BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BENG YUE YAN

1854 35th Avenue
San Francisco, CA 94122

Acupuncture License No. AC 61

Respondent.

Case No. 1A-2012-18

STIPULATED SURRENDER OF
LICENSE AND ORDER

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 September 17, 2015.

It is so ORDERED August 18, 2015.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
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STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BENG YUE YAN

1854 35th Avenue
San Francisco, CA 94122

Acupuncture License No. AC 61

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Terri Thorfinnson ("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 Kamala D. Harris, Attorney General of the State of California, by Ashley Harlan, Deputy Attorney General.

2. Beng Yue Yan ("Respondent") is represented in this proceeding by attorney Robert Cheasty, whose address is

   Cheasty, Cheasty & Malek, LLP
   1604 Solano Avenue
   Berkeley, CA 94707.
3. On or about October 21, 1976, the Acupuncture Board issued Acupuncture License No. AC 61 to Respondent. The Acupuncture License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2012-18 and expired on August 31, 2014.

JURISDICTION

4. Accusation No. 1A-2012-18 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 September 30, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2012-18 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1A-2012-18. 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 understands that the charges and allegations in Accusation No. 1A-2012-18, if proven at a hearing, constitute cause for imposing discipline upon his Acupuncture License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
basis for the charges in the Accusation and that those charges constitute cause for discipline.

Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

10. Respondent agrees that if he ever applies for licensure or petitions for reinstatement of licensure, all of the charges and allegations contained in Accusation No. 1A-2012-18 shall be deemed true, correct, and fully admitted by Respondent for purposes of any such proceeding or any other licensing proceeding involving Respondent in the State of California.

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

CONTINGENCY

12. 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.

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

14. 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:

ORDER

IT IS HEREBY ORDERED that Acupuncture License No. AC 61, issued to Respondent Beng Yue Yan, is surrendered and accepted by the Acupuncture Board.
1. The surrender of Respondent’s Acupuncture 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 Acupuncture Board.

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

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

4. 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-2012-18 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 1A-2012-18 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $17,529.50 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, Robert Cheasty. I understand the stipulation and the effect it will have on my Acupuncture 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: 7/2/15

BENG YUE YAN
Respondent

I have read and fully discussed with Respondent Beng Yue Yan the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 7/3/15

ROBERT CHEASTY
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: July 3, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General

ASHLEY HARLAN
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 1A-2012-18