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

Case No. 1A-2017-231

OAH No. 2021120140

In the Matter of the Accusation Against:

ANN TUNG CAPPA, L.AC.

P.O. Box 152 Cupertino, CA 95015

Acupuncture No. 11253

Respondent.

## **DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the

Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on <u>April 26, 2023</u>.

It is so ORDERED March 27, 2023.

Original Signature on File

FOR THE ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS

1	ROB BONTA		
2	Attorney General of California MARY CAIN-SIMON Supervising Deputy Attorney General State Bar No. 113083 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
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5	Telephone: (415) 510-3884 Facsimile: (415) 703-5480		
6	Attorneys for Complainant		
7	BEFORE THE		
8	ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CALIFORNIA		
10	In the Matter of the Accusation Against:	Case No. 1A-2017-231	
11	ANN TUNG CAPPA, L.AC.	OAH No. 2021120140	
12	P.O. Box 152 Cupertino, CA 95015	STIPULATED SURRENDER OF	
13	Acupuncture No. AC 11253	LICENSE AND ORDER	
14	Respondent.		
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17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
18	entitled proceedings that the following matters are true:		
19	PART	<u>TIES</u>	
20	1. Benjamin Bodea (Complainant) is the	Executive Officer of the Acupuncture Board	
21	(Board). He brought this action solely in his official capacity and is represented in this matter by		
22	Rob Bonta, Attorney General of the State of California, by Mary Cain-Simon, Supervising		
23	Deputy Attorney General.		
24	2. Ann Tung Cappa, L.Ac. (Respondent) is represented in this proceeding by attorney		
25	Negin Yamini, whose address is: 5670 Wilshire Blvd., Suite 1837, Los Angeles, CA 90036.		
26	3. On October 2, 2006, the Board issued Acupuncture License No. 11253 to Ann Tung		
27	Cappa, L.Ac. (Respondent). The Acupuncture License was in full force and effect at all times		
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relevant to the charges brought in Accusation No. 1A-2017-231 and will expire on December 31,
 2023, unless renewed.

#### JURISDICTION

4 4. Accusation No. 1A-2017-231 was filed before the Board, and is currently pending
against Respondent. The Accusation and all other statutorily required documents were properly
served on Respondent on April 20, 2021. Respondent timely filed her Notice of Defense
contesting the Accusation. A copy of Accusation No. 1A-2017-231 is attached as Exhibit A and
incorporated by reference.

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#### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the
 charges and allegations in Accusation No. 1A-2017-231. Respondent also has carefully read,
 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
 and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a 14 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine 15 the witnesses against her; the right to present evidence and to testify on her own behalf; the right 16 to the issuance of subpoenas to compel the attendance of witnesses and the production of 17 documents; the right to reconsideration and court review of an adverse decision; and all other 18 rights accorded by the California Administrative Procedure Act and other applicable laws. 19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and 20 every right set forth above. 21

#### **CULPABILITY**

8. Respondent does not contest that, at an administrative hearing, complainant could
establish a prima facie case with respect to the charges and allegations contained in Accusation
No. 1A-2017-231 and that she has thereby subjected her Acupuncture License No. AC 11253 to
disciplinary action.

Respondent agrees that if she ever petitions for early termination or modification of
probation, or if an accusation and/or petition to revoke probation is filed against her before the

1	Board, all of the charges and allegations contained in Accusation No. 1A-2017-231 shall be		
2	deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or		
3	any other licensing proceeding involving Respondent in the State of California.		
4	9. Respondent understands that by signing this stipulation she enables the Board to issue		
5	an order accepting the surrender of her Acupuncture without further process.		
6	CONTINGENCY		
7	10. This stipulation shall be subject to approval by the Board. Respondent understands		
8	and agrees that counsel for Complainant and the staff of the Board may communicate directly		
9	with the Board regarding this stipulation and surrender, without notice to or participation by		
10	Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that		
11	she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board		
12	considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,		
13	the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this		
14	paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not		
15	be disqualified from further action by having considered this matter.		
16	11. The parties understand and agree that Portable Document Format (PDF) and facsimile		
17	copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures		
18	thereto, shall have the same force and effect as the originals.		
19	12. In consideration of the foregoing admissions and stipulations, the parties agree that		
20	the Board may, without further notice or formal proceeding, issue and enter the following Order:		
21	<u>ORDER</u>		
22	IT IS HEREBY ORDERED that Acupuncture License No. 11253, issued to Respondent		
23	Ann Tung Cappa, L.Ac., is surrendered and accepted by the Board.		
24	1. The surrender of Respondent's Acupuncture License and the acceptance of the		
25	surrendered license by the Board shall constitute the imposition of discipline against Respondent.		
26	This stipulation constitutes a record of the discipline and shall become a part of Respondent's		
27	license history with the Board.		
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1	2. Respondent shall lose all rights and privileges as an Acupuncturist in California as of	
2	the effective date of the Board's Decision and Order.	
3	3. Respondent shall cause to be delivered to the Board her pocket license and, if one was	
4	issued, her wall certificate on or before the effective date of the Decision and Order.	
5	4. If Respondent ever files an application for licensure or a petition for reinstatement in	
6	the State of California, the Board shall treat it as a petition for reinstatement. Respondent must	
7	comply with all the laws, regulations and procedures for reinstatement of a revoked or	
8	surrendered license in effect at the time the petition is filed, and all of the charges and allegations	
9	contained in Accusation No. 1A-2017-231 shall be deemed to be true, correct and admitted by	
10	Respondent when the Board determines whether to grant or deny the petition.	
11	5. Respondent shall pay the agency its costs of investigation and enforcement in the	
12	amount of \$48,441.45 prior to issuance of a new or reinstated license.	
13	6. If Respondent should ever apply or reapply for a new license or certification, or	
14	petition for reinstatement of a license, by any other health care licensing agency in the State of	
15	California, all of the charges and allegations contained in Accusation, No. 1A-2017-231 shall be	
16	deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of	
17	Issues or any other proceeding seeking to deny or restrict licensure.	
18	ACCEPTANCE	
19	I have carefully read the above Stipulated Surrender of License and Order and have fully	
20	discussed it with my attorney Negin Yamini. I understand the stipulation and the effect it will	
21	have on my Acupuncture License. I enter into this Stipulated Surrender of License and Order	
22	voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the	
23	Acupuncture Board.	
24	6/30/2022 DocuSigned by:	
25	DATED:	
26	ANN TUNG CAPPA, L.AC.	
27	Respondent	
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Stipulated Surrender of License (Case No. 1A-2017-231)

1	I have read and fully discussed with Respondent Ann Tung Cappa, L.Ac. the terms and		
2	conditions and other matters contained in this Stipulated Surrender of License and Order. I		
3	approve its form and content.		
4	DATED:		
5	NEGIN YAMINI		
6	Attorney for Respondent		
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8	<b>ENDORSEMENT</b>		
9	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
10	for consideration by the Acupuncture Board of the Department of Consumer Affairs.		
11	DATED: June 28,2022 Respectfully submitted,		
12 13	ROB BONTA Attorney General of California		
13 14	Mary Cain-Simon		
14	MARY CAIN-SIMON Supervising Deputy Attorney General		
16	Attorneys for Complainant		
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	Stipulated Surrender of License (Case No. 14-2017-231)		

DocuSign Envelope ID: 5D7E6F2B-E21C-4A8B-ACC4-B0395E9890ED

# Exhibit A

Accusation No. 1A-2017-231