BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ) Case No. 1A-2015-50
)
INGA WITFOTH, L.AC. )
P. O. Box 3243 )
La Habra, CA 90632 )
Acupuncture License No. AC 9541 )
) Respondent. )

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 ___May 5, 2017____.

It is so ORDERED ___April 7, 2017____.

Hildegarde Aguinaldo, Board President
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: Case No. 1A-2015-50

INGA WITFOTH, L.Ac.
P.O. Box 3243
La Habra, CA 90632
Acupuncturist License No. AC9541,

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 Kathleen A. Kenealy, Acting Attorney General of the State of California, by Wendy Widlus, Deputy Attorney General.

2. Respondent Inga Witfoth, 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 18, 2003, the Board issued Acupuncturist License No. AC9541 to Inga Witfoth, L.Ac. The Acupuncturist License was in full force and effect at all times relevant to the charges brought in Accusation No. 1A-2015-50. The Acupuncturist License

STIPULATED SETTLEMENT (1A-2015-50)
expired on January 31, 2015, has not been renewed, and is therefore delinquent.

JURISDICTION

4. Accusation No. 1A-2015-50 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 May 2, 2016. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 1A-2015-50 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 1A-2015-50. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. 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.

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 1A-2015-50.

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

CONTINGENCY

11. 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 settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she 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 Settlement 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.

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

13. 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 Disciplinary Order:

**DISCIPLINARY ORDER**

**IT IS HEREBY ORDERED** that Acupuncturist License No. AC9541 issued to Respondent Inga Witfoth, L.Ac. is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions.

1. **MAINTAIN A CURRENT ACUPUNCTURIST LICENSE** Respondent shall bring her California Acupuncturist License to a current status no later than September 29, 2017. Respondent shall maintain a current license throughout the period of probation.

2. **ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND SAMPLES** Respondent shall completely abstain from the personal use or possession of alcohol and controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, or any drugs requiring a prescription except when lawfully prescribed by a licensed practitioner for a bona fide illness. Respondent shall undergo random biological fluid testing as determined by the Board. Respondent shall bear all costs of such testing. The length of time and frequency will be
determined by the Board. Any confirmed positive finding will be considered a violation of probation.

3. **TWELVE STEP MEETINGS** Effective 60 days from the date of this Decision, respondent is required to attend Twelve Step meetings or the equivalent as approved by the Board at least one time a week during the first three months of probation; and/or other substance abuse recovery programs approved by the Board. Respondent shall provide documentation of attendance at Twelve Step meetings or the equivalent as approved by the Board.

4. **REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING** Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period.

5. **COMMUNITY SERVICE** Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, a community service program in which respondent shall provide volunteer services on a regular basis to a community or charitable facility or agency for at least 48 hours for the two years of probation. Such community service does not necessarily include acupuncture service. Respondent shall ensure that the Board receives documentation and/or certification of community service hours by the facility or agency on a quarterly basis. Failure to complete the community service as set forth above will be considered a violation of probation. Respondent shall complete all community service hours no later than six (6) months prior to the completion of probation.

6. **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws and all regulations governing the practice of acupuncture in California. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence.

7. **QUARTERLY REPORTS** Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

8. **SURVEILLANCE PROGRAM** Respondent shall comply with the Board’s probation surveillance program and shall, upon reasonable notice, report to the assigned
investigative district office. Respondent shall contact the assigned probation surveillance monitor regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) victims or complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

9. **INTERVIEW WITH THE BOARD OR ITS DESIGNEE**  Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

10. **CHANGES OF EMPLOYMENT**  Respondent shall notify the Board in writing, through the assigned probation surveillance compliance officer of any and all changes of employment, location and address within 30 days of such change.

11. **TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE**  In the event Respondent should leave California to reside or to practice outside the State, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

12. **EMPLOYMENT AND SUPERVISION OF TRAINEES**  Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

13. **COST RECOVERY**  Respondent shall pay to the Board its costs of investigation and enforcement in the amount of $4,132.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term. Cost recovery will not be tolled. If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to two years without further hearing in order to comply with this condition. During the two years extension, all original conditions of probation will apply.

14. **VIOLATION OF PROBATION**  If Respondent violates probation in any respect, the
Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

15. COMPLETION OF PROBATION Upon successful completion of probation, Respondent’s license will be fully restored.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 01/31/17

INGA WITFOTH, L.A.C.
Respondent

ENDORSEMENT

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

Respectfully submitted,

KATHLEEN A. KENEALY
Acting Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General

WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant
Exhibit A

Accusation No. 1A-2015-50
Complainant alleges:

PARTIES

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

2. On or about December 18, 2003, the Acupuncture Board issued Acupuncturist License Number AC9541 to Inga Witfoth, L.Ac. (Respondent). The Acupuncturist License expired on January 31, 2015, has not been renewed, and is therefore delinquent.

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.

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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 in pertinent part:

"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:

"(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

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

6. 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."
7. 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.”

8. 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.’”

9. California Vehicle Code Section 23152 states in pertinent part:

“(a) It is unlawful for any person who is under the influence of any alcoholic beverage or 
drug, or under the combined influence of any alcoholic beverage and drug, to drive the vehicle.

“(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his 
or her blood to drive the vehicle …”

10. California Vehicle Code Section 23578 states:

“In addition to any other provision of this code, if a person is convicted of a violation of 
Section 23152 or 23153, the court shall consider a concentration of alcohol in the person’s blood 
of 0.15 percent or more, by weight, or the refusal of the person to take a chemical test, as a 
special factor that may justify enhancing the penalties in sentencing, in determining whether to 
grant probation, and, if probation is granted, in determining additional or enhanced terms and 
conditions of probation.”

COSTS

11. 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)

12. Respondent is subject to disciplinary action for unprofessional conduct under Code
section 4955, subdivision (b), in that she was convicted of violating California Vehicle Code
section 23152, subdivision (b), commonly known as driving while having a 0.08% or higher
blood alcohol, a crime which is substantially related to the qualifications, functions, and duties of
an acupuncturist. The circumstances are as follows:

Inga Witfoth AKA Inga Tsyrlin, Inga Taras, Inga Thirun Farahanchi, then pending in the
Superior Court of California, case number 14NM11212, after a plea of guilty, Respondent was
convicted of Count 2, a violation of Vehicle Code section 23152, subdivision (b). The remaining
count as well as the special allegation pursuant to Vehicle Code section 23578 were dismissed by
the Court in the interests of justice based on the plea and sentence agreement.

14. Following Respondent's plea of guilty, the Court placed Respondent on three (3)
years informal probation, and ordered her, inter alia, to obey all laws, enroll in and complete the
three (3) month First Offender Drinking Driver Program, pay a fine of $390.00 plus penalty
assessments, and not drive a motor vehicle with any measurable amount of alcohol in her blood.

15. The facts underlying Respondent's guilty plea to Count 2 in the above conviction are
as follows:
16. On or about August 10, 2014, at approximately 10:19 p.m., an officer employed by the Fullerton Police Department (FPD) who was driving his marked patrol vehicle while in full uniform was notified that a white Toyota Camry had been involved in a traffic collision.

17. The FPD officer observed Respondent, later identified as the driver of the Camry, seated inside the car.

18. When Respondent got out of her car the FPD officer observed that Respondent displayed objective signs of alcohol intoxication. Respondent admitted drinking two glasses of wine approximately 20 minutes prior to the accident.

19. The FPD officer demonstrated a series of standardized physical field sobriety tests to Respondent, and then asked Respondent to perform them as directed. Respondent was unable to perform the tests in a satisfactory manner.

20. Respondent was arrested for being under the influence of alcohol. After being read the chemical test admonition by the officer Respondent chose to provide a sample of her breath to be tested for the presence and amount of alcohol in her body, if any.

21. Respondent's breath alcohol test results were .16 and .16, or two times the presumed blood alcohol content level used to define intoxication.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

22. Respondent is subject to disciplinary action under Code section 4955, for unprofessional conduct pursuant to Code section 4955, subdivision (a), in that she used alcoholic beverages or a dangerous drug to an extent or in a manner dangerous to herself, or to any other person, or to the public. The circumstances are as follows:

23. The facts and circumstances in paragraphs 16 through 21 are incorporated by reference as if set forth in full herein.

PRAYER

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 AC9541, issued to Inga Witfoth, L.Ac.;
2. Ordering Inga Witfoth, 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: MAY 02 2016

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