

**BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

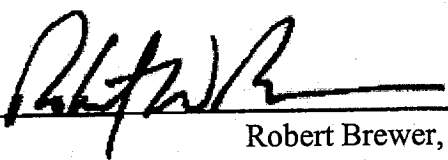
In the Matter of the Petition to Revoke)	Case No. D2-2002-5
Probation Against:)	
)	OAH No. 2010120944
JASON YOUNG MO KIM, L.AC.)	
14954 Chase Avenue)	
Panorama City, CA 91402)	
)	
Acupuncture License No. AC 8104)	
)	
Respondent.)	
_____)	

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 **AUG 17 2011** .

It is so ORDERED **JUL 18 2011** .



 Robert Brewer, Chair
 Acupuncture Board
 Department of Consumer Affairs
 State of California

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
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7
8 **BEFORE THE**
ACUPUNCTURE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Petition to Revoke
Probation Against:

12
13 **JASON YOUNG MO KIM**

14 14954 Chase Avenue
Panorama City, CA 91402

15
16 Acupuncture License No. AC 8104,

17 Respondent.

Case No. D2-2002-5

OAH No. 2010120944

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Acupuncture Board of California (Board) the parties hereby
21 agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to
22 the Board for approval and adoption as the final disposition of the Petition to Revoke Probation.

23 PARTIES

24 1. Janelle Wedge (Complainant) is the Executive Officer of the Board. She brought this
25 action solely in her official capacity and is represented in this matter by Kamala D. Harris,
26 Attorney General of the State of California, by Margaret J. Phe, Deputy Attorney General.

27 2. Respondent Jason Young Mo Kim (Respondent) is representing himself in this
28 proceeding and has chosen not to exercise his right to be represented by counsel.

1 3. On or about September 18, 2001, the Board issued Acupuncture License No. AC
2 8104 to Respondent. The Acupuncturist's License expired on May 31, 2009, and has not been
3 renewed.

4 JURISDICTION

5 4. Petition to Revoke Probation No. D2-2002-5 was filed before the Board, and is
6 currently pending against Respondent. The Petition to Revoke Probation and all other statutorily
7 required documents were properly served on Respondent on June 7, 2011. Respondent timely
8 filed his Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to
9 Revoke Probation No. D2-2002-5 is attached as exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in Petition
12 to Revoke Probation No. D2-2002-5. Respondent has also carefully read, and understands the
13 effects of this Stipulated Settlement and Disciplinary Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Petition to Revoke Probation; the right to be
16 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
17 against him; the right to present evidence and to testify on his own behalf; the right to the
18 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
19 the right to reconsideration and court review of an adverse decision; and all other rights accorded
20 by the California Administrative Procedure Act and other applicable laws.

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Petition to
25 Revoke Probation No. D2-2002-5.

26 9. Respondent agrees that his Acupuncturist's License is subject to discipline and he
27 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
28 below.

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Acupuncture Board of California.
3 Respondent understands and agrees that counsel for Complainant and the staff of the Acupuncture
4 Board of California may communicate directly with the Board regarding this stipulation and
5 settlement, without notice to or participation by Respondent. By signing the stipulation,
6 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
7 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
8 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
9 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
10 the parties, and the Board shall not be disqualified from further action by having considered this
11 matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
13 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
14 effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties agree that
16 the Board may, without further notice or formal proceeding, issue and enter the following
17 Disciplinary Order:

DISCIPLINARY ORDER

18
19 IT IS HEREBY ORDERED that Acupuncture License No. AC 8104, issued to Respondent
20 Jason Young Mo Kim, is revoked. However, the revocation is stayed for five business days
21 subsequent to the effective date of this order and Respondent is continued on probation subject to
22 the following conditions. If Respondent complies with the Cost Recovery condition set forth
23 below, Respondent's probation will be terminated. If Respondent fails to comply with the Cost
24 Recovery condition set forth below, the probation that was extended above will be revoked and
25 the disciplinary order that was stayed will be automatically imposed, thereby revoking
26 Acupuncture License number AC 8104 issued to Respondent Jason Young Mo Kim.

27 1. COST RECOVERY Respondent shall pay the Board the amount of \$8,278.00
28 within 5 business days after the effective date of this Stipulated Settlement and Disciplinary

1 Order. Said payment shall be made payable to the Acupuncture Board of California by personal
2 check or money order and mailed via Federal Express or certified mail to:

3 Acupuncture Board of California
4 c/o Kristine Brothers, Enforcement Coordinator
5 444 North 3rd Street, Suite 260
6 Sacramento, CA 95811

7 Upon the Board's receipt of the outstanding cost recovery amount, Respondent's probationary
8 term shall be concluded. The Board waives its right to recover the additional costs in the amount
9 of \$4,590.00 incurred from the prosecution and investigation of the instant Accusation and
10 Petition to Revoke Probation Case No. D2-2002-5. Respondent's failure to pay the \$8,278.00
11 within 5 business days after the effective date of the Stipulated Settlement and Disciplinary Order
12 shall result in automatic revocation of Acupuncture License number AC 8104 issued to
13 Respondent Jason Young Mo Kim, as set forth above.

14 2. RENEWAL OF LICENSE

15 A. Fees

16 NOTICE IS HEREBY GIVEN TO RESPONDENT that his licensing fees due May 31,
17 2009, in the amount of \$325.00, and May 31, 2011, in the amount of \$325.00, for a total of
18 \$650.00 are delinquent. Therefore, a total of \$675.00, including a late fee of \$25.00, must be paid
19 no later than May 31, 2012, to avoid termination/cancellation of his license under California
20 Business and Professions Code sections 4966 and 4977.

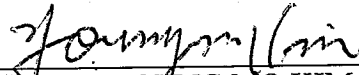
21 B. Continuing Education Requirements

22 NOTICE IS HEREBY GIVEN TO RESPONDENT that proof of completion of 50
23 continuing education units by May 31, 2007, May 31, 2009, and May 31, 2011, has not been
24 satisfied. Therefore, proof of a total of 150 continuing education requirements must be submitted
25 to the Board no later than May 31, 2012, to avoid termination/cancellation of his license under
26 California Business and Professions Code sections 4966 and 4977.

27 ACCEPTANCE

28 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
stipulation and the effect it will have on my Acupuncturist's License. I enter into this Stipulated

1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Board.


3
4
5 DATED: 6-8-11 
6 JASON YOUNG MO KIM
7 Respondent

8 ENDORSEMENT

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

11 Dated: June 8, 2011

12 Respectfully submitted,
13 KAMALA D. HARRIS
14 Attorney General of California
15 E. A. JONES III
16 Supervising Deputy Attorney General

17 
18 MARGARET J. PHE
19 Deputy Attorney General
20 *Attorneys for Complainant*

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ATTACHMENT A

**Accusation and Petition to
Revoke Probation**

FILED

SEP 20 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
Attorney General of California
2 TRINA L. SAUNDERS
Acting Supervising Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the Accusation/Petition to
11 Revoke Probation Against,

Case No. D2-2002-5

12 **JASON YOUNG MO KIM**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

13 14954 Chase Avenue
14 Panorama City, California 91402

15 Licensed Acupuncturist No. AC 8104,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Janelle Wedge (Complainant) brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Officer of the Acupuncture Board of
22 California (Board).

23 2. On or about September 18, 2001, the Board issued Acupuncture License number AC
24 AC 8104 to Jason Young Mo Kim (Respondent). The Acupuncturist's License expired on May
25 31, 2009, and has not been renewed.

26 **JURISDICTION**

27 3. In a disciplinary action entitled "In the Matter of the Accusation Against Jason Young
28 Mo Kim," Case No. 1A-2002-5, the Board, issued a decision, effective September 21, 2005, in

1 which Respondent's acupuncture license was revoked. However, the revocation was stayed and
2 Respondent was placed on probation for a period of five (5) years with certain terms and
3 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4 4. This Accusation and Petition to Revoke Probation is brought before the Board, under
5 the authority of the following laws. All section references are to the Business and Professions
6 Code unless otherwise indicated.

7 5. Section 4955 of the Code states:

8 "The board may deny, suspend, or revoke, or impose probationary conditions upon, the
9 license of any acupuncturist if he or she is guilty of unprofessional conduct.

10 "Unprofessional conduct shall include, but not be limited to, the following:

11 "...

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

15 "...

16 **GROUND FOR DISCIPLINE**

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct)**

19 6. Respondent is subject to disciplinary action under Business and Professions code
20 section 4955, subdivision (e),^{d, w} in that he has violated the terms of the chapter by failing to comply
21 with the Board's Order to pay to the Board its costs of investigation and enforcement incurred
22 from the disciplinary action entitled "In the Matter of the Accusation Against Jason Young Mo
23 Kim," Case No. 1A-2002-5, in the amount of \$11,278 prior to the end of his probationary term,
24 September 21, 2010. The circumstances are as follows:

25 A. On or about August 23, 2005, the Board issued a final decision and order in "In
26 the Matter of the Accusation Against Jason Young Mo Kim," Case No. 1A-2002-5, (Order)
27 placing Respondent on probation for five (5) years, suspending him from the practice of
28 acupuncture for thirty (30) days, and requiring him to comply with certain terms and conditions,

1 including paying the Board its costs of investigation and enforcement in the amount of \$11,278
2 before the conclusion of his probationary term.

3 B. Respondent met with Division of Investigation Senior Investigator Mark
4 Felton, who thoroughly reviewed with Respondent each and every term and condition of his
5 probation, on the following dates during the following years:

6 2006

7 February 15, 2006

8 May 18, 2006

9 August 18, 2006

10 November 29, 2006

11 2007

12 May 15, 2007

13 September 7, 2007

14 November 21, 2007

2008

February 15, 2008

May 8, 2008

August 12, 2008

November 17, 2008

2009

February 12, 2009

May 13, 2009

August 5, 2009

November 5, 2009

2010

February 10, 2010

May 26, 2010

July 21, 2010

20 During all of the aforementioned interviews, Senior Investigator Felton discussed with
21 Respondent the requirements of the Order set forth in paragraph A above. Further, Respondent
22 informed Senior Investigator Felton during each and every meeting that he was aware that he was
23 required to reimburse the Board a total of \$11,278 for its investigation and enforcement costs by
24 the end of his probationary term. From February 2006 through August 19, 2010, Respondent
25 paid \$3,000 towards his cost recovery obligation. However, to date, there is an outstanding
26 balance of \$8,278.00 that Respondent has failed to pay. Respondent's probationary term ends on
27 September 21, 2010. He has failed to comply with each and every term and condition of
28 probation, thereby violating the Order.

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FIRST CAUSE FOR REVOCATION OF PROBATION

(Failure to pay Costs)

7. At all times after the effective date of Respondent's probation, Condition 9 of the Order stated, inter alia: "Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$11,278. However, Respondent may make payments in installments upon written request to, and written approval, by the Board."

Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

A. The facts and circumstances set forth above in paragraph 6 are incorporated here as if fully set forth.

DISCIPLINE CONSIDERATIONS

8. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 23, 2005, effective September 21, 2005, in a prior disciplinary action entitled, "In the Matter of the Accusation Against Jason Young Mo Kim," before the Board, in Case Number 1A-2002-5, Respondent's license was revoked. However, revocation was stayed and Respondent was suspended for 30 days and placed on probation for five years. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

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

1. Revoking or suspending Acupuncture License number AC 8104, issued to Respondent Jason Young Mo Kim;

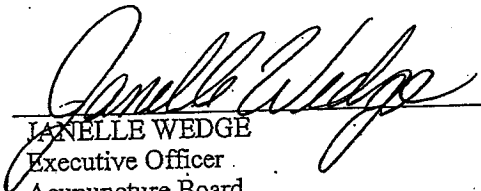
2. Revoking the probation that was granted by the Acupuncture Board in Case No. 1A-2002-5 and imposing the disciplinary order that was stayed, thereby revoking Acupuncture License number AC 8104 issued to Respondent Jason Young Mo Kim;

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3. Ordering Respondent Jason Young Mo Kim, if placed on probation, to pay the Board the costs of probation monitoring;

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

DATED: SEP 20 2010


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

LA2010504145

Exhibit A

Decision and Order

Acupuncture Board Case No. D2-2002-5

FILED

AUG 25 2005

ACUPUNCTURE BOARD

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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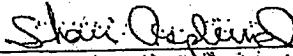
In the Matter of the Accusation Against:)
Case No. 1A-2002-5)
OAH No. L-2005030444)
)
JASON YOUNG MO KIM)
14954 Chase Street)
Van Nuys, CA 91402)
)
Acupuncture License No. AC-8104)
)
Respondent.)
_____)

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective SEP 21 2005

IT IS SO ORDERED AUG 23 2005



Shari Asplund
Chair
Acupuncture Board
Department of Consumer Affairs
State of California

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JASON YOUNG MO KIM
14954 Chase Street
Van Nuys, CA 91402

Acupuncture License No. AC-8104

Respondent.

Case No. 1A-2002-5

OAH No. L2005030444

PROPOSED DECISION

This matter was heard by Julie Cabos-Owen, Administrative Law Judge with the Office of Administrative Hearings, on July 5 and 6, 2005, in Los Angeles, California. Complainant was represented by John E. DeCure, Deputy Attorney General. Jason Young Mo Kim (Respondent) was present and was represented by Sung Park, Attorney at Law.

At the hearing, the Accusation was amended as follows:

In paragraphs 7 through 12, under the First Cause for Discipline,¹ at page 4, lines 16, 17, 18, 19 and 23, and page 5, lines 1, 2, 5, 6, 7, 9, 12, 14, 16, 17, 18, 19, 20, 21, 22, 24 and 26, the name "Ross" was changed to "Moss."

In paragraph 19, page 7, line 8, the date "April 15" was changed to "April 18."

Paragraph 20 was stricken.

Oral and documentary evidence was received and argument was heard. The record was held open until July 13, 2005, to allow Respondent to submit additional evidence regarding his license status and to permit Complainant to respond. Respondent timely submitted a copy of a pocket license, which was marked as Respondent's Exhibit B. Complainant having filed no response, Respondent's Exhibit B was admitted. On July 13, 2005, the record was closed and the matter was submitted for decision.

¹ The paragraphs in the Accusation were consecutively numbered, but repeated numbers 6, 7 and 8 under the First Cause for Discipline.

FACTUAL FINDINGS

1. On October 13, 2004, Complainant Marilyn Nielsen filed the Accusation while acting in her official capacity as the Executive Officer of the Acupuncture Board (Board), Department of Consumer Affairs, State of California.

2. On September 18, 2001, the Board issued Acupuncture License No. AC-8104 to Respondent. That license is in full force and effect and will expire on May 31, 2007, unless renewed.

3. Respondent moved to the United States from his native Korea in 1982. That year, he began serving as a preacher with the Korean American Presbyterian Church and is currently the senior pastor at the Los Angeles Calvary Korean Church, which he founded in 1997. Respondent began studying acupuncture in 1998 because he wanted to help churchgoers with their "fleshly suffering" and because he wanted to be prepared for future missionary service outside the United States.

4. In 2001, Respondent became aware that S.K., one of his church members and a licensed acupuncturist, was in need of employment. Respondent accompanied S.K. to Artesia Health Therapy (AHT), located at 6693 Downey Avenue in Long Beach, for an interview arranged in response to a Korean newspaper advertisement seeking an acupuncturist. At AHT, they were met by a woman who told them that the acupuncturist whose license was on the wall, Tae Ho Park, was not feeling well and needed help. S.K. accepted employment at AHT for four days per week, and Respondent agreed to work one day per week. Respondent's part-time employment allowed him to gain acupuncture experience while freeing him to take care of his church for the remainder of the week.

5. Respondent began working at AHT in November of 2001. His shift at AHT ran from 2:00 p.m. to 8:00 p.m., originally on Tuesdays, but later changed to Thursdays.² On a typical shift, Respondent treated only one or two patients and sometimes no patients at all. During most of his shift, he stayed in his office and read his Bible or studied his Chinese medicine books. He occasionally left his office and took naps in his van. For his services, Respondent was paid \$70 to \$100 a day, in cash, which was tendered by the receptionist when Respondent ended his shift.

6. During his employment at AHT, Respondent did not interact with other employees. He left his office only to go to his van or to use the restroom which was down a hallway, along which "patient" rooms were located. When he left his office on these occasions, he saw female employees who were dressed in white nurses' outfits with short

² Respondent originally testified that he began working on Thursdays and later switched to Tuesdays. However, on cross examination, he admitted that he was confused and that he may have started working Tuesdays and then changed to Thursdays. This later testimony was corroborated by Respondent's presence at AHT on a Thursday during the later part of his employment, as set forth in Factual Finding 11.

skirts. He never saw female patients in the waiting area. Throughout his entire employment with AHT, he personally treated 20 to 40 patients, only one of whom was female.

7. The parties stipulated to the following facts:

(a) As set forth in the Accusation, paragraph 7 under the First Cause for Discipline:

On or about November 20, 2001,³ Long Beach Police Department Detectives went to the Artesia Health Therapy facility to conduct an undercover investigation. Detective Moss (Moss) entered the premises and after being greeted at the front desk, was led down a hallway into room 7. There, Moss paid three \$20 pre-marked bills for a 45 minute massage and was asked if he was interested in an Asian or Latina girl. Moss asked for an Asian girl and was told he could take a shower if he so desired. After taking a shower, Moss sat on a bed located in the room and waited. Shortly thereafter, Y.K.^[4] entered the room and shut the door after her.

(b) As set forth in the Accusation, paragraph 8 under the First Cause for Discipline:

Y.K. was wearing a see-through nurse's outfit that was approximately mid-thigh in length. Y.K. led Moss to a bed where he laid face-down. Y.K. straddled Moss and began massaging him on his shoulders, neck, back, and legs. After approximately 10 minutes Y.K. turned Moss around to face her.

(c) As set forth in paragraph 9 of the Accusation:

As Moss was looking at Y.K., she took her left hand and made a circle with her left thumb and left forefinger. Y.K. then took her right forefinger which was pointed straight and began putting it in and out of the circle she had made with her left hand. Understanding that this was a common signal for sexual intercourse, Moss asked Y.K. how much it was going to cost. Y.K. then took her left hand and grabbed Moss's left hand and palpated the numbers 1-3-0 in his palm. Moss got off the bed and went over to his belongings, where he removed seven \$20 pre-marked bills and handed them to Y.K. She then left the room with the money and came back approximately one minute later. She walked over to the light and

³ The Administrative Law Judge (ALJ) takes official notice that November 20, 2001 was a Tuesday.

⁴ To protect the privacy of witnesses, only their initials are used.

dimmed it, and Moss gave a pre-arranged signal to the assisting detectives.

(d) As set forth in paragraph 10 of the Accusation:

Y.K. then started taking her dress and underwear off. With her underwear in hand, she attempted to put it inside Moss's underwear. He stopped her from placing the underwear inside his and she proceeded to throw her underwear on the floor. Y.K. then stuck her tongue out and flicking [sic] it back and forth in an effort to kiss Moss. He told her he was not interested in kissing her. Y.K. then removed her bra and kneeled on the bed with her buttocks in the air towards Moss. After about 5 seconds, she rolled around and pulled her legs under her. Y.K. then started to rub her genital area while signaling Moss to come toward her.

(e) As set forth in paragraph 11 of the Accusation:

Moss stood up and said he needed to get a condom from his jeans. While looking through the pockets, Y.K. approached Moss and showed him an unwrapped condom she had in her hands. She then knelt down in front of Moss and attempted to take off his underwear.

(f) As set forth in paragraph 12 of the Accusation:

Moss then said he had to urinate and went into the shower stall. Fearing that the other detectives had not received his pre-arranged signal, Moss went to his clothes and took out his cell phone. He called another detective while Y.K. began to get suspicious and tried to stop him. Y.K. then put on her clothes and ran out of the room. With the door open, Moss observed two other females running out of rooms 5 and 6. He also noticed Hispanic males lying on the beds in both rooms. Moss left the room and was greeted by the other detectives. They arrested Y.K. for prostitution.

(g) As set forth in paragraph 13 of the Accusation:

Subsequent to the arrest, detectives found that all the other girls present were also wearing see-through nurse's outfits. Inside the "doctor's office" on the premises was a male Asian wearing a white doctor's robe, identified as S.K. He produced an acupuncture board card for the detectives. In the doctor's office, the detectives also found two other acupuncturists' certificates posted on the wall. One of those certificates belonged to Jason Young Mo Kim, the respondent.

///
///

(h) Pursuant to stipulation of the parties at the administrative hearing:

The names of the other acupuncturists whose certificates were found on the wall on November 20, 2001, were Suh Kyung Kim and Tae Ho Park.

(i) Pursuant to stipulation of the parties at the administrative hearing:

On January 11, 2002, Y.K. was convicted in Los Angeles Superior Court, in Case Number ILM08904, of having violated Penal Code section 647, subdivision (b) (solicitation of/agreement to engage in prostitution), on November 20, 2001, a misdemeanor.

(j) As set forth in paragraph 14 of the Accusation:

On or about January 3, 2002,⁵ the Long Beach Police Department conducted another undercover investigation at Artesia Health Therapy. Detective Covarubias (Covarubias) entered Artesia Health Therapy and was led down the hallway into room number 9. He paid eighty dollars (four pre-marked \$20 bills) for a sixty-minute massage. Covarubias was then asked what type of girl he wanted, Asian or Latina, to which he answered Asian. A few minutes later a female identified as H.Y. entered the room.

(k) As set forth in paragraph 15 of the Accusation:

H.Y. asked Covarubias if he wanted a shower. After he answered yes, he was instructed to remove his clothing and put on a towel. H.Y. then led Covarubias down the hall and into the shower room where a bed was present near the north end. Covarubias was instructed to remove his towel and underwear, and lie on the bed. H.Y. proceeded to give Covarubias a bed bath which lasted approximately 5 minutes.

(l) As set forth in paragraph 16 of the Accusation:

After the bed bath, Covarubias put the towel on again and was led back down the hall into room 9, then lay down on a bed per H.Y.'s instructions. H.Y. straddled him and began giving him a massage. After approximately 5 minutes, H.Y. turned Covarubias around and asked him if he wanted "everything." After Covarubias asked how much "everything" was going to cost, they negotiated a price of \$100 dollars and Covarubias handed five pre-marked \$20 bills to H.Y. H.Y. counted the money and then briefly left the room.

⁵ The ALJ takes official notice that January 3, 2002 was a Thursday.

(m) As set forth in paragraph 17 of the Accusation:

When she reappeared, H.Y. had a tissue paper in hand which she placed on the end table. She proceeded to dim the lights and take off the nurse's uniform she was wearing. When she was completely naked, H.Y. straddled Covarubias. In an attempt to get H.Y. to stop touching him, Covarubias asked her to stand on the table end. She asked if he wanted her to dance. When he replied yes, she told him it would cost another \$40, which Covarubias paid with two marked \$20 bills.

8a. On January 3, 2002, Detective Thomas Brown (Brown) assisted Covarubias with the undercover operation. When detectives entered the building to make arrests, Brown found Respondent in the office at the front of AHT and saw Respondent's acupuncture license hanging on the wall. Upon Brown's request, Respondent presented his identification. Brown displayed his badge and told Respondent that he was conducting an investigation regarding prostitution at AHT. Brown told Respondent to stay in the office, and Respondent complied. Respondent did not witness any arrests made on January 3, 2002, nor did Brown ever tell Respondent that anyone was arrested that day. Brown communicated with Respondent with the interpretation assistance of another AHT employee.

8b. Respondent testified that he was not told why the police officers had come to AHT and that he believed the officers were merely checking to make sure he had an acupuncture license. However, Respondent's testimony was not persuasive. Since Respondent's testimony was generally vague and marked with his inability to recall specifics,⁶ the more precise recollection of Brown was more convincing. Furthermore, it appeared that Respondent understood the translated information Brown conveyed to him, since Respondent complied with Brown's order to remain in the office on January 3, 2002.

9a. With regard to the police operation at AHT on January 3, 2002, paragraph 18 of the Accusation alleges:

... The respondent was wearing a white doctor's coat and told the officers that it was his first day working at Artesia Health Therapy...

This allegation was not proven by clear and convincing evidence.

9b. During Respondent's testimony, he stated that he was not worried when Brown asked to see his license, because he was "only working there one day." It was apparent from the context of Respondent's testimony that he meant that he was only working at AHT one day per week. If Respondent had used the same wording when speaking to

⁶ For example, Respondent did not recall the date or even the month he met with police at AHT; he did not recall the name of the officer with whom he met; he did not recognize Detective Brown at the administrative hearing; and he could not recount specifically what was discussed during their meeting.

Brown on January 3, 2002 as he used in his testimony at hearing, there may have been a misinterpretation by Brown that Respondent meant it was his first day of work. Since there was no evidence regarding the specific words Respondent used on January 3, 2002, it was not proven that Respondent specifically told Brown it was his "first day" of work at AHT.

10. Respondent quit his employment with AHT in April of 2002. He terminated his employment because the commute from his home was too long and because "police were coming into the business" and he thought that something "bad" was going on there. Respondent's testimony indicated that he noticed some police activity at AHT in April of 2002.

11a. Paragraph 19 of the Accusation alleges:

On or about April 18, 2002, officers made an undercover investigation of Artesia health Therapy. Their investigation led to the arrest of a woman calling herself "BeBe" for prostitution. The officers also found the respondent present at Artesia Health Therapy when they made the arrest.⁷

This allegation was not proven by clear and convincing evidence.

11b. While it was established that Respondent worked at AHT until some point in April of 2002, it was not proven by clear and convincing evidence that Respondent was present at AHT on April 18, 2002.

12. AHT was a prostitution operation that was shut down in late 2002, after a two-year investigation by the Long Beach Police Department vice division involving several undercover operations. Former Sergeant McAuley, who supervised the vice investigation and visited AHT over 100 times, never saw a female patient at AHT. Additionally, he observed that the female employees, whose ages ranged from their early 20s to age 41, wore white nurses' outfits transparent enough to see through.⁸

13. During the time Respondent was employed at AHT, massage therapists at AHT were soliciting, agreeing to engage in, and performing acts of prostitution in violation of Penal Code section 647, subdivision (b).⁹

⁷ The Administrative Law Judge takes official notice that April 18, 2002 was a Thursday.

⁸ Sergeant McAuley testified that the female employees stopped wearing the transparent nurses' outfits at the beginning of 2002.

⁹ As defined by Penal Code section 647, subdivision (b), "prostitution" includes "any lewd act between persons for money or other consideration."