,000.00. The Board or its designee may establish a payment plan for cost recovery; however, Respondent shall pay the full amount of cost recovery at least 180 days prior to the completion of probation. Failure to pay the ordered costs constitutes a violation of probation and may result in revocation.

12. 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.

13. 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, David M. Liberman. I understand the stipulation and the effect it will have on my Acupuncturist's 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: 11/01/2015

Subhash Ramchandra Gharmalkar, L.Board.
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: 11/2/15

David M. Liberman
Attorney for Respondent

ENDORSEMENT

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

Dated: 2.22.16

KAMALA D. HARRIS
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

CINDY M. LOPEZ
Deputy Attorney General
Attorneys for Complainant

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