

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

In the Matter of the Accusation Against:)
)
JONATHAN HYUNGSUK KIM, L.AC.)
3511 West Olympic Blvd., #204)
Los Angeles, CA 90019)
)
Acupuncture License No. AC 11861)
)
Respondent.)
_____)

Case No. 1A-2017-61

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Acupuncture Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on 11/29/17.

It is so ORDERED 10/30/17.



Amy Matecki, MD, L.Ac., Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
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8 **BEFORE THE**
ACUPUNCTURE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 JONATHAN HYUNGSUK KIM
3511 West Olympic Boulevard, #204
13 Los Angeles, California 90019
14 Acupuncturist License No. AC 11861,
15 Respondent.

Case No. 1A-2017-61

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Benjamin Bodea (Complainant) is the Executive Officer of the Acupuncture Board,
21 Department of Consumer Affairs (Board). He brought this action solely in his official capacity
22 and is represented in this matter by Xavier Becerra, Attorney General of the State of California,
23 by Nicholas B.C. Schultz, Deputy Attorney General.

24 2. Jonathan Hyungsuk Kim (Respondent) is represented in this proceeding by attorney
25 Keith Kim, whose address is: 3435 Wilshire Boulevard, # 2630, Los Angeles, California 90010.

26 3. On October 16, 2007, the Board issued Acupuncturist License No. AC 11861 to
27 Respondent. That license was in full force and effect at all times relevant to the charges brought
28 in Accusation No. 1A-2017-61, and it will expire on December 31, 2018, unless renewed.

1 **JURISDICTION**

2 4. Accusation No. 1A-2017-61 was filed before the Board and is currently pending
3 against Respondent. The Accusation and all other statutorily required documents were properly
4 served on Respondent on August 11, 2017.

5 5. A copy of Accusation No. 1A-2017-61 is attached as Exhibit A and is incorporated
6 herein by reference.

7 **ADVISEMENT AND WAIVERS**

8 6. Respondent has carefully read, fully discussed with counsel, and understands the
9 charges and allegations in Accusation No. 1A-2017-61. Respondent has also carefully read, fully
10 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
11 Order.

12 7. Respondent is fully aware of his legal rights in this matter including: the right to a
13 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
14 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
15 to the issuance of subpoenas to compel the attendance of witnesses and the production of
16 documents; the right to reconsideration and court review of an adverse decision; and all other
17 rights accorded by the California Administrative Procedure Act and other applicable laws.

18 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 **CULPABILITY**

21 9. Respondent admits the truth of each and every charge and allegation in Accusation
22 No. 1A-2017-61.

23 10. Respondent agrees that his Acupuncturist License is subject to discipline and he
24 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
25 below.

26 **RESERVATION**

27 11. The admissions made by Respondent herein are only for the purposes of this
28 proceeding, or any other proceedings in which the Acupuncture Board or other professional

1 licensing agency is involved, and shall not be admissible in any other criminal or civil
2 proceeding.

3 CONTINGENCY

4 12. This stipulation shall be subject to approval by the Acupuncture Board. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent or his counsel. By signing the stipulation, Respondent
8 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
9 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
10 as its Decision and Order, then the Stipulated Settlement and Disciplinary Order shall be of no
11 force or effect, except for this paragraph, it shall be inadmissible in any legal action between the
12 parties, and the Board shall not be disqualified from further action by having considered this
13 matter.

14 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
16 signatures thereto, shall have the same force and effect as the originals.

17 14. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following
19 Disciplinary Order:

20 DISCIPLINARY ORDER

21 **IT IS HEREBY ORDERED** that Acupuncturist License No. AC 11861 issued to
22 Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation
23 for five (5) years on the following terms and conditions.

24 1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the
25 practice of acupuncture for thirty (30) days beginning with the effective date of this Decision.

26 2. PRACTICE/BILLING MONITOR. Within ninety (90) calendar days of the effective
27 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
28 practice and billing monitor(s), the name and qualifications of one or more licensed

1 acupuncturists whose license is valid, in good standing and not disciplined by the Board. Prior to
2 the Board's approval, Respondent shall provide a copy of the Board's Accusation and Decision to
3 the monitor(s). A monitor shall have no prior or current business or personal relationship with
4 Respondent, or other relationship that could reasonably be expected to compromise the ability of
5 the monitor to render fair and unbiased reports to the Board or its designee, and must agree to
6 serve as Respondent's monitor. Respondent shall pay all monitoring costs. The Board in its sole
7 discretion shall have the option of rejecting the proposed monitor(s) for any reason and
8 Respondent shall work to provide an alternative monitor(s) as set forth above.

9 Upon approval of the monitor(s), the Board or its designee shall provide a monitoring plan.
10 Within fifteen (15) calendar days of receipt of the monitoring plan, the monitor shall submit a
11 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
12 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
13 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
14 with the signed statement.

15 Within 120 calendar days of the effective date of this Decision, and continuing through
16 probation, Respondent shall make all records available for immediate inspection and copying on
17 the premises by the monitor at all times during business hours and shall retain the records for the
18 entire term of probation.

19 Respondent shall notify all current and potential patients in writing of any term or condition
20 of probation which will affect their treatment or the confidentiality of their records (such as this
21 condition which requires a practice monitor). Such written notification shall be signed by each
22 patient prior to continuing or commencing treatment and the written notification shall be kept as
23 part of the patient's healthcare record.

24 The monitor(s) shall submit a quarterly written report to the Board or its designee which
25 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
26 are within the standards of practice of acupuncture or billing, or both, and whether Respondent is
27 practicing acupuncture safely, billing appropriately or both. It shall be the sole responsibility of
28 Respondent to ensure that the monitor submits written reports to the Board or its designee

1 quarterly.

2 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
3 days of such resignation or unavailability notify the Board. Within thirty (30) days, Respondent
4 shall submit to the Board or its designee, for prior approval, the name and qualifications of a
5 replacement monitor. Upon approval, the monitor shall assume immediate responsibility. If
6 Respondent fails to obtain approval of a replacement monitor within sixty (60) days of the
7 resignation or unavailability of the monitor, after notification by the Board, Respondent shall be
8 suspended from the practice of acupuncture until a replacement monitor is approved and prepared
9 to assume immediate monitoring responsibility.

10 Failure to maintain all records, or to make all appropriate records available for immediate
11 inspection and copying on the premises, or to comply with this condition as outlined above, is a
12 violation of probation.

13 3. COURSEWORK. Respondent, at his own expense, shall enroll and successfully
14 complete coursework substantially related to the violation(s) no later than the end of the first year
15 of probation.

16 The coursework shall be in addition to that required for license renewal. The Board or its
17 designee shall notify Respondent of the course content and number of hours required. Within
18 thirty (30) days of the Board's written notification of assigned coursework, Respondent shall
19 submit a written plan to comply with this requirement to the Board or its designee. The Board or
20 its designee shall approve such plan prior to enrollment in any course of study.

21 Upon successful completion of the coursework, Respondent shall submit "original"
22 completion certificates to the Board within thirty (30) days of course completion.

23 4. COMMUNITY SERVICE. Within sixty (60) days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee, for its prior approval, a
25 community service program in which Respondent shall provide volunteer services on a regular
26 basis to a community or charitable facility or agency for at least ten (10) hours per month for the
27 first six (6) months of probation. Such community service does not necessarily include
28 acupuncture service. Respondent shall ensure that the Board receives documentation and/or

1 certification of community service hours by the facility or agency on a quarterly basis. Failure to
2 complete the community service as set out hereinabove is grounds for filing a Petition to Revoke
3 Probation.

4 Completion of volunteer services on a regular basis to a community or charitable facility or
5 agency after the acts that gave rise to the charges in the Accusation, but prior to the effective date
6 of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the
7 fulfillment of this condition if the community service program would have been approved by the
8 Board or its designee had the program been taken after the effective date of this Decision.

9 5. OBEY ALL LAWS. Respondent shall obey all laws. A full and detailed account of
10 any and all violations of law shall be reported by the respondent to the Board or its designee in
11 writing within seventy-two (72) hours of occurrence. Respondent shall remain in full compliance
12 with any court ordered criminal probation terms, payments, and/or other orders.

13 6. QUARTERLY REPORTS. Respondent shall submit quarterly declarations under
14 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
15 compliance with all the conditions of probation. If the final probation report is not submitted as
16 directed, probation shall be extended automatically until such time as the final report is submitted
17 and accepted by the board or its designee.

18 7. SURVEILLANCE PROGRAM. Respondent shall comply with the Board's
19 probation surveillance program and shall, upon reasonable notice, report to the assigned probation
20 monitor. Respondent shall contact the assigned probation-monitor regarding any questions
21 specific to the probation order. Respondent shall not have any contact with 1) victims, witnesses,
22 and/or complainants associated with the case; 2) Board members and/or members of its staff; 3)
23 persons serving the Board as subject matter experts; and/or 4) persons who previously rendered
24 expert opinions on behalf of the Board in Respondent's disciplinary proceeding unless the
25 Respondent obtains prior approval from his or her assigned Board probation monitor to allow for
26 contact.

27 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall appear in
28 person for interviews with the Board or its designee upon request at various intervals and with or

1 without prior notice throughout the term of probation.

2 9. CHANGES OF EMPLOYMENT. Respondent shall notify the Board in writing,
3 through the assigned probation monitor, of any and all changes of employment, location and
4 employment address within thirty (30) days of such change.

5 10. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE. In the event
6 Respondent should leave California to reside, to vacation exceeding thirty (30) days, or to
7 practice outside the State, then Respondent must notify the Board or its designee in writing of the
8 dates of departure and return. Periods of residency or practice outside California will not apply to
9 the reduction of this probationary period.

10 For purposes of this condition, a Board-ordered suspension or non-practice in compliance
11 with any other condition of probation shall not be tolled.

12 11. EMPLOYMENT AND SUPERVISION OF TRAINEES. Respondent shall not
13 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
14 this probation. Respondent shall terminate any such supervisory relationship in existence on the
15 effective date of this probation. Respondent shall not teach at any Board approved training
16 program during the course of this probation.

17 12. COST RECOVERY. Respondent shall pay to the Board its costs of investigation and
18 enforcement in the amount of \$2,007.50. Respondent shall be permitted to pay these costs in a
19 payment plan approved by the Board or its designee, with payments to be completed no later than
20 three (3) months prior to the end of the probation term. Cost recovery will not be tolled.

21 At Respondent's request, if Respondent has not complied with this condition during the
22 probationary term, and Respondent has presented sufficient documentation of his good faith
23 efforts to comply with this condition, and if no other conditions have been violated, then the
24 Board or its designee, in its discretion, may grant an extension of Respondent's probation period
25 up to two (2) years without further hearing in order to comply with this condition. During the two
26 (2) years extension, all original conditions of probation will apply. The filing of bankruptcy by
27 Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its
28 investigation and prosecution costs.

1 13. VIOLATION OF PROBATION. If Respondent violates probation in any respect, the
2 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and
3 carry out the disciplinary order that was stated. If an Accusation or Petition to Revoke Probation
4 is filed against Respondent during probation, then the Board shall have continuing jurisdiction
5 until the matter is final, and the period of probation shall be extended until the matter is final. No
6 petition for modification or termination of probation shall be considered while there is an
7 Accusation or Petition to Revoke Probation pending against Respondent. If Respondent has not
8 complied with any term or condition of probation, then the Board shall have continuing
9 jurisdiction over Respondent, and probation shall automatically be extended until all terms and
10 conditions have been satisfied or the Board has taken other action as deemed appropriate to treat
11 the failure to comply as a violation of probation, to terminate probation, and to impose the penalty
12 which was stayed.

13 14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
14 with probation monitoring each and every year of probation, as designated by the Board or its
15 designee, which may be adjusted on an annual basis. Such costs shall be payable to the Board on
16 a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s)
17 as directed shall be considered a violation of probation.

18 15. LICENSE SURRENDER. Following the effective date of this Decision, if
19 Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
20 the terms and conditions of probation, then Respondent may request the voluntary surrender of
21 his or her license or registration. The Board or its designee reserves the right to evaluate
22 Respondent's request and to exercise its discretion whether or not to grant the request, or to take
23 any other action deemed appropriate and reasonable under the circumstances. Upon formal
24 acceptance of the surrender, Respondent shall, within fifteen (15) calendar days, deliver
25 Respondent's pocket and/or wall certificate to the Board or its designee and Respondent shall no
26 longer practice acupuncture. Upon formal acceptance of the tendered license, Respondent will no
27 longer be subject to the terms and conditions of probation.

28 Voluntary surrender of Respondent's license shall be considered to be disciplinary action

1 and shall become a part of Respondent's license history with the Board. Respondent may not
2 petition the Board for reinstatement of the surrendered license. If Respondent reapplies for an
3 acupuncture license, then the application shall be treated as a petition for reinstatement of a
4 revoked or surrendered license.

5 The Board's acceptance of the voluntary surrender of Respondent's license shall be
6 considered a disciplinary action, shall become a part of Respondent's license history with the
7 Board, and will be treated as if Respondent's license was revoked. If Respondent re-applies for a
8 medical license following his voluntary surrender, then the application shall be treated as a
9 petition for reinstatement of a revoked license.

10 16. SEVERABILITY CLAUSE. Each condition of probation is a separate and distinct
11 condition. If any condition of this Decision and Order, or any application thereof, is declared
12 unenforceable in whole, in part, or to any extent, then the remainder of this Decision and Order,
13 and all other applications thereof, shall not be affected. Each condition of this Decision and
14 Order shall separately be valid and enforceable to the fullest extent permitted by law.

15 17. NOTIFICATION OF NAME, ADDRESS, TELEPHONE NUMBER OR E-MAIL
16 ADDRESS CHANGES. Respondent shall notify the assigned probation monitor, in writing
17 within ten (10) days, of any and all name, address, telephone and/or e-mail address changes.

18 18. MAINTENANCE OF VALID LICENSE. Respondent shall, at all times, maintain an
19 active current license with the Board, including any period of suspension or tolled probation.

20 If an initial license must be issued (Statement of Issues) or a license is reinstated, then
21 probation shall not commence until a license is issued by the Board. Respondent must complete
22 the licensure process within two (2) years from the effective date of the Board's Decision.

23 Should Respondent's license expire, by operation of law or otherwise, upon renewal or
24 reinstatement, then Respondent's license shall be subject to any and all conditions of this
25 probation not previously satisfied.

26 19. COMPLETION OF PROBATION. Upon successful completion of probation,
27 Respondent's license will be fully restored.

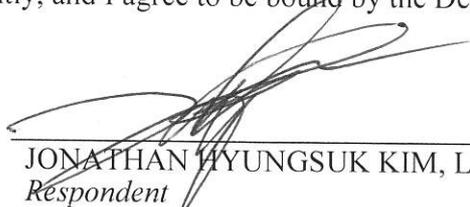
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and I have fully discussed it with my attorney, Keith Kim. I understand the stipulation and the effect it will have on my Acupuncturist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and I agree to be bound by the Decision and Order of the Acupuncture Board.

DATED: 9.11.17



JONATHAN HYUNGSUK KIM, L.AC.
Respondent

I have read and fully discussed with Respondent the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/11/17



KEITH KIM
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Acupuncture Board.

Dated: September 14, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

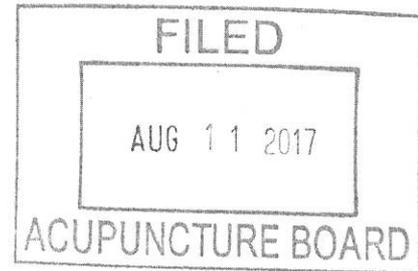

NICHOLAS B.C. SCHULTZ
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 1A-2017-61

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 NICHOLAS B.C. SCHULTZ
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9 **BEFORE THE
ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

10
11 In the Matter of the Accusation Against:

Case No. 1A-2017-61

12 JONATHAN HYUNGSUK KIM
3511 West Olympic Boulevard, #204
13 Los Angeles, California 90019

ACCUSATION

14 Acupuncturist License No. AC 11861,
15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
20 as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs (Board).
21 2. On or about October 16, 2007, the Acupuncture Board issued Acupuncturist License
22 No. AC 11861 to Jonathan Hyungsuk Kim (Respondent). The Acupuncturist License was in full
23 force and effect at all times relevant to the charges brought herein and it will expire on December
24 31, 2018, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 ///

1 4. 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 5. Section 4955 of the Code states:

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

9 “Unprofessional conduct shall include, but not be limited to, the following:

10 “... ”

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

13 “... ”

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

16 “... ”

17 6. Section 4955.1 of the Code states:

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

21 “... ”

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

24 “... ”

25 7. Section 4956 of the Code states:

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

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

8 8. Section 490 of the Code states:

9 “(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee’s license was issued.

17 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under the
22 provisions of Section 1203.4 of the Penal Code.

23 “(d) The Legislature hereby finds and declares that the application of this section has been
24 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
25 554, and that the holding in that case has placed a significant number of statutes and regulations
26 in question, resulting in potential harm to the consumers of California from licensees who have
27 been convicted of crimes. Therefore, the Legislature finds and declares that this section
28 establishes an independent basis for a board to impose discipline upon a licensee, and that the

1 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
2 to, but rather are declaratory of, existing law.”

3 9. Section 493 of the Code states:

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

13 “...”

14 **PENAL CODE SECTION**

15 10. Section 550 of the Penal Code states:

16 “(a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any
17 person to do any of the following:

18 “(1) Knowingly present or cause to be presented any false or fraudulent claim for the
19 payment of a loss or injury, including the payment of a loss or injury under a contract of
20 insurance.

21 “...”

22 “(c)(1) Every person who violates paragraph (1), (2), (3), (4), or (5) of subdivision (a) is
23 guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 for
24 two, three, or five years, and by a fine not exceeding fifty thousand dollars (\$50,000), or double
25 the amount of the fraud, whichever is greater.

26 “...”

27 ///

28 ///

1 COST RECOVERY

2 11. Section 4959 of the Code states:

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

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

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

15 “(d) In any judicial action for the recovery of costs, proof of the board’s decision shall be
16 conclusive proof of the validity of the order of payment and the terms for payment.

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

19 FACTUAL SUMMARY

20 12. On June 23, 2017, in the case entitled *The People of the State of California v.*
21 *Jonathan Hyungsuk Kim*, case number BA455219, in the Superior Court of California, County of
22 Los Angeles, Respondent, upon his plea of guilty, was convicted of Insurance Fraud in violation
23 of Penal Code section 550, subdivision (a), subsection (1), a felony. The remaining six counts of
24 Insurance Fraud, as well as other charges filed against Respondent, were dismissed pursuant to
25 the plea agreement between Respondent and the Los Angeles County District Attorney’s Office.
26 Respondent was placed on five years of formal probation with the following terms and conditions:

27 A. Serve forty-four (44) days in the Los Angeles County Jail with credit for time
28 served and considered served;

- 1 B. Perform two hundred (200) hours of community service work;
- 2 C. Seek and maintain training, schooling or employment as approved by the
- 3 probation officer;
- 4 D. Pay restitution in the amount of \$105,455.28 to State Farm Automobile
- 5 Insurance, Progressive Insurance, Infinity Insurance, Allstate Insurance, Mercury Insurance, and
- 6 Bristol West Insurance;
- 7 E. Maintain residence as approved by the probation officer;
- 8 F. Not own, use or possess any dangerous or deadly weapons, including any
- 9 firearms, knives or other concealable weapons;
- 10 G. Submit his person and property to search and seizure at any time of the day or
- 11 night, by any probation officer or other peace officer, with or without a warrant, probable cause or
- 12 reasonable suspicion;
- 13 H. Report to the probation officer within forty-eight (48) hours of release from
- 14 court and obey all rules and regulations of the probation department;
- 15 I. Provide buccal swab samples, a right thumb print, a full palm print impression
- 16 of each hand, any blood specimens or other biological samples as required for law enforcement
- 17 identification; and
- 18 J. Pay other fines, fees or costs at the direction of the Superior Court.

19 13. The circumstances leading to Respondent's conviction are as follows:

20 A. On January 1, 2013, G.K. and her passenger M.K.¹ were in an automobile crash
21 that occurred in Hesperia, California. Both G.K. and M.K. reported being injured in the crash and
22 an insurance claim was submitted to State Farm Automobile Insurance. Both G.K. and M.K.
23 reported that they received treatment from Respondent at his clinic, Smile Chiropractic, which is
24 located at 3511 West Olympic Boulevard in Los Angeles, California. A medical report furnished
25 by Smile Chiropractic indicated that G.K. received fifteen treatments from Respondent between
26 January 4, 2013 and March 19, 2013. A similar medical report furnished by Smile Chiropractic

27 ¹ These individuals are referred to by their initials in order to protect their privacy.

1 indicated that M.K. received eighteen treatments from Respondent between January 4, 2013 and
2 March 19, 2013.

3 B. On or about May 1, 2013, Respondent knowingly presented and caused to be
4 presented a false and fraudulent claim for the payment of a loss and injury, including payment of a
5 loss under a contract of insurance, in State Farm Automobile Insurance Claim No. 7515F7837.

6 C. On October 16, 2015, investigators with the Los Angeles County District
7 Attorney's Office interviewed M.K. The investigators learned that G.K. and M.K. are sisters and
8 that they were referred to Respondent's clinic by E.K., their other sister and attorney. M.K. told
9 the investigators that she received between ten and fifteen treatments from Respondent after
10 sustaining injuries from the automobile crash. Moreover, M.K. estimated that G.K. received less
11 than fifteen treatments from Respondent.

12 D. On October 11, 2016, investigators with the Los Angeles County District
13 Attorney's Office interviewed G.K. Although G.K. initially denied being in an automobile crash,
14 she eventually admitted to being the driver of one of the involved vehicles. Additionally, G.K.
15 reported that E.K. was her passenger in the vehicle and not M.K. as reported to State Farm
16 Automobile Insurance. According to G.K., she was referred to Respondent by E.K. for treatment
17 and M.K. accompanied her to these treatments for an unrelated pre-existing condition. Despite
18 the fact that G.K. was instructed to make twelve visits to Respondent's clinic, G.K. told the
19 investigators that she only had one chiropractic visit with Respondent.

20 E. State Farm Automobile Insurance paid \$4,500.00 to G.K. and \$5,000.00 to
21 M.K. in satisfaction of their insurance claim.

22 FIRST CAUSE FOR DISCIPLINE

23 **(Unprofessional Conduct - Conviction of a Substantially Related Crime)**

24 14. By reason of the facts set forth in paragraphs 12 and 13 above, Respondent's license
25 is subject to disciplinary action under Section 4955, subdivision (b), Section 4956, and Section
26 490 of the Code, in that Respondent has been convicted of a crime substantially related to the
27 qualifications, functions, or duties of an acupuncturist.

28 ///

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:

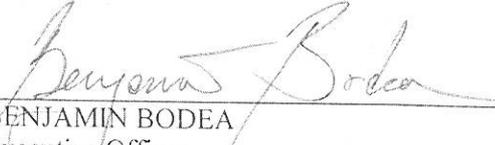
4 1. Revoking or suspending Acupuncturist License No. AC 11861 issued to Jonathan
5 Hyungsuk Kim;

6 2. Ordering Jonathan Hyungsuk Kim to pay the Acupuncture Board the reasonable costs
7 of the investigation and enforcement of this case, pursuant to Business and Professions Code
8 section 4959;

9 3. Ordering Jonathan Hyungsuk Kim, if placed on probation, to pay the Acupuncture
10 Board the costs of probation monitoring; and

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

12
13 DATED: AUG 11 2017


14 BENJAMIN BODEA
15 Executive Officer
16 Acupuncture Board
17 Department of Consumer Affairs
18 State of California
19 Complainant

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