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

In the Matter of the Accusation Against:

Case No. 1A-2009-77

ROMAN ROBLES, L.AC. 2914 M Street Merced, CA 95348

Acupuncture License No. AC 10537

Respondent.)

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.

It is so ORDERED

MAY 0 6 2013

An

ANYORK LEE, Chair Acupuncture Board Department of Consumer Affairs State of California

1	KAMALA D. HARRIS	
2	Attorney General of California GAIL M. HEPPELL	
3	Supervising Deputy Attorney General JANNSEN TAN	
4	Deputy Attorney General State Bar No. 237826	
	1300 I Street, Suite 125	
5	P.O. Box 944255 Sacramento, CA 94244-2550	
6	Telephone: (916) 445-3496 Facsimile: (916) 327-2247	
7	Attorneys for Complainant	
8	BEFORE THE	
9	ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11		
12	In the Matter of the Accusation Against: Case No. 1A-2009-77	
	ROMAN ROBLES, ACOAH No. 2011100091328 Northbank Ct., Apt. #55	
13 14	Stockton, CA 95207 Stockton, CA 95207 STIPULATED SETTLEMENT AND DISCIPLINARY ORDER	
	Acupuncturists License No. AC 10537	
15	Respondent.	
16		
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. Janelle Wedge and Terri Thorfinnson (Complainant) is the former and present	
22	Executive Officer of the Acupuncture Board respectively. Complainants brought this action	
23	solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney	
24	General of the State of California, and by Jannsen Tan, Deputy Attorney General.	
25	2. Roman Robles, AC (Respondent) is represented in this proceeding by attorney Steven	
26	L. Simas, whose address is: North Pointe Business Centre 3835 North Freeway Boulevard, Suite	
27	228 Sacramento, California 95834.	
28		
	1	
-	STIPULATED SETTLEMENT (1A-2009-77)	

3. On or about September 21, 2005, the Acupuncture Board issued Acupuncturists
 License No. AC 10537 to Respondent. The Acupuncturists License was in full force and effect at
 all times relevant to the charges brought in Accusation No. 1A-2009-77 and will expire on
 September 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 1A-2009-77 was filed before the Acupuncture Board (Board), and is
currently pending against Respondent. The Accusation and all other statutorily required
documents were properly served on Respondent on July 8, 2011. Respondent timely filed his
Notice of Defense contesting the Accusation.

10 5. A copy of Accusation No. 1A-2009-77 is attached as exhibit A and incorporated
11 herein by reference.

12

5

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the
charges and allegations in Accusation No. 1A-2009-77. Respondent has also carefully read, fully
discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
Order.

7. Respondent is fully aware of his 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
his own expense; the right to confront and cross-examine the witnesses against him; the right to
present evidence and to testify on his 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

23 Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
every right set forth above.

26

CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 1A-2009-77.

2

10. Respondent agrees that his Acupuncturists License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

8

1

2

3

4

5

6

7

CONTINGENCY

This stipulation shall be subject to approval by the Board. Respondent understands 12. 9 and agrees that counsel for Complainant and the staff of the Board may communicate directly 10 with the Board regarding this stipulation and surrender, without notice to or participation by 11 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he 12 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board 13 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, 14 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 15 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 16 be disqualified from further action by having considered this matter. 17

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

14. 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 Acupuncturists License No. AC 10537 issued to
Respondent, Roman Robles, AC. is revoked. However, the revocation is stayed and Respondent
is placed on probation for five (5) years on the following terms and conditions.

28

24

1. COURSEWORK Respondent shall take and successfully complete not less than

3

twenty (20) hours of coursework or continuing education in the following area(s) Ethics and 1 Record Keeping. Classroom attendance must be specifically required. Course content shall be 2 pertinent to the violation and all coursework must be completed within the probation period. 3

Within 90 days of the effective date of this decision, respondent shall submit a plan 4 for the Board's prior approval for meeting the educational requirements. All costs of the 5 coursework shall be borne by the respondent. 6

OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all 2. 7 regulations governing the practice of acupuncture in California. A full and detailed account of 8 any and all violations of law shall be reported by the respondent to the Board in writing within 9 seventy-two (72) hours of occurrence. 10

QUARTERLY REPORTS Respondent shall submit quarterly declarations under 3. 11 penalty of perjury on forms provided by the Board, stating whether there has been compliance 12 with all the conditions of probation. 13

SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation 4. 14 surveillance program and shall, upon reasonable notice, report to the assigned investigative 15 district office. Respondent shall contact the assigned probation surveillance monitor regarding 16 any questions specific to the probation order. Respondent shall not have any unsolicited or 17 unapproved contact with 1) victims or complainants associated with the case; 2)Board members 18 or members of its staff; or 3) persons serving the Board as expert examiners. 19

INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in 5. 20 person for interviews with the Board or its designee upon request at various intervals and with 21 reasonable notice. 22

23

CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, 6. through the assigned probation surveillance compliance officer of any and all changes of 24 employment, location and address within 30 days of such change. 25

TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event 7. . 26 respondent should leave California to reside or to practice outside the State, respondent must 27 notify the Board in writing of the dates of departure and return. Periods of residency or practice 28

1 2

3

4

5

outside California will not apply to the reduction of this probationary period.

8. <u>EMPLOYMENT AND SUPERVISION OF TRAINEES</u> Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this probation.

9. <u>COST RECOVERY</u> Respondent shall pay to the Board its costs of investigation and
enforcement in the amount of \$4,016.00. Respondent shall pay monthly installments during the
term of the probation in the amount of \$67.00 until fully paid. Respondent shall pay the full
amount before the termination of probation. If probation is terminated in less than five years,
Respondent shall pay the remaining balance, which becomes immediately due, without necessity
of demand.

12 10. <u>VIOLATION OF PROBATION</u> If respondent violates probation in any respect, the 13 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and 14 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is 15 filed against Respondent during probation, the Board shall have continuing jurisdiction until the 16 matter is final, and the period of probation shall be extended until the matter is final. No petition 17 for modification or termination of probation shall be considered while there is an accusation or 18 petition to revoke probation pending against respondent.

5

- 19 ///
- 20 ///
- 21 ///
- 22 ///
- 23 ///
- 24 ///
- 25 ///
- 26 ///
- 27 ///

28

111

STIPULATED SETTLEMENT (1A-2009-77)

11. <u>COMPLETION OF PROBATION</u> 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, Steven L. Simas. I understand the stipulation and the effect it will have on my Acupuncturists 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.

11 20() DATED: 12 ROMAN ROBLES AC Respondent 13 I have read and fully discussed with Respondent Roman Robles, AC the terms and 14

conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

Steven L. Simas Attorney for Respondent

I approve its form and content. 16 17 DATED:

18

1

2

3

4

5

6

7

8

9

10

15

 19
 ///

 20
 ///

 21
 ///

22 111 23 111 24 111

25 /// 26 /// 27 ///

111

28

6

STIPULATED SETTLEMENT (1A-2009-77)

:2

Î		
1	ENDORSEMENT	
2	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully	
3	submitted for consideration by the Board	
4		
5	Dated:	Respectfully submitted,
6		KAMALA D. HARRIS Attorney General of California GAIL M. HEPPELL
7		Supervising Deputy Attorney General
8		
9		JANNSEN TAN Deputy Attorney General
10		Deputy Attorney General Attorneys for Complainant
11		
12	n en	and and the second s Second second s
13	SA2011101168	
14	10979170.doc	
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	7	STIPULATED SETTLEMENT (1A-2009-77)
		SIII OLATLIS SETTLEMENT (III 2005 17)

Exhibit A

Accusation No. 1A-2009-77

. 1			
2	EDMUND G. BROWN JR. FLED Attorney General of California		
3	GAIL M. HEPPELL Supervising Deputy Attorney General JUL 8 2011		
4	JANNSEN L. TAN Deputy Attorney General		
5	State Bar No. 237826 ACUPUNCTURE BOARD		
6	P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (016) 445 3496		
7	Telephone: (916) 445-3496 Facsimile: (916) 327-2247 Attorneys for Complainant		
8	BEFORE THE		
9	ACUPUNCTURE BOARD		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11			
12	In the Matter of the Accusation Against: Case No. 1A-2009-77		
13	ROMAN ROBLES, L.AC 328 North Bank Court, Apt. #55		
14	Stockton, CA 95207 A C C U S A T I O N		
15	Acupuncturist License No. 10537		
16	Respondent.		
17			
18	Complainant alleges:		
19	PARTIES		
20	1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as		
21	the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.		
22	2. On or about September 21, 2005, the Board issued Acupuncturist License Number		
23	10537 to Roman Robles, L.AC. (hereinafter "Respondent"). During the period of the allegations		
24	stated herein, Respondent's license was delinquent from October 18, 2008 until December 18,		
25	2008 when the delinquent status was removed. A continuing education hold was in place on the		
26	license from December 18, 2008 until April 22, 2009 due to insufficient education units.		
27	Respondent's license is presently active, and will expire September 30, 2012.		
28 [.]			

Accusation (Case No. 09-01137-AP)

1	JURISDICTION	
2	3. This Accusation is brought before the Acupuncture Board (Board), Department of	
3	Consumer Affairs, under the authority of the following laws. All section references are to the	
4	Business and Professions Code unless otherwise indicated.	
5	4. Section 4928.1 of the Code states:	
б	"Protection of the public shall be the highest priority for the Acupuncture	
7	Board in exercising its licensing, regulatory, and disciplinary functions. Whenever	
8	the protection of the public is inconsistent with other interests sought to be	
9	promoted, the protection of the public shall be paramount."	
10	5. Section 4937 of the Code states:	
11	"An acupuncturist's license authorizes the holder thereof:	
12	"(a) To engage in the practice of acupuncture.	
13	"(b) To perform or prescribe the use of oriental massage, acupressure,	
14	breathing techniques, exercises, or nutrition, including the incorporation of drugless	
1,5	substances and herbs as dietary supplements to promote health. Nothing in this	
16	section prohibits any person who does not possess an acupuncturist's license or	
17	another license as a healing arts practitioner from performing, or prescribing the use	
18	of, oriental massage, breathing techniques, exercises, or nutrition, to promote	
19	health, so long as those activities are not performed or prescribed in connection	
20	with the practice of acupuncture."	
21	6. Section 4955 of the Code, in pertinent part, provides:	
22	"The board may deny, suspend, or revoke, or impose probationary conditions	
23	upon, the license of any acupuncturist if he or she is guilty of unprofessional	
24	conduct.	
25	"Unprofessional conduct shall include, but not be limited to, the following:	
26 -	n • • •	
27		
28		
	2	

Accusation (Case No. 09-01137-AP)

1	"(i) Any action or conduct that would have warranted the denial of the	
2	acupuncture license.	
3		
4	7. Section 4955.1 of the Code, in pertinent part, provides:	
5	"The board may deny, suspend, revoke, or impose probationary conditions	
6	upon the license of any acupuncturist if he or she is guilty of committing a	
. 7	fraudulent act including, but not be limited to, any of the following:	
8	И	
9	"(e) Failing to maintain adequate and accurate records relating to the provision	
10	of services to their patients	
11		
12	8. Section 4959 of the Code states:	
13	"(a) The board may request the administrative law judge, under his or her	
14	proposed decision in resolution of a disciplinary proceeding before the board, to	
15	direct any licensee found guilty of unprofessional conduct to pay to the board a sum	
16	not to exceed actual and reasonable costs of the investigation and prosecution of the	
17	case.	
18	"(b) The costs to be assessed shall be fixed by the administrative law judge	
19	and shall not in any event be increased by the board. When the board does not	
20	adopt a proposed decision and remands the case to an administrative law judge, the	
21	administrative law judge shall not increase the amount of any costs assessed in the	
22	proposed decision.	
23	"(c) When the payment directed in the board's order for payment of costs is	
24	not made by the licensee, the board may enforce the order for payment in the	
25	superior court in the county where the administrative hearing was held. This right	
26	of enforcement shall be in addition to any other rights the board may have as to any	
27	licensee directed to pay costs.	
28		
	3	

. .

Accusation (Case No. 09-01137-AP)

"(d) In any judicial action for the recovery of costs, proof of the board's 1 decision shall be conclusive proof of the validity of the order of payment and the 2 terms for payment. 3 "(e) All costs recovered under this section shall be considered a 4 reimbursement for costs incurred and shall be deposited in the Acupuncture Fund." 5 FIRST CAUSE FOR DISCIPLINE 6 (Practicing Acupuncture without a Valid License) 7 [Bus & Prof. Code § 4937] Respondent is subject to disciplinary action under section 4937 in that he practiced 8 9. acupuncture without a current and valid license. The circumstances are as follows: 9 Respondent was employed as a Physician Assistant under the medical office of T.M., 10 10. MD, during the period of September 28, 2008 until March 23, 2009. 11 11. Respondent practiced acupuncture during the period of October 2008 until April 12 2009, while his license was delinquent or on hold due to insufficient continuing education. 13 Respondent practiced on the following occasions: 14 On or about December of 2008, Respondent practiced acupuncture on clinic 15 Α. employee M.R¹. Respondent wrote M.R. a prescription for Adipex (phentermine) and 16 inserted small needles in her ear for weight loss. Respondent did not document the 17 acupuncture that he performed on her in their charts. 18 On or about two occasions in November and December of 2008 Respondent practiced 19 B. acupuncture on clinic employee V.R. Respondent inserted small needles in V.R. ears 20 and prescribed Adipex (phentermine). The needles had a small bandage covering and 21 were left in the ear until they fell out. Respondent did not document the acupuncture 22 23 that he performed on her in their charts. 24 25 26 Patient names are abbreviated herein to protect patient confidentiality. Patients' full 27 names will be provided upon receipt of a properly executed and served Request for Discovery. 28

4

Accusation (Case No. 09-01137-AP)

1	C. On or about September or October 2008, Respondent practiced acupuncture on clinic
2	employee Z.M. Respondent placed one to four needles in each ear. Respondent did not
3	document the acupuncture that he performed on her in their charts.
4	12. Respondent violated section 4937 of the code when he practiced acupuncture without
5	a valid license.
6	SECOND CAUSE FOR DISCIPLINE
7	(Failure to Maintain Patient Records) [Bus & Prof. Code § 4955 & §4955.1 (e)]
8	13. Complainant refers to and, by this reference, incorporates herein paragraphs 11, 12,
9	above, as though fully set forth.
10	14. Respondent violated section 4955 and 4955.1 (e) when he failed to maintain adequate
11	and accurate records relating to the provision of services to his patients.
12	
13	PRAYER
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15	and that following the hearing, the Acupuncture Board issue a decision:
16	1. Revoking or suspending Acupuncturist License Number 10537, issued to
17	Respondent;
18	2. Ordering Respondent to pay the Acupuncture Board the reasonable costs of the
19	investigation and enforcement of this case, pursuant to Business and Professions Code section
20	4959; and
21	3. Taking such other and further action as deemed necessary and proper.
22	JUL 0 8 2011 (manufilla filinge
23	DATED:JANELLE WEDGE
24	Éxecutive Officer Acupuncture Board
. 25	State of California Complainant
26	
27	SA2011101168
28	10714424.doc 5
1	