

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

In the Matter of the Accusation Against:)
)
JIAN LIN, L.AC.)
6080 University Avenue)
San Diego, CA 92115)
)
Acupuncture License No. AC 6933)
)
Respondent.)
_____)

Case No. 1A-2009-238
OAH No. 2010120213

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **JUL 16 2011** .

It is so ORDERED **JUN 16 2011** .



Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 HEIDI R. WEISBAUM
Deputy Attorney General
4 State Bar No. 101489
110 West "A" Street, Suite 1100
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

13 **JIAN LIN, L.Ac.**
6080 University Avenue
14 San Diego, CA 92115

15 Acupuncture License No. AC6933

16 Respondent.

Case No. 1A-2009-238

OAH No. 2010120213

**STIPULATED SURRENDER OF
LICENSE AND DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 PARTIES

21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Heidi R. Weisbaum, Deputy Attorney
24 General.

25 2. Jian Lin, L.Ac. (Respondent) is represented in this proceeding by attorney Eric K.
26 Chen, Esq., whose address is 18725 East Gale Avenue, Suite 228, City of Industry, CA 91748.

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

3 CULPABILITY

4 9. Respondent admits the truth of each and every charge and allegation in Accusation
5 No. 1A-2009-238. Respondent admits that cause exists for discipline and hereby surrenders his
6 Acupuncture License No. AC6933 for the Board's formal acceptance.

7 10. Respondent understands that by signing this stipulation he enables the Board to issue
8 an order accepting the surrender of his Acupuncture License without further process.

9 CONTINGENCY

10 11. The parties agree that this Stipulated Surrender of License and Disciplinary Order
11 shall be submitted to the Board for its consideration in the above-entitled matter and, further that
12 the Board shall have a reasonable period of time in which to consider and act on this Stipulated
13 Surrender of License and Disciplinary Order after receiving it.

14 12. The parties agree that this Stipulated Surrender of License and Disciplinary Order
15 shall be null and void and not binding upon the parties unless approved and adopted by the
16 Board, except for this paragraph, which shall remain in full force and effect. Respondent fully
17 understands and agrees that in deciding whether to approve and adopt this Stipulated Surrender of
18 License and Disciplinary Order, the Board may receive oral and written communications from its
19 staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall not
20 disqualify the Board, any member thereof, and/or any other person from future participation in
21 this or any other matter affecting or involving Respondent. In the event the Board does not, in its
22 discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order, with
23 the exception of this paragraph, it shall not become effective, shall be of no evidentiary value
24 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
25 hereto. Respondent further agrees that should this Stipulated Surrender of License and
26 Disciplinary Order be rejected for any reason by the Board, Respondent will assert no claim that
27 the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or

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1 consideration of this Stipulated Surrender of License and Disciplinary Order or of any matter or
2 matters related hereto.

3 ADDITIONAL PROVISIONS

4 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 14. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
8 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that facsimile copies shall have the same force and effect as originals.

10 15. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice to or opportunity to be heard by Respondent, issue and
12 enter the following Disciplinary Order:

13 ORDER

14 IT IS HEREBY ORDERED that Acupuncture License No. AC6933, issued to Respondent
15 Jian Lin, L.Ac, is surrendered and accepted by the Acupuncture Board.

16 16. The surrender of Respondent's Acupuncture License and the acceptance of the
17 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
18 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
19 license history with the Board.

20 17. Respondent shall lose all rights and privileges as an acupuncturist in California as of
21 the effective date of the Board's Decision and Order.

22 18. Respondent shall cause to be delivered to the Board his pocket license and, if one was
23 issued, his wall certificate on or before the effective date of the Decision and Order.

24 19. If Respondent ever files an application for licensure or a petition for reinstatement in
25 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
26 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
27 effect at the time the petition is filed, and all of the charges and allegations contained in

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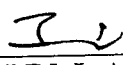
1 Accusation No. 1A-2009-238 shall be deemed to be true, correct and admitted by Respondent
2 when the Board determines whether to grant or deny the petition.

3 20. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in Accusation, No. 1A-2009-238 shall be
6 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
7 Issues or any other proceeding seeking to deny or restrict licensure.

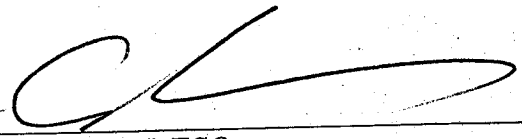
8 21. If Respondent petitions for reinstatement of his license, he shall pay the Board its
9 costs of investigation and enforcement of this matter ~~and his prior matter (Accusation No. 1A-~~^{HW}
10 ~~2007-166)~~ ^{\$2,040.00 HW} in the amount of \$6,040.00, prior to issuance of a new or reinstated license.

11 ACCEPTANCE

12 I have carefully read the above Stipulated Surrender of License and Disciplinary Order and
13 have fully discussed it with my attorney, Eric K. Chen, Esq. I understand the stipulation and the
14 effect it will have on my Acupuncture License No. AC6933. I enter into this Stipulated Surrender
15 of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
16 bound by the Decision and Order of the Acupuncture Board.

17 DATED: 4-27-2011 
18 JIAN LIN, L.Ac.
19 Respondent

20 I have read and fully discussed with my client, Respondent Jian Lin, L.Ac., the terms and
21 conditions and other matters contained in this Stipulated Surrender of License and Disciplinary
22 Order. I approve its form and content.

23 DATED: 5-6-11 
24 ERIC K. CHEN, ESQ.
25 Attorney for Respondent

26 ///
27 ///
28 ///

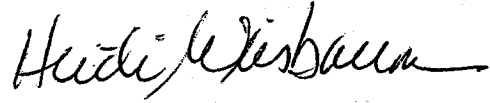
ENDORSEMENT

The foregoing Stipulated Surrender of License and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

Dated: *May 12, 2011*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS S. LAZAR
Supervising Deputy Attorney General



HEIDI R. WEISBAUM
Deputy Attorney General
Attorneys for Complainant

Exhibit A

In the Matter of the Accusation Against: Jian Lin, L.Ac.
Accusation No. 1A-2009-238

FILED

AUG 18 2010

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR.
 Attorney General of California
 2 THOMAS S. LAZAR
 Supervising Deputy Attorney General
 3 HEIDI R. WEISBAUM
 Deputy Attorney General
 4 State Bar No. 101489
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 7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
 12 In the Matter of the Accusation Against:

Case No. 1A-2009-238

13 **JIAN LIN, L.Ac.**
 6080 University Avenue
 14 San Diego, CA 92115

ACCUSATION

15 Acupuncture License No. AC6933

16 Respondent.

17
 18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about January 19, 2000, the Acupuncture Board issued Acupuncture License
 23 Number AC6933 to Jian Lin, L.Ac. (Respondent). The Acupuncture License was in full force
 24 and effect at all relevant times and will expire on September 30, 2011, unless renewed.

25 **PRIOR DISCIPLINARY HISTORY**

26 3. On September 16, 2008, Accusation No. 1A-2007-166, was filed against Respondent.
 27 On August 14, 2009, a Stipulated Settlement and Disciplinary Order became effective that

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1 imposed discipline on Respondent's Acupuncture License No. AC6933, consisting of a
2 revocation stayed, five years of probation and terms and conditions.

3 JURISDICTION

4 4. This Accusation is brought before the California 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 (Code) unless otherwise indicated.

7 5. Section 4955 of the Code states:

8 "The board may deny, suspend, or revoke, or impose probationary conditions upon,
9 the 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 "(b) Conviction of a crime substantially related to the qualifications, functions,
13 or duties of an acupuncturist, the record of conviction being conclusive
14 evidence thereof.

15 "...."

16 6. Section 4955.1 of the Code states:

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

20 "...

21 "(b) Committing a fraudulent or dishonest act as an acupuncturist.

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

24 "...."

25 COST RECOVERY

26 7. Section 4959 of the Code states:

27 "(a) The board may request the administrative law judge, under his or her
28 proposed decision in resolution of a disciplinary proceeding before the board, to

1 direct any licensee found guilty of unprofessional conduct to pay to the board a
2 sum not to exceed actual and reasonable costs of the investigation and
3 prosecution of the case.

4 “(b) The costs to be assessed shall be fixed by the administrative law judge
5 and shall not in any event be increased by the board. When the board does not
6 adopt a proposed decision and remands the case to an administrative law judge,
7 the administrative law judge shall not increase the amount of any costs assessed
8 in the proposed decision.”

9 “(c) When the payment directed in the board's order for payment of costs is
10 not made by the licensee, the board may enforce the order for payment in the
11 superior court in the county where the administrative hearing was held. This
12 right of enforcement shall be in addition to any other rights the board may have
13 as to any licensee directed to pay costs.

14 “(d) In any judicial action for the recovery of costs, proof of the board's
15 decision shall be conclusive proof of the validity of the order of payment and
16 the terms for payment.

17 “(e) All costs recovered under this section shall be considered a
18 reimbursement for costs incurred and shall be deposited in the Acupuncture
19 Fund.”

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Conviction of a Substantially Related Crime)

22 8. Respondent is subject to disciplinary action under Code section 4955, subdivision (b),
23 in that he was convicted of a crime substantially related to the qualifications, functions or duties
24 of an acupuncturist. The circumstances are as follows:

25 9. From or about June 16, 2004 to or about November 18, 2006, Respondent submitted
26 fraudulent claims to the Medi-Cal program for acupuncture services that were not provided.

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1 10. On or about August 6, 2008, a felony criminal complaint entitled *People of the State*
2 *of California v. Jian Lin*, Case No. CD216826, was filed in San Diego County Superior Court
3 charging Respondent with one count of making a false claim for payment of a health care benefit
4 in excess of \$400, in violation of Penal Code section 550, subdivision (a)(6), and one count of
5 grand theft in excess of \$400, in violation of Penal Code section 487, subdivision (a).

6 11. On or about October 17, 2008, Respondent entered a guilty plea to a violation of
7 Penal Code section 550, subdivision (a)(6) [making a false claim for payment of a health care
8 benefit], which had been reduced to a misdemeanor, and was sentenced to one year of summary
9 probation, restitution in the amount of \$1700 to the Medi-Cal program, a restriction from
10 participating in the Medi-Cal program while on probation, and other fines.

11 SECOND CAUSE FOR DISCIPLINE

12 (Fraudulent Act as an Acupuncturist)

13 12. Respondent is further subject to disciplinary action under Code section 4955.1,
14 subdivision (b), in that he committed a fraudulent or dishonest act as an acupuncturist as set forth
15 in paragraphs 9 through 11 above, which are incorporated herein by reference.

16 THIRD CAUSE FOR DISCIPLINE

17 (Dishonesty)

18 13. Respondent is further subject to disciplinary action under Code section 4955.1,
19 subdivision (c), in that he committed dishonesty with respect to the qualifications, functions, or
20 duties of an acupuncturist, as described below:

21 A. On or about August 12, 2009, Respondent signed the renewal application for his
22 Acupuncture License No. AC6933, stating under penalty of perjury that the facts on the
23 renewal form were true and correct.

24 B. On the renewal form, Respondent checked the "No" box to the question asking if he
25 had been convicted of any crime, despite knowing he had been convicted of a crime in
26 October 2008, as set forth in paragraph 11, above, and incorporated herein by reference.

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1 **PRAYER**

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

4 1. Revoking, suspending or imposing probationary conditions on Acupuncture License
5 Number AC 6933, issued to Respondent Jian Lin, L.Ac.;

6 2. Ordering Respondent Jian Lin, L.Ac., to pay to the Acupuncture Board the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 4959; and,

9 3. Taking such other and further action as deemed necessary and proper to protect the
10 public.

11 DATED: **AUG 18 2010**

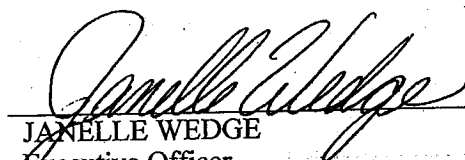

12 JANELLE WEDGE
13 Executive Officer
14 Acupuncture Board
15 Department of Consumer Affairs
16 State of California
17 Complainant

Exhibit B

In the Matter of the Accusation Against: Jian Lin, L.Ac.
Decision and Order, Stipulated Settlement and Disciplinary Order,
Accusation No. 1A-2007-166

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

In the Matter of the Accusation Against:) Case No. 1A-2007-166
) OAH No. 2008100301
JIAN LIN, L.AC.)
6080 University Avenue)
San Diego, CA 92115)
Acupuncture License No. AC 6933)
Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on AUG 14 2009.

It is so ORDERED JUL 15 2009.



Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 HEIDI R. WEISBAUM, State Bar No. 101489
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
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6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2098
Facsimile: (619) 645-2061
8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13 JIAN LIN, L.Ac.
6080 University Avenue
14 San Diego, Ca 92115
15
16 Acupuncture License No. AC 6933
17 Respondent.

Case No. 1A-2007-166
OAH No. 2008100301

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture
22 Board and brought this action solely in her official capacity. She is represented in this matter by
23 Edmund G. Brown Jr., Attorney General of the State of California, by Heidi R. Weisbaum,
24 Deputy Attorney General.

25 2. Respondent JIAN LIN, L.Ac. (Respondent) is represented in this
26 proceeding by attorney Eric K. Chen, whose address is 18725 East Gale Avenue, Suite 228
27 City of Industry, CA 91748.

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1 Course content shall be pertinent to the violation and all coursework must be completed within
2 the first three years of probation. The required coursework must be in addition to any continuing
3 education courses that may be required for license renewal.

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

7 3. COURSEWORK - PUBLIC SAFETY LAWS RELATING TO
8 ACUPUNCTURE Respondent shall take and successfully complete a course regarding public
9 safety laws relating to the practice of acupuncture. Classroom attendance must be specifically
10 required. Course content shall be pertinent to the violation and all coursework must be
11 completed within the first three years of probation. The required coursework must be in addition
12 to any continuing education courses that may be required for license renewal.

13 Within 90 days of the effective date of this decision, Respondent shall submit a
14 course for the Board's prior approval for meeting this requirement. All costs of the coursework
15 shall be borne by Respondent.

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

19 5. OBEY ALL LAWS Respondent shall obey all federal, state and local
20 laws and all regulations governing the practice of acupuncture in California. A full and detailed
21 account of any and all violations of law shall be reported by the respondent to the Board in
22 writing within 72 hours of occurrence.

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

26 7. SURVEILLANCE PROGRAM Respondent shall comply with the
27 Board's probation surveillance program and shall, upon reasonable notice, report to the assigned
28 investigative district office. Respondent shall contact the assigned probation surveillance

1 monitor regarding any questions specific to the probation order. Respondent shall not have any
2 unsolicited or unapproved contact with 1) victims or complainants associated with the case;
3 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

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

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

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

14 11. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent
15 shall not employ or supervise or apply to employ or supervise acupuncture trainees during the
16 course of this probation. Respondent shall terminate any such supervisorial relationship in
17 existence on the effective date of this probation.

18 12. COST RECOVERY Respondent shall pay to the Board its costs of
19 investigation and enforcement in the amount of \$ 4000.00.

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

27 14. COMPLETION OF PROBATION Upon successful completion of
28 probation, respondent's license will be fully restored.

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EXHIBIT A
ACCUSATION NO. 1A-2007-166

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MARTIN W. HAGAN, State Bar No. 155553
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101

5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2094
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

FILED

SEP 16 2008

ACUPUNCTURE BOARD

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

11
12 In the Matter of the Accusation Against:

Case No. 1A-2007-166

13 JIAN LIN, L.Ac.
6080 University Avenue
14 San Diego, CA 92115
Acupuncture License No. AC 6933

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Janelle Wedge (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.
- 21 2. On or about January 19, 2000, the Acupuncture Board issued Acupuncture
22 License Number AC 6933 to JIAN LIN, L.Ac. (Respondent). The Acupuncture License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on September 30,
24 2009, unless renewed.

25 ///

26 ///

27 ///

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JURISDICTION

1
2 3. This Accusation is brought before the Acupuncture Board (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section references
4 are to the Business and Professions Code unless otherwise indicated.

5 4. Title 16, Section 1399.456 of the California Code of Regulations ("CCR")
6 states:

7 "It is unprofessional conduct for an acupuncturist to use the title 'Doctor' or
8 the abbreviation 'Dr.' in connection with the practice of acupuncture unless he or she
9 possesses a license or certificate which authorizes such use or possesses an earned
10 doctorate degree from an accredited, approved or authorized educational institution
11 as set forth under Article 4 (commencing with Section 94760) of Chapter 7 of Part
12 59 which is in acupuncture, Oriental medicine, a biological science, or is otherwise
13 related to the authorized practice of an acupuncturist as set forth in Sections 4927 and
14 4937 of the Code.

15 The use of the title 'Doctor' or the abbreviation 'Dr.' by an acupuncturist as
16 authorized above without further indicating the type of license, certificate or degree
17 which authorizes such use, constitutes unprofessional conduct."

18 5. Section 4955 of the Code states:

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

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

22 "...."

23 "(c) False or misleading advertising.

24 "(d) Aiding or abetting in, or violating or conspiring in, directly or
25 indirectly, the violation of the terms of this chapter or any regulation adopted by the
26 board pursuant to this chapter.

27 "(e) Except for good cause, the knowing failure to protect patients by
28 failing to follow infection control guidelines of the board, thereby risking

1 transmission of blood-borne infectious diseases from licensee to patient, from patient
2 to patient, and from patient to licensee. In administering this subdivision, the board
3 shall consider referencing the standards, regulations, and guidelines of the State
4 Department of Health Services developed pursuant to Section 1250.11 of the Health
5 and Safety Code and the standards, regulations, and guidelines pursuant to the
6 California Occupational Safety and Health Act of 1973 (Part 1 (commencing with
7 Section 6300) of Division 5 of the Labor Code) for preventing the transmission of
8 HIV, hepatitis B, and other blood-borne pathogens in health care settings. As
9 necessary, the board shall consult with the Medical Board of California, the
10 California Board of Podiatric Medicine, the Dental Board of California, the Board
11 of Registered Nursing, and the Board of Vocational Nursing and Psychiatric
12 Technicians, to encourage appropriate consistency in the implementation of this
13 subdivision.

14 "The board shall seek to ensure that licensees are informed of the
15 responsibility of licensees and others to follow infection control guidelines, and of
16 the most recent scientifically recognized safeguards for minimizing the risk of
17 transmission of blood-borne infectious diseases.

18 ".....

19 "(h) Disciplinary action taken by any public agency for any act
20 substantially related to the qualifications, functions, or duties of an acupuncturist or
21 any professional health care licensee.

22 "(i) Any action or conduct that would have warranted the denial of the
23 acupuncture license.

24 ".....

25 "(l) the failure to notify the board of the use of any false, assumed, or
26 fictitious name other than the name under which he or she is licensed as an individual
27 to practice acupuncture."

28 ///

1 a proposed decision and remands the case to an administrative law judge, the
2 administrative law judge shall not increase the amount of any costs assessed in the
3 proposed decision.”

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

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

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

14 FIRST CAUSE FOR DISCIPLINE

15 (Unauthorized Use of the Title “Doctor” or “Dr.”)

16 9. Respondent is subject to disciplinary action under section 4955, as defined
17 by section 4955, subdivision (d), and Title 16, Section 1399.456 of the CCR, in that Respondent has
18 used the title of “doctor” and “Dr.” in, among other things, signs and business cards when he did not
19 possess an earned doctorate degree which would permit him to use title of “doctor” and “Dr.” as
20 more particularly alleged hereinafter:

21 (a) Respondent is the owner and operator of “Dr. Lin’s Acupuncture &
22 Chinese Herbs Center” located at 6080 University Avenue in San Diego, California.

23 (b) On or about December 11, 2007, Special Agent J.S., from the
24 California Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse, executed
25 a search warrant at “Dr. Lin’s Acupuncture & Chinese Herbs Center” in regards to a
26 Medi-Cal fraud investigation. During this visit, Special Agent J.S. interviewed
27 Respondent and Ms. Y.P.T., the “secretary” and part owner of “Dr. Lin’s
28 Acupuncture & Chinese Herbs Center.” During this interview, Respondent admitted

1 he did not have a doctorate and that he was not considered a doctor in the United
2 States. After Special Agent J.S. concluded his interviews of Respondent and Ms.
3 Y.P.T., they were both advised that Respondent could no longer have "Dr." on his
4 sign and could no longer refer to himself as a doctor to his patients. Respondent and
5 Ms. Y.P.T. both acknowledged they understood.

6 (c) On or about July 7, 2008, Department of Consumer Affairs ("DCA")
7 Senior Investigator D.C. did a premises inspection at Respondent's acupuncture
8 business. Upon arriving at the premises, Senior Investigator D.C. observed a large
9 sign over the door to Respondent's clinic which stated "Dr. Lin's Acupuncture and
10 Chinese Herbs Center." After entering the premises, Senior Investigator D.C. saw
11 business cards on the top of the counter in the receptionist area. He confiscated one
12 of the business cards which also stated "Dr. Lin's Acupuncture and Chinese Herbs
13 Center."

14 SECOND CAUSE FOR DISCIPLINE

15 (False or Misleading Advertising)

16 10. Respondent is further subject to disciplinary action under section 4955, as
17 defined by sections 4955, subdivision (c), in that Respondent has engaged in false or misleading
18 advertising by representing that he is a doctor or "Dr." when, in fact, he does not possess an earned
19 doctorate degree which would permit him to use title of "doctor" and "Dr." as more particularly
20 alleged hereinafter:

21 (a) Paragraph 9, above, is incorporated by reference and realleged as if
22 fully set forth herein.

23 (b) Respondent has represented to patients that he is a doctor through,
24 among other things, his sign and business cards which use the terminology of "Dr.
25 Lin's Acupuncture and Chinese Herbs Center." The use of "Dr." is false because
26 Respondent does not possess an earned doctorate degree which would permit him to
27 use the title of "doctor" and "Dr." Moreover, Respondent's use of the terms "doctor"
28 or "Dr." is misleading in that it conveys a level of expertise, specialization, and/or

1 possession of a medical degree or doctorate degree none of which is possessed by
2 Respondent.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dishonesty or Corruption)**

5 11. Respondent is further subject to disciplinary action under section 4955.1, as
6 defined by section 4955.1, subdivision (c), in that Respondent has committed an act or acts of
7 dishonesty or corruption with respect to the qualifications, functions, or duties of an acupuncturist
8 as more particularly alleged herein.

9 (a) Paragraphs 9 and 10, above, are incorporated by reference and
10 realleged as if fully set forth herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Failure to Follow Infection Control Guidelines)**

13 12 Respondent is further subject to disciplinary action under section 4955, as
14 defined by section 4955, subdivisions (d) and (e) and Title 16, Section 1399.451, subdivision (h),
15 of the CCR, in that Respondent failed to follow infection control guidelines thereby risking
16 transmission of blood-borne infectious diseases as more particularly alleged hereinafter:

17 (a) On or about December 11, 2007, Special Agent J.S., from the
18 California Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse, executed
19 a search warrant at "Dr. Lin's Acupuncture & Chinese Herbs Center" in regards to a
20 Medi-Cal fraud investigation. During this visit, Special Agent J.S. observed used
21 acupuncture needles that were placed in unsealed plastic buckets under the patient
22 beds and some of the acupuncture needles were on the carpet next to the containers.

23 (b) On or about July 7, 2008, Department of Consumer Affairs ("DCA")
24 Senior Investigator D.C. did a premises inspection at Respondent's acupuncture
25 business. During the premises inspection, Senior Investigator D.C. observed used
26 acupuncture needles in two rooms that were being stored in unsecured half-gallon red
27 plastic sharps containers which did not contain any tops.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Aiding and Abetting the Unlicensed Practice of Acupuncture)

3 13 Respondent is subject to disciplinary action under section 4955, as defined
4 by section 4955, subdivision (d), in that Respondent aided and abetted the unlicensed practice of
5 acupuncture in having an unlicensed individual remove acupuncture needles from patients as more
6 particularly alleged herein.

7 (a) On or about December 11, 2007, Special Agent J.S., from the
8 California Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse, executed
9 a search warrant at "Dr. Lin's Acupuncture & Chinese Herbs Center" in regards to a
10 Medi-Cal fraud investigation. During this visit, Special Agent J.S. observed, Ms.
11 Y.P.T., the part owner of "Dr. Lin's Acupuncture & Chinese Herbs Center," remove
12 acupuncture needles from a patient. When Special Agent J.S. interviewed Ms.
13 Y.P.T. she stated that she does not insert needles into patients but did occasionally
14 take acupuncture needles out of patients if Respondent was busy. Ms. Y.P.T. is not
15 a licensed acupuncturist.

16 PRAYER

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

- 19 1. Revoking or suspending Acupuncture License Number AC 6933, issued to
20 JIAN LIN, L.Ac.;
- 21 2. Ordering JIAN LIN, L.Ac., to pay the Acupuncture Board the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code section
23 4959; and

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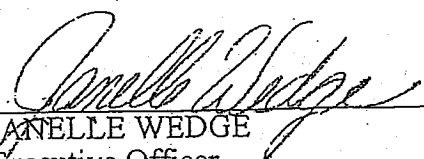
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3. Taking such other and further action as deemed necessary and proper.

DATED: SEP 16 2008



JANELLE WEDGE
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
ACUPUNCTURE BOARD

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