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ACUPUNCTURE BOARD

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

11 In the Matter of the Accusation Against:
12 JUNE KI CHANG
4000 W. Riverside Dr., #B,
13 Burbank, CA 91505
Acupuncturist Certificate No. AC 8501

Case No. 1A-2009-26

ACCUSATION

Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about June 24, 2002, the Acupuncture Board issued Acupuncturist Certificate
21 Number AC 8501 to June Ki Chang (Respondent). The Acupuncturist Certificate was in full
22 force and effect at all times relevant to the charges brought herein and will expire on August 31,
23 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Acupuncture Board (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.
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4. 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:

"(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

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

"(c) False or misleading advertising.

"(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.

"(e) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the

1 Dental Board of California, the Board of Registered Nursing, and the Board of
2 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
3 consistency in the implementation of this subdivision.

4 "The board shall seek to ensure that licensees are informed of the responsibility
5 of licensees and others to follow infection control guidelines, and of the most recent
6 scientifically recognized safeguards for minimizing the risk of transmission of
7 blood-borne infectious diseases.

8 "(f) The use of threats or harassment against any patient or licensee for
9 providing evidence in a disciplinary action, other legal action, or in an investigation
10 contemplating a disciplinary action or other legal action.

11 "(g) Discharging an employee primarily for attempting to comply with the
12 terms of this chapter.

13 "(h) Disciplinary action taken by any public agency for any act substantially
14 related to the qualifications, functions, or duties of an acupuncturist or any
15 professional health care licensee.

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

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

24 "(k) The abandonment of a patient by the licentiate without written notice to the
25 patient that treatment is to be discontinued and before the patient has had a reasonable
26 opportunity to secure the services of another practitioner.

1 "(l) the failure to notify the board of the use of any false, assumed, or fictitious
2 name other than the name under which he or she is licensed as an individual to
3 practice acupuncture."

4 5. Section 4955.1 of the Code states:

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

8 "(a) Securing a license by fraud or deceit.

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

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

12 "(d) Altering or modifying the medical record of any person, with fraudulent
13 intent, or creating any false medical record.

14 "(e) Failing to maintain adequate and accurate records relating to the provision
15 of services to their patients."

16 6. Section 4956 of the Code states:

17 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
18 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
19 is deemed to be a conviction within the meaning of this chapter.

20 "The board may order a license suspended or revoked, or may deny a license, or may
21 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
22 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
23 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
24 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
25 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
26 complaint, information, or indictment."

27 7. Section 4959 of the Code states:
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1 "(a) The board may request the administrative law judge, under his or her
2 proposed decision in resolution of a disciplinary proceeding before the board, to
3 direct any licensee found guilty of unprofessional conduct to pay to the board a sum
4 not to exceed actual and reasonable costs of the investigation and prosecution of the
5 case.

6 "(b) The costs to be assessed shall be fixed by the administrative law judge and
7 shall not in any event be increased by the board. When the board does not adopt a
8 proposed decision and remands the case to an administrative law judge, the
9 administrative law judge shall not increase the amount of any costs assessed in the
10 proposed decision.

11 "(c) When the payment directed in the board's order for payment of costs is not
12 made by the licensee, the board may enforce the order for payment in the superior
13 court in the county where the administrative hearing was held. This right of
14 enforcement shall be in addition to any other rights the board may have as to any
15 licensee directed to pay costs.

16 "(d) In any judicial action for the recovery of costs, proof of the board's
17 decision shall be conclusive proof of the validity of the order of payment and the
18 terms for payment.

19 "(e) All costs recovered under this section shall be considered a reimbursement
20 for costs incurred and shall be deposited in the Acupuncture Fund."

21 8. Business and Professions Code section 125.3.states that:

22 "(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
23 proceeding before any board within the department or before the Osteopathic Medical Board
24 upon request of the entity bringing the proceedings, the administrative law judge may direct a
25 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
26 to exceed the reasonable costs of the investigation and enforcement of the case.

27 "(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order
28 may be made against the licensed corporate entity or licensed partnership.

1 "(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs
2 are not available, signed by the entity bringing the proceeding or its designated representative
3 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
4 The costs shall include the amount of investigative and enforcement costs up to the date of the
5 hearing, including, but not limited to, charges imposed by the Attorney General.

6 "(d) The administrative law judge shall make a proposed finding of the amount of
7 reasonable costs of investigation and prosecution of the case when requested pursuant to
8 subdivision (a). The finding of the administrative law judge with regard to costs shall not be
9 reviewable by the board to increase the cost award. The board may reduce or eliminate the cost
10 award, or remand to the administrative law judge if the proposed decision fails to make a finding
11 on costs requested pursuant to subdivision (a).

12 "(e) If an order for recovery of costs is made and timely payment is not made as directed in
13 the board's decision, the board may enforce the order for repayment in any appropriate court.
14 This right of enforcement shall be in addition to any other rights the board may have as to any
15 licentiate to pay costs.

16 "(f) In any action for recovery of costs, proof of the board's decision shall be conclusive
17 proof of the validity of the order of payment and the terms for payment.

18 "(g)(1) Except as provided in paragraph (2), the board shall not renew or
19 reinstate the license of any licentiate who has failed to pay all of the costs ordered
20 under this section.

21 (2) Notwithstanding paragraph (1), the board may, in its discretion,
22 conditionally renew or reinstate for a maximum of one year the license of any
23 licentiate who demonstrates financial hardship and who enters into a formal
24 agreement with the board to reimburse the board within that one-year period for the
25 unpaid costs.

26 "(h) All costs recovered under this section shall be considered a reimbursement for costs
27 incurred and shall be deposited in the fund of the board recovering the costs to be available upon
28 appropriation by the Legislature.

1 (i) Nothing in this section shall preclude a board from including the recovery of the costs
2 of investigation and enforcement of a case in any stipulated settlement.

3 (j) This section does not apply to any board if a specific statutory provision in that board's
4 licensing act provides for recovery of costs in an administrative disciplinary proceeding.

5 (k) Notwithstanding the provisions of this section, the Medical Board of California shall
6 not request nor obtain from a physician and surgeon, investigation and prosecution costs for a
7 disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is
8 revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from
9 this subdivision is offset by an increase in the amount of the initial license fee and the biennial
10 renewal fee, as provided in subdivision (e) of Section 2435."

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12 **FIRST CAUSE FOR DISCIPLINE**

13 (Conviction of a Crime Substantially Related to Acupuncture)

14 9. Respondent is subject to disciplinary action under section Respondent is subject to
15 disciplinary action under section 4955, subdivision (b), and 4956 of the Code in that she
16 committed unprofessional conduct in that Respondent was convicted of a crime substantially
17 related to the qualifications, functions, or duties of an acupuncturist. The facts and circumstances
18 are as follows:

19 10. On or about February 9, 2009, Respondent was convicted of a misdemeanor for
20 violating Penal Code Section 487(A), grand theft, following a plea of nolo contendere.

21 11. The conviction was based on Respondent's arrest of November 23, 2008. On that
22 date, Los Angeles Police Department officers received a radio call indicating that Respondent
23 was being held at the Neiman Marcus on Topanga Canyon Boulevard. When officers arrived at
24 the location, Respondent was being held by loss prevention investigators of the retail store.

25 Before being detained by loss prevention investigators Respondent was observed picking up a
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1 pink "Balenciaga" purse from a store sales table and exiting the store without paying for the item.

2 Respondent's actions were also reviewed on the store's security camera.

3 **DISCIPLINE CONSIDERATIONS**

4 12. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on or about March 13, 1997, in a prior criminal proceeding entitled
6 *People v. Jane Lee* (Respondent's alias) in Los Angeles County in the City of Beverly Hills
7 Superior Court, Case Number 7BH0033501. Respondent was convicted for violating Penal Code
8 section 487(A) grand theft., a misdemeanor and was ordered to serve 24 months probation, one
9 day in jail, pay a fine or complete 24 hours of community service in lieu thereof, and pay
10 restitution. The record of the criminal proceeding is incorporated as if fully set forth.

11 **PRAYER**

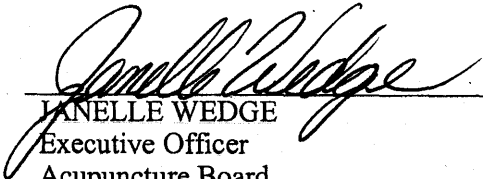
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Acupuncture Board issue a decision:

14 1. Revoking or suspending Acupuncturist Certificate Number AC 8501, issued to June
15 Ki Chang, L. Ac.

16 2. Ordering June Ki Chang, L. Ac., to pay the Acupuncture Board the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 4959;

19 3. Taking such other and further action as deemed necessary and proper.

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22 DATED: DEC 22 2009


23 JANELLE WEDGE
24 Executive Officer
25 Acupuncture Board
26 Department of Consumer Affairs
27 State of California
28 Complainant

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