BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KYONG KEUN KWAK, L.AC. 10063 Folsom Blvd., #D Sacramento, CA 95827 Acupuncture License No. AC 5461, Respondent.	Case No. 1A-2012-25 OAH No. 2014040449

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 JUN 27 2015.

It is so ORDERED MAY 28 2015.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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In the Matter of the Accusation Against: KYONG KEUN KWAK, L.AC. 10063 Folsom Blvd., #D Sacramento, CA 95827 Acupuncture License No. AC 5461, Respondent.	Case No. 1A-2012-25 OAH No. 2014040449 **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 (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 Wendy Widlus, Deputy Attorney General.

2. Respondent Kyong Keun Kwak, L.Ac. (Respondent) is represented in this proceeding by attorney Robert Lee, Esq., whose address is: 5801 Stockton Blvd., Ste. 108, Sacramento, CA 95824.

3. On or about July 31, 1996, the Acupuncture Board issued Acupuncture License No. AC 5461 to Respondent. The Acupuncture License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2012-25 and will expire on December 31, 2015, unless renewed.

JURISDICTION

4. Accusation No. 1A-2012-25 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 21, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2012-25 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 Accusation No. 1A-2012-25. 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 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.

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 Accusation No. 1A-2012-25.

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9. 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

10. 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.

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

12. 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 5461 issued to Respondent Kyong Keun Kwak, L.Ac. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. COST RECOVERY Respondent shall pay to the Board its costs of investigation and enforcement in the amount of $13,272.75. This amount shall be paid in full, directly to the Board within six (6) months prior to the termination date of probation. Cost recovery will not be tolled. Respondent understands that failure to timely pay costs is a violation of probation, and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that providing evidence and supporting documentation of financial hardship may delay further disciplinary action. Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

7. 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.

8. PRACTICE MONITOR Within 90 days of the effective date of this decision, Respondent shall submit to the Board for its prior approval, the name and qualifications of one or more California licensed acupuncturists whose license is clear (no record of complaints) and current and who has agreed to serve as a practice monitor. Once approved, the monitor shall submit to the Board a plan by which Respondent's practice shall be monitored. The monitor's education and experience shall be in the same field of practice as that of the Respondent. The monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring has taken place and providing an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely fashion. The Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall be permitted to make direct contact with patients. Further, the monitor shall have no prior business, professional, personal or other relationship with Respondent. Respondent shall execute a release authorizing the monitor to divulge any information that the Board may request.

Respondent shall notify all current and potential patients of any term or condition of probation which will affect their treatment or the confidentiality of their records (such as this condition which requires a practice monitor). Such notification shall be signed by each patient prior to continuing or commencing treatment.

If the monitor quits or is otherwise no longer available, Respondent shall not practice until a new monitor has been approved by the Board. All costs of monitoring shall be borne by the Respondent. Monitoring shall consist of at least one hour per week of individual face to face meetings.

9. 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.

10. COURSEWORK Respondent shall take and successfully complete not less than ten (10) hours of coursework in live continuing education courses in the following areas: record keeping and 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 six (6) months prior to the termination date of the decision. 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.

11. 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 Lee, 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: _____ _____

KYONG KEUN KWAK, L.AC.
Respondent

to the violation and all coursework must be completed six (6) months prior to the termination date of the decision. 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.

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DATED: 10/24/14

KYONG KEUN KWAK, L.AC.
Respondent

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

DATED: 10/24/2014

Robert Lee, Esq.
Attorney for Respondent

ENDORSEMENT

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

Dated: 10/26/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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