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

13 In the Matter of the Accusation Against:

14 **VINCENT H.T. HAN, L.AC.**
15 **12940 Newhope Street**
Garden Grove, CA 92840

16 **Acupuncturist License No. AC 9200,**

17 Respondent.

Case No. 1A-2016-273

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18

19 **FINDINGS OF FACT**

20 1. On or about December 7, 2021, Complainant Benjamin Bodea, in his official capacity
21 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs, filed
22 Accusation No. 1A-2016-273 against Vincent H.T. Han, L.Ac. (Respondent) before the
23 Acupuncture Board (Board). A true and correct copy of the Accusation, related documents, and
24 Declaration of Service are attached as Exhibit 1 to the accompanying "Default Decision Evidence
25 Packet," and are incorporated by reference as if fully set forth herein.¹

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28 ¹ The Exhibits referred to herein, which are true and correct copies of the originals, are contained in the separate accompanying "Default Decision Evidence Packet."

1 2. On or about September 18, 2003, the Acupuncture Board (Board) issued
2 Acupuncturist License No. AC 9200 to Respondent. The Acupuncturist License expired on June
3 30, 2021, and has not been renewed. (See Exhibit 2, Certificate of Licensure.)

4 3. On or about December 7, 2021, Emily Silver, an employee of the Board, served by
5 certified mail a copy of Accusation No. 1A-2016-273, Statement to Respondent, Notice of
6 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
7 to Respondent's address of record with the Board, which was and is: 12940 Newhope Street
8 Garden Grove, CA 92840. (See Exhibit 1.)

9 4. On or about January 19, 2022, Emily Silver, an employee of the Board, served by
10 regular mail a copy of Accusation No. 1A-2016-273, Statement to Respondent, Notice of
11 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
12 to Respondent's last known address, which at that time was: Orange County Sheriff's Dept., Attn:
13 Vincent H.T. Han, Booking # 3206039, 550 N. Flower St., Santa Ana, CA 92703. (See Exhibit 3,
14 Declaration of Service by Mail.)

15 5. Service of the Accusation was effective as a matter of law under the provisions of
16 Government Code section 11505, subdivision (c).

17 6. On or about January 31, 2022, Respondent signed and returned a Notice of Defense,
18 requesting a hearing in this matter. (See Exhibit 4, Notice of Defense.)

19 7. On or about June 15, 2022, Respondent signed and returned a Withdrawal of Notice
20 of Defense / Request for Hearing. In this document, Respondent knowingly, intelligently, and
21 voluntarily withdrew his Notice of Defense, waived his right to a hearing, and understood that the
22 Board could proceed with a default decision and order. (See Exhibit 5, Withdrawal.)

23 8. California Government Code section 11520 states, in pertinent part:

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on

1 Respondent's express admissions by way of default and the evidence before it, contained in
2 Exhibits 1-8 finds that the allegations in Accusation No. 1A-2016-273 are true.

3 10. Business and Professions Code section 118 states, in pertinent part:

4 (b) The suspension, expiration, or forfeiture by operation of law of a license
5 issued by a board in the department, or its suspension, forfeiture, or cancellation by
6 order of the board or by order of a court of law, or its surrender without the written
7 consent of the board, shall not, during any period in which it may be renewed,
8 restored, reissued, or reinstated, deprive the board of its authority to institute or
9 continue a disciplinary proceeding against the licensee upon any ground provided by
10 law or to enter an order suspending or revoking the license or otherwise taking
11 disciplinary action against the license on any such ground.

12 11. Section 4955 of the Code states, in pertinent part:

13 The board may deny, suspend, or revoke, or impose probationary conditions
14 upon, the license of any acupuncturist who is guilty of unprofessional conduct.²

15 ...

16 12. Section 4955.1 of the Code states, in pertinent part:

17 The board may deny, suspend, revoke, or impose probationary conditions upon
18 the license of any acupuncturist if he or she is guilty of committing a fraudulent act
19 including, but not be limited to, any of the following:

20 ...

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

23 ...

24 13. Section 4959 of the Code states:

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

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² “Unprofessional conduct is that conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession.” (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575; *Davis v. Physician Assistant Bd.* (2021) 66 Cal.App.5th 227, 280–281.)

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

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

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

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

16 14. Respondent has subjected his Acupuncturist License No. AC 9200 to disciplinary
17 action by reason of the following:

18 (a) Between in or around 2010, and in or around 2013, Respondent engaged in
19 repeated sexual acts with a female relative who was under fourteen years of age at the time.
20 (See Exhibit 6 – Certified Garden Grove Police Department Report; and Exhibit 7 –
21 Certified Court Records, Orange County Superior Court Case No. 17WF0851.)

22 (b) On or about November 1, 2016, Respondent's female relative reported the
23 sexual acts by Respondent to the Garden Grove Police Department. (Exhibit 6.)

24 (c) On or about September 27, 2017, the Orange County District Attorney filed a
25 criminal Information against Respondent in the case entitled *The People of the State of*
26 *California v. Vincent Han*, Orange County Superior Court Case No. 17WF0851
27 (Information) charging him with multiple felonies including (1) Sexual penetration with a
28 child 10 years or younger, in violation of Penal Code section 288.7, subdivision (b); (2)
Lewd act upon a child under 14 (hand touching vagina), in violation of Penal Code section
288, subdivision (a); (3) Aggravated sexual assault of a child under 14 (rape) in violation of
Penal Code sections 269, subdivision (a)(1), and 261, subdivision (a)(2); (4) Aggravated
sexual assault of a child under 14 (rape), in violation of Penal Code sections 269,
subdivision (a)(1), and 261, subdivision (a)(2); (5) Aggravated sexual assault of a child

1 under 14 (oral copulation of victim) in violation of Penal Code sections 269, subdivision
2 (a)(4), and 288, subdivision (a); and (6) Aggravated sexual assault of a child under 14 (oral
3 copulation of Defendant) in violation of Penal Code sections 269, subdivision (a)(4), and
4 288, subdivision (a). (Exhibit 7.)

5 (d) On or about July 20, 2021, following a jury trial, Respondent was found guilty
6 of all six counts alleged in the Information, and was remanded into custody. (Exhibit 7.)

7 15. The costs of investigation and enforcement of the case prayed for in the Accusation
8 total \$5,400.00. (See Exhibit 8, Declaration of Costs.)

9 **DETERMINATION OF ISSUES**

10 1. Based on the foregoing findings of fact, Respondent Vincent H.T. Han, L.Ac. has
11 subjected his Acupuncturist License No. AC 9200 to discipline.

12 2. A copy of the Accusation and the related documents and Declaration of Service are
13 contained in the accompanying "Default Decision Evidence Packet."

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

15 4. Pursuant to its authority under California Government Code section 11520, and based
16 on the evidence before it, the Board hereby finds that the charges and allegations contained in
17 Accusation No. 1A-2016-273, and the Findings of Fact contained in paragraphs 1 through 15,
18 above, and each of them, separately and severally, are true and correct.

19 5. Pursuant to its authority under California Government Code section 11520, and by
20 reason of the Findings of Fact contained in paragraphs 1 through 15, above, and Determination of
21 Issues 1 through 6, herein, the Board finds that Respondent has subjected his Acupuncturist
22 License No. AC 9200 to discipline based upon the following violations alleged in the Accusation
23 No. 1A-2016-273:

24 (a) Respondent committed acts involving dishonesty or corruption with respect to
25 his qualifications, functions, or duties of an acupuncturist, in violation of California
26 Business and Professions Code section 4955.1, subdivision (c); and

27 (b) Respondent engaged in general unprofessional conduct, in violation of
28 California Business and Professions Code section 4955.

