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FILED

APR 29 2009

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ACUPUNCTURE BOARD

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:

Case No. 1A-2008-12

13 HUA WANG, L.AC.
 480 Monroe
 14 Irvine, CA 92620
 Licensed Acupuncturist No. AC 4339

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.

21 2. On September 15, 1992, the Acupuncture Board issued Licensed
 22 Acupuncturist No. AC 4339 to HUA WANG, L.Ac. (Respondent). At all times relevant to the
 23 charges brought here, the license was in full force and effect. It will expire on June 30, 2010,
 24 unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Acupuncture Board (Board) under
 27 the authority of the following laws. All section references are to the Business and Professions
 28 Code unless otherwise indicated.

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4. Section 4955 states:

“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:

“ . . .

“(c) False or misleading advertising.

“ . . .

“(j) The violation of any law or local ordinance on an acupuncturist's business premises by an acupuncturist's employee or a person who is working under the acupuncturist's professional license or business permit, that is substantially related to the qualifications, functions, or duties of an acupuncturist. These violations shall subject the acupuncturist who employed the individuals, or under whose acupuncturist license the employee is working, to disciplinary action.”

5. Section 4955.1 of the Code states:

“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 . . . limited to, any of the following:

“ . . .

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

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

6. Section 4959 of the Code states:

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

“(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a

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

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

14 (Violation of Local Ordinance on Business Premises)

15 7. Respondent is subject to disciplinary action under Section 4955,
16 subdivision (j), because in July 2008, September 2008, and October 2008, he allowed his
17 employees, who had not obtained massage technician permits, to perform massages in violation
18 of Santa Ana Municipal Code Chapter 22-4. The circumstances are as follows:

19 A. On about January 16, 2008, Respondent was notified in writing by
20 the City of Santa Ana that illegal massage activity was occurring at his business,
21 located at 1155 W. Central Avenue, Suite 214, in Santa Ana, California. This
22 business address was listed on Craigslist.org as offering massages by young Latina
23 and Asian girls.

24 B. On about July 24, 2008, at about 1915, Santa Ana Police Officers
25 entered the premises of Respondent's Health and Healing Center of Natural
26 Medicine, located at 1155 W. Central Avenue, Suite 214, in Santa Ana,
27 California. The officers observed an outer client area and five rooms with
28 massage tables and oils. No doctor or acupuncturist was present on the premises.

1 The officers spoke with three women who admitted giving massages to clients,
2 and who also admitted not having permits from the City of Santa Ana to do so.

3 C. On about September 17, 2008, at about 1500, three undercover
4 police officers with the Santa Ana Police Department Vice Unit and Southcoast
5 Directed Patrol, entered the premises of Respondent's Health and Healing Center
6 of Natural Medicine, located at 1155 W. Central Avenue, Suite 214, in Santa Ana,
7 California. The officers asked if they could have massages with separate girls,
8 were told they could, and were given massage client forms to complete. No
9 doctor was present on the premises. None of the female employees had massage
10 technician permits.

11 (1) While on the premises of Respondent's business, the officers noted a
12 City of Santa Ana Business License issued to Health and Healing Center of
13 Natural Medicine, hanging on the wall in the reception area. On the same wall
14 hung certificates from the Acupuncture Board for Respondent and another
15 acupuncturist. Also in the reception area was a sign-in sheet with the names of
16 the clients, the corresponding name of the masseuse, and whether the service
17 provided was a half-hour or hour. The officers further observed there were five
18 client rooms, only one of which contained implements used for the purpose of
19 acupuncture. Each room had a bed or table to lie on, stands with shelves for
20 towels and lotions, and a small lamp for lighting. In addition, there was a
21 bathroom and a table shower on which clients could lie down and be washed with
22 a water device located in the shower.

23 (2) While on the premises of Respondent's business, one officer entered a
24 room where he found a nude male lying on his back on a massage table with a
25 small towel covering his genitals. The male client informed the officer he had
26 paid \$60 for a one-hour massage and an extra \$40 for a "release", known to the
27 officer as a "happy ending" or when a masseuse or prostitute masturbates a client
28 to orgasm. The male client stated he had learned about the business through

1 Craigslist on the Internet. The male client identified one of the female employees
2 as the one who had given him the “happy ending.”

3 (3) Three of the female employees were arrested for performing massages
4 without a permit. Following their arrests, the women were interviewed and stated
5 that Respondent came to the business once a week for about one hour per day.
6 There was also a manager who came every morning to set the women’s schedules
7 and pick up the money the women had earned from the previous day.

8 (4) While on the premises of Respondent’s business, the officers
9 discovered in the room labeled “Doctor,” the second acupuncturist massaging a
10 clothed female whom, minutes before, the officers had seen inside the reception
11 area.

12 D. On about October 23, 2008, at about 1700, Detective J. Gonzalez,
13 an undercover officer with the Santa Ana Police Department Vice Unit, entered
14 the premises of Respondent’s Health and Healing Center of Natural Medicine,
15 located at 1155 W. Central Avenue, Suite 214, in Santa Ana, California. He was
16 greeted by a female and was asked if he wanted a massage from a Chinese girl, to
17 which he said, “Yes.” He was then asked if he wanted a half-hour or full hour,
18 was charged \$40, paid with a marked \$100 bill, and was walked to a room where
19 he was told to undress. The officer initially kept his shorts on. When the girl
20 entered the room, she told him to take off his shorts because she was going to
21 massage his buttocks; he complied with the request. As she began the massage,
22 she informed the officer she was going to get another girl to help her “finish” him
23 at the end of the massage. At that point, Detective Gonzalez asked to use the
24 restroom where he signaled the other officers with the Santa Ana Police
25 Department Vice Unit and Northeast Directed Patrol.

26 (1) About five minutes after the Detective Gonzalez entered Respondent’s
27 premises, Detective F. Hashempour, a second undercover officer with the Santa
28 Ana Police Department Vice Unit, entered the premises, was greeted by a man

1 sitting behind the reception desk and a woman. The man, later identified as a
2 chiropractor, asked if the officer wanted a half-hour massage or an hour. The
3 officer was not asked if he was in need of acupuncture services or chiropractic
4 services. The officer stated he wanted a half-hour, paid the man \$40, signed the
5 sign-in sheet, and was directed to a room. After about five minutes, a female
6 employee entered to give him the massage. Detective Hashempour was then
7 alerted by Detective Gonzalez.

8 (2) While on the premises of Respondent's business, the officers noted a
9 City of Santa Ana Business License issued to Health and Healing Center of
10 Natural Medicine, hanging on the wall in the reception area. Also in the reception
11 area was a sign-in sheet with the names of the clients, the corresponding name of
12 the masseuse, and whether the service provided was a half-hour or hour. The
13 officers observed five client rooms, one of which was labeled "Doctor." Inside
14 this room, a chiropractor certificate was on the wall. The chiropractor was the man
15 seated at the reception desk when the undercover officers entered the premises.

16 (3) While on the premises of Respondent's business, the officers arrested
17 four female employees, all of whom admitted giving massages. Three of the
18 women did not have massage technician permits; the fourth allegedly had a permit
19 but stated the doctor told her she would not need it because there would be a
20 doctor on site. No doctor or acupuncturist was present on the premises.

21 E. On about October 23, 2008, Respondent was again notified in
22 writing by the City of Santa Ana that unlawful massage activity was occurring at
23 his Health and Healing Center of Natural Medicine, located at 1155 W. Central
24 Avenue, Suite 214, in Santa Ana, California.

25 SECOND CAUSE FOR DISCIPLINE

26 (Act Involving Corruption)

27 8. Respondent is subject to disciplinary action under section 4955.1,
28 subdivision (c), because in about December 2006, he used his acupuncture license to obtain a

1 City of Santa Ana Business license for an unlawful massage business at his Health and Healing
2 Center of Natural Medicine, located at 1155 W. Central Avenue, Suite 214, in Santa Ana,
3 California.

4 9. Respondent is further subject to disciplinary action under section 4595.1,
5 subdivision (c), because from about December 2006 to about November 14, 2008, he authorized
6 illegal massage activity at his Health and Healing Center of Natural Medicine, located at 1155
7 W. Central Avenue, Suite 214, in Santa Ana, California, as more particularly described above in
8 paragraph 7 and all of its subparts.

9 THIRD CAUSE FOR DISCIPLINE

10 (False Advertising)

11 10. Respondent is subject to disciplinary action under section 4955,
12 subdivision (c), because from about July 2008 through October 2008, Respondent committed
13 false and/or misleading advertising by the signage at his Health and Healing Center of Natural
14 Medicine, located at 1155 W. Central Avenue, Suite 214, in Santa Ana, California, which
15 advertised his office as providing therapeutic acupressure, acupuncture and pain management
16 along with massage, when no therapeutic acupressure, acupuncture and pain management was
17 practiced at that location.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Fraud or Dishonest Act)

20 11. Respondent is subject to disciplinary action under section 4955.1,
21 subdivision (b), because in about December 2006, he obtained a City of Santa Ana Business
22 License for his Health and Healing Center of Natural Medicine, located at 1155 W. Central
23 Avenue, Suite 214, in Santa Ana, California, by describing the business as acupuncture when he
24 knew the license was for an unlawful massage business.

25 PRAYER

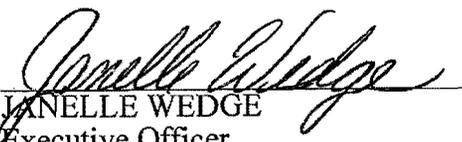
26 WHEREFORE, Complainant requests that a hearing be held on the matters herein
27 alleged, and that following the hearing, the Board issue a decision:

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1. Revoking, suspending or imposing disciplinary conditions on Licensed Acupuncturist No. AC 4339, issued to Hua Wang, L.Ac.;
2. Ordering Hua Wang, L.Ac., to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: APR 29 2009


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant