

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

In the Matter of the Accusation Against:

**NING LI, L.Ac.
4025 Mira Mesa Avenue
Chino, CA 91710**

Acupuncturist License No. AC 6715,

Respondent.

Case No. 1A-2015-25

OAH No. 2020060553

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 December 10, 2020.

It is so ORDERED November 10, 2020.

Original Signature on File
FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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16 **Acupuncturist License No. AC 6715,**
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18 Respondent.

Case No. 1A-2015-25

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19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board
25 (Board). He brought this action solely in his official capacity and is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney
27 General.

28 2. Respondent Ning Li, L.Ac. (Respondent) is represented in this proceeding by attorney

1 Victor Sherman, Esq., whose address is: 11400 W. Olympic Blvd., Ste. 1500, Los Angeles, CA,
2 90064.

3 3. On or about May 31, 1999, the Board issued Acupuncturist License No. AC 6715 to
4 Respondent. The Acupuncturist License was in full force and effect at all times relevant to the
5 charges brought in Accusation No. 1A-2015-25, and will expire on May 31, 2020, unless
6 renewed.

7 **JURISDICTION**

8 Accusation No. 1A-2015-25 was filed before the Board, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served
10 on Respondent on July 22, 2020. Respondent timely filed her Notice of Defense contesting the
11 Accusation.

12 4. A copy of Accusation No. 1A-2015-25 is attached as exhibit A and incorporated
13 herein by reference.

14 **ADVISEMENT AND WAIVERS**

15 5. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in Accusation No. 1A-2015-25. Respondent has also carefully read, fully
17 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
18 Order.

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

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

27 **CULPABILITY**

28 8. Respondent understands and agrees that the charges and allegations in Accusation

1 No. 1A-2015-25, if proven at a hearing, constitute cause for imposing discipline upon her
2 Acupuncturist License.

3 9. Respondent admits the truth of each and every charge and allegation in paragraphs
4 153 through 157, inclusive, and 162 through 163, inclusive, in Accusation No. 1A-2015-25, and
5 agrees that cause exists for discipline.

6 10. Respondent agrees the Disciplinary Order below, requiring the disclosure of
7 probation pursuant to Business and Professions Code section 4962, serves to protect the public
8 interest.

9 11. Respondent agrees that her Acupuncturist License is subject to discipline and she
10 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11 **CONTINGENCY**

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

21 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
22 copies of this Stipulated Settlement and Disciplinary Order, shall have the same force and effect
23 as the originals.

24 14. In consideration of the foregoing admissions and stipulations, the parties agree that
25 the Board may, without further notice or formal proceeding, issue and enter the following
26 Disciplinary Order:

27 **DISCIPLINARY ORDER**

28 **IT IS HEREBY ORDERED** that Acupuncturist License No. AC 6715 issued to

1 Respondent Ning Li, L.Ac. is revoked. However, the revocation is stayed and Respondent is
2 placed on probation for three (3) years on the following terms and conditions:

3 1. PRACTICE AND BILLING MONITOR Within ninety (90) days of the
4 effective date of this Decision, Respondent shall submit to the Board or its designee for prior
5 approval as practice and billing monitor(s), the name and qualifications of one or more California
6 licensed acupuncturists whose license is clear and active, in good standing and not disciplined by
7 the Board. Prior to the Board's approval, Respondent shall provide a copy of the Board's
8 Accusation and Decision to the monitor(s). A monitor shall have no prior or current business or
9 personal relationship with Respondent, or other relationship that could reasonably be expected to
10 compromise the ability of the monitor to render fair and unbiased reports to the Board or its
11 designee, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring
12 costs. The Board in its sole discretion shall have the option of rejecting the proposed monitor(s)
13 for any reason and Respondent shall work to provide an alternative monitor(s) as set forth above.
14 Upon approval of the monitor(s), the Board or its designee shall provide a monitoring plan.
15 Within fifteen (15) days of receipt of the monitoring plan, the monitor shall submit a signed
16 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
17 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
18 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
19 signed statement.

20 Within one-hundred twenty (120) days of the effective date of this Decision, and continuing
21 through probation, Respondent shall make all records available for immediate inspection and
22 copying on the premises by the monitor at all times during business hours and shall retain the
23 records for the entire term of probation.

24 Respondent shall notify all current and potential patients in writing of any term or condition
25 of probation which will affect their treatment or the confidentiality of their records (such as this
26 condition which requires a practice monitor). Such written notification shall be signed by each
27 patient prior to continuing or commencing treatment and the written notification shall be kept as
28 part of the patient's healthcare record.

1 The monitor(s) shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
3 are within the standards of practice of acupuncture and billing, and whether Respondent is
4 practicing acupuncture safely and billing appropriately. It shall be the sole responsibility of
5 Respondent to ensure that the monitor submits written reports to the Board or its designee
6 quarterly.

7 If the monitor resigns or is no longer available, Respondent shall, within five days of such
8 resignation or unavailability notify the Board. Within thirty (30) days, Respondent shall submit
9 to the Board or its designee, for prior approval, the name and qualifications of a replacement
10 monitor. Upon approval, the monitor shall assume immediate responsibility. If Respondent fails
11 to obtain approval of a replacement monitor within sixty (60) days of the resignation or
12 unavailability of the monitor, after notification by the Board, Respondent shall be suspended from
13 the practice of acupuncture until a replacement monitor is approved and prepared to assume
14 immediate monitoring responsibility.

15 Failure to maintain all records, or to make all appropriate records available for immediate
16 inspection and copying on the premises, or to comply with this condition as outlined above, is a
17 violation of probation.

18 2. PATIENT DISCLOSURE APPROVAL Within ten (10) days of the
19 effective date of this Decision, Respondent shall submit a proposed written disclosure to provide
20 to all patients or a patient's guardian or health care surrogate to the Board for prior approval. The
21 written disclosure shall include the following:

- 22 (1) Respondent's probation status;
- 23 (2) Length of probation;
- 24 (3) Probation end date;
- 25 (4) All practice restrictions imposed by the probation order;
- 26 (5) The Board's telephone number;
- 27 (6) Explanation of how the patient can find further information on Respondent's probation
28 by running a license verification on the Board's web site.

1 3. PATIENT DISCLOSURE Before a patient’s first visit following the
2 effective date of this order and while the respondent is on probation, the respondent must provide
3 all patients, or patient’s guardian or health care surrogate, with a separate disclosure that includes
4 the respondent’s probation status, the length of the probation, the probation end date, all practice
5 restrictions placed on the respondent by the board, the board’s telephone number, and an
6 explanation of how the patient can find further information on the respondent’s probation on the
7 respondent’s profile page on the board’s website. Respondent shall obtain from the patient, or the
8 patient’s guardian or health care surrogate, a separate, signed copy of that disclosure. Respondent
9 shall make all patient disclosure records available for immediate inspection and copying on the
10 premises by the Board or its designee at all times during business hours and shall retain the
11 patient disclosure records for the entire term of probation.

12 Respondent shall not be required to provide a disclosure if any of the following applies: (1)
13 The patient is unconscious or otherwise unable to comprehend the disclosure and sign the copy of
14 the disclosure and a guardian or health care surrogate is unavailable to comprehend the disclosure
15 and sign the copy; (2) The visit occurs in an emergency room or an urgent care facility or the visit
16 is unscheduled, including consultations in inpatient facilities; (3) Respondent is not known to the
17 patient until immediately prior to the start of the visit; (4) Respondent does not have a direct
18 treatment relationship with the patient.

19 4. MAINTENANCE OF CLEAR AND ACTIVE LICENSE Respondent
20 shall, at all times, maintain a clear and active current license with the Board, including any period
21 of suspension or tolled probation.

22 If an initial license must be issued (Statement of Issues) or a license is reinstated,
23 probation shall not commence until a license is issued by the Board. Respondent must complete
24 the licensure process within two (2) years from the effective date of the Board’s Decision.

25 Should Respondent's license expire, by operation of law or otherwise, upon renewal or
26 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not
27 previously satisfied.

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1 5. PROBATION MONITORING COSTS Respondent shall pay the costs
2 associated with probation monitoring each and every year of probation, as designated by the
3 Board or its designee, which may be adjusted on an annual basis. Such costs shall be payable to
4 the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the
5 deadline(s) as directed shall be considered a violation of probation.

6 6. COURSEWORK Respondent, at her own expense, shall enroll and
7 successfully complete coursework substantially related to the violation(s) no later than the end of
8 the first year of probation as follows: Eight hours - Record Keeping and Four hours - Ethics, due
9 by the end of the first year. The classes must be taken in-person or live webinar. The coursework
10 shall be in addition to that required for license renewal. The Board or its designee shall notify
11 Respondent of the course content and number of hours required. Within thirty (30) days of the
12 Board's written notification of assigned coursework, Respondent shall submit a written plan to
13 comply with this requirement to the Board or its designee. The Board or its designee shall
14 approve such a plan prior to enrollment in any course of study.

15 Upon successful completion of the coursework, Respondent shall submit original
16 completion certificates to the Board within thirty (30) days of course completion.

17 7. OBEY ALL LAWS Respondent shall obey all federal, state and local
18 laws, remain in full compliance with any court ordered criminal probation terms, payments,
19 and/or other orders, and all regulations governing the practice of acupuncture in California. A
20 full and detailed account of any and all violations of law shall be reported by the Respondent to
21 the Board or its designee in writing within seventy-two (72) hours of occurrence. This condition
22 applies to any jurisdiction with authority over the Respondent, whether inside or outside
23 California.

24 8. QUARTERLY REPORTS Respondent shall submit quarterly reports
25 under penalty of perjury on forms provided by the Board or its designee, stating whether there has
26 been compliance with all the conditions of probation. If the final probation report is not
27 submitted as directed, probation shall be extended automatically until such time as the final report
28 is submitted and accepted by the Board or its designee.

1 9. MONITORING PROGRAM Respondent shall comply with the Board's
2 probation monitoring program and shall, upon reasonable notice, report to the assigned probation
3 monitor. Respondent shall contact the assigned probation monitor regarding any questions
4 specific to the probation order. Unless the Respondent obtains prior approval from his or her
5 assigned Board probation monitor to allow for contact, Respondent shall not have any contact
6 with (1) victims, witnesses, and/or complainants associated with the case; (2) Board members
7 and/or members of its staff; (3) persons serving the Board as subject matter experts; and/or (4)
8 persons who previously rendered expert opinions on behalf of the Board in Respondent's
9 disciplinary proceeding.

10 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
11 shall appear in person for interviews with the Board or its designee upon request at various
12 intervals and with or without prior notice throughout the term of probation.

13 11. NOTIFICATION OF NAME, ADDRESS, TELEPHONE NUMBER OR
14 E-MAIL ADDRESS CHANGES Respondent shall notify the Board in writing, through the
15 assigned probation monitor of any and all changes of employment, location and employment
16 address within thirty (30) days of such change.

17 12. SEVERABILITY CLAUSE Each condition of probation is a separate and
18 distinct condition. If any condition of this Decision and Order, or any application thereof, is
19 declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and
20 Order, and all other applications thereof, shall not be affected. Each condition of this Decision
21 and Order shall separately be valid and enforceable to the fullest extent permitted by law.

22 13. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE If
23 Respondent leaves California to reside or practice outside this state, or for any reason, unless by
24 Board order, should Respondent stop practicing acupuncture in California, Respondent must
25 notify the Board in writing of the dates of departure and return or the dates of non-practice within
26 10 days of departure or return. Non-practice is defined as any period of time exceeding 30 days
27 in which Respondent is not engaging in the practice of acupuncture or any time the license is
28 inactive or in cancelled status. Periods of temporary residency or practice outside the state or of

1 non-practice within the state shall not apply to reduction of the probationary period. It shall be a
2 violation of probation for Respondent's probation to remain tolled pursuant to the provisions of
3 this condition for a period exceeding a total, consecutive period of two years.

4 For purposes of this condition, a Board ordered suspension or non-practice in compliance
5 with any other condition of probation shall not be tolled. Any order for payment of cost recovery
6 shall remain in effect whether or not probation is tolled.

7 All provisions of probation shall recommence on the effective date of resumption of
8 practice in California, and the term of probation shall be extended for the period of time
9 respondent was out of state or in state and not practicing.

10 14. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent
11 shall not employ or supervise or apply to employ or supervise acupuncture trainees during the
12 course of this probation. Respondent shall terminate any such supervisory relationship in
13 existence on the effective date of this probation. Respondent shall not teach at any Board
14 approved training program or continuing education courses during the course of this probation.

15 15. COST RECOVERY Respondent shall pay to the Board its costs of
16 investigation and enforcement in the amount of \$7,500.00. Respondent shall be permitted to pay
17 these costs in a payment plan approved by the Board or its designee, with payments to be
18 completed no later than three months prior to the end of the probation term. Cost recovery will
19 not be tolled.

20 At Respondent's request, if Respondent has not complied with this condition during the
21 probationary term, and Respondent has presented sufficient documentation of her good faith
22 efforts to comply with this condition, and if no other conditions have been violated, the Board or
23 its designee, in its discretion, may grant an extension of Respondent's probation period up to two
24 (2) years without further hearing in order to comply with this condition. During the two (2) years
25 extension, all original conditions of probation will apply. The filing of bankruptcy by
26 Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its
27 investigation and prosecution costs.

28 16. VIOLATION OF PROBATION If Respondent violates probation in any

1 respect, the Board may, after giving Respondent notice and the opportunity to be heard, revoke
2 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
3 revoke probation is filed against Respondent during probation, the Board shall have continuing
4 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
5 is final. No petition for modification or termination of probation shall be considered while there
6 is an accusation or petition to revoke probation pending against Respondent. If Respondent has
7 not complied with any term or condition of probation, the Board shall have continuing
8 jurisdiction over Respondent, and probation shall automatically be extended until all terms and
9 conditions have been satisfied or the Board has taken other action as deemed appropriate to treat
10 the failure to comply as a violation of probation, to terminate probation, and to impose the penalty
11 which was stayed.

12 17. LICENSE SURRENDER Following the effective date of this Decision, if
13 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
14 the terms and conditions of probation, Respondent may request the voluntary surrender of his or
15 her license or registration. The Board or its designee reserves the right to evaluate Respondent's
16 request and to exercise its discretion whether or not to grant the request, or to take any other
17 action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of
18 the surrender, Respondent shall, within fifteen (15) days, deliver Respondent's pocket and/or wall
19 certificate to the Board or its designee and Respondent shall no longer practice acupuncture.
20 Upon formal acceptance of the tendered license, Respondent will no longer be subject to the
21 terms and conditions of probation.

22 Voluntary surrender of Respondent's license shall be considered disciplinary action and
23 shall become a part of Respondent's license history with the Board. If Respondent reapplies for
24 an acupuncture license, the application shall be treated as a petition for reinstatement of a revoked
25 or surrendered license.

26 18. COMPLETION OF PROBATION Upon successful completion of
27 probation, Respondent's license will be fully restored.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Victor Sherman. 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: 10/13/20 Original Signature on File
NING LI, L.Ac.
Respondent

I have read and fully discussed with Respondent Ning Li, L.Ac. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/13/20 Original Signature on File
VICTOR SHERMAN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

DATED: October 13, 2020

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

Original Signature on File
WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1A-2015-25