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FILED

SEP 17 2008

ACUPUNCTURE BOARD

7 Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 1A-2006-40

13 SHAO HUI JIN

A C C U S A T I O N

14 5730 N. Willard Ave. #34
15 San Gabriel, CA 91775

16 Acupuncture License No. AC 8141

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Janelle Wedge (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Acupuncture Board, Department of Consumer Affairs.

23 2. On or about October 4, 2001, the Acupuncture Board issued Acupuncture
24 License Number AC 8141 to Shao Hui Jin (Respondent). The Acupuncture license was in full
25 force and effect at all times relevant to the charges brought herein and will expire on July 31,
26 2009, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Acupuncture Board (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4955 of the Code states:

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

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

9 "...

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

12 5. Section 726 of the Code states in pertinent part:

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

18 6. Section 4956 of the Code states:

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

22 "The board may order a license suspended or revoked, or may deny a license, or
23 may impose probationary conditions upon a license, when the time for appeal has
24 elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
25 granting probation is made suspending the imposition of sentence irrespective of a
26 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the
27 person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting
28 aside the verdict of guilty, or dismissing the accusation, complaint, information, or

1 indictment.”

2 **PENAL CODE**

3 7. Section 242 of the Penal Code states:

4 “A battery is any willful and unlawful use of force or violence upon the person of
5 another.”

6 **COST RECOVERY**

7 8. Section 4959 of the Code states:

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

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

17 “(c) When the payment directed in the board's order for payment of costs is not
18 made by the licensee, the board may enforce the order for payment in the superior court in
19 the county where the administrative hearing was held. This right of enforcement shall be
20 in addition to any other rights the board may have as to any licensee directed to pay
21 costs.”

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Criminal Conviction)**

24 9. Respondent is subject to disciplinary action under section 4955,
25 subdivision (b), of the Code in that he was convicted of a crime that was substantially related to
26 the qualifications, functions, or duties of an acupuncturist. The circumstances are as follows:

27 10. On or about November 26, 2005, Respondent willfully and unlawfully
28 used force or violence when he kissed patient M.D. despite being told “no”. This act occurred at

1 Respondent's acupuncture office in the course of Respondent's acupuncture treatment of patient
2 M.D.

3 11. On or about February 3, 2006, a criminal complaint was filed charging
4 Respondent with one count of violating Penal Code section 242, battery, in the case entitled
5 *People vs. Shao Hui Jin*, Orange County Superior Court Case No. 06HM00932. The victim
6 named in the complaint was patient M.D.

7 12. On or about October 17, 2006, Respondent pled guilty to one count of
8 battery in violation of Penal Code section 242.

9 13. On or about October 17, 2006, the Court entered judgment and ordered the
10 imposition of sentence suspended. Respondent was placed on three (3) years informal probation,
11 ordered to pay fines, complete forty hours of community service, stay away from M.D., and pay
12 restitution to M.D.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Sexual Misconduct)**

15 14. Respondent is subject to disciplinary action under section 726 of the Code
16 in that he engaged in sexual misconduct with patient M.D.

17 A. The facts and circumstances alleged in paragraphs 10 through 13 above are
18 incorporated here as if fully set forth.

19 **PRAYER**

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

22 1. Revoking or suspending Acupuncturist Number AC 8141, issued to Shao
23 Hui Jin;

24 2. Ordering Shao Hui Jin to pay the Acupuncture Board the reasonable costs
25 of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 4959; and

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

DATED: SEP 17 2008


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

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