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

11 In the Matter of the Accusation Against:	Case No. 1A-2015-132
12 JIAN WEI SHOU	A C C U S A T I O N
13 2117 Main Street	
14 Santa Clara, CA 95050	
15 Acupuncture License No. AC 15022	
16 Respondent.	

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Benjamin Bodea (Complainant) brings this Accusation solely in his official capacity
21 as the Acting Executive Officer of the Acupuncture Board.
- 22 2. On or about September 24, 2012, the Board issued Acupuncture License Number AC
23 15022 to Jian Wei Shou (Respondent). The Acupuncture License was in full force and effect at
24 all times relevant to the charges brought herein and will expire on October 31, 2017, unless
25 renewed.

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1 JURISDICTION

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

5 4. Section 4928.1 of the Code states:

6 “Protection of the public shall be the highest priority for the Acupuncture Board in
7 exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the
8 public is inconsistent with other interests sought to be promoted, the protection of the public shall
9 be paramount.”

10 5. Section 4955 of the Code states:

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

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

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

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

20 6. Section 4955.1 of the Code states:

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

24 “(b) Committing a fraudulent or dishonest act as an acupuncturist.

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

27 “(d) Altering or modifying the medical record of any person, with fraudulent
28 intent, or creating any false medical record.

1 7. Section 4956 of the Code states:

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

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

12 **COST RECOVERY**

13 8. Section 4959 of the Code states:

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

18 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall
19 not in any event be increased by the board. When the board does not adopt a
20 proposed decision and remands the case to an administrative law judge, the
21 administrative law judge shall not increase the amount of any costs assessed in the
22 proposed decision.

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

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

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

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct: Conviction of a Crime)**

7 9. Respondent is subject to disciplinary action for unprofessional conduct under Code
8 section 4955, section 4955(b) (Substantially Related Conviction), section 4955(d) (Violation of
9 Board Rules/Regulations) and section 4956 (Criminal Conviction) based on the following
10 circumstances:

11 10. On or about February 17, 2015, the Santa Clara District Attorney's Office was
12 notified by Anthem Blue Cross of possible law violations by Teacher Chen Healthcare involving
13 fraudulent insurance claims.

14 11. Teacher Chen Healthcare is a business operated by Respondent and his mother,
15 Jufang Chen (Lucy), that provides massage and acupuncture treatments.

16 12. Beginning in 2010, Respondent contracted with several technology companies in
17 Santa Clara County to provide massage and acupuncture treatments at on-site athletic facilities.

18 13. During the course of the investigation of the Santa Clara District Attorney's Office, it
19 was discovered that from approximately August 31, 2010 to May 29, 2015, Respondent and Ms.
20 Chen sent numerous fraudulent health insurance bills to Anthem Blue Cross for treatments that
21 were not rendered.

22 14. The investigation revealed that clients of Teacher Chen Healthcare were provided
23 massage treatments, however, Respondent billed Anthem Blue Cross for acupuncture treatments
24 that were never provided.

25 15. Clients who received massages from Teacher Chen Healthcare were instructed by
26 Respondent and Ms. Chen that if contacted by their insurance company, they should say they had
27 received a one-hour acupuncture treatment, as massages are not covered by insurance.
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1 Blue Cross for services that were never rendered.

2 PRAYER

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

- 5 1. Revoking or suspending Acupuncture License Number AC 15022, issued to Jian Wei
- 6 Shou;
- 7 2. Ordering Jian Wei Shou to pay the Board the reasonable costs of the investigation and
- 8 enforcement of this case, pursuant to Business and Professions Code section 4959;
- 9 3. Taking such other and further action as deemed necessary and proper.

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DATED: **AUG 23 2016**


 Benjamin Bodea
 Acting Executive Officer
 Acupuncture Board
 State of California
Complainant

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