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Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 1A-2008-114

13 **PETER KWAI LUK, A.C.**
Post Office Box 26832
Fresno, CA 93729

OAH No. 2009120801

14 Acupuncturist License No. AC 5572

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.

16
17 In the interest of a prompt and speedy resolution of this matter, consistent with the public
18 interest and the responsibility of the Acupuncture Board of the Department of Consumer Affairs
19 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
20 submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 **PARTIES**

22 1. Janelle Wedge (Complainant) is the Executive Officer of the Acupuncture Board.
23 She brought this action solely in her official capacity and is represented in this matter by Edmund
24 G. Brown Jr., Attorney General of the State of California, by Mara Faust, Deputy Attorney
25 General.

26 2. Peter Kwai Luk, A.C. (Respondent) is represented in this proceeding by attorney Ann
27 H. Larson, whose address is McNamara Law Firm, 1211 Newell Avenue, Walnut Creek, CA
28 94596.

1 thereby subjected his Acupuncture license to disciplinary action. Respondent further agrees to be
2 bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

3 9. Respondent further agrees that if he ever files an application for licensure or a petition
4 for reinstatement in the State of California, all of the charges and allegations contained in
5 Accusation No. 1A-2008-114 shall be deemed true and correct and fully admitted by Respondent
6 for the purposes of such proceedings in the State of California.

7 10. Respondent understands that by signing this stipulation he enables the Board to issue
8 an order accepting the surrender of his Acupuncturist License without further process.

9 **CONTINGENCY**

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

19 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
20 License and Order, including facsimile signatures thereto, shall have the same force and effect as
21 the originals.

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the (Board) may, without further notice or formal proceeding, issue and enter the following
24 Order:

25 ///

26 ///

27 ///

28 ///

1 **ORDER**

2 IT IS HEREBY ORDERED that Acupuncturist License No. AC 5572, issued to
3 Respondent Peter Kwai Luk, A.C., is surrendered and accepted by the Acupuncture Board.

4 14. The surrender of Respondent's Acupuncturist License and the acceptance of the
5 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
6 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
7 license history with the Board.

8 15. Respondent shall lose all rights and privileges as an Acupuncturist in California as of
9 the effective date of the Board's Decision and Order.

10 16. Respondent shall cause to be delivered to the Board both his wall license certificate
11 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

12 17. If Respondent ever files an application for licensure or a petition for reinstatement in
13 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
14 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
15 effect at the time the petition is filed, and all of the charges and allegations contained in
16 Accusation No. 1A-2008-114 shall be deemed true, correct and admitted by Respondent when the
17 Board determines whether to grant or deny the petition.

18 18. If Respondent ever files an application for licensure or a petition for reinstatement in
19 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
20 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
21 effect at the time the petition is filed, and all of the charges and allegations contained in
22 Accusation No. 1A-2008-114 shall be deemed to be true, correct and admitted by Respondent
23 when the Board determines whether to grant or deny the petition.


24 19. Respondent shall pay the Board its costs of investigation and enforcement in the
25 amount of \$5,000 prior to issuance of a new or reinstated license.

26 **ACCEPTANCE**

27 I have carefully read the above Stipulated Surrender of License and Order and have fully
28 discussed it with my attorney, Ann H. Larson. I understand the stipulation and the effect it will

1 have on my Acupuncturist License. I enter into this Stipulated Surrender of License and Order
2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
3 Acupuncture Board.

4
5 DATED: 6/23/10


6 PETER KWAI LUK, A.C.
7 Respondent

8 I have read and fully discussed with Respondent Peter Kwai Luk, A.C. the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
10 I approve its form and content.

11 DATED: _____

ANN H. LARSON
12 Attorney for Respondent

13 **ENDORSEMENT**

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
15 for consideration by the Acupuncture Board of the Department of Consumer Affairs.

16
17 Dated: June _____, 2010

Respectfully submitted,

18 EDMUND G. BROWN JR.
19 Attorney General of California
20 GAIL M. HEPPELL
21 Supervising Deputy Attorney General

22 MARA FAUST
23 Deputy Attorney General
24 *Attorneys for Complainant*

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26 10583114.doc

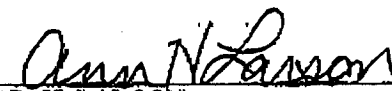
1 have on my Acupuncturist License. I enter into this Stipulated Surrender of License and Order
2 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
3 Acupuncture Board.

4
5 DATED: 6/23/10


6 PETER KWAI LUK, A.C.
7 Respondent

8 I have read and fully discussed with Respondent Peter Kwai Luk, A.C. the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
10 I approve its form and content.

11 DATED: 6/23/10

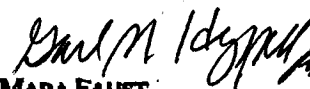

12 ANN H. LARSON
13 Attorney for Respondent

14 **ENDORSEMENT**

15 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
16 for consideration by the Acupuncture Board of the Department of Consumer Affairs.

17 Dated: June 25, 2010

18 Respectfully submitted,
19 EDMUND G. BROWN JR.
20 Attorney General of California
21 GAIL M. HEFFEL
22 Supervising Deputy Attorney General


23 MARA FAUST
24 Deputy Attorney General
25 Attorneys for Complainant

26 SA2008307144
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Exhibit A

Accusation No. 1A-2008-114

COPY

FILED

MAY 28 2009

ACUPUNCTURE BOARD

1 EDMUND G. BROWN JR., Attorney General
 of the State of California
 2 GAIL M. HEPPELL
 Supervising Deputy Attorney General
 3 JENNIFER N. PAREDES, State Bar No. 228103
 Deputy Attorney General
 4 1300 I Street, Suite 125
 P.O. Box 944255
 5 Sacramento, CA 94244-2550
 Telephone: (916) 324-5389
 6 Facsimile: (916) 327-2247

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-2008-114

11 **PETER KWAI LUK, A.C.**
 12 Post Office Box 26832
 Fresno, CA 93729

A C C U S A T I O N

13 Acupuncturist License No. AC 5572

14 Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Janelle Wedge (Complainant) brings this Accusation solely in her official
18 capacity as the Executive Officer of the Acupuncture Board.

19 2. On or about February 19, 1997, the Acupuncture Board issued
20 Acupuncturist License Number AC 5572 to Peter Kwai Luk, A.C. (Respondent). Unless
21 renewed, the license will expire on March 31, 2010.

22 **JURISDICTION**

23 3. This Accusation is brought before the Acupuncture Board, under the
24 authority of the following laws. All section references are to the Business and Professions Code
25 unless otherwise indicated.

26 4. Section 4955 of the Code states:
27

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

3 5. Section 4955.2 of the Code states:

4 "The board may deny, suspend, revoke, or impose probationary conditions upon
5 the license of any acupuncturist if he or she is guilty of committing any one of the
6 following:

7 "(a) Gross negligence.

8 "(b) Repeated negligent acts.

9 "(c) Incompetence."

10 6. Section 726 of the Code states:

11 "The commission of any act of sexual abuse, misconduct, or relations with a patient,
12 client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any
13 person licensed under this division, under any initiative act referred to in this division and under
14 Chapter 17 (commencing with Section 9000) of Division 3.

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Sexual misconduct)

17 [Bus. & Prof. Code section 726]

18 7. Respondent is subject to disciplinary action under section 726 in that
19 Respondent's conduct constituted sexual misconduct. The circumstances are as follows:

20 8. On or about September 18, 2008, J.P.¹ arrived for a scheduled appointment
21 with Respondent at his business located at 371 E. Bullard Ave. in Fresno, California. J.P.
22 sought treatment from Respondent for fibromyalgia and endometriosis.

23 9. Upon arrival at Respondent's place of business, Respondent first
24 interviewed J.P. to discuss her medical conditions for which she sought treatment. Respondent
25 documented complaints of fibromyalgia, endometriosis, rectal bleeding during menstruation,
26 pain, anxiety, chest tightness, and palpitations. Next, after directing J.P. to remove her clothes
27 and don a robe, Respondent administered acupuncture to J.P. Following removal of the

28

1. To protect patient confidentiality in a case involving sexual misconduct, the
complaining witness will be referred to by only her initials in all public documents.

1 acupuncture needles, Respondent proceeded to massage J.P.'s chest between her breasts,
2 occasionally grazing her breasts.

3 10. Following treatment on September 18, 2008, J.P. scheduled another
4 appointment for September 19, 2008. When J.P. arrived on September 19, 2008, she described
5 to Respondent feeling heightened anxiety the previous night. Respondent documented in his
6 notes complaint of whole body pain and frequent body twitching. After J.P. changed into a robe,
7 Respondent administered acupuncture to J.P.'s back. Upon removal of the needles from her
8 back, Respondent told J.P. to turn over to treat her front. During this treatment, Respondent
9 massaged J.P.'s breasts.

10 11. J.P. returned for a third scheduled appointment on September 20, 2008.
11 Respondent advised J.P. to change into a robe and engaged J.P. in conversation about her weight.
12 Respondent repeated the treatment he administered the previous day, including the breast
13 massage, commenting that the breast massage would relieve stress.

14 12. J.P. returned for a fourth scheduled appointment on September 22, 2008.
15 Respondent gave J.P. a robe to wear and advised her he would treat her that day for her
16 endometriosis. Respondent had J.P. lie on her stomach while he administered acupuncture and
17 massaged her buttocks and thighs. Respondent then told J.P. to turn over and lie on her back.
18 Respondent stood to J.P.'s right as she turned over and closed her eyes. J.P. felt something wet
19 on her left nipple and opened her eyes to see Respondent sucking on her left nipple. J.P. pushed
20 Respondent away and accused him of sucking her nipple. Respondent repeatedly apologized and
21 J.P. ended the session and left the office.

22 13. Respondent failed to document in his notes of treatment from September
23 18, 19, 20, or 22 that he administered acupuncture or acupressure to any points on J.P.'s breasts
24 to treat any symptoms she presented to him. Instead, Respondent's records of treatment
25 indicated that the closest points of treatment to the breast he documented were "SP. 21" located
26 in the armpit, "LV. 14" located in the midsection of the rib cage well below the breast, "CV. 17"
27 located on the sternum at the nipple line in the middle of the chest, and on September 22, 2008,
28 "Lung 1" and "Lung 2" located near the collar bone.

1 14. Respondent's conduct as set forth below constitutes sexual misconduct
2 and his license is subject to discipline within the meaning of section 726:

- 3 a. Respondent massaged J.P.'s breasts September 19, 20, and 22,
4 2008.
5 b. Respondent placed his mouth on J.P.'s nipple September 22, 2008.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Unprofessional conduct)
8 [Bus. & Prof. Code section 4955]

9 15. Complainant realleges paragraphs 7 through 13 as if fully set forth herein.

10 16. Respondent is subject to disciplinary action under section 4955 in that
11 Respondent's conduct constituted unprofessional conduct as follows:

- 12 a. Respondent massaged J.P.'s breasts September 19, 20, and 22,
13 2008.
14 b. Respondent placed his mouth on J.P.'s nipple September 22, 2008.

15 **THIRD CAUSE FOR DISCIPLINE**

16 (Gross Negligence)
17 [Bus. & Prof. Code section 4955.2]

18 17. Complainant realleges paragraphs 7 through 13 as if fully set forth herein.

19 18. Respondent is subject to disciplinary action under section 4955 in that
20 Respondent's conduct constituted unprofessional conduct as follows:

- 21 a. Respondent massaged J.P.'s breasts September 19, 20, and 22,
22 2008.
23 b. Respondent placed his mouth on J.P.'s nipple September 22, 2008.

24 **PRAAYER**

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

- 27 1. Revoking or suspending Acupuncturist License Number AC 5572, issued
28 to Peter Kwai Luk, A.C. Peter Kwai Luk, AC.

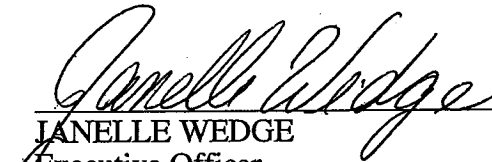
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2. Ordering Peter Kwai Luk, AC to pay the Acupuncture Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 4959;

3. Taking such other and further action as deemed necessary and proper.

DATED: MAY 28 2009


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

DECLARATION OF SERVICE BY MAIL

In the Matter of the Accusation Against:

PETER KIWAI LUK

Case No. 1A-2008-114

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 444 N. 3rd Street, Suite 260, Sacramento, CA 95811-0228. I served a true copy of the attached:

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

by certified/regular mail on each of the following, by placing same in an envelope(s) addressed (respectively) as follows:

NAME and ADDRESS

CERTIFIED MAIL NO.

Peter Kiwai Luk
PO Box 26832
Fresno, CA 93729

7009 1410 0002 2164 0580

Mara Faust, Deputy Attorney General
California Department of Justice
Office of the Attorney General/HQE
1300 I St., Ste. 125
Sacramento, CA 94244-2550

regular mail

Gail Heppell, Supervising Deputy Attorney General
California Department of Justice
Office of the Attorney General/HQE
1300 I St., Ste. 125
Sacramento, CA 94244-2550

regular mail

Ann H. Larson
McNamara Law Firm
1211 Newell Ave.
Walnut Creek, CA 94596

regular mail

Each said envelope was, on August 10, 2010, sealed and deposited in the U.S. mail at Sacramento, California, the county in which I am employed, with the postage thereon fully prepaid for an attempt at service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 10, 2010 at Sacramento, California.



DECLARANT