

1 ROB BONTA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 RYAN J. YATES  
Deputy Attorney General  
4 State Bar No. 279257  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6329  
Facsimile: (916) 327-2247  
7

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**ACUPUNCTURE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Petition to Revoke  
14 Probation Against,

15 **CORREY PO-HONG LAI, L.AC.**  
16 **2001 Oregon Drive**  
**Sacramento, CA 95822**  
**Acupuncturist License No. AC 7632**

Case No. 1A-2017-194

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

17 One.  
18

19 **FINDINGS OF FACT**

20 1. On or about September 28, 2021, Complainant Benjamin Bodea, in his official  
21 capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs,  
22 filed Petition to Revoke Probation No. 1A-2017-194 against Correy Po-Hong Lai, L.Ac.  
23 (Respondent) before the Acupuncture Board.

24 2. On or about February 13, 2001, the Acupuncture Board (Board) issued Acupuncturist  
25 License No. AC 7632 to Respondent. The Acupuncturist License was in full force and effect at  
26 all times relevant to the charges brought herein and expires on May 31, 2022, unless renewed.

27 3. On or about September 28, 2021, Emily Silver, an employee of the Board, served by  
28 certified mail, a copy of the Petition to Revoke Probation No. 1A-2017-194, and relevant

1 attachments to Respondent's addresses of record with the Board, which were and are located at  
2 2001 Oregon Drive, Sacramento, CA, 95822, and 491 Helen Way, Sacramento, CA, 95822.  
3 Sacramento, CA 95822. A copy of the Petition to Revoke Probation, the related documents, and  
4 Declaration of Service are attached as exhibit A, and are incorporated herein by reference.

5 4. Service of the Petition to Revoke Probation was effective as a matter of law under the  
6 provisions of Government Code section 11505, subdivision (c).

7 5. After over a month, with no response from Respondent regarding the Petition to  
8 Revoke Probation, on or about November 9, 2021, the served the Courtesy Notice of Default on  
9 the Respondent. A copy of the Courtesy Notice of Default, the related documents, Declaration of  
10 Service, and certified receipts are attached as exhibit B, and are incorporated herein by reference.

11 5. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
14 of the accusation not expressly admitted. Failure to file a notice of defense shall  
15 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
16 may nevertheless grant a hearing.

17 Respondent failed to file a Notice of Defense within 15 days after service upon her of the  
18 Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of Petition  
19 to Revoke Probation No. 1A-2017-194.

20 6. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the  
22 hearing, the agency may take action based upon the respondent's express admissions  
23 or upon other evidence and affidavits may be used as evidence without any notice to  
24 respondent.

25 7. Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on  
27 Respondent's express admissions by way of default and the evidence before it, contained in  
28 exhibits A through H, finds that the allegations in Petition to Revoke Probation No. 1A-2017-194  
are true.

8. Respondent's license is subject to discipline for unprofessional conduct under Section  
4955.2 of the Code, by reason of the following:

1           a.     In a disciplinary action titled “*In the Matter of Accusation Against Correy Po-*  
2 *Hong Lai, AC,*” Case No. 1A-2017-194, the Acupuncture Board, issued a Decision,  
3 effective August 29, 2019, in which Respondent’s Acupuncturist License was revoked.  
4 However, the revocation was stayed and Respondent’s Acupuncturist License was placed  
5 on probation for a period of three (3) years with certain terms and conditions. A copy of  
6 that Decision is attached as Exhibit C and is incorporated by reference.

7           b.     On August 23, 2019, the Board issued an initial probation letter to Respondent  
8 which included the statement that Respondent’s Probation Term No. 2 (Examination) must  
9 be completed within 18 months of the effective date and if Respondent has not passed the  
10 examination within 18 months from the effective date, Respondent will be in violation of  
11 her probation. Since then, every Quarterly Review letter sent to Respondent has also  
12 included the statement that Respondent must take and pass the Acupuncture examination by  
13 March 1, 2021. On February 5, 2021, Respondent emailed the Board requesting a six (6)  
14 month extension on completing Probation Term No. 2 (Examination) from the current  
15 deadline of March 1, 2021. On February 16, 2021, the Board issued a “Notice of Probation  
16 Violation” letter to Respondent regarding her violation of Term No. 1 (Practice Monitor).  
17 The Board also addressed Respondent’s request for an extension regarding Probation Term  
18 No. 2 (Examination). The Board reiterated that Respondent must take and pass the  
19 Acupuncture examination by March 1, 2021 as that is how it is laid out in the Stipulated  
20 Settlement and Disciplinary Order that was adopted by the Acupuncture Board on July 30,  
21 2019 and that if Respondent fails to complete Term No. 2 (Examination), it will be  
22 considered a probation violation and that Respondent will be subject to issuance of a cease  
23 practice order. This letter from the Board was sent via certified mail and a few days later,  
24 the Board received a “Return Receipt for Merchandise” with Respondent’s signature on it  
25 indicating it was delivered on February 18, 2021. A copy of the aforementioned  
26 communications between Respondent and the Board is attached as Exhibit D and is  
27 incorporated by reference.  
28

1           c.     On February 24, 2021, the Board emailed Respondent indicating that her retake  
2 examination application had been processed and transmitted to PSI who manages the  
3 testing process for the Board and that Respondent has been granted 60 days in which to take  
4 her exam. However, the Board further noted that if Respondent does not take and pass her  
5 exam by March 1, 2021, a Cease Practice notice will be issued. The Board formalized their  
6 response in a letter to Respondent dated February 26, 2021 and added that “Should you fail  
7 to pass the exam and bring yourself in compliance with probation, you will be referred to  
8 the Attorney General to request that the revocation of your license be carried out for  
9 violation of Term 2 – Examination. On March 10, 2021, a Cease Practice Order was issued  
10 to Respondent. A copy of the Cease Practice Order is attached as Exhibit E and is  
11 incorporated by reference.

12           d.     On March 11, 2021, the Board received an email from Respondent asking if she  
13 can postpone her exam date due to Covid-19. On March 15, 2021, the Board issued a letter  
14 to Respondent denying her request for a postponement. On March 22, 2021, Respondent  
15 emailed the Board advising that the next available exam date is April 5, 2021. On March  
16 23, 2021, the Board emailed Respondent back indicating that if April 5, 2021 is the next  
17 available exam date, that she must take and pass the exam or the Board will petition for  
18 revocation of her license. Later that day, Respondent emailed back “I understand that. Right  
19 now I can only schedule for the 4/5 exam date. No other exam date is available before 4/5.  
20 Thank you for your help.” A copy of the aforementioned communications is attached as  
21 Exhibit F and is incorporated by reference.

22           e.     On April 5, 2021 (Exam day), Respondent emailed the Board a copy of her  
23 doctor’s appointment that she had scheduled for later that day stating that “I presented  
24 covid symptoms for a few days. Advising nurse advised me to stay alone until the covid test  
25 result come back. I will contact the PSI exam center and reschedule my test date if they  
26 allow me to. Please provide advise. Thank you.” At 11:15 pm on April 5, 2021, Respondent  
27 emailed the Board that she rescheduled her exam for May 10, 2021, the earliest available  
28 date. On April 16, 2021, the Board issued a “Notice of Probation Violations” advising that

1 Respondent had failed to take and pass the Acupuncture exam by March 1, 2021 and that  
2 Respondent was not in compliance with Probation Term No. 3 (Coursework) as she still  
3 needed to complete 1 hour in the field of Record Keeping. Further, the Board noted that  
4 Respondent is also in violation of Probation Term No. 5 (Quarterly Reports) as the Board  
5 did not receive Respondent's report for the January through March 2021 reporting period.  
6 The Board advised that should Respondent remain in non-compliance regarding  
7 Respondent's Examination probation term by May 14, 2021, the Board will determine as to  
8 whether to refer Respondent's case to the Attorney General to request that Respondent's  
9 Acupuncture license be revoked for violating Term No. 2 of Respondent's probation –  
10 Examination. On April 19, 2021, Respondent notified the Board that her Covid-19 test  
11 results came back negative. A copy of the aforementioned communications is attached as  
12 Exhibit G and is incorporated by reference.

13 f. On May 10, 2021, the Board was notified that Respondent failed the  
14 Acupuncture exam. A copy of Respondent's failed examination is attached as Exhibit H  
15 and is incorporated by reference.

### 16 **COST RECOVERY**

17 9. Section 4959 of the Code states:

18 “(a) The board may request the administrative law judge, under his or her  
19 proposed decision in resolution of a disciplinary proceeding before the board, to  
20 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  
21 case.

22 “(b) The costs to be assessed shall be fixed by the administrative law judge and  
23 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  
24 administrative law judge shall not increase the amount of any costs assessed in the  
proposed decision.

25 “(c) When the payment directed in the board's order for payment of costs is not  
26 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.

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

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

2 **DETERMINATION OF ISSUES**

3 1. Based on the foregoing findings of fact, Respondent Correy Po-Hong Lai, L.Ac. has  
4 subjected her Acupuncturist License No. AC 7632 to discipline by failing to abide by the terms  
5 and conditions of her probation.

6 2. A copy of the Petition to Revoke Probation and the related documents and  
7 Declaration of Service are attached.

8 3. The agency has jurisdiction to adjudicate this case by default.

9 4. The Acupuncture Board is authorized to revoke Respondent's Acupuncturist License  
10 based upon the following violations alleged in the Petition to Revoke Probation:

11 a. Section 4928.1 of the Code states:

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

15 b. Section 4955 of the Code states:

16 “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.”

17 c. Section 4955.2 of the Code states:

18 “The board may deny, suspend, revoke, or impose probationary conditions upon the  
19 license of any acupuncturist if he or she is guilty of committing any one of the  
following:

20 (a) Gross negligence.

21 (b) Repeated negligent acts.

22 (c) Incompetence.”

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**ORDER**

IT IS SO ORDERED that Acupuncturist License No. AC 7632, heretofore issued to Respondent Correy Po-Hong Lai, L.Ac., is revoked.

Respondent is ordered to reimburse the Acupuncture Board the amount of \$13,622.50 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board for its costs. Respondent's Acupuncturist License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 3753.5 have been paid. If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement of a revoked license. Respondent must comply with all the laws, regulations and procedures for a revoked license in effect at the time that the application for relicensure or reinstatement is filed.

**Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent.** The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 12, 2022.

It is so ORDERED January 13, 2022

Original Signature On File  
\_\_\_\_\_  
FOR THE ACUPUNCTURE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

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Attachments:

Exhibit A: Petition to Revoke Probation No.1A-2017-194, Related Documents, and

Declaration of Service

Exhibit B: Copy of Certified Mail Tag

Exhibit C: Certification of Costs: Declaration of Ryan Yates