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FILED

JUN 17 2010

ACUPUNCTURE BOARD

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

12 In the Matter of the Statement of Issues Against:
13 JOHANNES H. SCHOTHORST
14 12 CALAIS
IRVINE, CA 92602
15 Respondent.

Case No. 1A-2008-154

STATEMENT OF ISSUES

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 State of California.

22 2. On or about March 15, 2010, the Acupuncture Board (Board), Department of
23 Consumer Affairs received an application for an acupuncture license from Johannes H.
24 Schothorst (Respondent). On or about March 13, 2010, Johannes Schothorst certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on March 22, 2010.

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JURISDICTION

1
2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code (Code) unless
4 otherwise indicated.

5 4. Section 480 of the Code states, in pertinent part:

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

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

16 "...

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

19 "The board may deny a license pursuant to this subdivision only if the crime or
20 act is substantially related to the qualifications, functions or duties of the business or
21 profession for which application is made."

22 "..."

23 5. Section 4955 of the Code states:

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

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

27 "(a) Using or possessing any controlled substance as defined in Division 10
28 (commencing with Section 11000) of the Health and Safety Code, or dangerous

1 drug or alcoholic beverage to an extent or in a manner dangerous to himself or
2 herself, or to any other person, or to the public, and to an extent that the use impairs
3 his or her ability to engage in the practice of acupuncture with safety to the public.

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

7 "..."

8 6. Section 4956 of the Code states:

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

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

19 FIRST CAUSE FOR DENIAL OF APPLICATION

20 (Conviction of Crimes Substantially Related)

21 7. Respondent's application is subject to denial under sections 480, subdivision (a)(1),
22 4955, subdivision (b), and 4956, in that he was criminally convicted of crimes substantially
23 related to the qualifications, functions and duties of an acupuncturist. The convictions are set
24 forth below:

25 Orange County Case No. 98NF0777

26 (a) On or about March 11, 1998, in Orange County Case No. 98NF0777, entitled
27 *People of the State of California v. Johannes Hendrikus Schothorst*, a felony complaint was
28 filed against Respondent charging him with one count of violating Health and Safety Code

1 section 11377(a), possession of a controlled substance, methamphetamine, a felony; one
2 count of violating Health and Safety Code section 11364, possession of paraphernalia, a
3 smoking device, a misdemeanor; and one count of violating Health and Safety Code section
4 11357(b), possession of marijuana, 28.5 grams or less, a misdemeanor.

5 (b) On or about March 30, 1998, Respondent pleaded guilty to counts one and two,
6 possessing a usable amount of methamphetamine and a pipe, and was sentenced to a three
7 year suspended sentence, informal probation, 60 days in jail with credit for 21 days plus 10
8 days good/work time, fines and fees.

9 Orange County Case No. 98NF2085

10 (c) On or about July 21, 1998, in Orange County Case No. 98NF2085, entitled
11 *People of the State of California v. Johannes Hendrikus Schothorst*, a felony complaint was
12 filed against Respondent charging him with one count of violating Health and Safety Code
13 section 11377(a), possession of a controlled substance, methamphetamine, a felony; one
14 count of violating Penal Code section 12020(a), possession of a deadly weapon, a knife, a
15 felony; and one count of violating Health and Safety Code section 11550(a), being under
16 the influence of a controlled substance, methamphetamine, a misdemeanor.

17 (d) On or about September 1, 1998, Respondent pleaded guilty to all three counts
18 and sentencing was continued to allow him to complete a Salvation Army live in program
19 prior to sentencing. Respondent had a maximum exposure of four years and 8 months as a
20 consequence of violating probation.

21 Orange County Case No. 99NF0719

22 (e) On or about May 24, 1999, in Orange County Case No. 99NF0719, entitled
23 *People of the State of California v. Johannes Hendrikus Schothorst and Ghassan Suhail*
24 *Ziadeh*, an information was filed against Respondent charging him with one count of
25 violating Health and Safety Code section 11379.6, manufacturing a controlled substance,
26 methamphetamine, a felony; one count of violating Health and Safety Code section
27 11383(c), possession with intent to manufacture methamphetamine,
28 pseudoephedrine/ephedrine, a felony; one count of violating Health and Safety Code

1 section 11377(a), possession of a controlled substance, methamphetamine, a felony; and,
2 one count of violating Health and Safety Code section 11383(c)(2), possession of chemicals
3 with intent to manufacture methamphetamine, a felony.

4 (f) On or about June 9, 1999, Respondent pleaded guilty to count two, possessing
5 pseudoephedrine/ephedrine with intent to manufacture methamphetamine. He also
6 admitted the probation violations in Orange County Case Nos. 98NF2085 and 98NF0777,
7 and was sentenced to two years in state prison.

8 Orange County Case No. 03NF0074

9 (g) On or about January 7, 2003, in Orange County Case No. 03NF0074, entitled
10 *People of the State of California v. Johannes Hendrikus Schothorst*, a felony complaint was
11 filed against Respondent charging him with one count of violating Health and Safety Code
12 section 11377(a), possession of a controlled substance, methamphetamine, a felony, with a
13 prior conviction.

14 (h) On or about January 16, 2003, Respondent pleaded guilty to count one,
15 admitted the prior conviction, and was sentenced to three years formal probation, a drug
16 treatment program, a narcotics anonymous program, registration as a narcotics offender,
17 fines and fees.

18 (i) On or about April 20, 2004, Respondent's plea was set aside, his conviction
19 was vacated, and the complaint was dismissed as a result of his successful completion of
20 the drug treatment program.

21 SECOND CAUSE FOR DENIAL OF APPLICATION

22 (Use or Possession of Controlled Substances)

23 8. Respondent's application is subject to denial under sections 480, subdivision (a)(3),
24 and 4955, subdivision (a), in that he used and/or possessed controlled substances, to wit:
25 methamphetamine and pseudoephedrine/ephedrine, as set forth in paragraphs 7.(a) through (h),
26 above.

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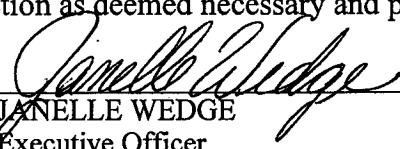
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PRAYER

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

1. Denying the application of Johannes Schothorst for an Acupuncture License; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: JUN 17 2010



JANELLE WEDGE
Executive Officer
Acupuncture Board
Department of Consumer Affairs
State of California
Complainant