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8	Attorneys for Complainant			
9				
10	BEFORE THE			
11	ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS			
12	STATE OF CALIFORNIA			
13				
14				
15	In the Matter of the Petition to Revoke Probation Against:			
16 17	BRENT JOSEPH BERTOLAMI18223 Snohomish AvenueSnohomish, WA 98296PETITION TO REVOKE PROBATION			
18	' Acupuncturist License No. AC 12979			
19	Respondent.			
20				
21	Complainant alleges:			
22	PARTIES			
23	1. Benjamin Bodea ("Complainant") brings this Petition to Revoke Probation solely in			
24	his official capacity as the Executive Officer of the Acupuncture Board, Department of Consumer			
25	Affairs ("Board").			
26	2. On or about February 24, 2009, the Acupuncture Board issued Acupuncturist License			
27	Number AC 12979 to Brent Joseph Bertolami ("Respondent"). The Acupuncturist License			
28	expired on December 31, 2016, has not been renewed, it is delinquent, and therefore not valid.			
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	PETITION TO REVOKE PROBATION (D1-2011-27)			

In a disciplinary action entitled "In the Matter of Accusation Against Brent Joseph 3. 1 Bertolami," Case No. 1A-2011-27, the Acupuncture Board, issued a decision, effective July 1, 2 .2015, in which Respondent's Acupuncturist License was revoked. However, the revocation was 3 stayed and Respondent's Acupuncturist License was placed on probation for a period of three (3) 4 years with certain terms and conditions. On July 6, 2015, Respondent's probationary license 5 status entered tolled status due to out-of-state residency. A copy of that decision is attached as 6 Exhibit A and is incorporated by reference. 7 JURISDICTION 8 4. This Petition to Revoke Probation is brought before the Board under the authority of 9 the following laws. All section references are to the Business and Professions Code ("Code") 10 unless otherwise indicated. 11 Section 4955 of the Code states: 5. 12 "The board may deny, suspend, or revoke, or impose probationary conditions upon, the 13 license of any acupuncturist if he or she is guilty of unprofessional conduct. 14 cc) 15 6. Section 4959 of the Code states: 16 17 "(a) The board may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the board, to direct any licensee found 18 guilty of unprofessional conduct to pay to the board a sum not to exceed actual and reasonable 19 costs of the investigation and prosecution of the case. 20 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in 21 any event be increased by the board. When the board does not adopt a proposed decision and 22 remands the case to an administrative law judge, the administrative law judge shall not increase 23 the amount of any costs assessed in the proposed decision. 24 25 "(c) When the payment directed in the board's order for payment of costs is not made by the licensee, the board may enforce the order for payment in the superior court in the county where 26 27 the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs. 28

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"(d) In any judicial action for the recovery of costs, proof of the board's decision shall be 1 conclusive proof of the validity of the order of payment and the terms for payment. 2 "(e) All costs recovered under this section shall be considered a reimbursement for costs 3 incurred and shall be deposited in the Acupuncture Fund." 4 Section 118 of the Code states: 5 7. "(a) The withdrawal of an application for a license after it has been filed with a board in the 6 department shall not, unless the board has consented in writing to such withdrawal, deprive the 7 board of its authority to institute or continue a proceeding against the applicant for the denial of 8 the license upon any ground provided by law or to enter an order denying the license upon any 9 10 such ground. "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a 11 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by 12 order of a court of law, or its surrender without the written consent of the board, shall not, during 13 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its 14 authority to institute or continue a disciplinary proceeding against the licensee upon any ground 15 provided by law or to enter an order suspending or revoking the license or otherwise taking 16 disciplinary action against the licensee on any such ground. 17 "(c) As used in this section, 'board' includes an individual who is authorized by any 18 provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 19 'registration,' and 'permit.'" 20 CAUSE TO REVOKE PROBATION 21 (Failure to Pay Cost Recovery) 22 8. At all times after the effective date of Respondent's probation, Condition 12 stated: 23 "12. COST RECOVERY 24 25 Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$8,892.50. This amount shall be paid in full, directly to the Board within six (6) 26 months prior to the termination date of probation. Cost recovery shall not be tolled. Respondent understands that failure to timely pay costs is a violation of probation, and 27 submission of evidence demonstrating financial hardship does not preclude the Board from 28 pursuing further disciplinary action. However, Respondent understands that providing 3

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1 2	evidence and supporting documentation of financial hardship may delay further disciplinary action. Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due."				
3	1996		revocation because he failed to		
4		ly with Probation Condition 12, referenced above. The facts and circumstances regarding			
5	this violation are as follows:				
6	A. On or about July	y 1, 2015, the Board's Decision	and Order became effective in case		
7					
8	six months prior to the original termination date of probation was January 1, 2018.				
9	On July 1, 2015, Respondent's probation was placed in tolled status due to his out-of-				
10	5		t in a letter dated July 6, 2015, that the		
11	tolling of probation would keep all of the probation terms in abeyance with the				
12	exception of the requirement to pay cost recovery and the requirement to notify the				
13	Board of changes in his address and telephone numbers. The Board also notified				
14	Respondent that he needed to provide a written payment plan showing how he would reimburse the Board as part of the cost recovery probation condition.				
15					
16	B. Respondent paid the following amounts on the following dates:				
17			2		
18	Date	Amount Paid	Balance Owed		
19	August 3, 2015	\$3,500.00	\$5,392.50		
20	September 1, 2015	\$154.07	\$5,238.43		
21	October 5, 2015	\$154.07	\$5,084.36		
22	November 5, 2015	\$154.07	\$4,930.29		
23	December 7, 2015	\$154.07	\$4,776.22		
24	January 8, 2018	\$154.07	\$4,622.15		
25			5 ⁵⁷ 64		
26	111				
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28	111				
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	 C. On December 31, 2016, the Respondent failed to renew his licensed to practice Acupuncture and the license entered delinquent status. The Board last received a cost recovery payment on January 8, 2018. Respondent continues to owe <u>\$4,622.15</u> and has not made any additional efforts in the last wave to be added and the license. 			
	 additional efforts in the last year to make cost recovery payments. Respondent's probationary license as set forth in Condition 12 is subject to revocation due to a failure to meet his cost recovery obligations. 			
	<u>PRAYER</u> WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the bearing the terms of terms of the terms of terms of the terms of terms o			
10 11	 Revoking the probation that was granted by the Acupuncture Board in Case No. 1A- 2011-27 and imposing the disciplinary order that was stayed thereby revoking Acupation and the stayed the sta			
12 13 14	 Revoking or suspending Acupuncturist License No. AC 12979, issued to Brant 			
15 16 17	3. Ordering Respondent Brent Joseph Bertolami to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this Petition to Revoke Probation, and if again placed on probation, the costs of probation monitoring; and,			
18 19 20	4. Taking such other and further action as deemed necessary and proper. DATED: FEB 11 2019 Deuton Montoling, and,			
21 22 23	BENJAMIN BODEA Executive Officer Acupuncture Board Department of Consumer Affairs State of California Complainant			
24 25	SA2019300059/33763535.docx			
26 27 28				
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Exhibit A

Decision and Order

Acupuncture Board Case No. 1A-2011-27