In the Matter of the Statement of Issues
Against: GREGORY WILLIS
1345 A 17th Street
San Francisco, CA 94112
Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 17, 2017.

It is so ORDERED January 18, 2017.

Hildegarde Agumaldo, Board President
Acupuncture Board
Department of Consumer Affairs
State of California
IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board (Board). He brought this action solely in his official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Lynne K. Dombrowski, Deputy Attorney General.

2. Applicant Gregory Willis (Applicant) is represented in this proceeding by attorney Adam B. Brown, whose address is: Law Offices of Brown & Brown, 3848 W. Carson Street, Suite 206, Torrance, CA 90503.
3. On or about January 6, 2016, Respondent filed an application with the Board to obtain a license to practice acupuncture in California that was dated January 6, 2016.

JURISDICTION

4. Statement of Issues No. 1A-2015-93 was filed before the Board and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on September 30, 2016.

5. A copy of Statement of Issues No. 1A-2015-93 is attached hereto as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 1A-2015-93. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Applicant is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; 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 Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 1A-2015-93.

10. Applicant agrees that his application for an acupuncturist license is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (1A-2015-93)
CONTINGENCY

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

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. 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 an Acupuncturist License will be issued by the Board to Applicant Gregory Willis and then will be immediately revoked. The revocation will be stayed and the Applicant will be placed on three (3) years probation on the following terms and conditions:

1. PSYCHOLOGICAL EVALUATION   Within 90 days of the effective date of this decision and on a periodic basis thereafter as may be required by the Board or its designee, Applicant shall undergo a psychological evaluation (and psychological testing, if deemed necessary) by a Board-appointed California licensed psychologist. The Board shall receive a current DSM IV diagnosis and a written report regarding the Applicant's judgment and/or ability to function independently as an acupuncturist with safety to the public, and whatever other
information the Board deems relevant to the case. Applicant shall execute a release authorizing the evaluator to release all information to the Board. The completed evaluation is the sole property of the Board.

If the Board concludes from the results of the evaluation that Applicant is unable to practice independently and safely, he shall immediately cease practice and shall not resume practice until notified by the Board. If the Board concludes from the results of the evaluation that Applicant would benefit from ongoing psychotherapy, Applicant shall comply with the Board's directives in that regard.

Applicant shall pay all costs associated with the psychological evaluation. Failure to pay costs will be considered a violation of the probation order.

2. **ALCOHOL AND DRUG ABUSE TREATMENT** Effective 30 days from the date of this decision, Applicant shall enter an inpatient or outpatient alcohol or other drug abuse recovery program (a minimum of six (6) months duration) or an equivalent program as approved by the Board.

Quitting the program without permission or being expelled for cause shall constitute a violation of probation by Applicant. Subsequent to the program, Applicant shall participate in on-going treatment at least three times a week during the first year of probation, such as receiving individual and/or group therapy from a psychologist trained in alcohol and drug abuse treatment and/or attending Twelve-Step meetings, or the equivalent as approved by the Board, and/or other substance abuse recovery programs approved by the Board. Applicant shall pay all costs of treatment and therapy, and provide documentation of attendance at Twelve-Step meetings or the equivalent as approved by the Board. The psychologist shall confirm that Applicant has complied with the requirements of this decision and shall notify the Board immediately if he or she believes the Applicant cannot safely render acupuncture services. Applicant shall execute a release authorizing the psychologist to divulge the aforementioned information to the Board.

An inpatient or outpatient drug or alcohol abuse recovery program taken after the facts that gave rise to the charges in the Statement of Issues, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the
fulfillment of this condition if the program would have been approved by the Board or its
designee had the program been taken after the effective date of the Decision.

3. **ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND SAMPLES** Applicant shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act (Division 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Applicant by a licensed practitioner for a bona fide illness or condition.

Applicant shall abstain completely from the use of products or beverages containing alcohol. Applicant shall undergo random, biological fluid testing as determined by the Board. Applicant shall bear all costs of such testing. The length of time and frequency will be determined by the Board. Any confirmed positive finding will be considered a violation of probation.

4. **REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING** Applicant shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.

5. **OBEY ALL LAWS** Applicant 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 Applicant to the Board in writing within seventy-two (72) hours of occurrence.

6. **QUARTERLY REPORTS** Applicant 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.

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

8. **INTERVIEW WITH THE BOARD OR ITS DESIGNEE** Applicant shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

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

10. **TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE** In the event Applicant should leave California to reside or to practice outside the State, Applicant must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

11. **EMPLOYMENT AND SUPERVISION OF TRAINEES** Applicant shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Applicant shall terminate any such supervisory relationship in existence on the effective date of this probation.

12. **VIOLATION OF PROBATION** If Applicant violates probation in any respect, the Board may, after giving Applicant notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is filed against Applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Applicant.

13. **COMPLETION OF PROBATION** Upon successful completion of probation, Applicant’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, Adam B. Brown. I understand the stipulation and the effect it will have on my Acupuncturist 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.

DATED: 12/8/2016

GREGORY WILLIS
Applicant

I have read and fully discussed with Applicant Gregory Willis the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/9/16

ADAM B. BROWN
Attorney for Applicant
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board.

DATED: 12/19/2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General

LYNNE K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Statement of Issues No. 1A-2015-93
Before the Acupuncture Board
Department of Consumer Affairs
State of California

In the Matter of the Statement of Issues
Against:

Gregory Willis
1345 A 17th Street
San Francisco, CA 94112

Applicant.

Complainant alleges:

PARTIES

1. Benjamin Bodea (Complainant) brings this Statement of Issues solely in his official capacity as the Interim Executive Officer of the Acupuncture Board.

2. On June 10, 2016, the Acupuncture Board (Board) received an application for an Acupuncture License from Gregory Willis (Applicant). The Board denied the application on June 28, 2016. Applicant requested a hearing to contest the denial in a letter dated July 27, 2016.

JURISDICTION

3. This Statement of Issues is brought before the Acupuncture Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
A. Section 480 of the Code states:

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

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

... 

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

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

B. Section 4955 of the Code states:

“The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct.

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

(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use
impairs his or her ability to engage in the practice of acupuncture with safety to the public.

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

... 

(i) Any action or conduct that would have warranted the denial of the acupuncture license.”

C. Section 4956 of the Code states:

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

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

D. Section 493 of the Code provides:

“Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime Substantially Related to the Practice of an Acupuncturist)

4. Applicant's application is subject to denial under Code section 4955, subdivision (b), and section 480, subdivisions (a)(1) and (a)(3)(B) and/or (a)(3)(A), in that he was convicted of a crime substantially related to the qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

5. On January 14, 2015, in a criminal proceeding entitled The People of the State of California v. Gregory Willis, Case Number SCR101101 in Butte County Superior Court, Applicant was charged with one count of driving under the influence of alcohol [Vehicle Code section 23152(a)], one count of driving with a blood alcohol content of .08% [Vehicle Code section 23152(b)] and one count of refusal to take a chemical test to determine his blood alcohol level [Vehicle Code section 23578]. On April 20, 2015, Applicant was convicted in this criminal case, by plea of no contest, of a violation of Vehicle Code section 23152(a), driving under the influence of alcohol. The remaining charges were dismissed. Applicant was sentenced to 96 hours in jail, and to three years of criminal probation which includes requirements that he abstain from alcohol and controlled substances, submit to alcohol testing, attend a DUI program, attend a 12-step program three times a week, and not refuse a chemical test.

6. The facts underlying the criminal conviction are that on December 6, 2014, at 11:45 p.m., a California Highway Patrol Officer observed Respondent attempting to make a left turn, losing control of his vehicle and then "spinning out" across the roadway. The officer observed objective signs of alcohol use, including red and watery eyes, slow and slurred speech, and a strong odor of alcohol. Respondent performed poorly on field sobriety tests, and then refused to
submit to a chemical blood alcohol test as required by law. A blood sample was subsequently obtained after a warrant was issued, and showed a blood alcohol content of .12%.

SECOND CAUSE FOR DENIAL OF APPLICATION
(Unprofessional Conduct/Dangerous Use of Alcohol and/or Controlled Substances)

7. Applicant's application is further subject to denial under section 4955 and/or section 4955, subdivision (a) and/or subdivision (i) and/or section 480(a), subdivision (3)(A) of the Code.

8. Applicant's conduct in driving under the influence of alcohol with a blood alcohol level well over the legal limit, as more particularly alleged in the First Cause for Denial of Application, constitutes unprofessional conduct through the use of alcohol to an extent or in a manner dangerous to himself, or to any other person, or to the public, and to an extent that the use impairs his ability to engage in the practice of acupuncture with safety to the public.

9. In addition, on July 24, 2010, Applicant was stopped in Alameda County by the California Highway Patrol while he was in a car stopped at a highway off-ramp. Applicant was arrested and, at the time of his arrest, was found to be in possession of marijuana and a clear plastic bag containing 13 white tablets, which Applicant admitted to be Methadone, which were not prescribed to him.

PRAYER

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

1. Denying the application of Gregory Willis for an Acupuncture License; and

2. Taking such other and further action as deemed necessary and proper.

DATED: SEP 30 2016

BENJAMIN BODEA
Interim Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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