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ACUPUNCTURE BOARD

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BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: CHANG HO OH, L.Ac. 638 South Van Ness Avenue, Suite 1 Los Angeles, California 90005 Acupuncturist License No. AC 6985, Respondent.	Case No. 1A-2011-85 **ACCUSATION**

Complainant alleges:

PARTIES

1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about January 20, 2000, the Acupuncture Board issued Acupuncture License number AC 6985 to Chang Ho Oh (Respondent). That license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2013, unless renewed.

JURISDICTION

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

4. Section 4928.1 of the Code states:

"Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

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:

"...

"(b) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

"...

"(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.

"...

"(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, in pertinent part:

"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:

". . .

"(b) Committing a fraudulent or dishonest act as an acupuncturist.

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

. . . ."

7. Section 4961 of the Code states:

"(a) Every person who is now or hereafter licensed to practice acupuncture in this state shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he or she has more than one place of practice, all of the places of practice. If the licensee has no place of practice, he or she shall notify the board of that fact. A person licensed by the board shall register within 30 days after the date of his or her licensure.

"(b) An acupuncturist licensee shall post his or her license in a conspicuous location in his or her place of practice at all times. If an acupuncturist has more than one place of practice, he or she shall obtain from the board a duplicate license for each additional location and post the duplicate license at each location.

"(c) Any licensee that changes the location of his or her place of practice shall register each change within 30 days of making that change. In the event a licensee fails to notify the board of any change in the address of a place of practice within the time prescribed by this section, the board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or her application whether or not there has been a change in the location of his or her place of practice and, if so,

the date of that change. The board may accept that statement as evidence of the change of address."

8. Section 4927, subdivision (d), of the Code states:

" 'Acupuncture' means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion."

9. Section 4937 of the Code states, in pertinent part:

"An acupuncturist's license authorizes the holder thereof:

"(a) To engage in the practice of acupuncture.

". . . ."

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

11. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state,

an agency of the federal government, or another country."

12. Section 477 of the Code states:

"As used in this division:

"(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) 'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

13. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

14. Section 119 of the California Penal Code states, in pertinent part:

"Any person who does any of the following is guilty of a misdemeanor:

"(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

"(1) A canceled, revoked, suspended, or fraudulently altered license.

"(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

"(b) Lends his or her license to any other person or knowingly permits the use thereof by another.

"(c) Displays or represents any license not issued to him or her as being his or her license.

"(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

"(e) Knowingly permits any unlawful use of a license issued to him or her.

"(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

"(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

"As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600."

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

15. Respondent is subject to disciplinary action under section 4955(b) and 490 of the Code in that he was convicted of a crime substantially related to the qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

16. Respondent is subject to disciplinary action under sections 4955(b) and 490 of the Code in that he was convicted of a crime which is substantially related to the qualifications, functions and duties of his license. On or about May 12, 2011, in proceedings entitled *The People Of The State Of California v. Chang Ho Oh,* case number RIM1001646, in the Superior Court of California, County of Riverside, Respondent was convicted upon his plea of guilty to a violation of Business and Professions Code section 119(e), to wit; knowingly permitting the unlawful use of a license issued to him, commonly known as illegal use of a State of California issued Acupuncture license.

On or about May 12, 2011, as a result of his plea, the Superior Court sentenced Respondent to three (3) years probation, 30 days jail, assorted fines and assessments, and various other terms and conditions of probation, including an order that Respondent may not be involved in any

business that involves prostitution. The circumstances underlying Respondent's guilty plea and sentence as stated above are as follows:

17. On or about November 19, 2010, two investigators from the Riverside County District Attorney's Bureau of Investigation assigned to the Bureau's Special Prosecution Section went to a business known as "J Acupuncture," located at 4640 Galena Street, Suite B1, in Riverside, California, to conduct a compliance check of businesses with regard to various labor and insurance laws. The businesses chosen by the investigators were suspected of operating as houses of prostitution.

18. While at "J Acupuncture," both a business license as well as a separate acupuncture license issued in Respondent's name were found displayed on a wall in the business. The investigators removed both licenses and booked them into evidence.

19. On or about November 29, 2010, Respondent came to the Riverside District Attorney's Office and spoke with one of the investigators who had been present during the November 19, 2010, enforcement visit to "J Acupuncture." During a conversation with the investigator, Respondent stated he was not the owner of "J Acupuncture," despite being shown his business and acupuncture licenses which had been removed from the business wall by the investigators.

After being shown the above-mentioned business and acupuncture licenses, Respondent stated that two women owned the "J Acupuncture," the business where the licenses were displayed on November 19, 2010.

20. During his conversation with the investigator, Respondent admitted he did in fact own the "Star Health" acupuncture business, located at 638 South Van Ness Avenue, Suite #1, in Los Angeles, California. Then Respondent further admitted he had not notified the State of California Acupuncture Board of the "J Acupuncture" address due to his "laziness."

SECOND CAUSE FOR DISCIPLINE

(Failure to Register Places of Practice)

21. Respondent is subject to disciplinary action under section 4961(a) of the Code in that on or about November 29, 2010, in the interview referred to in paragraph 20 above, he admitted

he failed to register all his places of practice of acupuncture with the Acupuncture Board.

22. As set forth above, on or about November 29, 2010, Respondent admitted his failure to register all of his acupuncture locations with the California Acupuncture Board.

DISCIPLINE CONSIDERATIONS

23. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges the facts and circumstances in paragraphs 15 through 20 as incorporated by reference as if set forth in full herein.

PRAYER

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

1. Revoking or suspending Acupuncture License number AC 6985, issued to Chang Ho Oh, L.Ac.;

2. Ordering him to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;

3. If placed on probation, ordering him to pay to the Acupuncture the costs of probation monitoring;

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

DATED: JUN 25 2012

JANELLE WEDGE
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California

Complainant

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DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation Against:

CHANG HO OH, L.AC. Case No. 1A-2011-85

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1747 N. Market Blvd., Ste. 180, Sacramento, CA 95834. I served a true copy of the attached:

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS	CERTIFIED MAIL NO.
Chang Ho Oh L.Ac. 638 S. Van Ness Ave., #1 Los Angeles, CA 90005	7011 2970 0000 0657 1985
Wendy Widlus, DAG California Department of Justice Office of the Attorney General/HQE 300 South Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Robert McKim Bell, SDAG California Department of Justice Office of the Attorney General/HQE 300 South Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Robert D. Rentzer, Attorney at Law 5011 Casa Drive Tarzana, CA 91356	regular mail

Each said envelope was, on June 12, 2013 sealed and deposited in the U.S. mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for an attempt at service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 12, 2013 at Sacramento, California.

Kristine Brothers

DECLARANT