

1 EDMUND G. BROWN JR.
Attorney General of California
2 TRINA L. SAUNDERS
Acting Supervising Deputy Attorney General
3 MARGARET PHE
Deputy Attorney General
4 State Bar No. 207205
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 576-7776
6 Facsimile: (213) 897-9395
Attorneys for Complainant
7

FILED

OCT 12 2010

ACUPUNCTURE BOARD

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

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

Case No. 1A-2010-16

12 JOHN KOK-HONG CHEUNG

STATEMENT OF ISSUES

13 9471 Cortada Street, #28
14 El Monte, California 91733,

15 Respondent.

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 (Board).
21 2. On or about March 22, 2010, the Acupuncture Board received an application for an
22 Acupuncture License from John Kok-Hong Cheung (Respondent). On or about March 18, 2010,
23 John Kok-Hong Cheung certified under penalty of perjury to the truthfulness of all statements,
24 answers, and representations in the application. The Board denied the application on May 5,
25 2010.

26 **JURISDICTION**

- 27 3. This Statement of Issues is brought before the Board, under the authority of the
28 following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 4. Section 4955 of the Code states in part:

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

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

6 “... ”

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

9 “... ”

10 “(i) Any action or conduct that would have warranted the denial of the acupuncture
11 license.

12 “... ”

13 5. Section 480 of the Code states in part:

14 “(a) A board may deny a license regulated by this code on the grounds that the applicant
15 has one of the following:

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

23 “... ”

24 6. Penal Code section 136.1, subdivision (a)(2), provides:

25 “(a) Except as provided in subdivision (c), any person who does any of the following is
26 guilty of a public offense and shall be punished by imprisonment in a county jail for not more
27 than one year or in the state prison:

28 “... ”

1 “(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from
2 attending or giving testimony at any trial, proceeding, or inquiry authorized by law.”

3 COST RECOVERY

4 7. Section 4959 of the Code states:

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

10 “(b) The costs to be assessed shall be fixed by the administrative law judge
11 and shall not in any event be increased by the board. When the board does not
12 adopt a proposed decision and remands the case to an administrative law
13 judge, the administrative law judge shall not increase the amount of any costs
14 assessed in the proposed decision.

15 “(c) When the payment directed in the board's order for payment of costs is
16 not made by the licensee, the board may enforce the order for payment in the
17 superior court in the county where the administrative hearing was held. This
18 right of enforcement shall be in addition to any other rights the board may
19 have as to any licensee directed to pay costs.

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

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

26 CAUSE FOR DENIAL OF APPLICATION

27 (Conviction of a Crime)

28 8. Respondent's application is subject to denial under sections 4955, subdivisions (b)
and (i), 480, subdivision (a)(1), and Penal Code section 136.1, subdivision (a)(2), in that he was
convicted of a crime substantially related to the qualifications, functions or duties of an
acupuncturist. The circumstances are as follows:

June 1, 2001 Conviction

9. On or about June 1, 2001, in the Alhambra Superior Court of Los Angeles County, in
proceedings entitled *The People of the State of California vs. John Kok Hong Cheung* case

1 number GA045669, Respondent was convicted of attempting to dissuade a witness from
2 testifying at trial in violation of California Penal Code section 136.1, subdivision (a)(2), a felony.

3 10. The facts and circumstances surrounding the conviction referred to above were that
4 on or about March 19, 2001, Los Angeles County Sheriff's Department (LASD) detectives from
5 the Asian Crime Task Force conducted an investigation involving an attempt to dissuade a
6 victim/witness from testifying at the Los Angeles County Criminal Court for a hearing related to
7 a robbery/assault incident that involved a United Bamboo street gang member. At the time of the
8 incident, Respondent was a member of the United Bamboo street gang. During their
9 investigation, the LASD detectives learned that Respondent had made contact with a witness to
10 the robbery/assault incident on two separate occasions. Specifically, on February 19, 2001,
11 Respondent went to the witness's house and spoke to the witness regarding the criminal
12 proceeding and incident that Respondent's then fellow gang member was involved in. Then, on
13 or about March 4, 2001, while outside in the parking lot of a café where the witness was present
14 inside, Respondent again spoke to the witness a second time via a cellular telephone about the
15 same criminal proceeding.

16 11. On or about March 28, 2001, a felony complaint for arrest warrant was filed in *The*
17 *People of the State of California vs. John Kok Hong Cheung, et al.* charging Respondent with the
18 following:

19 Count 1: Knowingly and maliciously attempting to prevent and dissuade a witness from
20 giving testimony at trial on or about February 19, 2001, in violation of Penal
Code section 136.1, subdivision (a)(2), a felony;

21 Count 2: Unlawfully attempting to bribe to a witness upon the understanding that he shall
22 not attend trial on or about February 19, 2001, in violation of Penal Code
23 section 138, subdivision (a), a felony;

24 Count 3: Knowingly and maliciously attempting to prevent and dissuade a witness from
25 giving testimony at trial on or about March 4, 2001, in violation of Penal Code
section 136.1, subdivision (a)(2), a felony; and

26 Count 4: Unlawfully attempting to bribe to a witness upon the understanding that he shall
27 not attend trial on or about March 4, 2001, in violation of Penal Code section
28 138, subdivision (a), a felony.

1 12. On or about June 1, 2001, the case was called for a preliminary setting/resetting
2 hearing. Respondent was convicted by plea of nolo contendere to Count 1 (attempting to
3 dissuade a witness from testifying). The Court suspended the imposition of sentence, and placed
4 Respondent on formal probation for a period of five years. Additionally, Respondent was ordered
5 to: (1) serve 364 days in Los Angeles County Jail (minus a credit of 133 days); (2) pay restitution
6 in the amount of \$500; (3) not use or possess any narcotics, dangerous or restricted drugs or
7 associated paraphernalia, except with a valid prescription, and stay away from places where users,
8 buyers or sellers congregate, except in an authorized drug counseling program; (4) not associate
9 with persons believed to be or known to be narcotic or drug users, sellers or buyers, except in an
10 authorized drug counseling program; (5) stay 100 yards away from the victims and gang
11 members; (6) seek and maintain training, schooling or employment as approved by the probation
12 officer; (7) maintain residence as approved by the probation officer; (8) not own, use or possess
13 any dangerous or deadly weapons, including any firearms, knives or other concealable weapons;
14 (9) submit to search or seizure at any time of the day or night by any law enforcement officer or
15 by a probation officer with or without a warrant; (10) use only his true name with the government
16 and police officials; (11) obey all rules and regulations of the probation department; (12) obey all
17 laws and further orders of the court; (13) stay 100 yards away from Asian gang members,
18 specifically Asian Boys, Oriental Thugz and United Bamboo; and (14) register as a gang member.

19 13. On or about September 14, 2006, the case was called for a readiness/termination/
20 dismissal/nonappearance hearing. Respondent was determined to be in full compliance with the
21 terms and conditions of probation, and his motion for a reduction to a misdemeanor was granted.
22 Additionally, the plea was set aside and vacated, and Count 1 was dismissed pursuant to Penal
23 Code section 1203.4.

24 ///
25 ///
26 ///
27 ///
28 ///

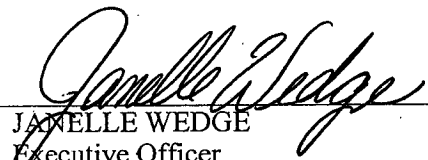
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Denying the application of John Kok-Hong Cheung for an Acupuncture License;
2. Directing John Kok-Hong Cheung to pay the Acupuncture Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring.
3. Taking such other and further action as deemed necessary and proper.

DATED: **OCT 12 2010**


JANELLE WEDGE
Executive Officer
Acupuncture Board
State of California
Complainant

LA2010503509