

1 EDMUND G. BROWN JR.
Attorney General of California
2 PAUL C. AMENT
Supervising Deputy Attorney General
3 MIA PEREZ-CASTILLE
Deputy Attorney General
4 State Bar No. 203178
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-7007
6 Facsimile: (213) 897-9395
Attorneys for Complainant
7

FILED

OCT 29 2010

ACUPUNCTURE BOARD

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

10 In the Matter of the Accusation Against:

Case No. 1A-2009-112

11 **RENE ALBERTO TREJO**
12 **340 Russell Ave.**
Monterey Park, CA 91755
13 **Acupuncturist License No. AC 10384**

A C C U S A T I O N

14 Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 29, 2007, the Acupuncture Board issued Acupuncturist License
22 Number AC 10384 to RENE ALBERTO TREJO (Respondent). The Acupuncturist License
23 expired on January 31, 2009, and has not been renewed.

24 **JURISDICTION**

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

28 ///

1 4. Section 4955 of the Code 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 "(a) Using or possessing any controlled substance as defined in Division 10
6 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug
7 or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or
8 to any other person, or to the public, and to an extent that the use impairs his or her
9 ability to engage in the practice of acupuncture with safety to the public.

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
12 thereof.

13 "(c) False or misleading advertising.

14 "(d) Aiding or abetting in, or violating or conspiring in, directly or indirectly,
15 the violation of the terms of this chapter or any regulation adopted by the board
16 pursuant to this chapter.

17 "(e) Except for good cause, the knowing failure to protect patients by failing to
18 follow infection control guidelines of the board, thereby risking transmission of
19 blood-borne infectious diseases from licensee to patient, from patient to patient, and
20 from patient to licensee. In administering this subdivision, the board shall consider
21 referencing the standards, regulations, and guidelines of the State Department of
22 Health Services developed pursuant to Section 1250.11 of the Health and Safety Code
23 and the standards, regulations, and guidelines pursuant to the California Occupational
24 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5
25 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other
26 blood-borne pathogens in health care settings. As necessary, the board shall consult
27 with the Medical Board of California, the California Board of Podiatric Medicine, the
28 Dental Board of California, the Board of Registered Nursing, and the Board of

1 Vocational Nursing and Psychiatric Technicians, to encourage appropriate
2 consistency in the implementation of this subdivision.

3 "The board shall seek to ensure that licensees are informed of the responsibility
4 of licensees and others to follow infection control guidelines, and of the most recent
5 scientifically recognized safeguards for minimizing the risk of transmission of
6 blood-borne infectious diseases.

7 "(f) The use of threats or harassment against any patient or licensee for
8 providing evidence in a disciplinary action, other legal action, or in an investigation
9 contemplating a disciplinary action or other legal action.

10 "(g) Discharging an employee primarily for attempting to comply with the
11 terms of this chapter.

12 "(h) Disciplinary action taken by any public agency for any act substantially
13 related to the qualifications, functions, or duties of an acupuncturist or any
14 professional health care licensee.

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

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

23 "(k) The abandonment of a patient by the licentiate without written notice to the
24 patient that treatment is to be discontinued and before the patient has had a reasonable
25 opportunity to secure the services of another practitioner.

26 "(l) the failure to notify the board of the use of any false, assumed, or fictitious
27 name other than the name under which he or she is licensed as an individual to
28 practice acupuncture."

1 5. Section 4959 of the Code states:

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

7 "(b) The costs to be assessed shall be fixed by the administrative law judge and
8 shall not in any event be increased by the board. When the board does not adopt a
9 proposed decision and remands the case to an administrative law judge, the
10 administrative law judge shall not increase the amount of any costs assessed in the
11 proposed decision.

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

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

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

22 6. Section 118, subdivision (b), of the Code provides that the expiration of a license
23 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
24 within which the license may be renewed.

25 ///
26 ///
27 ///
28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

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

6 8. On or about November 16, 2009, in case number XNW LA062087 in the Superior
7 Court of the State of California, County of Los Angeles in the proceeding entitled *The People of*
8 *the State of California v. Rene Alberto Trejo*, Respondent was convicted by a plea of nolo
9 contendere to the offense of Transporting or Selling a Controlled Substance, to wit, Hydrocodone,
10 in violation of Health and Safety Code, section 11352, subdivision (a), a felony. Respondent was
11 sentenced to serve 180 days in county jail and three years of formal probation. On or about
12 November 25, 2009, Respondent surrendered to commence his incarceration.

13 9. The conviction arose from a undercover operation conducted by officers and
14 detectives of the Los Angeles Police Department Narcotics Enforcement Detail in response to an
15 advertisement for the sale of Vicodin on Craigslist. On May 15, 2009, Detective Kim located a
16 posting for "pain meds...(SGV)". It further stated, "I have stopped taking vicodins [*sic*]. I have
17 some left for anyone who wants them. I'd like to sell them as soon as possible. Send an email for
18 info." Detective Kim replied with an email inquiring, "How many do you have and how much do
19 you want for them?" He received a reply from "Stone Philip kinphyort@yahoo.com" describing
20 the quantity and price of the drug. Detective Kim accepted the offer and requested that "Stone"
21 deliver the drugs to him in Tarzana. Soon thereafter he received a reply stating, "[T]hat sounds
22 good . . . Call in an hour 213-254-7729. Chris." Detective Kim called the number he was
23 provided but it was not answered. He then received an incoming call from the same number.
24 The male caller stated, "It's Stone from Craigslist but my name is actually Chris." They
25 subsequently arranged a place to meet to make the exchange. Later that day, a man meeting the
26 description of the caller drove up and approached Detective Kim saying he was "Chris."
27 Detective Kim handed him the money and "Chris" gave him napkins containing pills. After the
28

1 exchange, a police officer and a detective stopped the vehicle and took the occupants into custody
2 without incident. "Chris" was later identified as Rene Alberto Trejo, Respondent.

3
4 SECOND CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct)

6 10. Respondent is subject to disciplinary action under section 4955, subdivision (i) in that
7 he engaged in unprofessional conduct. The facts and allegations in paragraphs 7 through 9 are
8 incorporated here as if fully set forth.

9
10 DISCIPLINE CONSIDERATIONS

11 11. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges that on or about July 12, 2000, in a prior criminal proceeding entitled *The*
13 *People of the State of California v. Rene Alberto Trejo* in Los Angeles Superior Court, Case
14 Number OAL01291, Respondent was convicted of Battery in violation of Penal Code Section
15 242, a misdemeanor and was ordered: (1) to serve three years summary probation; (2) serve nine
16 days in county jail; (3) pay restitution in the amount of \$100.00; (4) serve forty hours of
17 community service; (4) undergo counseling; and (5) attend weekly anger management classes for
18 six months. The record of the criminal proceeding is incorporated as if fully set forth.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

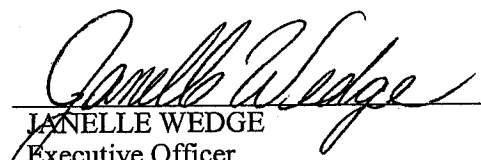
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Revoking or suspending Acupuncturist License Number AC 10384, issued to RENE ALBERTO TREJO;
2. Ordering RENE ALBERTO TREJO to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959; and
3. Taking such other and further action as deemed necessary and proper.

DATED: OCT 29 2010


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

LA2009604133