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FILED

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ACUPUNCTURE BOARD

7 **BEFORE THE**
8 **ACUPUNCTURE BOARD**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1A-2007-78

12 ALINA JUNG-AN CHA, L.Ac.

13 11858 Rosecrans Avenue
Norwalk, California 90650

A C C U S A T I O N

14 Licensed Acupuncturist No. AC 5634,
15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the Acupuncture Board of California (Board).

21 2. On or about February 20, 1997, the Board issued Acupuncture License number AC
22 5634 to Alina Jung-An Cha (Respondent). That license was in full force and effect at all times
23 relevant to the charges brought herein and will expire on July 31, 2012, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board, under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 731, subdivision (a), of the Code states:

"Any person licensed, certified, registered, or otherwise subject to regulation pursuant to this division [Division 2, Healing Arts, commencing with section 500 of the Business and Professions Code] who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315, 316, or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work premises of, or work area under the direct professional supervision or control of, that person, shall be guilty of unprofessional conduct. The license, certification, or registration of that person shall be subject to denial, suspension, or revocation by the appropriate regulatory entity under this division."

5. Section 4955 of the Code states:

"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:

"...

"(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the violation of the terms of this chapter or any regulation adopted by the board pursuant to this chapter.

"...

"(i) Any action or conduct that would have warranted the denial of the acupuncture license.

"(j) The violation of any law or local ordinance on an acupuncturist's business premises by an acupuncturist's employee or a person who is working under the acupuncturist's professional license or business permit, that is substantially related to the qualifications, functions, or duties of an acupuncturist. These violations shall subject the acupuncturist who employed the individuals, or under whose acupuncturist license the employee is working, to disciplinary action.

"...

6. Section 4955.1 of the Code states:

"The board may deny, suspend, revoke, or impose probationary conditions upon the license of any acupuncturist if he or she is guilty of committing a fraudulent act including, but not be limited to, any of the following:

"...

1 (c) Committing any act involving dishonesty or corruption with respect to
2 the qualifications, functions, or duties of an acupuncturist.

3 "...

4 7. California Penal Code section 316 states:

5 "Every person who keeps any disorderly house, or any house for the purpose
6 of assignation or prostitution, or any house of public resort, by which the
7 peace, comfort, or decency of the immediate neighborhood is habitually
8 disturbed, or who keeps any inn in a disorderly manner; and every person who
9 lets any apartment or tenement, knowing that it is to be used for the purpose of
10 assignation or prostitution, is guilty of a misdemeanor."

11 8. California Penal Code section 647 provides in part:

12 "Every person who commits any of the following acts is guilty of disorderly
13 conduct, a misdemeanor:

14 "...

15 "(b) Who solicits or who agrees to engage in or who engages in any act of
16 prostitution. A person agrees to engage in an act of prostitution when, with
17 specific intent to so engage, he or she manifests an acceptance of an offer
18 or solicitation to so engage, regardless of whether the offer or solicitation
19 was made by a person who also possessed the specific intent to engage in
20 prostitution. No agreement to engage in an act of prostitution shall
21 constitute a violation of this subdivision unless some act, in addition to the
22 agreement, is done within this state in furtherance of the commission of an
23 act of prostitution by the person agreeing to engage in that act. As used in
24 this subdivision, "prostitution" includes any lewd act between persons for
25 money or other consideration. "

26 9. Los Angeles Municipal Code section 103.205, subdivision (b), provides in part:

27 "**Massage Therapist — Permit Required.** No person shall engage in the
28 business of acting or act as a Massage Therapist unless such person holds a
valid Massage Therapist permit issued by the Board. No person shall engage
in the business of acting, or act as an Off-Premises Massage Therapist unless
such person holds a valid permit issued by the Board and endorsed for Off-
Premises work. Persons not licensed by the State of California, to practice
pursuant to the Medical Practices Act who are employed by a physician,
surgeon, chiropractor, osteopath, acupuncturist, nurse, or other medical
practitioner are not exempt under this section."

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COST RECOVERY

10. 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.

“(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.”

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Keeping a disorderly house in 2007)

11. Respondent is subject to disciplinary action under sections 731, subdivision (a), 4955, subdivisions (d), (i), and (j), and 4955.1, subdivision (c), of the Code, and Penal Code section 316. In particular, Respondent has kept a disorderly house for the purpose of prostitution. The facts and circumstances are as follows:

12. At all times relevant, Respondent held herself out to the public as a duly licensed acupuncturist, legally conducting the business of acupuncture at Golden Wellness located at 3560 La Cienega Boulevard, Unit E, in Los Angeles, California.

13. On or about January 4, 2007, at approximately 1:30 p.m., undercover Los Angeles Police Department (LAPD) officers, who were assigned to the Vice Division, were conducting a

1 disorderly house and prostitution investigation at Golden Wellness. Officer Dickes (Badge
2 34919) walked into the business and saw signs advertising massage services. Respondent greeted
3 him, and asked if he wanted a massage. Respondent informed Officer Dickes that he had an
4 option of a 30-minute, 40-minute, or one-hour massage. He requested a 40-minute massage and
5 paid Respondent \$40.00, who thereafter led him to a massage room. A female, S.K.¹
6 subsequently entered the room to perform the massage. As S.K. massaged Officer Dickes, she
7 allowed her breast to rub against him. She also brushed past his penis and scrotum while
8 massaging his lower body. At some point, S.K. attempted to grab his penis and manually
9 masturbate him, which he stopped. Officer Dickes then asked her whether he had to pay for the
10 masturbation. S.K. responded that it was already paid for and was included in the price.
11 Thereafter, she told him to lie down so that she could finish.

12 Based on Officer Dickes's training and experience, the actions, comments, and mannerisms
13 of Respondent, he formed the opinion that she was aware of the prostitution activity occurring
14 inside the massage rooms in violation of Penal Code section 316. Additionally, S.K.'s actions
15 during the massage and her acknowledgement that payment was already made for services to be
16 rendered (\$40 for a massage and manual masturbation) were determined by Officer Dickes to a
17 violation of Penal Code section 647, subdivision (b), (prostitution). Consequently, Officer Dickes
18 arrested Respondent for keeping a disorderly house in violation of Penal Code section 316. S.K.
19 was concurrently arrested for prostitution in violation of Penal Code section 647, subdivision (b).

20 14. On or about May 16, 2007, in the Los Angeles County Superior Court Central
21 District, a civil complaint for abatement and injunction was filed against Respondent under Penal
22 Code section 11225 et seq., Los Angeles Municipal Code sections 11.00(l), 12.14, 12.16,
23 12.24.W, 12.70, and 103.205(b), and Business and Professions Code section 17200, et seq. The
24 proceedings were entitled *The People of the State of California and City of Los Angeles v. Alina*
25 *Jung An Cha, et al.*, case number BC371221.

26 15. On or about August 8, 2008, Respondent entered into Stipulation for Settlement.

27 ¹ Initials will be used to protect privacy. Identity of witnesses will be disclosed in
28 discovery.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Unpermitted massage establishment in 2007)

16. Respondent is subject to disciplinary action under sections 731, subdivision (a), 4955, subdivisions (d), (i), and (j), and 4955.1, subdivision (c), of the Code, and Los Angeles Municipal Code section 103.205, subdivision (b). In particular, Respondent operated an unpermitted massage establishment concurrently with an employee being arrested for prostitution in violation of Penal Code section 647, subdivision (b). The facts and circumstances are as follows:

17. At all times relevant, Respondent held herself out to the public as a duly licensed acupuncturist, legally conducting the business of acupuncture at Golden Wellness located at 3560 La Cienega Boulevard, Unit E, in Los Angeles, California.

18. On or about April 12, 2007, at approximately 11:00 a.m., LAPD officers, who were assigned to the Vice Division Southwest Area, were conducting prostitution related offenses at Golden Wellness after receiving numerous complaints from the citizens regarding prostitution activities at the business. Officer Yoo (Badge 35837), who is a Department certified Korean-speaking officer, was working in an undercover capacity. Respondent greeted Officer Yoo when he entered Golden Wellness, and they conversed in Korean. She asked him if he wanted a 30-minute or one-hour massage. Officer Yoo requested a 30-minute massage, and Respondent asked him to pay \$40.00. After receiving payment, she led him to a massage room and told him to get comfortable. Approximately 30 minutes later, another female, "L.L." entered the room. As she was massaging him, they conversed in Korean. Towards the end of the massage, Officer Yoo asked L.L. if she would manually masturbate him. She agreed to do so for an additional payment of \$40.00.

Based on his experience, training, and his conversation with L.L., Officer Yoo formed the opinion that L.L. agreed to engage in a sexual act in exchange for money. Consequently, L.L. was arrested for prostitution in violation of Penal Code section 647, subdivision (b). Respondent was concurrently arrested for providing massage services without a valid massage business permit in violation of Los Angeles Municipal Code section 103.205, subdivision (b).

