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Attorney General of California
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3 State Bar No. 202679
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 KEGANG DAI, L.Ac.
12 404 E. Las Tunas Drive, #108
13 San Gabriel, California 91776
14 Licensed Acupuncturist AC 4254,
15 Respondent.

Case No. 1A-2008-130

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 **PARTIES**

18
19 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board
20 (Board). She brought this action solely in her official capacity and is represented in this matter by
21 Edmund G. Brown Jr., Attorney General of the State of California, by Beneth A. Browne, Deputy
22 Attorney General.

23 2. Kegang Dai (Respondent) is represented in this proceeding by attorney Peter C.
24 Beirne, whose address is: 3303 Del Mar Avenue, Suite A, Rosemead, California 91770.

25 3. On or about September 15, 1992, the Board issued license number AC 4254 to
26 Kegang Dai. That license expired on January 31, 2010, and has not been renewed.

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1 **JURISDICTION**

2 4. Accusation No. 1A-2008-130 was filed before the Acupuncture Board (Board),
3 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
4 and all other statutorily required documents were properly served on Respondent on June 9, 2010.
5 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
6 No. 1A-2008-130 is attached as Exhibit A and is incorporated herein by reference.

7 **ADVISEMENT AND WAIVERS**

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

15 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
16 every right set forth above.

17 **CULPABILITY**

18 7. Respondent agrees that, at an administrative hearing, complainant could establish a
19 prima facie case with respect to the charges and allegations contained in Accusation No. Case No.
20 1A-2008-130, a true and correct copy of which is attached hereto as Attachment "A," and that he
21 has thereby subjected his Acupuncture License number AC 4254 to disciplinary action.
22 Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the
23 Disciplinary Order below.

24 8. Respondent agrees that if ever petitions for reinstatement or applies for an
25 acupuncture license again, all of the charges and allegations contained in Accusation No. 1H-
26 2007-173 shall be deemed true, correct and fully admitted by respondent for purposes of any such
27 proceeding or any other licensing proceeding involving respondent in the State of California.
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1 15. Respondent shall cause to be delivered to the Board both his wall license, certificate
2 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

3 16. If Respondent ever files an application for licensure or a petition for reinstatement in
4 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
5 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
6 effect at the time the petition is filed, and all of the charges and allegations contained in
7 Accusation No. 1A-2008-130 shall be deemed to be true, correct and admitted by Respondent
8 when the Board determines whether to grant or deny the petition.

9 17. If Respondent should ever apply or reapply for a new license or certification, or
10 petition for reinstatement of a license, by any other health care licensing agency in the State of
11 California, all of the charges and allegations contained in Accusation, No. 1A-2008-130 shall be
12 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
13 Issues or any other proceeding seeking to deny or restrict licensure.

14 18. Respondent shall pay the Board its costs of investigation and enforcement in the
15 amount of \$4,547.50 on or before the effective date of the Board's decision.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Surrender of License and Order and have fully
18 discussed it with my attorney, Peter C. Beirne. I understand the stipulation and the effect it will
19 have on my Acupuncturist. I enter into this Stipulated Surrender of License and Order
20 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
21 Acupuncture Board.

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23 DATED: 12/21/10


24 KEGANG DAI
Respondent

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I have read and fully discussed with Respondent Kegang Dai the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12/21/10



PETER C. BEIRNE
Attorney for Respondent

ENDORSEMENT

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

DATED: December 30, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California



BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1A-2008-130

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FILED

JUN 9 2010

ACUPUNCTURE BOARD

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

In the Matter of the Accusation Against:
KEGANG DAI, L.Ac.
404 E. Las Tunas Drive, #108
San Gabriel, CA 91776
Licensed Acupuncturist AC 4254,
Respondent.

Case No. 1A-2008-130

ACCUSATION

Complainant alleges:

PARTIES

1. Janelle Wedge (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Acupuncture Board (Board).
2. On or about September 15, 1992, the Board issued license number AC 4254 to Kegang Dai (Respondent). That license expired on January 31, 2010, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following provisions of the Business and Professions Code.

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

6 "(d) In any judicial action for the recovery of costs, proof of the board's
7 decision shall be conclusive proof of the validity of the order of payment and the
8 terms for payment.

9 "(e) All costs recovered under this section shall be considered a reimbursement
10 for costs incurred and shall be deposited in the Acupuncture Fund."

11 7. Section 726 of the Code states:

12 "The commission of any act of sexual abuse, misconduct, or relations with a patient, client,
13 or customer constitutes unprofessional conduct and grounds for disciplinary action for any
14 person licensed under this division, under any initiative act referred to in this division and under
15 Chapter 17 (commencing with Section 9000) of Division 3.

16 "This section shall not apply to sexual contact between a physician and surgeon and his or
17 her spouse or person in an equivalent domestic relationship when that physician and surgeon
18 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
19 in an equivalent domestic relationship."

20 FIRST CAUSE FOR DISCIPLINE
21 (Conviction of a Crime)

22 8. Respondent is subject to disciplinary action under Business and Professions Code
23 sections 4955 and 4956, in that he was convicted of crimes substantially related to the
24 qualifications, functions or duties of an acupuncturist.

25 9. On September 3, 2009, in proceedings entitled *People of the State of California v.*
26 *Kegang Dai*, case number 8AH05228 in Los Angeles Superior Court, Respondent was convicted
27 upon his plea of nolo contendere to the crime of sexual battery under California Penal Code
28 section 243.4(e)(1), a misdemeanor, as charged in Count 1 of the complaint against him.

1 PRAYER

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

- 4 1. Revoking or suspending the license number AC 4254, issued to Kegang Dai;
5 2. Ordering him to pay the Acupuncture Board the reasonable costs of the investigation
6 and enforcement of this case, pursuant to Business and Professions Code section 4959; and
7 3. Taking such other and further action as deemed necessary and proper.

8 DATED: **JUN 09 2010**


9 JANELLE WEDGE
10 Executive Officer
11 Acupuncture Board
12 Department of Consumer Affairs
13 State of California
14 *Complainant*

13 LA2009508895
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DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation Against:

KEGANG DAI

Case No. 1A-2008-130

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95811. I served a true copy of the attached:

STIPULATED SURRENDER OF LICENSE AND ORDER

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

<u>NAME and ADDRESS</u>	<u>CERTIFIED MAIL NO.</u>
Kegang Dai, L.Ac. 404 E. Las Tunas Drive, #108 San Gabriel, CA 91776	7009 3410 0000 0533 1462
Beneth A. Browne, DAG California Department of Justice Office of the Attorney General/HQE 300 So. Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Robert McKim Bell, SDAG California Department of Justice Office of the Attorney General/HQE 300 So. Spring St., Ste. 1702 Los Angeles, CA 90013	regular mail
Peter C. Beirne 3303 Del Mar Avenue, Suite A Rosemead, CA 91770	regular mail

Each said envelope was, on January 18, 2011, sealed and deposited in the U.S. mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for an attempt at service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 18, 2011 at Sacramento, California.



DECLARANT