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FILED

OCT 20 2011

ACUPUNCTURE BOARD

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

In the Matter of the Accusation Against:
KELLY HIJUNG KIM, L.Ac.
9854 National Boulevard, #341
Los Angeles, California 90034

Acupuncture License No. AC 13978

Respondent.

Case No. 1A-2010-231

OAH No. 2011090546

A M E N D E D A C C U S A T I O N

Complainant alleges:

PARTIES

1. Janelle Wedge (Complainant) brings this Amended Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board of California (Board).
2. On or about October 5, 2010, the Board issued Acupuncture License Number AC 13978 to Kelly Hijung Kim (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
4. Section 4955 of the Code states:

1 "The board may deny, suspend, or revoke, or impose probationary conditions upon, the
2 license of any acupuncturist if he or she is guilty of unprofessional conduct.

3 "Unprofessional conduct shall include, but not be limited to, the following:

4 "...

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

8 "...."

9 5. Section 4956 of the Code states:

10 AA plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
12 is deemed to be a conviction within the meaning of this chapter.

13 AThe board may order a license suspended or revoked, or may deny a license, or may
14 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
15 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
16 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
17 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
18 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
19 complaint, information, or indictment.@

20 6. Section 4959 of the Code states:

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

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

1 administrative law judge shall not increase the amount of any costs assessed in the
2 proposed decision.

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

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

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

13 CAUSE FOR DISCIPLINE

14 (Conviction of a Crime)

15 7. Respondent is subject to disciplinary action under Code sections 4955, subdivision
16 (b) and 4956, in that she was convicted of a crime substantially related to the qualifications,
17 functions and duties of an acupuncturist. The circumstances are as follows:

18 8. On or about December 15, 2010, Los Angeles Police Department Vice Officers
19 arrested Respondent for solicitation of prostitution, in violation of Penal Code 647, subdivision
20 (b), a misdemeanor.

21 9. On or about January 3, 2011, in the matter entitled *The People of the State of*
22 *California vs. Hijung Kelly Kim*, in Los Angeles County Superior Court, Case No. OPY07584,
23 Respondent was charged with solicitation of prostitution, in violation of Penal Code section 647,
24 subdivision (b), a misdemeanor.

25 10. On or about March 23, 2011, Respondent pled nolo contendere to solicitation of
26 prostitution, in violation of Penal Code section 647, subdivision (b). She was placed on probation
27 for two years under the following terms and conditions:

28 a. Perform 10 days of CAL TRANS;

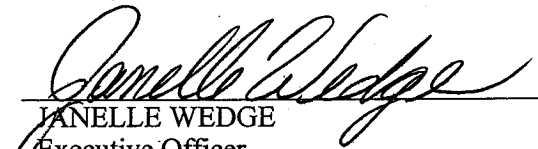
- 1 b. Pay assessments and fines in the amount of \$195.00;
- 2 c. Do not use or possess any narcotics, dangerous drugs or associated paraphernalia;
- 3 d. Do not engage or offer to engage in any sexual activity in a public place;
- 4 e. Do not loiter in or near any public restroom;
- 5 f. Do not engage drivers in conversation, hitchhike, loiter, or congregate with the
- 6 specific intent to solicit acts of prostitution;
- 7 g. Stay 100 yards away from 5222 Vineland;
- 8 h. Submit to an aids test;
- 9 i. Complete an aids education class; and
- 10 j. Do not own or operate a massage or escort business without a valid permit from the
- 11 police commission.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Acupuncture Board issue a decision:

- 15 1. Revoking or suspending Acupuncture License Number AC 13978 issued to Kelly
- 16 Hijung Kim;
- 17 2. Ordering her to pay the Acupuncture Board the reasonable costs of the investigation
- 18 and enforcement of this case pursuant to Business and Professions Code section 4959;
- 19 3. If placed on probation, ordering her to pay the Acupuncture Board the costs of
- 20 probation monitoring; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: **OCT 20 2011**


23 JANELLE WEDGE
24 Executive Officer
25 Acupuncture Board
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

27 LA2011503608
28 Amended Accusation.docx

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
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8
9 **BEFORE THE**
ACUPUNCTURE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

13 **KELLY HIJUNG KIM**

14 Respondent.

Case No. 1A-2010-231

OAH No. 2011090546

**SUPPLEMENTAL STATEMENT
TO RESPONDENT**

[Gov. Code §§ 11505, 11506, 11507]

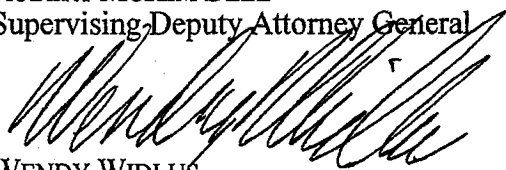
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17 **TO RESPONDENT:**

18 Enclosed is a copy of the First Amended Accusation that has been filed with the
19 Acupuncture Board of the Department of Consumer Affairs (Board), pursuant to section 11507 of
20 the Government Code, and which is hereby served on you.

21 You previously filed a Notice of Defense with the Acupuncture Board, pursuant to sections
22 11505 and 11506 of the Business and Professions Code, thereby requesting an administrative
23 hearing to present your defense to the charges and allegations in the Accusation. Section 11507
24 of the Government Code states that you are not entitled to file a further pleading in response to
25 the First Amended Accusation unless the agency in its discretion so orders. All new charges
26 contained in the First Amended Accusation are deemed controverted, and any objections to the
27 First Amended Accusation may be made orally and shall be noted in the record.
28

Dated: October 20, 2011

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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DECLARATION OF SERVICE BY MAIL

In the Matter of the Amended Accusation filed Against:

KELLY HIJUNG KIM

Case No. 1A-2010-231

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95811. I served a true copy of the attached:

**AMENDED ACCUSATION &
SUPPLEMENTAL STATEMENT TO RESPONDENT**

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Kelly Hijung Kim, L.Ac.
9854 National Blvd., #341
Los Angeles, CA 90034

7011 0470 0002 9745 1080

Wendy Widlus, Deputy Attorney General
California Department of Justice
Office of the Attorney General/HQE
300 S. Spring St., Ste. 1702
Los Angeles, CA 90013

regular mail

Robert McKim Bell, Supervising Deputy Attorney General
California Department of Justice
Office of the Attorney General/HQE
300 S. Spring St., Ste. 1702
Los Angeles, CA 90013

regular mail

Each said envelope was, on October 20, 2011, sealed and deposited in the U.S. mail box at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for attempt at service on Respondent.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 20, 2011, at Sacramento, California.


DECLARANT