BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PETER KIWAI LUK, L.AC.
PO Box 26832
Fresno, CA 93729
Acupuncture License No. AC 5572
Respondent.

Case No. 1A-2008-114

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 SEP 09 2010.

It is so ORDERED AUG 10 2010.

Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California
BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:  Case No. 1A-2008-114
PETER KWAI LUK, A.C.  OAH No. 2009120801
Post Office Box 26832  STIPULATED SURRENDER OF
Fresno, CA 93729  LICENSE AND ORDER
Acupuncturist License No. AC 5572  Respondent.

In the interest of a prompt and speedy resolution of this matter, consistent with the public
interest and the responsibility of the Acupuncture Board of the Department of Consumer Affairs
the parties hereby agree to the following Stipulated Surrender of License and Order which will be
submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
   She brought this action solely in her official capacity and is represented in this matter by Edmund
   G. Brown Jr., Attorney General of the State of California, by Mara Faust, Deputy Attorney
   General.

2. Peter Kwai Luk, A.C. (Respondent) is represented in this proceeding by attorney Ann
   H. Larson, whose address is McNamara Law Firm, 1211 Newell Avenue, Walnut Creek, CA
   94596.

JURISDICTION

4. Accusation No. 1A-2008-114 was filed before the Acupuncture Board (Board) Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 28, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2008-114 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2008-114. 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 his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; 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.

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

CULPABILITY

8. Respondent agrees that, at an administrative hearing, complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 1A-2008-114, a true and correct copy of which is attached hereto as Attachment “A”, and that he has
thereby subjected his Acupuncture license to disciplinary action. Respondent further agrees to be
bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

9. Respondent further agrees that if he ever files an application for licensure or a petition
for reinstatement in the State of California, all of the charges and allegations contained in
Accusation No. 1A-2008-114 shall be deemed true and correct and fully admitted by Respondent
for the purposes of such proceedings in the State of California.

10. Respondent understands that by signing this stipulation he enables the Board to issue
an order accepting the surrender of his Acupuncturist License without further process.

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 surrender, without notice to or
participation by Respondent or his counsel. 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 Surrender 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 Surrender of
License and 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
Order:

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ORDER

IT IS HEREBY ORDERED that Acupuncturist License No. AC 5572, issued to Respondent Peter Kwai Luk, A.C., is surrendered and accepted by the Acupuncture Board.

14. The surrender of Respondent’s Acupuncturist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent’s license history with the Board.

15. Respondent shall lose all rights and privileges as an Acupuncturist in California as of the effective date of the Board’s Decision and Order.

16. Respondent shall cause to be delivered to the Board both his wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

17. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 1A-2008-114 shall be deemed true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

18. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 1A-2008-114 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

19. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $5,000 prior to issuance of a new or reinstated license.

ACCEPTANCE

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

DATED: 6/23/10

PETER KWAI LUK, A.C.
Respondent

I have read and fully discussed with Respondent Peter Kwai Luk, A.C. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: ________________

ANN H. LARSON
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

Dated: June ____, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
GAIL M. HEPPELL
Supervising Deputy Attorney General

MARA FAUST
Deputy Attorney General
Attorneys for Complainant
I have on my Acupuncturist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Acupuncture Board.

DATED: 6/23/10

PETER KWAI LUK, A.C.
Respondent

I have read and fully discussed with Respondent Peter Kwai Luk, A.C. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/23/10

ANN H. LARSON
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

Dated: June 25, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California

GAIL M. HEPPELL
Supervising Deputy Attorney General

MARA FAUST
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 1A-2008-114
PARTIES

1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board.

2. On or about February 19, 1997, the Acupuncture Board issued Acupuncturist License Number AC 5572 to Peter Kwai Luk, A.C. (Respondent). Unless renewed, the license will expire on March 31, 2010.

JURISDICTION

3. This Accusation 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.

4. Section 4955 of the Code states:
5. Section 4955.2 of the Code states:

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

6. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

FIRST CAUSE FOR DISCIPLINE
(Sexual misconduct)
[Bus. & Prof. Code section 726]

7. Respondent is subject to disciplinary action under section 726 in that Respondent's conduct constituted sexual misconduct. The circumstances are as follows:

8. On or about September 18, 2008, J.P.1 arrived for a scheduled appointment with Respondent at his business located at 371 E. Bullard Ave. in Fresno, California. J.P. sought treatment from Respondent for fibromyalgia and endometriosis.

9. Upon arrival at Respondent's place of business, Respondent first interviewed J.P. to discuss her medical conditions for which she sought treatment. Respondent documented complaints of fibromyalgia, endometriosis, rectal bleeding during menstruation, pain, anxiety, chest tightness, and palpitations. Next, after directing J.P. to remove her clothes and don a robe, Respondent administered acupuncture to J.P. Following removal of the

1. To protect patient confidentiality in a case involving sexual misconduct, the complaining witness will be referred to by only her initials in all public documents.
acupuncture needles, Respondent proceeded to massage J.P.'s chest between her breasts, occasionally grazing her breasts.

10. Following treatment on September 18, 2008, J.P. scheduled another appointment for September 19, 2008. When J.P. arrived on September 19, 2008, she described to Respondent feeling heightened anxiety the previous night. Respondent documented in his notes complaint of whole body pain and frequent body twitching. After J.P. changed into a robe, Respondent administered acupuncture to J.P.'s back. Upon removal of the needles from her back, Respondent told J.P. to turn over to treat her front. During this treatment, Respondent massaged J.P.'s breasts.

11. J.P. returned for a third scheduled appointment on September 20, 2008. Respondent advised J.P. to change into a robe and engaged J.P. in conversation about her weight. Respondent repeated the treatment he administered the previous day, including the breast massage, commenting that the breast massage would relieve stress.

12. J.P. returned for a fourth scheduled appointment on September 22, 2008. Respondent gave J.P. a robe to wear and advised her he would treat her that day for her endometriosis. Respondent had J.P. lie on her stomach while he administered acupuncture and massaged her buttocks and thighs. Respondent then told J.P. to turn over and lie on her back. Respondent stood to J.P.'s right as she turned over and closed her eyes. J.P. felt something wet on her left nipple and opened her eyes to see Respondent sucking on her left nipple. J.P. pushed Respondent away and accused him of sucking her nipple. Respondent repeatedly apologized and J.P. ended the session and left the office.

13. Respondent failed to document in his notes of treatment from September 18, 19, 20, or 22 that he administered acupuncture or acupressure to any points on J.P.'s breasts to treat any symptoms she presented to him. Instead, Respondent's records of treatment indicated that the closest points of treatment to the breast he documented were "SP. 21" located in the armpit, "LV. 14" located in the midsection of the rib cage well below the breast, "CV. 17" located on the sternum at the nipple line in the middle of the chest, and on September 22, 2008, "Lung 1" and "Lung 2" located near the collar bone.
14. Respondent's conduct as set forth below constitutes sexual misconduct and his license is subject to discipline within the meaning of section 726:


SECOND CAUSE FOR DISCIPLINE
(Unprofessional conduct)
[Bus. & Prof. Code section 4955]

15. Complainant realleges paragraphs 7 through 13 as if fully set forth herein.

16. Respondent is subject to disciplinary action under section 4955 in that Respondent's conduct constituted unprofessional conduct as follows:


THIRD CAUSE FOR DISCIPLINE
(Gross Negligence)
[Bus. & Prof. Code section 4955.2]

17. Complainant realleges paragraphs 7 through 13 as if fully set forth herein.

18. Respondent is subject to disciplinary action under section 4955 in that Respondent's conduct constituted unprofessional conduct as follows:


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. Revoking or suspending Acupuncturist License Number AC 5572, issued to Peter Kwai Luk, A.C. Peter Kwai Luk, AC.
2. Ordering Peter Kwai Luk, AC to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;

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

DATED: MAY 28 2009

JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant
DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation Against:

PETER KIWAI LUK Case No. 1A-2008-114

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95811-0228. I served a true copy of the attached:

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

<table>
<thead>
<tr>
<th>NAME and ADDRESS</th>
<th>CERTIFIED MAIL NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peter Kiwai Luk</td>
<td>7009 1410 0002 2164 0580</td>
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<tr>
<td>PO Box 26832</td>
<td></td>
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<tr>
<td>Fresno, CA 93729</td>
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<tr>
<td>Mara Faust, Deputy Attorney General</td>
<td>regular mail</td>
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<tr>
<td>California Department of Justice</td>
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<tr>
<td>Office of the Attorney General/HQE</td>
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<tr>
<td>1300 I St., Ste. 125</td>
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<tr>
<td>Sacramento, CA 94244-2550</td>
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<tr>
<td>Gail Heppell, Supervising Deputy Attorney General</td>
<td>regular mail</td>
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<td>California Department of Justice</td>
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<tr>
<td>Ann H. larson</td>
<td>regular mail</td>
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<tr>
<td>McNamara Law Firm</td>
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<tr>
<td>1211 Newell Ave.</td>
<td></td>
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<tr>
<td>Walnut Creek, CA 94596</td>
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</table>

Each said envelope was, on August 10, 2010, sealed and deposited in the U.S. mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for an attempt at service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 10, 2010 at Sacramento, California.

[Signature]

DECLARANT