

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

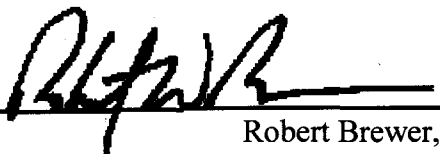
In the Matter of the Statement of Issues)	Case No. 1A-2009-115
Against:)	
)	
CHIN HUA CHENG)	
111 Montebello Ave., B112)	
Mountain View, CA 94043)	
)	
)	
Applicant/Respondent.)	
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DECISION AND ORDER

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

This Decision shall become effective on APR 08 2010.

It is so ORDERED MAR 09 2010.



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

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
State Bar No. 97276
3 Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
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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 Statement of Issues
11 Against:

12 **CHIN HUA CHENG**
13 **111 Montebello Avenue, B112**
Mountain View, CA 94043

14
15
16 Applicant/Respondent.

Case No. 1A-2009-115

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Marilyn Nielsen (Complainant) is the Executive Officer of the Acupuncture Board.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Catherine E. Santillan, Senior Legal
24 Analyst.

25 2. Respondent Chin Hua Cheng (Respondent) is represented in this proceeding by
26 attorney S. Alex Liao, whose address is 28 North First Street, Suite 302, San Jose, CA 95113.

27 3. On or about March 9, 2009 the Board received Respondent's application for an
28 Acupuncture license which she had signed and dated March 3, 2009.

1 establish a prima facie case with respect to the charges and allegations contained in the Statement
2 of Issues.

3 10. Respondent agrees that her Acupuncture license is subject to denial and she agrees to
4 be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below:

5 CONTINGENCY

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

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

18 13. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Board may, without further notice or formal proceeding, issue and enter the following
20 Disciplinary Order:

21 DISCIPLINARY ORDER

22 IT IS HEREBY ORDERED that Respondent Chin Hua Cheng's Acupuncture license will
23 be issued and automatically revoked. The revocation will be stayed and the Respondent placed
24 on two (2) years probation on the following terms and conditions:

25 1. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

26 Respondent shall reimburse the Acupuncture Board for the hourly costs it incurs in monitoring
27 the probation to ensure compliance for the duration of the probation period, not to exceed \$500.00
28 annually.

1 2. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all
2 regulations governing the practice of acupuncture in California. A full and detailed account of
3 any and all violations of law shall be reported by the respondent to the Board in writing within
4 seventy-two (72) hours of occurrence.

5 3. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
6 penalty of perjury on forms provided by the Board, stating whether there has been compliance
7 with all the conditions of probation.

8 4. SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation
9 surveillance program and shall, upon reasonable notice, report to the assigned investigative
10 district office. Respondent shall contact the assigned probation surveillance monitor regarding
11 any questions specific to the probation order. Respondent shall not have any unsolicited or
12 unapproved contact with 1) victims or complainants associated with the case; 2) Board members
13 or members of its staff; or 3) persons serving the Board as expert examiners.

14 5. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
15 person for interviews with the Board or its designee upon request at various intervals and with
16 reasonable notice.

17 6. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
18 through the assigned probation surveillance compliance officer of any and all changes of
19 employment, location and address within 30 days of such change.

20 7. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event
21 respondent should leave California to reside or to practice outside the State, respondent must
22 notify the Board in writing of the dates of departure and return. Periods of residency or practice
23 outside California will not apply to the reduction of this probationary period.

24 8. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
25 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
26 this probation. Respondent shall terminate any such supervisory relationship in existence on the
27 effective date of this probation.

28 9. VIOLATION OF PROBATION If respondent violates probation in any respect, the

1 Board may, after giving respondent notice and the opportunity to be heard, revoke probation and
2 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is
3 filed against respondent during probation, the Board shall have continuing jurisdiction until the
4 matter is final, and the period of probation shall be extended until the matter is final. No petition
5 for modification or termination of probation shall be considered while there is an accusation or
6 petition to revoke probation pending against respondent.

7 10. COMPLETION OF PROBATION Upon successful completion of probation,
8 respondent's license will be fully restored.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, S. Alex Liao. I understand the stipulation and the effect it will
12 have on my Acupuncture. I enter into this Stipulated Settlement and Disciplinary Order
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
14 Acupuncture Board.

15
16 DATED: 2/12/2010

Chin Hua Cheng
17 CHIN HUA CHENG
Respondent

18
19
20
21 I have read and fully discussed with Respondent Chin Hua Cheng the terms and conditions
22 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
23 its form and content.

24
25 DATED: 2/12/2010

S. Alex Liao
26 S. Alex Liao
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 of the Department of Consumer Affairs.

Dated: 2/16/2010

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

Catherine Santillan
CATHERINE E. SANTILLAN
Senior Legal Analyst
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 1A-2009-115

FILED

JAN 21 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
Attorney General of California
2 JOSE R. GUERRERO
State Bar No. 97276
3 Supervising Deputy Attorney General
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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.

27 ///

28 ///

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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