

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

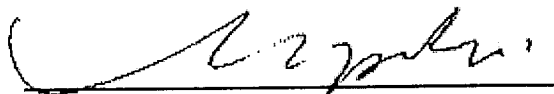
In the Matter of the Accusation Against:)	Case No. 1A-2010-110
)	
Eun Young Shim)	
3810 Wilshire Blvd., #608)	
Los Angeles, CA 90010)	
)	
Acupuncture License No. AC-12076)	
)	
Respondent.)	
_____)	

DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on DEC 06 2013.

IT IS SO ORDERED NOV 06 2013.



Michael Shi, L.Ac., Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 STEVE DIEHL
Deputy Attorney General
4 State Bar No. 235250
2550 Mariposa Mall, Room 5090
5 Fresno, CA 93721
Telephone: (559) 477-1626
6 Facsimile: (559) 445-5106
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 1A-2010-110

11 **EUN YOUNG SHIM, L.AC.**
12 **3810 Wilshire Blvd. #608**
13 **Los Angeles, CA 90010**
Acupuncturist License No. AC 12076

DEFAULT DECISION
AND ORDER

14 Respondent. [Gov. Code, §11520]

15
16
17 **FINDINGS OF FACT**

18 1. On or about February 22, 2013, Complainant Terri Thorfinnson, in her official
19 capacity as the Executive Officer of the Acupuncture Board, filed Accusation No. 1A-2010-110
20 against Eun Young Shim, L.Ac. (Respondent) before the Acupuncture Board.

21 2. On or about October 23, 2007, the Acupuncture Board (Board) issued Acupuncturist
22 License No. AC 12076 to Respondent. The Acupuncturist License was in full force and effect at
23 all times relevant to the charges brought herein and expired on January 31, 2013. A true and
24 correct copy of the Certificate of Licensure setting forth Respondent's address of record and
25 licensing history is attached hereto as **Exhibit A** and is incorporated herein by reference.

26 3. On or about February 27, 2013, Kristine Brothers, an employee of the Complainant
27 Agency, served by Certified Mail a copy of the Accusation No. 1A-2010-110, Statement to
28 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,

1 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 3810
2 Wilshire Blvd. #608, Los Angeles, California 90010. This package was given a Certified Mail
3 number ending in the digits 1400. A certified copy of the Accusation, the related documents, and
4 Declaration of Service are attached as **Attachments 1 and 2 to the Declaration of Kristine**
5 **Brothers (Dec. Brothers), Exhibit B**, and are incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c).

8 5. On or about March 12, 2013, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Unknown." A copy of the envelope and unsigned Certified Mail
10 Return Receipt, both with the number ending in 1400, which were returned by the post office, is
11 attached as **Attachment 3 to Exhibit B**.

12 6. On or about March 20, 2013, Kristine Brothers again served by Certified Mail a second
13 copy of the aforementioned documents to Respondent's address of record with the Board. This
14 package was given a Certified Mail number ending in the digits 1424. The Declaration of Service
15 is attached as **Attachment 4 to Exhibit B**.

16 7. On or about April 2, 2013, the Certified Mail Tag Return Receipt with the number
17 ending in 1424 was returned by the U.S. Postal Service. A copy of the receipt is attached as
18 **Attachment 5 to Exhibit B**.

19 8. On or about April 16, 2013, notwithstanding the aforementioned Certified Mail Tag
20 Return Receipt, the envelope and documents that Kristine Brothers sent on or about March 20,
21 2013, were returned by the U.S. Postal Service marked "Returned to Sender". A copy of the
22 returned envelope with the number ending in 1424 is attached as **Attachment 6 to Exhibit B**.

23 9. On or about March 20, 2013, Kristine Brothers also served by Certified Mail a courtesy
24 copy of the aforementioned documents to Respondent's prior address of record, which was 138
25 N. Beaudry Ave., #227, Los Angeles, California 90010. This package was given a Certified Mail
26 number ending in 1431. The Declaration of Service of the courtesy copy is attached as
27 **Attachment 7 to Exhibit B**.

28

1 10. On or about April 23, 2013, the package with the Certified Mail number ending in 1431
2 was returned by the U.S. Postal Service marked "RTS". A copy of the returned envelope with the
3 number ending in 1424 is attached as **Attachment 8 to Exhibit B**.

4 11. To date, no Notice of Defense has been received by the Office of the Attorney
5 General. The Declaration of Deputy Attorney General Steve Diehl is attached as **Exhibit C**, and
6 is incorporated herein by reference.

7 12. A copy of the June 18, 2010, arrest report relating to Respondent is attached as
8 **Exhibit D**, and is incorporated herein by reference. A certified copy of the misdemeanor
9 complaint filed against Respondent on October 19, 2010, is attached as **Exhibit E** and is
10 incorporated herein by reference. A certified copy of the minute order reflecting Respondent's
11 February 9, 2011, conviction for a misdemeanor violation of Gardena Municipal Code Section
12 5.48.070(A), operating a massage establishment without a permit/certificate, is attached as
13 **Exhibit F**, and is incorporated herein by reference. A certified copy of the August 9, 2001, arrest
14 report relating to Respondent is attached as **Exhibit G**, and is incorporated herein by reference.
15 A certified copy of the misdemeanor complaint filed against Respondent on August 20, 2001, is
16 attached as **Exhibit H** and is incorporated herein by reference. A certified copy of the minute
17 order reflecting Respondent's January 3, 2002, conviction for a misdemeanor violation of Penal
18 Code Section 415(1), fighting in public, is attached as **Exhibit I**, and is incorporated herein by
19 reference.

20 13. Government Code section 11506 states, in pertinent part:

21 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
22 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
23 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
24 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

25 Respondent failed to file a Notice of Defense within 15 days after service upon her of the
26 Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 1A-2010-
27 110.

28 14. California Government Code section 11520 states, in pertinent part:

3. The agency has jurisdiction to adjudicate this case by default.

4. The Acupuncture Board is authorized to revoke Respondent's Acupuncturist License based upon the following violations alleged in the Accusation:

a. Respondent is subject to disciplinary action under sections 490 and 4955, subdivision (b), of the Business and Professions Code in that she was convicted of a crime substantially related to the qualifications, functions, or duties of an acupuncturist. Paragraph 10 of the Accusation is incorporated here by reference. (**Exhibit B**, Dec. Brothers, Att.1, pp. 5-6.)

b. Respondent is subject to disciplinary action under section 4955, subdivision (i), in that she engaged in conduct that would have warranted the denial of the acupuncture license. Paragraph 11 of the Accusation is incorporated here by reference. (**Exhibit B**, Dec. Brothers, Att.1, p. 6.)

c. Respondent is subject to disciplinary action under section 731, subdivision (a), in that Respondent engaged in conduct that violated subdivision (b) of Section 647 of the Penal Code which occurred in the work premises of, or work area under the direct professional supervision or control of, Respondent. Paragraph 12 of the Accusation is incorporated here by reference. (**Exhibit B**, Dec. Brothers, Att.1, p. 7.)

d. Respondent is subject to disciplinary action under section 4955, subdivision (j), in that Respondent, on her acupuncturist's business premises, violated a law or local ordinance substantially related to the qualifications, functions, or duties of an acupuncturist. Paragraph 13 of the Accusation is incorporated here by reference. (**Exhibit B**, Dec. Brothers, Att.1, p. 7.)

5. Respondent is hereby ordered to pay the above costs of investigation and enforcement of this action.

ORDER

IT IS SO ORDERED that Acupuncturist License No. AC 12076, heretofore issued to Respondent Eun Young Shim, L.Ac., is revoked.

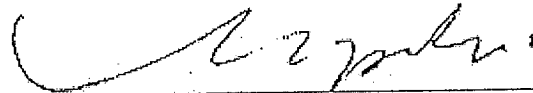
Respondent is ordered to reimburse the Acupuncture Board the amount of \$2337.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's Acupuncture

1 License may not be renewed or reinstated unless all costs ordered under Business and Professions
2 Code section 4959 have been paid.

3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
4 written motion requesting that the Decision be vacated and stating the grounds relied on within
5 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
6 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

7 This Decision shall become effective on DEC 06 2013.

8 It is so ORDERED NOV 06 2013

9
10 

11 FOR THE ACCUPUNCTURE BOARD
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28