

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

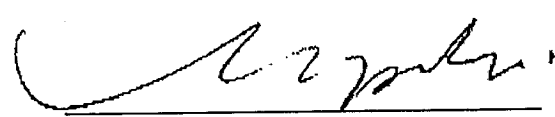
In the Matter of the First Amended)	
Accusation Filed Against:)	Case No. 1A-2008-65
)	
GUO ZHI WAN, L.AC.)	
11740 San Pablo Ave. Ste. A)	
El Cerrito, CA 94530)	
)	
Acupuncture License No. AC 5326)	
)	
Respondent.)	
_____)	

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 NOV 08 2013.

It is so ORDERED OCT 09 2013.



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

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
State Bar No. 97276
3 Supervising Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 1A-2008-65

12 **GUO ZHI WAN**
11740 San Pablo Avenue, Suite A
13 El Cerrito, CA 94530

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Acupuncture License No. AC 5326**

15 Respondent.
16

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 PARTIES

20 1. Terri A. Thorfinnson (Complainant) is the Executive Officer of the Acupuncture
21 Board. She brought this action solely in her official capacity and is represented in this matter by
22 Kamala D. Harris, Attorney General of the State of California, by Catherine E. Santillan, Senior
23 Legal Analyst.

24 2. Respondent Guo Zhi Wan (Respondent) is represented by attorney Ann H. Larson of
25 McNamara, Ney, Beatty, Slattery, Borges & Ambacher LLP, 1211 Newell Avenue, Walnut
26 Creek, CA 94596.
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1 3. On or about July 11, 1996, the Acupuncture Board issued Acupuncture License No.
2 AC 5326 to Guo Zhi Wan (Respondent). The Acupuncture License was in full force and effect at
3 all times relevant to the charges brought in First Amended Accusation No. 1A-2008-65 and will
4 expire on May 31, 2014, unless renewed.

5 JURISDICTION

6 4. First Amended Accusation No. 1A-2008-65 was filed before the Acupuncture Board
7 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
8 First Amended Accusation and all other statutorily required documents were properly served on
9 Respondent on April 16, 2013. Respondent has filed a Notice of Defense contesting the First
10 Amended Accusation.

11 5. A copy of First Amended Accusation No. 1A-2008-65 is attached as Exhibit A and
12 incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 6. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in First Amended Accusation No. 1A-2008-65. Respondent has also
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Settlement and Disciplinary Order.

18 7. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the First Amended Accusation; the right to be
20 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
21 against him; the right to present evidence and to testify on his own behalf; the right to the
22 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
23 the right to reconsideration and court review of an adverse decision; and all other rights accorded
24 by the California Administrative Procedure Act and other applicable laws.

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

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CULPABILITY

9. At an administrative hearing, Complainant could establish a prima facie case with respect to the allegations in First Amended Accusation No. 1A-2008-65, and Respondent, therefore, subjects his license to discipline.

10. Respondent agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Acupuncture Board. Respondent 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 Respondent. By signing the stipulation, Respondent 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 facsimile copies of this Stipulated Settlement and Disciplinary Order, including 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 Acupuncture License No. AC 5326 issued to Guo Zhi Wan (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions:

1 1. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

2 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to
3 ensure compliance for the duration of the probation period.

4 2. COURSEWORK Respondent shall take and successfully complete not less than
5 twenty (20) additional hours of continuing education or the equivalent of twenty (20) hours in a
6 graduate level program to be approved by the Board in the area of medical record keeping and/or
7 ethics, or an alternative course to be approved by the board. Course content shall be pertinent to
8 the violation and all coursework must be completed within the first two (2) years of probation.
9 The required coursework must be in addition to any continuing education courses that may be
10 required for license renewal.

11 Within ninety (90) days of the effective date of this decision, respondent shall submit a plan
12 for the Board's prior approval for meeting the educational requirements. All costs of the
13 coursework shall be borne by the respondent.

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

18 4. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
19 penalty of perjury on forms provided by the Board, stating whether there has been compliance
20 with all the conditions of probation.

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

27 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
28 person for interviews with the Board or its designee upon request at various intervals and with

1 reasonable notice.

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

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

9 9. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
10 employ or supervise or apply to employ or supervise acupuncture trainees in a practice setting
11 during the course of this probation. Respondent shall terminate any such supervisorial
12 relationship in existence on the effective date of this probation.

13 10. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
14 enforcement in the amount of \$2,350.00.

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

22 12. COMPLETION OF PROBATION Upon successful completion of probation,
23 respondent's license will be fully restored.

24 ACCEPTANCE

25 I have carefully read the Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Ann H. Larson. I understand the stipulation and the effect it will
27 have on my Acupuncture License. I enter into this Stipulated Settlement and Disciplinary Order
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1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
2 Acupuncture Board.

3
4 DATED: 05/14/13 Guo Zhi Wan
5 GUO ZHI WAN
6 Respondent

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8 I have read and fully discussed with Respondent Guo Zhi Wan the terms and conditions and
9 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
10 form and content.

11 DATED: 5/17/13 Ann H. Larson
12 ANN H. LARSON
13 Attorney for Respondent

14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

17 DATED: 5/17/13

18 Respectfully submitted,

19 KAMALA D. HARRIS
20 Attorney General of California
21 JOSE R. GUERRERO
22 Supervising Deputy Attorney General

23 Catherine Santillan
24 CATHERINE E. SANTILLAN
25 Senior Legal Analyst
26 Attorneys for Complainant

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