

FILED

AUG 12 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
Attorney General of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 ALBERT Y. MURATSUCHI
Deputy Attorney General
4 State Bar No. 173609
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6334
6 Facsimile: (213) 897-9395
E-mail: Albert.Muratsuchi@doj.ca.gov
7 *Attorneys for Complainant Janelle Wedge,*
Executive Officer of the State of California Acupuncture Board
8

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 1A-2010-43

13 **YARON COHEN**
14 **12736 Caswell Ave., Apt. 104**
Los Angeles, CA 90066

STATEMENT OF ISSUES

15 Respondent.

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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 ("Board"), State of California
22 Department of Consumer Affairs.

23 2. On or about March 25, 2010, the Board received an application for an
24 Acupuncturist's License from YARON COHEN ("Respondent"). On or about March 23, 2010,
25 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. In a letter dated May 3, 2010, the Board denied Respondent's
27 application.

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JURISDICTION

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2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 4. Pursuant to the Acupuncture Licensure Act (Business and Professions Code § 4925,
6 *et seq.*), the Acupuncture Board was established for the purpose of ensuring that the acupuncture
7 profession is adequately regulated in order to protect the people of California.

8 5. Section 480 of the Code states in relevant part:

9 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
10 one of the following:

11 "(1) Been convicted of a crime. A conviction within the meaning of this section
12 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

13 ...

14 "(3)

15 "(A) Done any act that if done by a licentiate of the business or profession in
16 question, would be grounds for suspension or revocation of license.

17 "(B) The board may deny a license pursuant to this subdivision only if the
18 crime or act is substantially related to the qualifications, functions, or duties of the
19 business or profession for which application is made.

20 "

21 6. Section 4944 of the Code states:

22 "The board shall have the authority to investigate and evaluate each and every applicant
23 applying for a license to practice acupuncture and to make the final determination of the
24 admission of the applicant to the examination, or for the issuance of a license, in conformance
25 with the provisions of this chapter.

26 "

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1 7. Section 4955 of the Code states in relevant part:

2 “The board may deny . . . the license of any acupuncturist if he or she is guilty of
3 unprofessional conduct.

4 “Unprofessional conduct shall include, but not be limited to, the following:

5 . . .

6 “(b) Conviction of a crime substantially related to the qualifications, functions, or duties of
7 an acupuncturist, the record of conviction being conclusive evidence thereof.

8 ”

9 8. Section 4956 of the Code states:

10 “A plea or verdict of guilty or a conviction following a plea of *nolo contendere* made to a
11 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
12 is deemed to be a conviction within the meaning of this chapter.

13 “The board . . . may deny a license . . . when the time for appeal has elapsed, or the
14 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
15 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
16 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
17 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
18 complaint, information, or indictment.”

19 CAUSE FOR DENIAL OF LICENSE APPLICATION

20 (Conviction of crime substantially related to

21 qualifications, functions, or duties of an acupuncturist)

22 9. Respondent's application is subject to denial under section 480(a)(1) and section
23 4955(b) of the Code because he has been convicted of a crime that is substantially related to the
24 qualifications, functions, or duties of an acupuncturist. On or about July 10, 2006, in a criminal
25 proceeding entitled *State of Arizona vs. Yaron Cohen* in the Superior Court of the State of
26 Arizona, County of Coconino, Case Number CR 2006-0124, Respondent was convicted of the
27 charge of facilitation to import marijuana under two pounds, in violation of Arizona Revised
28

1 Statutes sections 13-3405(a)(4), 13-3401, 13-701, 13-702 and 13-801, a Class 6 felony offense,
2 committed on December 9, 2005. The circumstances of this case were as follows:

3 a. According to the Arizona Department of Public Safety Offense Report, DR no.
4 2005-064610, on or about December 9, 2005, Respondent was driving solo eastbound on the
5 Interstate 40 when Arizona Department of Public Safety officers observed him to be traveling
6 above the speed limit. The officers initiated a traffic stop, and upon further investigation,
7 discovered four bundles of marijuana weighing 3.5 pounds in Respondent's vehicle. Respondent
8 told the arresting officer that he spent \$12,000 to purchase the marijuana.

9 b. On or about June 5, 2006, Respondent signed a written plea agreement in which
10 he pled guilty to the charge of facilitation to import marijuana under two pounds, a Class 6 felony
11 under Arizona state law.

12 c. In his pre-sentence questionnaire, Respondent wrote that he and his friends
13 purchased the marijuana, and he was transporting the drug "to share it with my friends at home."
14 At his pre-sentence interview conducted by a probation officer on or about June 14, 2006,
15 Respondent admitted that he smoked marijuana about one week prior to his interview, and that he
16 still smoked marijuana three to four times a week.

17 d. On or about July 10, 2006, in the case of *State of Arizona vs. Yaron Cohen*,
18 Superior Court of the State of Arizona, County of Coconino, Case Number CR 2006-0124, the
19 court entered judgment by finding Respondent guilty of the crime of facilitation to import
20 marijuana under two pounds, in violation of Arizona Revised Statutes sections 13-3405(a)(4), 13-
21 3401, 13-701, 13-702 and 13-801, a Class 6 felony offense. Respondent was sentenced to
22 probation for three years, and ordered to serve two days of county jail and 200 hours of
23 community service, among other terms of probation.

24 e. On or about July 24, 2009, the Superior Court of Arizona granted Respondent's
25 petition for termination of probation as of July 9, 2009, and ordered the offense of facilitation to
26 import marijuana to be redesignated as a misdemeanor.

27 10. In a letter dated May 3, 2010, Complainant gave notice to Respondent that the Board
28 denied his application for an acupuncturist's license. The Board determined that Respondent's

1 prior conviction was substantially related to the qualifications, functions, and duties of an
2 acupuncturist, and cited the nature and severity of Respondent's prior conviction as grounds for
3 denial of his application.

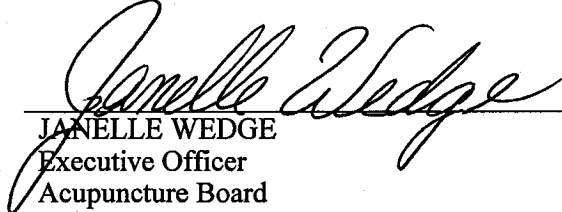
4 P R A Y E R

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Acupuncture Board issue a decision:

- 7 1. Denying the application of Yaron Cohen for an Acupuncturist's License; and
8 2. Taking such other and further action as deemed necessary and proper.

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DATED: **AUG 12 2010**



JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California Department of Consumer Affairs
Complainant

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statement of issues.rtf