

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

In the Matter of the Statement of Issues)
Against:)
)
LAWRANCE H. TSAI)
1373 Lasuen Drive)
Millbrae, CA 94030)
)
)
Applicant/Respondent.)
_____)


Case No. 1A-2010-138

DECISION AND ORDER

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

This Decision shall become effective on **OCT 01 2011** .

It is so ORDERED **SEP 01 2011** .



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

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 State Bar No. 97276
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Attorneys for Complainant

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

10 In the Matter of the Statement of Issues
11 Against:

Case No. 1A-2010-138

12 **LAWRANCE H. TSAI**
13 **1373 Lasuen Drive**
Millbrae, CA 94030

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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16 Applicant/Respondent.

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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 Catherine E. Santillan, Senior Legal
24 Analyst.

25 2. Applicant Lawrance H. Tsai (Respondent) is represented in this proceeding by
26 attorney Ray Hsu, whose address is Law Offices of Ray Hsu, 150 N. Santa Anita Ave., Suite 490,
27 Arcadia, CA 91006.
28

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Acupuncture Board. Applicant
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 Applicant or his counsel. By signing the stipulation, Applicant understands
6 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
7 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
8 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
9 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
10 and the Board shall 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:

17 DISCIPLINARY ORDER

18 IT IS HEREBY ORDERED that an Acupuncture license will be issued to Applicant
19 Lawrance H. Tsai and immediately revoked. The revocation will be stayed and the Applicant
20 placed on five (5) years probation on the following terms and conditions.

21 1. DRUG AND ALCOHOL ABUSE TREATMENT Effective 30 days from the date
22 of this Decision, respondent shall enter an inpatient or outpatient drug or alcohol abuse recovery
23 program [a minimum of six (6) months] or an equivalent program approved by the Board.

24 Quitting the program without permission or being expelled for cause shall constitute a
25 violation of probation by respondent. Subsequent to the program, respondent shall participate in
26 on-going treatment such as receiving individual and/or group therapy from a psychologist trained
27 in alcohol and drug abuse treatment; and/or attend Twelve-Step meetings or the equivalent as
28 approved by the Board at least three times a week during the first year of probation: and/or other

1 substance abuse recovery program approved by the Board. Respondent shall pay all costs of
2 treatment and therapy, and provide documentation of attendance at Twelve-Step meetings or the
3 equivalent as approved by the Board. This psychologist shall confirm that respondent has
4 complied with the requirements of this Decision and shall notify the Board immediately if he or
5 she believes that respondent cannot safely render acupuncture services. Respondent shall execute
6 a release authorizing the psychologist to divulge the aforementioned information to the Board.

7 An inpatient or outpatient drug or alcohol abuse recovery program taken after the facts that
8 gave rise to the charges in the Statement of Issues, but prior to the effective date of the Decision
9 may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this
10 condition if the program would have been approved by the Board or its designee had the program
11 been taken after the effective date of the Decision.

12 2. REIMBURSEMENT FOR PROBATION SURVEILLANCE MONITORING

13 Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to
14 ensure compliance for the duration of the probation period.

15 3. COURSEWORK Respondent shall take and successfully complete an Ethics course.

16 The duration of the Ethics course shall be not less than two (2) semester units or three (3) quarter
17 units. All coursework shall be taken at the graduate level at a school approved by the Board.
18 Classroom attendance must be specifically required. Course content shall be pertinent to the
19 violation and all coursework must be completed within the first 3 years of probation. The
20 required coursework must be in addition to any continuing education courses that may be
21 required for license renewal.

22 Within 90 days of the effective date of this decision, respondent shall submit a plan for the
23 Board's prior approval for meeting the educational requirements. All costs of the coursework
24 shall be borne by the respondent.

25 4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all

26 regulations governing the practice of acupuncture in California. A full and detailed account of
27 any and all violations of law shall be reported by the respondent to the Board in writing within
28 seventy-two (72) hours of occurrence.

1 5. ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND
2 SAMPLES Respondent shall abstain completely from the personal use or possession of
3 controlled substances as defined in the California Uniform Controlled Substances Act (Division
4 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by
5 Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.
6 Respondent shall abstain completely from the use of alcoholic beverages. Respondent shall
7 undergo random, biological fluid testing as determined by the Board. Respondent shall bear all
8 costs of such testing. The length of time and frequency will be determined by the Board. Any
9 confirmed positive finding will be considered a violation of probation.

10 6. EMPLOYMENT AND SUPERVISION OF TRAINEES Respondent shall not
11 employ or supervise or apply to employ or supervise acupuncture trainees during the course of
12 this probation. Respondent shall terminate any such supervisory relationship in existence on the
13 effective date of this probation.

14 7. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
15 penalty of perjury on forms provided by the Board, stating whether there has been compliance
16 with all the conditions of probation.

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

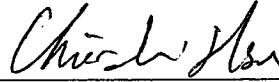
23 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in
24 person for interviews with the Board or its designee upon request at various intervals and with
25 reasonable notice.

26 10. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing,
27 through the assigned probation surveillance compliance officer of any and all changes of
28 employment, location and address within 30 days of such change.

1 I have read and fully discussed with Applicant Lawrance H. Tsai the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED:

8/1/2011



Ray Hsu
Attorney for Respondent


7 ENDORSEMENT

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

10 Dated: August 8, 2011

Respectfully submitted,

11 KAMALA D. HARRIS
12 Attorney General of California
13 JOSE R. GUERRERO
Supervising Deputy Attorney General

14 
15 CATHERINE E. SANTILLAN
16 Senior Legal Analyst
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 1A-2010-138

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
State Bar No. 97276
3 Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
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FILED

JUL 12 2011

ACUPUNCTURE BOARD

7
8 **BEFORE THE**
ACUPUNCTURE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. 1A-2010-138

12 **LAWRANCE H. TSAI**
13 **1373 Lasuen Drive**
Millbrae, CA 94030

STATEMENT OF ISSUES

14
15 Applicant.

16
17 Complainant alleges:

18 PARTIES

- 19 1. Janelle Wedge (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Acupuncture Board, Department of Consumer Affairs.
21 2. On or about March 23, 2011, the Acupuncture Board, Department of Consumer
22 Affairs received an application for an Acupuncture license from Lawrance H. Tsai (Applicant).
23 On or about March 22, 2011, Applicant certified under penalty of perjury to the truthfulness of all
24 statements, answers, and representations in the application. The Board denied the application on
25 April 25, 2011. Applicant requested a hearing on May 18, 2011.

JURISDICTION

1
2 3. This Statement of Issues 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 upon, the
7 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
12 thereof."

13 "..."

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

16 5. Section 475 of the Code states:

17 "(a) Notwithstanding any other provisions of this code, the provisions of this division shall
18 govern the denial of licenses on the grounds of:

19 "..."

20 "(2) Conviction of a crime.

21 "(4) Commission of any act which, if done by a licentiate of the business or
22 profession in question, would be grounds for suspension or revocation of license.

23 "..."

24 "(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good
25 moral character or any similar ground relating to an applicant's character, reputation, personality,
26 or habits."

27 6. Section 480 of the Code states:

1 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
2 one of the following:

3 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
4 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
5 board is permitted to take following the establishment of a conviction may be taken when the
6 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
7 an order granting probation is made suspending the imposition of sentence, irrespective of a
8 subsequent order under the provisions of Section 1203.4 of the Penal Code.

9 "..."

10 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
11 would be grounds for suspension or revocation of license.

12 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
13 substantially related to the qualifications, functions, or duties of the business or profession for
14 which application is made.

15 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
16 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
17 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
18 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
19 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
20 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
21 Section 482.

22 7. Section 490 of the Code states:

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

27 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
2 of the business or profession for which the licensee's license was issued.

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

9 "..."

10 8. Section 493 of the Code states:

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

20 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
21 'registration.'"

22 CAUSE FOR DENIAL OF APPLICATION

23 (Conviction)

24 9. Applicant's application is subject to denial under code sections 475(1)(2), 480(A)(1)
25 480(3)(B), 490(a) and (c), and 4955(b) in that he has two substantially related misdemeanor
26 convictions. The circumstances are as follows:
27
28

2010 DUI conviction

1
2 10. On or about October 20, 2009, at approximately 5:06 p.m., California Highway Patrol
3 Officer Tharp investigated a report of a reckless driver on Main Street in Saint Helena, California.
4 He observed a vehicle matching the report, and conducted a traffic stop. The driver was
5 identified as Applicant, via his driver's license. As the officer spoke to Applicant, the officer
6 smelled a strong odor of alcohol and observed that Applicant appeared to have red wine stains on
7 his mouth. Applicant admitted that he drank a total of six glasses of wine at two wineries earlier
8 that day. Per the officer's instructions, Applicant performed field sobriety tests. Based on his
9 poor performance, objective symptoms of intoxication, admission of drinking alcohol, and poor
10 driving behavior, the officer formed the opinion that Applicant was under the influence of alcohol
11 and arrested Applicant for violating Vehicle Code section 23152(a) [driving under the influence
12 of alcohol] and Vehicle Code section 23152(b) [driving with a blood alcohol content of .08% or
13 more]. A blood sample was obtained from Applicant, which indicated a blood alcohol content of
14 .16%.

15 11. On or about April 1, 2010, in *People of the State of California vs. Lawrance H. Tsai*,
16 Napa County Superior Court case number CR149009, Applicant was convicted on his plea of
17 nolo contendere to a misdemeanor violation of Vehicle Code section 23152(b) [driving with a
18 blood alcohol content above .08%], and he admitted a special allegation per Vehicle Code section
19 23578 [excessive blood alcohol above .15%]. He was sentenced as follows: summary probation
20 for five years under terms and conditions, including payment of fines, serve ten days in jail with
21 credit for two days served, interlock ignition device installed for two years, enroll and
22 successfully complete an 18 month Drinking Drivers Program.

2005 DUI conviction

23
24 12. On or about February 24, 2005, in *People of the State of California vs. Lawrance H.*
25 *Tsai*, Los Angeles County Superior Court case number 5PM00551, Applicant was convicted on
26 his plea of nolo contendere to a misdemeanor violation of Vehicle Code section 23152(b) [driving
27 with a blood alcohol content above .08%.] He was sentenced to three years formal probation,
28

1 ordered to pay fines, enroll and successfully complete a three month First Offender alcohol and
2 drug education program, and his driving privileges were restricted for 90 days.


3 13. Therefore, Applicant's application is subject to denial based on his two misdemeanor
4 convictions for violating Vehicle Code section 23152(b) [driving with a blood alcohol content
5 above .08%] which are substantially related to the qualifications, functions and duties of an
6 acupuncturist and are in violation of code sections 475(1)(2), 480(A)(1) 480(3)(B), 490(a) and
7 (c), and 4955(b).

8 PRAYER

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

- 11 1. Denying the application of Lawrance H. Tsai for an Acupuncture license;
- 12 2. Taking such other and further action as deemed necessary and proper.

13 DATED: **JUL 12 2011**


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

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