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ACUPUNCTURE BOARD

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

12 In the Matter of the Accusation Against:

Case No. 1A-2010-217

13 **ANDREW SUNG YOUNG LEE, L.Ac.**

14 **9301 Chapman Avenue #A2**
15 **Garden Grove, California 92841**

A C C U S A T I O N

16 **Acupuncture License number AC 6060,**

17 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Terri Thorfinnson (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Acupuncture Board (Board).

24 2. On or about September 30, 1997, the Acupuncture Board issued Acupuncture license
25 number AC 6060 to Andrew Sung Young Lee, L.Ac. (Respondent). That license was in full force
26 and effect at all times relevant to the charges brought herein and will expire on September 30,
27 2014, unless renewed.
28

1 5. Section 493 of the Code states:

2 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or revoke a
4 license or otherwise take disciplinary action against a person who holds a license, upon the
5 ground that the applicant or the licensee has been convicted of a crime substantially related to the
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
8 and the board may inquire into the circumstances surrounding the commission of the crime in
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the
10 qualifications, functions, and duties of the licensee in question.

11 As used in this section, "license" includes "certificate," "permit," "authority," and
12 'registration.'”

13 6. Section 731, subdivision (a), of the Code states:

14 “Any person licensed, certified, registered, or otherwise subject to regulation pursuant to
15 this division who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315, 316,
16 or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work
17 premises of, or work area under the direct professional supervision or control of, that person, shall
18 be guilty of unprofessional conduct. The license, certification, or registration of that person shall
19 be subject to denial, suspension, or revocation by the appropriate regulatory entity under this
20 division.”

21 7. Section 4927, subdivision (d), of the Code states:

22 “Acupuncture' means the stimulation of a certain point or points on or near the surface of
23 the body by the insertion of needles to prevent or modify the perception of pain or to normalize
24 physiological functions, including pain control, for the treatment of certain diseases or
25 dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and
26 moxibustion.”

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1 8. Section 4928.1 of the Code states:

2 “Protection of the public shall be the highest priority for the Acupuncture Board in
3 exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the
4 public is inconsistent with other interests sought to be promoted, the protection of the public shall
5 be paramount.”

6 9. Section 4937 of the Code states:

7 “An acupuncturist’s license authorizes the holder thereof:

8 “(a) To engage in the practice of acupuncture.

9 “(b) To perform or prescribe the use of Asian massage, acupressure, breathing
10 techniques, exercises, heat, cold, magnets or nutrition, diet herbs, plant, animal, and mineral
11 products, and dieting supplements to promote, maintain, and restore health. Nothing in this
12 section prohibits any person who does not possess an acupuncturist’s license or another
13 license as a healing arts practitioner from performing, or prescribing the use of any
14 modality listed in this subdivision.

15 “(c) For purposes of this section, a "magnet" means a mineral or metal that produces a
16 magnetic field without the application of an electric current.

17 “(d) For purposes of this section, "plant, animal, and mineral products" means
18 naturally occurring substances of plant, animal, or mineral origin, except that it does not include
19 synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and
20 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division
21 10 of the Health and Safety Code.

22 “(e) For purposes of this section, "dietary supplement" has the same meaning as
23 defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary
24 supplement does not include controlled substances or dangerous drugs as defined in Section 4021
25 or 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of
26 Division 10 of the Health and Safety Code.”

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1 10. Section 4955 of the Code, in pertinent part, states:

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

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

5 "..."

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

8 "..."

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

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

17 "..."

18 11. Section 4955.1 of the Code, in pertinent part, states:

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

22 "..."

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

25 "..."

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1 12. Section 4956 of the Code states:

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

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

12 13. Section 4961 of the Code states in pertinent part:

13 “(a) Every person who is now or hereafter licensed to practice acupuncture in this state
14 shall register, on forms prescribed by the Acupuncture Board, his or her place of practice, or, if he
15 or she has more than one place of practice, all of the places of practice. If the licensee has no
16 place of practice, he or she shall notify the board of that fact. A person licensed by the board
17 shall register within 30 days after the date of his or her licensure.

18 “... .

19 “(c) Any licensee that changes the location of his or her place of practice shall register each
20 change within 30 days of making that change. In the event a licensee fails to notify the board of
21 any change in the address of a place of practice within the time prescribed by this section, the
22 board may deny renewal of licensure. An applicant for renewal of licensure shall specify in his or
23 her application whether or not there has been a change in the location of his or her place of
24 practice and, if so, the date of that change. The board may accept that statement as evidence of
25 the change of address.”

26 14. California Penal Code Section 315 states:

27 “Every person who keeps a house of ill-fame in this state, resorted to for the purposes of
28 prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and

1 in all prosecutions for keeping or resorting to such a house common repute may be received as
2 competent evidence of the character of the house, the purpose for which it is kept or used, and the
3 character of the women inhabiting or resorting to it.”

4 15. California Penal Code Section 647, in pertinent part, states,

5 “Every person who commits any of the following acts is guilty of disorderly conduct, a
6 misdemeanor:

7 “... ”

8 “(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A
9 person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she
10 manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or
11 solicitation was made by a person who also possessed the specific intent to engage in prostitution.
12 No agreement to engage in an act of prostitution shall constitute a violation of this subdivision
13 unless some act, in addition to the agreement, is done within this state in furtherance of the
14 commission of an act of prostitution by the person agreeing to engage in that act. As used in this
15 subdivision, “prostitution” includes any lewd act between persons for money or other
16 consideration.”

17 COSTS

18 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 16. Section 4959 of the Code states:

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

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

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

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

14 **FACTS**

15 **Montebello, California**

16 17. Early in 2010 the Montebello California Police Department (Montebello) conducted
17 an investigation with regard to a citizen's complaint of alleged prostitution activity in the
18 acupuncture clinic “JJ Acup,” located at 2124 West Beverly Boulevard, in the city of Montebello,
19 California. Subsequent investigation determined that “JJ Acup” was owned by Respondent.

20 18. On or about March 31, 2010 the Montebello California Police Department conducted
21 an undercover investigation and operation at “JJ Acup” by having Montebello Detective Camuy
22 (Camuy) enter the business posing as a customer. Camuy paid \$40.00 to a “JJ Acup” employee
23 for a massage and was escorted into a room which contained a bed.

24 19. “JJ Acup” employee Mikung Kim (Kim) entered the room, directed Camuy to
25 remove all of his clothes and lie face down on the bed. After Camuy complied with Kim's
26 directions she massaged his back, stroked his crotch, and told him to lie on his back. Kim then
27 moved her body in a thrusting motion simulating sexual intercourse, and requested \$140.00 from
28 Camuy. Camuy arrested Kim for violating Penal Code Section 647, subsection (b).

1 20. The misdemeanor criminal charge filed against Kim for violating Penal Code Section
2 647, subsection (b), were dismissed after Kim served 35 days in county jail and provided proof of
3 completion of AIDS testing and education.

4 **Redondo Beach: June 23, 2010**

5 21. On or about June 23, 2010, Redondo Beach Police Department (RBPD) detectives
6 performed an undercover operation with regard to suspected prostitution at "Lee's Accu
7 Massage" located at 1503 Aviation Boulevard, Redondo Beach, California.

8 22. The Redondo Beach City Business License Section records show Respondent initially
9 applied for business licensure with the city on February 5, 2010 and later cancelled the
10 application because he was unable to secure a lease at a specific location. On February 23, 2010,
11 Respondent applied for and obtained a business license for "Lee Acupuncture" located at 1503
12 Aviation Boulevard, Redondo Beach, California, the same address where RBPD conducted the
13 undercover operation at "Lee's Accu Massage."

14 23. RBPD Detective Carlborg, (Carlborg) in an undercover capacity, went to "Lee's Accu
15 Massage" and posed as customer seeking a massage. An Asian woman requested \$40.00 from
16 Carlborg, who noted the woman never asked whether he wanted acupressure or massage services.
17 As Carlborg was escorted into a room the woman asked if he preferred Asian or Latina girls.

18 24. After entering a room, Carlborg disrobed and laid face down on a massage table.
19 Moments later a female later identified as Ruth Dubon (Dubon) entered and locked the door.
20 Dubon began to rub Carlborg's neck and back area, and then slapped his buttocks with her hand.
21 Dubon touched Carlborg's testicles and Carlborg pulled away. Dubon again touched Carlborg's
22 testicles and asked, "Do you want something else?" Carlborg said he wanted to have intercourse
23 and asked her how much she wanted to have intercourse. Dubon requested \$140.00 and Carlborg
24 alerted other detectives that a violation had occurred and they should enter the business.

25 Prior to the other detectives' arrival Dubon removed all of her clothing, placed a rolled
26 condom onto the tip of Carlborg's penis, opened her mouth and moved her head towards his
27 penis, as if she was going to use her mouth to unroll the condom. RBPD arrested Dubon for a
28 violation of Penal Code 647, subsection (b).

1 **Redondo Beach: October 13, 2010**

2 25. On or about October 13, 2010, RBPD detectives performed an undercover operation
3 with regard to suspected prostitution at "Lee's Accu Massage" located at 1503 Aviation
4 Boulevard, Redondo Beach, California. Officer Booth (Booth) in an undercover capacity, went to
5 "Lee's Accu Massage" and posed as a customer seeking a massage.

6 Booth was greeted at the front entrance of the business by an older Asian woman later
7 identified as Wi Chu Han (Han). Booth requested a "30- minute service" and Han asked him for
8 \$50.00. Han pointed to a room on the west side of the business and Booth entered the room,
9 closed the door, disrobed down to his underwear, and lay on the bed. Moments later a woman
10 later identified as Vilma Ramirez (Ramirez) entered the room and sat on the bed. Ramirez pulled
11 on Booth's legs indicating she wanted him to roll onto his back, straddled Booth near his hip area,
12 took his left hand and placed it into her crotch area. Booth pulled her hand away. Ramirez pulled
13 down the front of her top exposing her breast, grabbed Booth's left hand, and rubbed it back and
14 forth on her breasts. Ramirez pulled off her pants, grabbed Booth's right hand and pushed it up
15 into her crotch area, straddled him, and pulled down his underwear exposing his penis and
16 scrotum. Ramirez began to rub his penis and scrotum. At that point Officer Booth alerted other
17 officers and RBPD arrested Ramirez for a violation of Penal Code 647, subsection (b).

18 26. As a result of the undercover operations described in paragraphs 21, 23-25 above, the
19 Redondo Beach City Attorney's Office (RBCA) filed two separate misdemeanor complaints
20 against Respondent, alleging a series of violations of Redondo Beach City Municipal Code
21 violations, as well as California Penal Code violations alleging Respondent kept a place of
22 prostitution and received money as the result of another person's acts of prostitution.

23 On or about September 27, 2011, Respondent pled no contest to count 12 in misdemeanor
24 criminal complaint entitled *People v. Andrew Sung Young Lee*, Los Angeles County Superior
25 Court Case No. 0SY08852. The remaining 11 counts in that case as well as the four counts
26 pending against him in *People v. Andrew Sung Young Lee*, Los Angeles County Superior Court
27 Case No. 0SY09435 were dismissed in the interests of justice based on his no contest plea.

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1 27. On or about March 7, 2012, following Respondent's no contest plea in misdemeanor
2 criminal complaint entitled People v. Andrew Sung Young Lee, Case No. 0SY08852, the Court
3 sentenced Respondent to summary probation for three years, and ordered Respondent to obey all
4 laws, to pay various fines, and to complete an AIDS education program.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Conviction of Substantially Related Crime)

7 28. Respondent is subject to disciplinary action under sections 490 subsection (a), 4955
8 subsection (b), 4956 and 731 subsection (a) of the Code for conviction of a crime which is
9 substantially related to the qualifications, functions, or duties of her profession. The
10 circumstances are as follows:

11 29. Complainant refers to and, by reference incorporates herein paragraphs 21-27
12 inclusive, above as though fully set forth here.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Conduct That Warrants Denial Of Acupuncture License)

15 30. Respondent is subject to disciplinary action under sections 4955 subsection (i) for
16 conduct that would have warranted the denial of his acupuncture license. The circumstances are
17 as follows:

18 31. Complainant refers to and, by reference incorporates herein paragraphs 17-27
19 inclusive, above as though fully set forth here.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct)

22 32. Respondent is subject to disciplinary action under sections 4955 for unprofessional
23 conduct. The circumstances are as follows:

24 33. Complainant refers to and, by reference incorporates herein paragraphs 17-27
25 inclusive, above as though fully set forth here.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Commission of An Act Involving Corruption)

3 34. Respondent is subject to disciplinary action under sections 4955.1 for conduct
4 involving corruption with respect to the qualifications, furnishings or duties of an acupuncturist.
5 The circumstances are as follows:

6 35. Complainant refers to and, by reference incorporates herein paragraphs 17-27
7 inclusive, above as though fully set forth here.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 (Failure To Notify Board Of All Places Of Practice)

10 36. Respondent is subject to disciplinary action under sections 4961, subdivision (a) for
11 his failure to notify the Acupuncture Board of all places he practiced acupuncture. The
12 circumstances are as follows:

13 37. Complainant refers to and, by reference incorporates herein paragraphs 17 and 21
14 inclusive, above as though fully set forth here.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 (Failure To Notify Board Of All Places Of Practice)

17 38. Respondent is subject to disciplinary action under sections 4955 subsection (j) for the
18 violations of the penal code which occurred on his business premises by persons working under
19 his business permit that are related to the qualifications, furnishings or duties of an acupuncturist.
20 The circumstances are as follows:

21 39. Complainant refers to and, by reference incorporates herein paragraphs 17-25
22 inclusive, above as though fully set forth here.

23 **PRAYER**

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

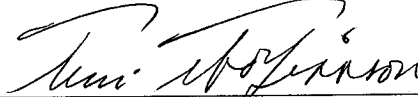
26 1. Revoking or suspending Acupuncture License number AC 5271, issued to Andrew
27 Sung Young Lee, L.Ac.;

1 2. Ordering him to pay the Acupuncture Board the reasonable costs of the investigation
2 and enforcement of this case, pursuant to Business and Professions Code sections 125.3 and
3 4959;

4 3. If placed on probation, ordering him to pay to the Acupuncture the costs of probation
5 monitoring;

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

7
8 DATED: **JAN 06 2014**



TERRI THORFINNISON
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California

Complainant

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