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

11 In the Matter of the Petition to Revoke
12 Probation Against,

13 **MICHAEL JOHN GUEN**

14 **130 Steiner Court**
15 **Santa Rosa, CA 95404**
16 **Acupuncture License No. AC 4412**

Respondent.

Case No. D1-2013-168

PETITION TO REVOKE PROBATION

17
18 Complainant alleges:

19 PARTIES

20 1. Benjamin Bodea (Complainant) brings this Petition to Revoke Probation solely in his
21 official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer
22 Affairs.

23 2. On October 14, 1992, the Acupuncture Board (Board) issued Acupuncture License
24 Number AC 4412 to Michael John Guen (Respondent). The Board retains jurisdiction over the
25 license, which expired on February 29, 2016 and has not been renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against Michael John
27 Guen," Case No. 1A-2013-168, the Board issued a decision, effective May 18, 2016, in which
28 Respondent's Acupuncture License was revoked. The revocation was stayed and Respondent's

1 Acupuncture License was placed on probation for a period of five (5) years with certain terms and
2 conditions. A copy of that decision is attached as **Exhibit A** and is incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Acupuncture Board (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 4955 of the Code states in pertinent part:

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

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

11

12 (d) Aiding or abetting in, or violating or conspiring in, directly or indirectly, the
13 violation of the terms of this chapter or any regulation adopted by the board pursuant
14 to this chapter.

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16 6. Section 4959 of the Code states:

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

21 (b) The costs to be assessed shall be fixed by the administrative law judge and shall
22 not in any event be increased by the board. When the board does not adopt a proposed
23 decision and remands the case to an administrative law judge, the administrative law
24 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 made
26 by the licensee, the board may enforce the order for payment in the superior court in
27 the county where the administrative hearing was held. This right of enforcement shall
28 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.

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Exhibit A

Decision and Order

Acupuncture Board Case No. 1A-2013-168