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ACUPUNCTURE BOARD

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

In the Matter of the Accusation Against:

Case No. 1A 2008 169

HUI-CHANG CHIH

**3108 WHITESAND DRIVE
SAN JOSE CALIFORNIA 95148**

A C C U S A T I O N

ACUPUNTURIST'S LICENSE NO. AC11052

Respondent.

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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 April 21, 2006, the Acupuncture Board issued Acupuncturist's License
23 Number AC 11052 to Hui-Chang Chih (Respondent). The Acupuncturist's License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on December
25 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Acupuncture Board (Board), Department of Consumer Affairs, 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)....

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

"...."

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

"Any person licensed, certified, registered, or otherwise subject to regulation pursuant to this division [Division 2, Healing Arts, commencing with section 500 of the Business and Professions Code] who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315, 316, or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work premises of, or work area under the direct professional supervision or control of, that person, shall be guilty of unprofessional conduct. The license, certification, or registration of that person shall be subject to denial, suspension, or revocation by the appropriate regulatory entity under this division."

6. Section 4956 of the Code expressly provides that a plea or verdict of guilty or a conviction following a plea of nolo contendere to a charge substantially related to the qualifications, functions, or duties of an acupuncturist is deemed a conviction within the meaning of the term as used in the Acupuncture Licensing Act (Code sections 4925 et seq.).

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1 7. Section 4959(a) of the Code states:

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

6
7 **FIRST CAUSE FOR DISCIPLINE**
 (Conviction of a Substantially-Related Crime)

8 8. Respondent is subject to disciplinary action under section 4955(b), by invocation of
9 section 4956, in that she was convicted on or about May 6, 2009 in the Santa Clara Superior
10 Court of violating Penal Code section 647(b) {Agreeing to Engage in An Act of Prostitution}, a
11 misdemeanor. The circumstances are as follows:

12 9. On or about December 10, 2008 San Jose police officers conducted an undercover
13 investigation of North Valley Health Center. An undercover officer in mufti entered the business
14 and was immediately greeted by a person who was later identified as Respondent. The
15 undercover officer told Respondent he wanted a massage.

16 10. Respondent led the officer to a private room and directed the officer to pay her \$40,
17 to undress, and to lie on the massage table. The officer did so, lying prone on the table and using
18 a towel provided to cover his buttocks. Respondent removed the towel and began to massage the
19 officer’s upper and lower body. Respondent asked the officer if he had been in this establishment
20 before. When he stated that he had, Respondent asked how much he had paid, saying that she
21 could determine what “extra services” had been provided by the price he had paid. The officer
22 informed Respondent that at his earlier visit he had paid \$80 for a particular activity, using a
23 common term for fellatio. Respondent informed the officer that every employee does different
24 things, but assured him that he would leave happy.

25 11. Respondent told the officer that North Valley Health Center’s new owner was visiting
26 China and that Respondent was in charge during the owner’s absence. Respondent told the
27 officer she wished to hire more women to work at the business, most particularly beautiful and
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1 young Vietnamese women who would "do sex." The officer then asked Respondent how much
2 she would charge to engage in sexual intercourse. Respondent informed the officer that service
3 would cost an additional \$100, but she would provide sexual gratification by manual stimulation
4 for an additional \$40, which he could pay after the session. The undercover officer verbally
5 assented to the proposed alternative. Respondent then moved to touch the officer's genital area,
6 but the officer pulled away. Other San Jose police officers then entered North Valley Health
7 Center through the front door and Respondent was arrested.

8 12. By criminal complaint number 090306270 filed on or about March 11, 2009 in Santa
9 Clara County Superior Court, Respondent was charged with one count of violating Penal Code
10 section 647(b), Agreeing to Engage in an Act of Prostitution, a misdemeanor.

11 13. On or about May 6, 2009 Respondent entered a plea of *nolo contendere* to the
12 misdemeanor allegation. She was sentenced on this criminal conviction on or about July 1, 2009
13 to 10 days in custody, 2 years of court supervised probation, appropriate health testing, and
14 miscellaneous fines

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Violation of Penal Code
17 Constituting Unprofessional Conduct)

18 14. The facts alleged in paragraphs 10-14 above are incorporated herein by reference as if
19 fully set forth. Respondent is subject to disciplinary action under section 731 in that she engaged
20 in a violation of Penal Code section 647(b), which by express statutory provision constitutes
21 unprofessional conduct warranting license discipline.

22 **PRAYER**

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

25 1. Revoking or suspending Acupuncturist's License Number AC 11052, issued to Hui-
26 Chang Chih;

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1 2. Ordering Hui-Chang Chih to pay the Acupuncture Board the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 4959; and

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

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DATED: SEP 24 2009


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

SF2009404615

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STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS