BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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| In the Matter of the Accusation Against:<br><br>HEATHER LORRAINE RICE, L.AC.<br>900 W. Broadway<br>Anaheim, CA 92805<br>Acupuncturist License No. AC 8567<br><br>Respondent. | Case No. 1A-2011-87<br><br>OAH No. 2014060213 |

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Acupuncture Board, as its Decision in this matter.

This Decision shall become effective on MAY 29 2015.

It is so ORDERED APR 29 2015.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
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*Attorneys for Complainant*

**BEFORE THE**
**ACUPUNCTURE BOARD**
**DEPARTMENT OF CONSUMER AFFAIRS**
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| In the Matter of the Accusation Against:<br><br>HEATHER LORRAINE RICE, L.AC.<br>900 W. Broadway<br>Anaheim, CA 92805<br>Acupuncturist License No. AC 8567,<br><br>Respondent. | Case No. 1A-2011-87<br><br>OAH No. 2014060213<br><br>**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 Heather Lorraine Rice, L.Ac. (Respondent) is represented in this proceeding by attorney Raymond J. McMahon, whose address is: Bonne Bridges Mueller O'Keefe & Nichols - Orange County, 1851 East First St., Ste. 810, Santa Ana, CA 92705-4041.

3. On or about September 9, 2002, the Board issued Acupuncture License No. AC 8567 to Respondent. The Acupuncture License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2011-87 and will expire on October 31, 2015, unless renewed.

## JURISDICTION

4. Accusation No. 1A-2011-87 was filed before the Acupuncture Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 16, 2014. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2011-87 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-2011-87. 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 her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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-2011-87.

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9. Respondent agrees that her Acupuncture License is subject to discipline and she 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 Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 8567 issued to Respondent Heather Lorraine Rice 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 $4,632.50. This amount shall be paid in full directly to the Board within six (6) months prior to the termination date of the decision. 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 the day 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. 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, Raymond J. McMahon. 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: _____

HEATHER LORRAINE RICE, L.AC.
Respondent

I have read and fully discussed with Respondent HEATHER LORRAINE RICE, 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: _____

Raymond J. McMahon
Attorney for Respondent

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## ENDORSEMENT

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

Dated:

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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petition to revoke probation pending against Respondent.

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**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. 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: 8-22-14 Heather Rice

HEATHER LORRAINE RICE, L.AC.
Respondent

I have read and fully discussed with Respondent HEATHER LORRAINE RICE, 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: August 22, 2014

Raymond J. McMahon
Attorney for Respondent

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**ENDORSEMENT**

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

Dated: August 25, 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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