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ACUPUNCTURE BOARD

7
8 **BEFORE THE**
ACUPUNCTURE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 1A-2012-76

12 **MARY PATRICIA STUART**

ACCUSATION

13 **P.O. Box 1318-2577**
14 **Sacramento, CA 95812**

15 **Acupuncture License No. AC 2811**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Acupuncture Board (Board), Department of Consumer
22 Affairs.

23 2. On or about June 2, 1986, the Board issued Acupuncture License Number AC
24 2811 to Mary Patricia Stuart (Respondent). Said Acupuncture License will expire on June 30,
25 2016, unless it is renewed. It is currently on inactive status, which means that the licensee cannot
26 practice acupuncture and is exempt from complying with the continuing education requirement.

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JURISDICTION

3. This Accusation is brought before the 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.

4. 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:

"..."

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

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

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

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

6. Section 4956 of the Code provides:

" 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

1 pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
2 dismissing the accusation, complaint, information, or indictment.”

3 7. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
4 or forfeiture by operation of law of a license issued by a board in the department, or its
5 suspension, forfeiture, or cancellation of a license by order of the board or by order of a court of
6 law, or its surrender without the written consent of the board, during any period in which it may
7 be renewed, restored, reissued or reinstated, shall not deprive the board of its authority to institute
8 or continue a disciplinary proceeding against the licensee upon any ground provided by law or to
9 enter an order suspending or revoking the license or otherwise taking disciplinary action against
10 the licensee on any such ground.

11 COST RECOVERY

12 8. Section 4959 of the Code states:

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

17 "(b) The costs to be assessed shall be fixed by the administrative law judge and
18 shall not in any event be increased by the board. When the board does not adopt a
19 proposed decision and remands the case to an administrative law judge, the
20 administrative law judge shall not increase the amount of any costs assessed in the
21 proposed decision.

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

1 the surrender date. She was ordered not to have access to financial information of the victim F.S.
2 and to pay restitution, a fine, and fees.

3 13. The underlying facts of Respondent's conviction are as follows:

4 a. In or about September 2009, the Menlo Park Police Department
5 investigated a report from Adult Protective Services (APS) regarding embezzlement and financial
6 abuse of an elder, F.S. who was an 81-year old female and Respondent's mother.

7 b. During the course of the police investigation, Respondent was
8 interviewed and admitted that she and her ex-fiancee, both of whom were unemployed, moved
9 into F.S.'s home and made unauthorized purchases with F.S.'s credit cards. Respondent admitted
10 that she used F.S.'s credit cards to pay for Respondent's cellular phone bill, a storage unit rental, a
11 video store membership, a down payment on a new car, dental work, restaurant bills, groceries,
12 electronics, books, gas, and perfume, among other items. According to information provided by
13 Respondent, Respondent incurred charges of \$5,079.06 and Respondent's friend G.D. incurred
14 charges of \$8,959.61, all unauthorized by F.S., Respondent's mother.

15 PRAYER

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

18 1. Revoking or suspending Acupuncture License Number AC 2811, issued to Mary
19 Patricia Stuart;

20 2. Ordering Mary Patricia Stuart to pay the Acupuncture Board the reasonable costs of
21 the investigation and enforcement of this case, pursuant to Business and Professions Code section
22 4959; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: NOV 07 2014



TERRI THORFINNSON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

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