

BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KYONG KEUN KWAK, L.A.C.
10063 Folsom Blvd., #D
Sacramento, CA 95827
Acupuncture License No. AC 5461,

Respondent.

Case No. 1A-2012-25

OAH No. 2014040449

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 **JUN 27 2015** .

It is so ORDERED **MAY 28 2015** .



FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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Deputy Attorney General
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Attorneys for Complainant

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**
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12 In the Matter of the Accusation Against:

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14 Sacramento, CA 95827
Acupuncture License No. AC 5461,

OAH No. 2014040449

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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16 Respondent.

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19 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Terri Thorfinnson (Complainant) is the Executive Officer of the Acupuncture Board
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Kamala D. Harris, Attorney General of the State of California, by Wendy Widlus, Deputy
25 Attorney General.

26 2. Respondent Kyong Keun Kwak, L.Ac. (Respondent) is represented in this proceeding
27 by attorney Robert Lee, Esq., whose address is: 5801 Stockton Blvd., Ste. 108,
28 Sacramento, CA 95824.

1 9. Respondent agrees that his Acupuncture License is subject to discipline and he agrees
2 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 **CONTINGENCY**

4 10. This stipulation shall be subject to approval by the Acupuncture Board. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent or his counsel. By signing the stipulation, Respondent
8 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
9 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
10 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
11 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
12 and the Board shall not be disqualified from further action by having considered this matter.

13 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
14 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
15 signatures thereto, shall have the same force and effect as the originals.

16 12. In consideration of the foregoing admissions and stipulations, the parties agree that
17 the Board may, without further notice or formal proceeding, issue and enter the following
18 Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 **IT IS HEREBY ORDERED** that Acupuncture License No. AC 5461 issued to
21 Respondent Kyong Keun Kwak, L.Ac. is revoked. However, the revocation is stayed and
22 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

27 2. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
28 penalty of perjury on forms provided by the Board, stating whether there has been compliance

1 with all the conditions of probation.

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

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

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

12 6. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
13 enforcement in the amount of \$13,272.75. This amount shall be paid in full, directly to the Board
14 within six (6) months prior to the termination date of probation. Cost recovery will not be tolled.
15 Respondent understands that failure to timely pay costs is a violation of probation, and
16 submission of evidence demonstrating financial hardship does not preclude the Board from
17 pursuing further disciplinary action. However, Respondent understands that providing evidence
18 and supporting documentation of financial hardship may delay further disciplinary action.
19 Consideration to financial hardship will not be given should Respondent violate this term and
20 condition, unless an unexpected AND unavoidable hardship is established from the date of this
21 order to the date payment(s) is due.

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

1 8. PRACTICE MONITOR Within 90 days of the effective date of this decision,
2 Respondent shall submit to the Board for its prior approval, the name and qualifications of one or
3 more California licensed acupuncturists whose license is clear (no record of complaints) and
4 current and who has agreed to serve as a practice monitor. Once approved, the monitor shall
5 submit to the Board a plan by which Respondent's practice shall be monitored. The monitor's
6 education and experience shall be in the same field of practice as that of the Respondent. The
7 monitor shall submit written reports to the Board on a quarterly basis verifying that monitoring
8 has taken place and providing an evaluation of Respondent's performance. It shall be
9 Respondent's responsibility to assure that the required reports are filed in a timely fashion. The
10 Respondent shall provide access to the monitor of Respondent's fiscal and client records and shall
11 be permitted to make direct contact with patients. Further, the monitor shall have no prior
12 business, professional, personal or other relationship with Respondent. Respondent shall execute
13 a release authorizing the monitor to divulge any information that the Board may request.

14 Respondent shall notify all current and potential patients of any term or condition of
15 probation which will affect their treatment or the confidentiality of their records (such as this
16 condition which requires a practice monitor). Such notification shall be signed by each patient
17 prior to continuing or commencing treatment.

18 If the monitor quits or is otherwise no longer available, Respondent shall not practice until a
19 new monitor has been approved by the Board. All costs of monitoring shall be borne by the
20 Respondent. Monitoring shall consist of at least one hour per week of individual face to face
21 meetings.

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

25 10. COURSEWORK Respondent shall take and successfully complete not less than ten
26 (10) hours of coursework in live continuing education courses in the following areas: record
27 keeping and ethics. All coursework shall be taken at the graduate level at a school approved by
28 the Board. Classroom attendance must be specifically required. Course content shall be pertinent

1 to the violation and all coursework must be completed six (6) months prior to the termination date
2 of the decision. The required coursework must be in addition to any continuing education
3 courses that may be required for license renewal.

4 Within 90 days of the effective date of this decision, Respondent shall submit a plan for the
5 Board's prior approval for meeting the educational requirements. All costs of the coursework
6 shall be borne by the Respondent.

7 11. COMPLETION OF PROBATION Upon successful completion of probation,
8 Respondent's license will be fully restored.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Robert Lee, Esq.. I understand the stipulation and the effect it will
12 have on my Acupuncture License. I enter into this Stipulated Settlement and Disciplinary Order
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
14 Acupuncture Board.

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16 DATED: _____
17 KYONG KEUN KWAK, L.AC.
18 Respondent
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16 DATED: 10/24/14 
17 KYONG KEUN KWAK, L.A.C.
18 Respondent
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1 I have read and fully discussed with Respondent Kyong Keun Kwak, L.Ac. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4 DATED: 10/24/2014 Robert Lee
5 Robert Lee, Esq.
6 Attorney for Respondent

7 ENDORSEMENT

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

10 Dated: 10/26/2014 Respectfully submitted,
11 KAMALA D. HARRIS
12 Attorney General of California
13 JUDITH T. ALVARADO
14 Supervising Deputy Attorney General


15 WENDY WIDLUS
16 Deputy Attorney General
17 Attorneys for Complainant

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