BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Mei-Chen Du, AC 6510
18232 Gale Ave.
City of Industry, CA 91748

Acupuncture License No. AC 6510

Respondent

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on January 11, 2019.

IT IS SO ORDERED December 27, 2018.

Benjamin Bodea, Executive Officer
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:

MEI-CHEN DU, L.Ac.
18232 Gale Ave.
City of Industry, CA 91748

Acupuncturist License No. AC 6510

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. 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 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney General.

2. Mei-Chen Du, L.Ac. (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about December 21, 1998, the Board issued Acupuncturist License No. AC
6510 to Mei-Chen Du, L.Ac. (Respondent). The Acupuncturist License No. AC 6510 expired on February 28, 2018, and has not been renewed.

JURISDICTION

4. Accusation No. 1A-2017-152 was filed before the (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 25, 2018. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1A-2017-152 is attached as Exhibit A and incorporated by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 1A-2017-152. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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 admits the truth of each and every charge and allegation in Accusation No. 1A-2017-152, agrees that cause exists for discipline and hereby surrenders her Acupuncturist License No. AC 6510 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Acupuncturist License No. AC 6510 without further process.
CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw her 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.

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

12. 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 Acupuncturist License No. AC 6510, issued to Respondent Mei-Chen Du, L.Ac., is surrendered and accepted by the Acupuncture Board.

1. The surrender of Respondent's Acupuncturist License No. AC 6510 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 her pocket license and, if one was issued, her 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 or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 1A-2017-152 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $2,596.00 prior to issuance of a new or reinstated license.

6. 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-2017-152 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.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Acupuncturist License No. AC 6510. 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: 12-12-18

MEI-CHEN DU, L.Ac.
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: December 19, 2018

Respectfully submitted.

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation

Acupuncture Board Case No. 1A-2017-152
BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MEI-CHEN DU, L.Ac.
18232 Gale Ave.
City of Industry, CA 91748
Acupuncturist License No. AC 6510,
Respondent.

Complainant alleges:

PARTIES

1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.

2. On or about December 21, 1998, the Acupuncture Board issued Acupuncturist License Number AC 6510 to Mei-Chen Du, L.Ac. (Respondent). The Acupuncturist License expired on February 28, 2018, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Acupuncture Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
4. Section 4928.1 of the Code states:

"Protection of the public shall be the highest priority for the Acupuncture Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

5. 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:

"...

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

"...

"(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the violation of the terms of this chapter or any regulation adopted by the board pursuant to this chapter.

"...

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

"...

6. Section 4955.1 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 committing a fraudulent act including, but not be limited to, any of the following:

"...

"(b) Committing a fraudulent or dishonest act as an acupuncturist.

"(c) Committing any act involving dishonesty or corruption with respect to the qualifications, functions, or duties of an acupuncturist.

"(d) Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record.
7. 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."

8. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) 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.

"(d) The Legislature hereby finds and declares that the application of this section has been
made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not constitute a change to, but rather are declaratory of, existing law."

9. Section 493 of the Code states:

"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.

"As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'"

10. *California Code of Regulations, title 16, section 1399.469.2* states:

"In addition to the conduct described in Section 4955 of the Business and Professions Code, 'unprofessional conduct' also includes but is not limited to the following: (a) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice to which the licensee is or expects to be named as a party, whether the agreement is made before or after the filing of an action:

"(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

"(2) A provision that requires another party to the dispute to attempt to withdraw a
complaint the party has filed with the board.

"(b) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

"(c) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

"(d) Failure to report to the board within 30 days any of the following:

"(1) The bringing of an indictment or information charging a felony against the licensee.

"(2) The arrest of the licensee.

"(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

"(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

"(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board."

11. 18 United States Code section 1341 states:

"Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or
promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.”

**COSTS**

12. Section 4959 of the Code states:

“(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable costs of the investigation and prosecution of the case.

“(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

“(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county
where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

“(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

“(e) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Acupuncture Fund.”

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime In 2017)

13. Respondent is subject to disciplinary action for unprofessional conduct under section 4955, subdivision (b), section 4956, and section 490 of the Code, in that she was convicted in United States District Court, Central District of California of violating 18 United States Code section 1341 (Mail Fraud), a crime which is substantially related to the qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

14. On or about May 18, 2017, in proceedings entitled UNITED STATES OF AMERICA vs. MEI CHEN DU, case number CR 17-0286- DOC, then pending in the United States District Court for the Central District of California (Central District of California), pursuant to a plea and sentence agreement Respondent was convicted of Count 1, mail fraud, a violation of 18 United States Code section 1341, by her plea of guilty.

15. On or about October 23, 2017, following Respondent's plea of guilty, the Court placed Respondent on two (2) years probation, under terms and condition which included that she be committed to the custody of the Bureau of Prisons for a term of 12 months and 1 day; that she pay a total amount of $535,143.08 in restitution with $100,000.00 due immediately and the remaining balance due within 6 months after sentencing; that upon her release from imprisonment she shall not be employed by, affiliated with, own, control, volunteer for, or otherwise participate, directly or indirectly, in any business involving health insurance or entitlement programs without the express written approval of the Probation Officer prior to engaging in such employment.

16. The facts underlying Respondent’s plea of guilty to Count 1 in the indictment are as follows:
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 6510, issued to Mei-Chen Du, L.Ac.;
2. Ordering Mei-Chen Du, L.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. If placed on probation, ordering her to pay to the Acupuncture Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: JUN 25 2018

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

( MEI-CHEN DU, L.Ac.) ACCUSATION IA-2017-152