

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


In the Matter of the Accusation Against:)	Case No. 1A-2009-60
)	
MICHAEL DAVID WOODWORTH, L.AC.)	
2530 Vista Way, #F 108)	
Oceanside, CA 92054)	
)	
Acupuncture License No. AC 10818)	
)	
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 JAN 14 2010.

It is so ORDERED DEC 15 2009.



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

1 EDMUND G. BROWN JR.
Attorney General of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
Deputy Attorney General
4 State Bar No. 141135
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5 San Diego, CA 92101
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:
13
14 **MICHAEL DAVID WOODWORTH, L.AC.**
2530 Vista Way, #F 108
Oceanside, CA 92054
15
16 **Acupuncturist License No. AC 10818**
17
18 **Respondent.**

Case No. 1A-2009-60
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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
22 PARTIES

23 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
24 She brought this action solely in her official capacity and is represented in this matter by Edmund
25 G. Brown Jr., Attorney General of the State of California, by Samuel K. Hammond, Deputy
26 Attorney General.
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1 2. Respondent Michael David Woodworth, L.Ac. (Respondent) is representing himself
2 in this proceeding and has chosen not to exercise his right to be represented by counsel.

3 3. On or about December 5, 2005, the Acupuncture Board issued Acupuncturist License
4 No. AC 10818 to Michael David Woodworth, L.Ac. The Acupuncturist License was in full force
5 and effect at all times relevant to the charges brought in Accusation No. 1A-2009-60 and will
6 expire on February 28, 2011, unless renewed.

7 JURISDICTION

8 4. Accusation No. 1A-2009-60 was filed before the Acupuncture Board, Department of
9 Consumer Affairs, State of California (Board), and is currently pending against respondent. The
10 Accusation and all other statutorily required documents were properly served on respondent on
11 September 3, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A
12 copy of Accusation No. 1A-2009-60 is attached as Exhibit A and incorporated herein by
13 reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, and understands the charges and allegations in
16 Accusation No. 1A-2009-60. Respondent has also carefully read, and understands the effects of
17 this Stipulated Settlement and Disciplinary Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
20 his own expense; the right to confront and cross-examine the witnesses against him; the right to
21 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
22 the attendance of witnesses and the production of documents; the right to reconsideration and
23 court review of an adverse decision; and all other rights accorded by the California
24 Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26 every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 1A-2009-60.

4 9. Respondent agrees that his Acupuncturist License is subject to discipline and he
5 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
6 below.

7 CONTINGENCY

8 10. The parties understand and agree that facsimile copies of this Stipulated Settlement
9 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
10 effect as the originals.

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

14 DISCIPLINARY ORDER

15 IT IS HEREBY ORDERED that Acupuncturist License No. AC 10818 issued to respondent
16 Michael David Woodworth, L.Ac., is revoked. However, the revocation is stayed and respondent
17 is placed on probation for five (5) years on the following terms and conditions.

18 1. PSYCHOLOGICAL EVALUATION Within 90 days of the effective date of this
19 decision and on a periodic basis thereafter as may be required by the Board or its designee,
20 respondent shall undergo a psychological evaluation (and psychological testing, if deemed
21 necessary) by a Board appointed California licensed psychologist. The Board shall receive a
22 current DSM IV diagnosis and a written report regarding the respondent's judgment and/or ability
23 to function independently as an acupuncturist with safety to the public, and whatever other
24 information the Board deems relevant to the case. Respondent shall execute a release authorizing
25 the evaluator to release all information to the Board. The completed evaluation is the sole
26 property of the Board.

27 If the Board concludes from the results of the evaluation that respondent is unable to
28 practice independently and safely, he shall immediately cease practice and shall not resume

1 practice until notified by the Board. If the Board concludes from the results of the evaluation that
2 respondent would benefit from ongoing psychotherapy, respondent shall comply with the Board's
3 directives in that regard.

4 Respondent shall pay all costs associated with the psychological evaluation. Failure to pay
5 costs will be considered a violation of the probation order.

6 2. ALCOHOL AND DRUG ABUSE TREATMENT Effective 30 days from the date of
7 this decision, respondent shall enter an inpatient or outpatient alcohol or other drug abuse
8 recovery program (a minimum of six (6) months duration) or an equivalent program as approved
9 by the Board.

10 Quitting the program without permission or being expelled for cause shall constitute a
11 violation of probation by respondent. Subsequent to the program, respondent shall participate in
12 ongoing treatment such as receiving individual and/or group therapy from a psychologist trained
13 in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as
14 approved by the Board at least three times a week during the first year of probation; and/or other
15 substance abuse recovery programs approved by the Board. Respondent shall pay all costs of
16 treatment and therapy, and provide documentation of attendance at Twelve Step meetings or the
17 equivalent as approved by the Board. The psychologist shall confirm that respondent has
18 complied with the requirements of this decision and shall notify the Board immediately if he or
19 she believes the respondent cannot safely render acupuncture services. Respondent shall execute
20 a release authorizing the psychologist to divulge the aforementioned information to the Board.

21 3. ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND
22 SAMPLES Respondent shall abstain completely from the personal use or possession of
23 controlled substances as defined in the California Uniform Controlled Substances Act (Division
24 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by
25 section 4211 of the Business and Professions Code, or any drugs requiring a prescription.
26 Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall
27 undergo random, biological fluid testing as determined by the Board. Respondent shall bear all

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1 costs of such testing. The length of time and frequency will be determined by the Board. Any
2 confirmed positive finding will be considered a violation of probation.

3 4. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

4 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to
5 ensure compliance for the duration of the probation period.

6 5. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all
7 regulations governing the practice of acupuncture in California. A full and detailed account of
8 any and all violations of law shall be reported by the respondent to the Board in writing within
9 seventy two (72) hours of occurrence.

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

13 7. SURVEILLANCE PROGRAM Respondent shall comply with the Board's probation
14 surveillance program and shall, upon reasonable notice, report to the assigned investigative
15 district office. Respondent shall contact the assigned probation surveillance monitor regarding
16 any questions specific to the probation order. Respondent shall not have any unsolicited or
17 unapproved contact with 1) victims or complainants associated with the case; 2) Board members
18 or members of its staff; or 3) persons serving the Board as expert examiners.

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

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

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

1 11. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
2 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
3 this probation. Respondent shall terminate any such supervisory relationship in existence on the
4 effective date of this probation.

5 12. COST RECOVERY Respondent shall pay to the Board its costs of investigation and
6 enforcement in the amount of \$4,000.

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

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

16 ACCEPTANCE

17 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
18 stipulation and the effect it will have on my Acupuncturist License. I enter into this Stipulated
19 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
20 bound by the Decision and Order of the Acupuncture Board, Department of Consumer Affairs,
21 State of California.

22
23 DATED: 10-29-09


24 MICHAEL DAVID WOODWORTH, L.A.C.
Respondent

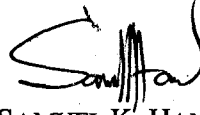
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board, Department of Consumer Affairs, State of California.

Dated: 11/4/09

EDMUND G. BROWN JR.
Attorney General of California
STEVEN V. ADLER
Supervising Deputy Attorney General



SAMUEL K. HAMMOND
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1A-2009-60

1 EDMUND G. BROWN JR.
Attorney General of California
2 STEVEN V. ADLER
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND
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Attorneys for Complainant

FILED

SEP 3 2009

ACUPUNCTURE BOARD

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

12 In the Matter of the Accusation Against:

Case No. 1A-2009-60

13 **MICHAEL DAVID WOODWORTH, L.AC.**
14 **2530 Vista Way, #F 108**
Oceanside, CA 92054

A C C U S A T I O N

15 **Acupuncturist License No. AC 10818**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Acupuncture Board.

23 2. On or about December 5, 2005, the Acupuncture Board, Department of Consumer
24 Affairs, State of California (Board) issued Acupuncturist License Number AC 10818 to Michael
25 David Woodworth, L.Ac. (Respondent). The Acupuncturist license was in full force and effect at
26 all times relevant to the charges brought herein and will expire on February 28, 2011, unless
27 renewed.

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JURISDICTION

3. This Accusation is brought before the Board, 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:

"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:

"(a) Using or possessing any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

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

"...

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

"...."

5. 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 proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision."

"(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county

1 where the administrative hearing was held. This right of enforcement shall be in addition to any
2 other rights the board may have as to any licensee directed to pay costs.

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

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

7 6. Section 4956 of the Code states:

8 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
9 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
10 is deemed to be a conviction within the meaning of this chapter.

11 “The board may order a license suspended or revoked, or may deny a license, or may
12 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
13 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
14 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
15 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
16 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
17 complaint, information, or indictment.”

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction of Crimes Substantially Related to the Practice of the Acupuncturist)

20 7. Respondent is subject to disciplinary action under section section 4955, as defined by
21 section 4955, subdivision (b) of the Code in that respondent has been convicted of crimes
22 substantially related to the qualifications, function and duties of the acupuncturist. The
23 circumstances are as follows:

24 The 2007 Conviction

25 A. On or about July 12, 2007, in the Superior Court of California, County of San Diego,
26 in the case of *People v. Michael D. Woodworth*, Case No. CN229233, respondent was convicted
27 on his own guilty plea, of one count of driving an automobile while under the influence resulting
28 in bodily injury to another person in violation of Vehicle Code section 23153, subdivision (a).

1 As a consequence of the conviction, respondent was sentenced to five (5) years summary
2 probation with terms and conditions including the requirement that he spend 120 days in jail, pay
3 restitution, attend an Alcohol Anonymous Program on a daily basis, and complete an alcohol
4 offender program.

5 B. The circumstances of the conviction are as follows: At about 12:46 a.m. on or about
6 May 19, 2007, while operating an automobile in the City of Oceanside, respondent crossed the
7 center line into traffic going the opposite direction. Consequently, respondent collided with
8 another vehicle causing injuries to the driver and passengers in that vehicle. When contacted by
9 the police, respondent smelled of alcohol, had bloodshot and/or watery eyes and could not sit up
10 without assistance. Respondent admitted to the police he had been drinking. Respondent was
11 arrested and blood sample was obtained.

12 C. On or about May 23, 2007, the District Attorney for the County of San Diego filed a
13 criminal felony complaint charging respondent with one count of driving an automobile while
14 under the influence of an alcoholic beverage or drugs and while concurrently neglecting a duty
15 imposed by law which proximately caused bodily injury to another in violation of Vehicle Code
16 section 23152, subdivision (a), a felony [Count 1]; and with a second count of driving an
17 automobile while having more than 0.08 percent by weight of alcohol in his blood and while
18 concurrently neglecting a duty imposed by law which proximately caused bodily injury to another
19 in violation of Vehicle Code section 23152, subdivision (b), a felony [Count 2].

20 The criminal complaint further alleged that respondent committed the charged offenses
21 within 10 years of a prior conviction for violating Vehicle Code section 23152, subdivision (a)
22 within the meaning of Vehicle Code sections 23626 and 23560.

23 Following respondent's guilty plea to Count 1 of the criminal complaint on July 12, 2007,
24 the District Attorney dismissed Count 2 of the criminal complaint on his own motion.

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1 The 2004 CONVICTION

2 D. On or about January 6, 2004, in the Superior Court of California, County of San
3 Diego, in the case of *People v. Michael D. Woodworth*, Case No. M914534, respondent was
4 convicted on his own guilty plea, of one count of driving an automobile while under the influence
5 resulting in bodily injury to another person in violation of Vehicle Code section 23153,
6 subdivision (a). As a consequence of the conviction, respondent was sentenced to five (5) years
7 summary probation with terms and conditions including an 80-day jail time, restricted driver's
8 license, \$1,700 fine and an order to complete a "first conviction program."

9 E. The circumstances of the conviction are as follows: On or about December 23, 2003,
10 the District Attorney for San Diego County filed a two-count criminal complaint against
11 respondent charging him with one count of driving an automobile while under the influence of an
12 alcoholic beverage or drugs in violation of Vehicle Code section 23152, subdivision (a), a
13 misdemeanor [Count 1], and a second count of driving an automobile while having more than
14 0.08 percent by weight of alcohol in his blood in violation of Vehicle Code section 23152,
15 subdivision (b), a misdemeanor [Count 2]. On or about January 6, 2004, following respondent's
16 guilty plea, the District Attorney dismissed Count 2 of the criminal complaint.

17 SECOND CAUSE FOR DISCIPLINE

18 (Use or Possession of Controlled Substance or Dangerous Drugs)

19 8. Respondent is further subject to disciplinary action under section 4955, as defined by
20 section 4955, subdivision (a) of the Code, in that he used or possessed alcoholic beverage to an
21 extent or in a manner dangerous to himself, to other persons, or to the public, and to an extent that
22 the use impairs his ability to engage in the practice of acupuncture with safety to the public, as
23 more particularly alleged in paragraph 7, above, which is hereby incorporated by reference and
24 realleged as if fully set forth herein.

25 DISCIPLINE CONSIDERATIONS

26 9. To determine the degree of discipline, if any, to be imposed on respondent,
27 complainant alleges as follows:
28

1 A. On or about December 19, 1996, in a criminal proceeding in Peabody District
2 Court, Peabody, Massachusetts, in the case of the *Commonwealth of Massachusetts v. Michael D.*
3 *Woodworth*, Case Numbers 9686CR1675A and 9686CR1675D, respondent was convicted on his
4 own guilty plea, of one count of operating an automobile under the influence of alcohol or drugs,
5 and of one count of possessing drugs with intent to distribute marijuana. As a consequence of the
6 conviction was respondent sentenced to probation with terms and conditions that included
7 revocation of his driver's license and a \$100 fine.

8 B. On or about October 20, 1994, in a criminal proceeding in Merrimac District
9 Court, Merrimac, Massachusetts, in the case of the *Commonwealth of Massachusetts v. Michael*
10 *D. Woodworth*, Case No. 9422 CR 2139, respondent (a minor at the time) was convicted on his
11 own guilty plea, of one count of driving a motor vehicle while carrying an alcoholic beverage in
12 violation of section 34, subdivision (c) of Chapter 138 of the General Laws of Massachusetts. As
13 a consequence of the conviction, among other things, respondent's driver's license was suspended
14 and was ordered to pay costs.

15 C. On or about April 27, 1993, in a criminal proceeding in Georgetown District
16 Court, Georgetown, Massachusetts, in the case of the *Commonwealth of Massachusetts v.*
17 *Michael D. Woodworth*, Case No. 9338 CR 0892, respondent (a minor at the time) was convicted
18 of one count of driving a motor vehicle while carrying an alcoholic beverage in violation of
19 section 34, subdivision (c) of Chapter 138 of the General Laws of Massachusetts. As a
20 consequence of the conviction, among toher things, respondent was ordered to pay fine and costs.

21 PRAYER

22 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board issue a decision:

24 1. Revoking or suspending Acupuncturist License Number AC 10818, issued to Michael
25 David Woodworth, L.Ac.;

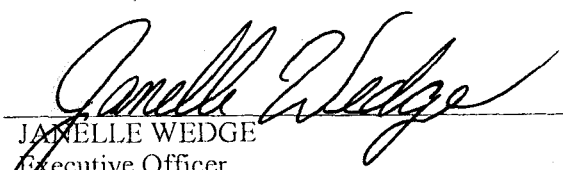
26 2. Ordering Michael David Woodworth, L.Ac., to pay the Board the reasonable costs of
27 the investigation and enforcement of this case, pursuant to Business and Professions Code section
28 4959;

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3. Ordering Michael David Woodworth, L.Ac., to pay the Board the costs of probation monitoring if respondent is placed on probation; and

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

DATED: SEP 3 2009



JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

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