

ACUPUNCTURE BOARD 444 North 3rd Street, Suite 260, Sacramento, CA 95814 Phone: (916) 445-3021 Fax: (916) 445-3015 www.acupuncture.ca.gov



July 15, 2009

Jian Lin, AC 6933 6080 University Avenue San Diego, CA 92115

Re: Case No. 1A-2007-166 Stipulated Settlement and Disciplinary Order

Dear Mr. Lin:

Enclosed is a copy of the **Stipulated Settlement and Disciplinary Order** in the matter of the accusation filed against you. Please note the effective date of the Decision is August 14, 2009.

The Decision orders your license to be revoked, however, revocation is stayed and your license is placed on 5 years probation with specific terms and conditions. As part of your probation order, you must complete 20 (twenty) semester units or 30 (thirty) quarter units of coursework in ethics, hazardous waste control, and public safety laws relating to acupuncture. Please submit your plan to satisfy these conditions to the board for prior approval within 90 days of the effective date. Payment of cost recovery for \$4,000 has also been ordered and must be paid before the term of your probation has ended.

The Acupuncture Board encourages your diligent compliance with all of the terms and conditions stipulated in this agreement. If you have any questions regarding your probation and/or the conditions you are required to meet, please contact your probation monitor, Kristine Brothers, Enforcement Coordinator at Kristine_Brothers@dca.ca.gov or by phone.

Sincerely,

Executive Officer

Enclosure

cc: Heidi R. Weisbaum, DAG, DOJ Steven V. Adler, SDAG, DOJ Eric K. Chen, Law Offices of Eric K. Chen

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

In the Matter of the Accusation Aga	uinst:)	Case No. 1A-2007-166
)	OAH No. 2008100301
JIAN LIN, L.AC.)	
6080 University Avenue)	
San Diego, CA 92115).	
) .	
Acupuncture License No. AC 6933)	
)	
Respo	ondent.)	
)	

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

AUG 1 4 2009

It is so ORDERED J

JUL 1 5 2009

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

1	EDMUND G. BROWN JR., Attorney General				
2	of the State of California STEVEN V. ADLER				
3	Supervising Deputy Attorney General HEIDI R. WEISBAUM, State Bar No. 101489				
4	Deputy Attorney General				
5	San Diego, CA 92101				
6	P.O. Box 85266				
7	Telephone: (619) 645-2098				
8	Attorneys for Compla	ainant			
9					
10					
11		STATE OF CAL	IFURINIA		
12	In the Matter of the A	ccusation Against:	Case No. 1A-2007-166		
13	JIAN LIN, L.Ac.		OAH No. 2008100301		
14	6080 University Aver San Diego, Ca 92115		STIPULATED SETTLEMENT AND		
15			DISCIPLINARY ORDER		
16	Acupuncture License				
17	× ×	Respondent.			
18	18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the				
19	19 above-entitled proceedings that the following matters are true:				
20	PARTIES				
21	1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture				
22	Board and brought this action solely in her official capacity. She is represented in this matter by				
23	Edmund G. Brown Jr., Attorney General of the State of California, by Heidi R. Weisbaum,				
24	Deputy Attorney General.				
25.	2.	Respondent JIAN LIN, L.Ac. (Respondent) is represented in this			
26	proceeding by attorney Eric K. Chen, whose address is 18725 East Gale Avenue, Suite 228				
27	City of Industry, CA 91748.				
28	111				
			*		

1 3. On or about January 19, 2000, the Acupuncture Board (Board) issued 2 Acupuncture License No. AC 6933 to JIAN LIN, L.Ac.. The Acupuncture License was in full 3 force and effect at all times relevant to the charges brought in Accusation No. 1A-2007-166 and 4 will expire on September 30, 2009, unless renewed. 5 JURISDICTION 4. 6 Accusation No. 1A-2007-166 was filed before the Acupuncture Board, 7 Department of Consumer Affairs, State of California, and is currently pending against 8 Respondent. The Accusation and all other statutorily required documents were properly served 9 on Respondent on September 16, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2007-166 is attached as Exhibit A and 10 11 incorporated herein. 12 ADVISEMENT AND WAIVERS 5. 13 Respondent has carefully read, fully discussed with counsel, and 14 understands the charges and allegations in Accusation No. 1A-2007-166. Respondent has also 15 carefully read, fully discussed with counsel, and understands the effects of this Stipulated 16 Settlement and Disciplinary Order. 17 6 Respondent is fully aware of his legal rights in this matter, including the 18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by 19 counsel at his own expense; the right to confront and cross-examine the witnesses against him; 20 the right to present evidence and to testify on his own behalf; the right to the issuance of 21 subpoenas to compel the attendance of witnesses and the production of documents; the right to 22 reconsideration and court review of an adverse decision; and all other rights accorded by the 23 California Administrative Procedure Act and other applicable laws. 24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up 25 each and every right set forth above. 26 CULPABILITY 8. 27 Respondent admits the truth of each and every charge and allegation in 28 Accusation No. 1A-2007-166.

9. 1 Respondent agrees that his Acupuncture License is subject to discipline 2 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary 3 Order below. 4 CONTINGENCY 5 10. The parties understand and agree that facsimile copies of this Stipulated 6 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same 7 force and effect as the originals. 8 11. In consideration of the foregoing admissions and stipulations, the parties 9 agree that the Board may, without further notice or formal proceeding, issue and enter the 10 following Disciplinary Order: 11 **DISCIPLINARY ORDER** 12 IT IS HEREBY ORDERED that Acupuncture License No. AC 6933 issued to 13 Respondent JIAN LIN, L.Ac., is revoked. However, the revocation is stayed and Respondent is 14 placed on probation for five (5) years on the following terms and conditions. 15 1. COURSEWORK - ETHICS Respondent shall take and successfully 16 complete not less than 20 semester units or 30 quarter units of coursework in the following area: 17 Ethics. All coursework shall be taken at the graduate level at a school approved by the Board. 18 Classroom attendance must be specifically required. Course content shall be pertinent to the 19 violation and all coursework must be completed within the first three years of probation. The 20 required coursework must be in addition to any continuing education courses that may be 21 required for license renewal. 22 Within 90 days of the effective date of this decision, Respondent shall submit a 23 plan for the Board's prior approval for meeting the educational requirements. All costs of the 24 coursework shall be borne by Respondent. 25 2. COURSEWORK - HAZARDOUS WASTE CONTROL Respondent shall 26 take and successfully complete not less than 20 semester units or 30 quarter units of coursework 27 in the following area: Hazardous Waste Control. All coursework shall be taken at the graduate 28 level at a school approved by the Board. Classroom attendance must be specifically required.

Course content shall be pertinent to the violation and all coursework must be completed within
 the first three years of probation. The required coursework must be in addition to any continuing
 education courses that may be required for license renewal.

Within 90 days of the effective date of this decision, Respondent shall submit a
plan for the Board's prior approval for meeting the educational requirements. All costs of the
coursework shall be borne by Respondent.

3. <u>COURSEWORK - PUBLIC SAFETY LAWS RELATING TO</u>
ACUPUNCTURE Respondent shall take and successfully complete a course regarding public
safety laws relating to the practice of acupuncture. Classroom attendance must be specifically
required. Course content shall be pertinent to the violation and all coursework must be
completed within the first three years of probation. The required coursework must be in addition
to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this decision, Respondent shall submit a
course for the Board's prior approval for meeting this requirement. All costs of the coursework
shall be borne by Respondent.

4. <u>REIMBURSEMENT FOR PROBATION SURVEILLANCE</u>
 MONITORING Respondent shall reimburse the Board for the hourly costs it incurs in
 monitoring the probation to ensure compliance for the duration of the probation period.

<u>OBEY ALL LAWS</u> 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 72 hours of occurrence.

6. <u>QUARTERLY REPORTS</u> 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.

26 7. <u>SURVEILLANCE PROGRAM</u> Respondent shall comply with the
27 Board's probation surveillance program and shall, upon reasonable notice, report to the assigned
28 investigative district office. Respondent shall contact the assigned probation surveillance

1 monitor regarding any questions specific to the probation order. Respondent shall not have any 2 unsolicited or unapproved contact with 1) victims or complainants associated with the case; 3 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners. 4 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent 5 shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice. 6 9. 7 <u>CHANGES OF EMPLOYMENT</u> Respondent shall notify the Board in 8 writing, through the assigned probation surveillance compliance officer of any and all changes of 9 employment, location and address within 30 days of such change. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the 10 10. 11 event respondent should leave California to reside or to practice outside the State, respondent 12 must notify the Board in writing of the dates of departure and return. Periods of residency or 13 practice outside California will not apply to the reduction of this probationary period. 14 11. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent 15 shall not employ or supervise or apply to employ or supervise acupuncture trainees during the 16 course of this probation. Respondent shall terminate any such supervisorial relationship in 17 existence on the effective date of this probation. 18 12. COST RECOVERY Respondent shall pay to the Board its costs of 19 investigation and enforcement in the amount of \$4000.00. 20 13. VIOLATION OF PROBATION If respondent violates probation in any 21 respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke 22 probation and carry out the disciplinary order that was stated. If an accusation or petition to 23 revoke probation is filed against respondent during probation, the Board shall have continuing 24 jurisdiction until the matter is final, and the period of probation shall be extended until the matter 25 is final. No petition for modification or termination of probation shall be considered while there 26 is an accusation or petition to revoke probation pending against respondent. 27 14. COMPLETION OF PROBATION Upon successful completion of 28 probation, respondent's license will be fully restored.

• 5

ACCEPTANCE 1 I have carefully read the above Stipulated Settlement and Disciplinary Order and 2 have fully discussed it with my attorney, Eric K. Chen. I understand the stipulation and the effect 3 it will have on my Acupuncture License. I enter into this Stipulated Settlement and Disciplinary 4 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order 5 of the Board. 6 DATED: 4-27-09 7 N, L.Ac. (Respondent) Respondent 8 9 I concur with this stipulated settlement. 10 DATED: 5-5-0 11 C K. CHEN Attorney for Respondent 12 13 ENDORSEMENT 14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully 15 submitted for consideration by the Acupuncture Board. 16 DATED: May 11, 2009 EDMUND G. BROWN JR., Attorney General 17 of the State of California 18 STEVEN V. ADLER Supervising Deputy Attorney General 19 20 Linbaum 21 22 Deputy Attorney General 23 Attorneys for Complainant 24 25 26 27 28