

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


In the Matter of the Amended Accusation)	
Against:)	Case No. 1A-2010-231
)	OAH No. 2011090546
KELLY HIJUNG KIM, L.AC.)	
9854 National Boulevard, #341)	
Los Angeles, CA 90034)	
)	
Acupuncture License No. AC 13978)	
)	
Respondent.)	
_____)	

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 JAN 04 2012.

It is so ORDERED DEC 05 2011.



Robert Brewer, Chair
Acupuncture Board
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 WENDY WIDLUS
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Attorneys for Petitioner

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

11 In the Matter of the Amended Accusation
12 Against:

13 **KELLY HIJUNG KIM**
14 **9854 National Boulevard, #341**
Los Angeles, CA 90034
15 **Acupuncture License No. AC 13978**

16 Respondent.

Case No. 1A-2010-231

OAH No. 2011090546

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

- 21 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Wendy Widlus, Deputy Attorney
24 General.
25 2. Respondent Kelly Hijung Kim (Respondent) is representing herself in this proceeding
26 and has chosen not to exercise her right to be represented by counsel.
27 3. On or about October 5, 2010, the Acupuncture Board issued Acupuncture License
28 No. AC 13978 to Kelly Hijung Kim (Respondent). The Acupuncture License was in full force

1 and effect at all times relevant to the charges brought in Amended Accusation No. 1A-2010-231
2 and will expire on December 31, 2011, unless renewed.

3 JURISDICTION

4 4. Amended Accusation No. 1A-2010-231 was filed before the Acupuncture Board
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Amended Accusation and all other statutorily required documents were properly served on
7 Respondent on October 20, 2011. Respondent timely filed her Notice of Defense contesting the
8 Amended Accusation.

9 A copy of Amended Accusation No. 1A-2010-231 is attached as Exhibit A and is
10 incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read and understands the charges and allegations in
13 Amended Accusation No. 1A-2010-231. Respondent has also carefully read and understands the
14 effects of this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Amended Accusation; the right to be represented by
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
18 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas
19 to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Amended
26 Accusation No. 1A-2010-231.

27 9. Respondent agrees that her Acupuncture License is subject to discipline and she
28 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Acupuncture Board. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Acupuncture Board may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
10 not be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

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

DISCIPLINARY ORDER

17
18 IT IS HEREBY ORDERED that Acupuncture License No. AC 13978 issued to Respondent
19 Kelly Hijung Kim (Respondent) is revoked. However, the revocation is stayed and Respondent is
20 placed on probation for five (5) years on the following terms and conditions.

21 1. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING
22 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to
23 ensure compliance for the duration of the probation period.

24 2. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all
25 regulations governing the practice of acupuncture in California. A full and detailed account of
26 any and all violations of law shall be reported by the Respondent to the Board in writing within
27 72 hours of occurrence.

28 3. QUARTERLY REPORTS Respondent shall submit quarterly declarations under

1 penalty of perjury on forms provided by the Board, stating whether there has been compliance
2 with all the conditions of probation.

3 4. SURVEILLANCE PROGRAM Respondent shall comply with the Board's
4 probation surveillance program and shall, upon reasonable notice, report to the assigned
5 investigative district office. Respondent shall contact the assigned probation surveillance monitor
6 regarding any questions specific to the probation order. Respondent shall not have any
7 unsolicited or unapproved contact with 1) victims or complainants associated with the case;
8 2) Board members or members of its staff; or 3) persons serving the Board as expert examiners.

9 5. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
10 person for interviews with the AC or its designee upon request at various intervals and with
11 reasonable notice.

12 6. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
13 through the assigned probation surveillance compliance officer of any and all changes of
14 employment, location and address within 30 days of such change.

15 7. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event
16 Respondent should leave California to reside or to practice outside the State, Respondent must
17 notify the Board in writing of the dates of departure and return. Periods of residency or practice
18 outside California will not apply to the reduction of this probationary period.

19 8. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
20 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
21 this probation. Respondent shall terminate any such supervisory relationship in existence on the
22 effective date of this probation.

23 9. COURSEWORK: ETHICS Respondent shall take and successfully complete not
24 less than two (2) semester units or three (3) quarter units of coursework in ethics. All coursework
25 shall be taken at the graduate level at a school approved by the Board. Classroom attendance must
26 be specifically required. Course content shall be pertinent to the violation and all coursework
27 must be completed within the first 3 years of probation. The required coursework must be in
28 addition to any continuing education courses that may be required for license renewal. Within 90

1 days of the effective date of this decision, respondent shall submit a plan for the Board's prior
2 approval for meeting the educational requirements. All costs of the coursework shall be borne by
3 the respondent.

4 10. COST RECOVERY Respondent shall pay to the Board its legal costs in the amount
5 of \$2,310.00.

6 11. VIOLATION OF PROBATION If Respondent violates probation in any respect, the
7 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and
8 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is
9 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
10 matter is final, and the period of probation shall be extended until the matter is final. No petition
11 for modification or termination of probation shall be considered while there is an accusation or
12 petition to revoke probation pending against Respondent.

13 12. COMPLETION OF PROBATION Upon successful completion of probation,
14 Respondent's license will be fully restored.

15 ACCEPTANCE

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Acupuncture License. I enter into this Stipulated
18 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
19 bound by the Decision and Order of the Acupuncture Board.
20

21 DATED: _____

22 KELLY HIJUNG KIM
23 Respondent

24 ENDORSEMENT

25 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
26 submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.
27
28

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ATTY GENERAL OFFICE

213 897 6326 P.006

1 days of the effective date of this decision, respondent shall submit a plan for the Board's prior
2 approval for meeting the educational requirements. All costs of the coursework shall be borne by
3 the respondent.

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5 of \$2,310.00.

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8 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is
9 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
10 matter is final, and the period of probation shall be extended until the matter is final. No petition
11 for modification or termination of probation shall be considered while there is an accusation or
12 petition to revoke probation pending against Respondent.

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17 stipulation and the effect it will have on my Acupuncture License. I enter into this Stipulated
18 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
19 bound by the Decision and Order of the Acupuncture Board.

20 DATED: 11/1/11
21 Kelly Hijung Kim
22 KELLY HIJUNG KIM
23 Respondent

24 ENDORSEMENT

25 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
26 submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.

27

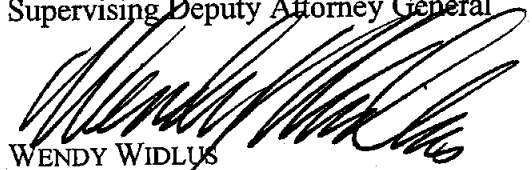
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Dated:

11/3/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



WENDY WIDLUS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Amended Accusation No. 1A-2010-231

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

In the Matter of the Amended Accusation
Against:

**KELLY HIJUNG KIM
9854 National Blvd., #341
Los Angeles, CA 90034
Acupuncture License No. AC 13978**

Respondent.

Case No. 1A-2010-231

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 _____.

It is so ORDERED _____.

FOR THE ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

FILED

OCT 20 2011

ACUPUNCTURE BOARD

1 KAMALA D. HARRIS
 Attorney General of California
 2 ROBERT MCKIM BELL
 Supervising Deputy Attorney General
 3 WENDY WIDLUS
 Deputy Attorney General
 4 State Bar No. 82958
 300 So. Spring Street, Suite 1702
 5 Los Angeles, CA 90013
 Telephone: (213) 897-2867
 6 Facsimile: (213) 897-9395
 E-mail: Wendy.Widlus@doj.ca.gov
 7 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 1A-2010-231

11 **KELLY HIJUNG KIM, L.Ac.**
 12 **9854 National Boulevard, #341**
 13 **Los Angeles, California 90034**

OAH No. 2011090546

AMENDED ACCUSATION

14 **Acupuncture License No. AC 13978**

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about October 5, 2010, the Board issued Acupuncture License Number AC
22 13978 to Kelly Hijung Kim (Respondent). This license was in full force and effect at all times
23 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

24 JURISDICTION

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

28 4. Section 4955 of the Code states:

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

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

4 "...

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

8 "...."

9 5. Section 4956 of the Code states:

10 AA plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
11 charge which is substantially related to the qualifications, functions, or duties of an acupuncturist
12 is deemed to be a conviction within the meaning of this chapter.

13 AThe board may order a license suspended or revoked, or may deny a license, or may
14 impose probationary conditions upon a license, when the time for appeal has elapsed, or the
15 judgment of conviction has been affirmed on appeal, or when an order granting probation is made
16 suspending the imposition of sentence irrespective of a subsequent order under the provisions of
17 Section 1203.4 of the Penal Code allowing the person to withdraw his or her pleas of guilty and to
18 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
19 complaint, information, or indictment.@

20 6. Section 4959 of the Code states:

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

26 "(b) The costs to be assessed shall be fixed by the administrative law judge and
27 shall not in any event be increased by the board. When the board does not adopt a
28 proposed decision and remands the case to an administrative law judge, the

1 administrative law judge shall not increase the amount of any costs assessed in the
2 proposed decision.

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

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

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

13 CAUSE FOR DISCIPLINE

14 (Conviction of a Crime)

15 7. Respondent is subject to disciplinary action under Code sections 4955, subdivision
16 (b) and 4956, in that she was convicted of a crime substantially related to the qualifications,
17 functions and duties of an acupuncturist. The circumstances are as follows:

18 8. On or about December 15, 2010, Los Angeles Police Department Vice Officers
19 arrested Respondent for solicitation of prostitution, in violation of Penal Code 647, subdivision
20 (b), a misdemeanor.

21 9. On or about January 3, 2011, in the matter entitled *The People of the State of*
22 *California vs. Hijung Kelly Kim*, in Los Angeles County Superior Court, Case No. OPY07584,
23 Respondent was charged with solicitation of prostitution, in violation of Penal Code section 647,
24 subdivision (b), a misdemeanor.

25 10. On or about March 23, 2011, Respondent pled nolo contendere to solicitation of
26 prostitution, in violation of Penal Code section 647, subdivision (b). She was placed on probation
27 for two years under the following terms and conditions:

28 a. Perform 10 days of CAL TRANS;

- 1 b. Pay assessments and fines in the amount of \$195.00;
- 2 c. Do not use or possess any narcotics, dangerous drugs or associated paraphernalia;
- 3 d. Do not engage or offer to engage in any sexual activity in a public place;
- 4 e. Do not loiter in or near any public restroom;
- 5 f. Do not engage drivers in conversation, hitchhike, loiter, or congregate with the
- 6 specific intent to solicit acts of prostitution;
- 7 g. Stay 100 yards away from 5222 Vineland;
- 8 h. Submit to an aids test;
- 9 i. Complete an aids education class; and
- 10 j. Do not own or operate a massage or escort business without a valid permit from the
- 11 police commission.

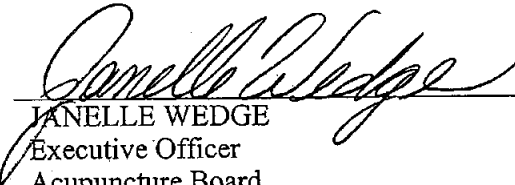
12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,

14 and that following the hearing, the Acupuncture Board issue a decision:

- 15 1. Revoking or suspending Acupuncture License Number AC 13978 issued to Kelly
- 16 Hijung Kim;
- 17 2. Ordering her to pay the Acupuncture Board the reasonable costs of the investigation
- 18 and enforcement of this case pursuant to Business and Professions Code section 4959;
- 19 3. If placed on probation, ordering her to pay the Acupuncture Board the costs of
- 20 probation monitoring; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: **OCT 20 2011**


23 _____
24 JANELLE WEDGE
25 Executive Officer
26 Acupuncture Board
27 Department of Consumer Affairs
28 State of California
Complainant