

FILED

JAN 21 2010

ACUPUNCTURE BOARD

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

10 In the Matter of the Statement of Issues
 11 Against:

Case No. 1A-2009-115

12 **CHIN HUA CHENG**
 13 **19315 Sorenson, #2**
Cupertino, CA 95014

STATEMENT OF ISSUES

14
 15
 16 Applicant/Respondent.

17
 18 Complainant alleges:

19 PARTIES

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

22 2. On or about March 9, 2009, the Acupuncture Board, Department of Consumer Affairs
 23 received an application for an Acupuncture license from Chin Hua Cheng (Respondent). On or
 24 about March 3, 2009, Chin Hua Cheng certified under penalty of perjury to the truthfulness of all
 25 statements, answers, and representations in the application. The Board denied the application on
 26 September 24, 2009.

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JURISDICTION

1
2 3. This Statement of Issues is brought before the Acupuncture Board (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4955 of the Code states:

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

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

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

12 ...

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

15 5. Section 4955.1 of the Code states:

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

19 ...

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

22 6. Section 4956 of the Code states:

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

26 AThe board may order a license suspended or revoked, or may deny a license, or may
27 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
28 judgment of conviction has been affirmed on appeal, or when an order granting probation is made

1 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
3 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
4 complaint, information, or indictment.@

5 FIRST CAUSE FOR DENIAL OF APPLICATION

6 (Substantially-related Conviction)

7 7. Respondent's application is subject to denial based on her 2007 misdemeanor
8 conviction of violating Vehicle Code section 20002(a) [hit and run] which is in violation of code
9 sections 4955(b) and 4956 [conviction of a substantially related crime.]

10 8. On or about February 27, 2007, Respondent was convicted of Vehicle Code section
11 20002(a) [hit and run], a misdemeanor. She was sentenced to two years probation, and ordered to
12 complete 250 hours of community service.

13 9. Therefore, Respondent's application is subject to denial based on her 2007
14 misdemeanor conviction of violating Vehicle Code section 20002(a) [hit and run] in violation of
15 code sections 4955(b) and 4956 [conviction of a substantially related crime.]

16 SECOND CAUSE FOR DENIAL OF APPLICATION

17 (Dishonesty)

18 10. Paragraph 8 is incorporated herein.

19 11. On or about April 17, 2008, Respondent successfully completed the probation
20 imposed by her conviction of Vehicle Code section 20002(a) [hit and run.] On or about June 16,
21 2008, her motion for record clearance pursuant to Penal Code section 1203.4 was granted. The
22 Order states: "A Record Clearance Order pursuant to Section 1203.4 of the Penal Code does not
23 relieve you of the obligation to disclose the conviction in response to any direct question in any
24 questionnaire or application for public office, for license by any State or local agency, or
25 contracting with the California lottery."

26 12. On or about March 3, 2009, Respondent completed an application for licensure and
27 certified under penalty of perjury that all statements she made in the application were true.
28 Question 17 asked, "Have you ever been convicted of, or pled nolo contendere to any offense,

1 misdemeanor, or felony in any state, the United States, or a foreign country? **NOTE: You are**
2 **required** [bold type in original] to list any conviction that has been set aside and dismissed under
3 Section 1203.4 of the Penal Code or under any other provision of law.”

4 13. Respondent checked the box marked “No;” however, at the time Respondent
5 completed the application, she was aware that on or about February 27, 2007, she had been
6 convicted of Vehicle Code section 20002(a) [hit and run] and it had been dismissed pursuant to
7 Penal Code section 1203.4 but she did not reveal this information in her application.

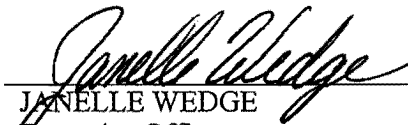
8 14. Therefore, Respondent’s application is subject to denial based on code section 4955.1
9 [dishonesty related to the qualifications, functions or duties of an acupuncturist] in that she failed
10 to reveal her 2007 conviction for violating Vehicle Code section 20002(a) [hit and run.]

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. Denying the application of Chin Hua Cheng for a Acupuncture;
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: **JAN 21 2010**

17 
18 JANELLE WEDGE
19 Executive Officer
20 Acupuncture Board
21 Department of Consumer Affairs
22 State of California
23 Complainant

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