1	KAMALA D. HARRIS Attorney General of California THOMAS S. LAZAR		
2			
3	Supervising Deputy Attorney General Tessa L. Heunis		
4	Deputy Attorney General State Bar No. 241559		
5	110 West "A" Street, Suite 1100 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2074 Facsimile: (619) 645-2061		
8	Attorneys for Complainant		
9			
10	BEFORE THE ACUPUNCTURE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11			
12			
13	In the Matter of the Statement of Issues Against: Case No. 1A-2010-222		
14	ROD KENNETH ANDERSONSTIPULATED SETTLEMENT AND DISCIPLINARY ORDER		
15	5470 Adams Avenue San Diego, CA 92115		
16	Respondent.		
17			
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 Tessa L. Heunis, Deputy Attorney		
24	General.		
25	2. Respondent ROD KENNETH ANDERSON (Respondent) is represented in this		
26	proceeding by attorney Daniel M. DiRe, Esq., whose address is: 5030 Camino de la Siesta, Suite		
27	350, San Diego, California 92108.		
28	1111		
	1		
	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (1A-2010-222)		

1	3. On or about October 6, 2010, Respondent filed an application with the Acupuncture
2	Board, Department of Consumer Affairs (Board), for examination and licensure as a California
3	acupuncturist. On or about December 10, 2010, the Board sent a letter to Respondent, requesting
4	further information. On or about March 24, 2011, Respondent filed a supplementary application
5	with the Board.
6	4. On or about April 25, 2011, the Board denied Respondent's application for licensure.
7	JURISDICTION
8	5. On June 1, 2011, Statement of Issues No. 1A-2010-222 was filed before the Board,
9	and is currently pending against Respondent. A true and correct copy of Statement of Issues No.
10	1A-2010-222 and all other statutorily required documents were properly served on Respondent on
11	June 1, 2011. A true and correct copy of Statement of Issues No. 1A-2010-222 is attached hereto
12	as Exhibit A and incorporated herein by reference.
13	ADVISEMENT AND WAIVERS
14	6. Respondent has carefully read, fully discussed with counsel, and fully understands the
15	charges and allegations in Statement of Issues No. 1A-2010-222.
16	7. Respondent has carefully read, fully discussed with counsel, and fully understands the
17	effects of this Stipulated Settlement and Disciplinary Order.
18	8. Respondent is fully aware of his legal rights in this matter, including the right to a
19	hearing on the charges and allegations in Statement of Issues No. 1A-2010-222; the right to
20	confront and cross-examine the witnesses against him; the right to present evidence and to testify
21	on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses
22	and the production of documents; the right to reconsideration and court review of an adverse
23	decision; and all other rights accorded by the California Administrative Procedure Act and other
24	applicable laws, having been fully advised of same by his attorney of record, Daniel M. DiRe,
25	Esq.
26	9. Respondent, having the benefit of counsel, hereby knowingly, intelligently, freely and
27	voluntarily waives and gives up each and every right set forth and/or referenced above.
28	////

10. Respondent admits the complete truth of each and every charge and allegation, separately and severally, in Statement of Issues No. 1A-2010-222.

11. Respondent agrees that his acupuncturist's license is subject to denial and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

CULPABILITY

12. This Stipulated Settlement and Disciplinary Order shall be subject to approval by the Acupuncture Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-titled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this stipulation after receiving it. By signing this stipulation, Respondent fully understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation prior to the time the Board considers and acts upon it.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null 14 and void and not binding upon the parties unless approved and adopted by the Board, except for 15 16 this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and 17 Disciplinary Order, the Board may receive oral and written communications from its staff and/or 18 the Attorney general's office. Communications pursuant to this paragraph shall not disqualify the 19 Board, any member thereof, and/or any other person from future participation in this or any other 20 matter affecting or involving Respondent. In the event that the Board, in its discretion, does not 21 approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this 22 paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall 23 not be relied upon or introduced in any disciplinary action by either party hereto. Respondent 24 further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for 25 any reason, Respondent will assert no claim that the Board, or any member thereof, was 26 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and 27 Disciplinary Order or of any matter or matters related hereto. 28

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ADDITIONAL PROVISIONS 1 This Stipulated Settlement and Disciplinary Order is intended by the parties herein to 14. 2 be an integrated writing representing the complete, final and exclusive embodiment of the 3 agreements of the parties in the above-entitled matter. 4 The parties understand and agree that facsimile copies of this Stipulated Settlement 15. 5 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and 6 effect as the originals. 7 In consideration of the foregoing admissions and stipulations, the parties agree that 16. 8 the Board may, without further notice or formal proceeding, issue and enter the following 9 Disciplinary Order: 10 **DISCIPLINARY ORDER** 11 IT IS HEREBY ORDERED THAT the application of Respondent ROD KENNETH 12 ANDERSON for a license as a acupuncturist is granted; however, the acupuncturist license shall 13 be and hereby is immediately revoked, with the revocation stayed, and Respondent placed on 14 probation for a period of two (2) years from the effective date of this Decision and Order, on the 15 following terms and conditions:. 16 1. ALCOHOL AND DRUG ABUSE TREATMENT Effective 30 days from the date of 17 this decision, Respondent shall enter an inpatient or outpatient alcohol or other drug abuse 18 recovery program (a minimum of six (6) months duration) or an equivalent program as approved 19 by the Board. 20 Quitting the program without permission or being expelled for cause shall constitute a 21 violation of probation by Respondent. Subsequent to the program, Respondent shall participate in 22 on-going treatment such as receiving individual and/or group therapy from a psychologist trained 23 in alcohol and drug abuse treatment; and/or attend Twelve Step meetings or the equivalent as 24 approved by the Board at least three times a week during the first year of probation; and/or other 25 substance abuse recovery programs approved by the Board. Respondent shall pay all costs of 26 treatment and therapy, and provide documentation of attendance at Twelve Step meetings or the 27 equivalent as approved by the Board. This psychologist shall confirm that Respondent has 28

complied with the requirements of this decision and shall notify the Board immediately if he or she believes the Respondent cannot safely render acupuncture services. Respondent shall execute a release authorizing the psychologist to divulge the aforementioned information to the Board.

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

2. <u>ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO TESTS AND</u> <u>SAMPLES</u> Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act (Division 10, commencing with section 11000, Health and Safety Code) and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
number; medication name, strength, and quantity; and issuing pharmacy name, address, and
telephone number.

Respondent shall abstain completely from the use of alcoholic beverages. Respondent
shall undergo random, biological fluid testing as determined by the Board. Respondent shall bear
all costs of such testing. The length of time and frequency will be determined by the Board. Any
confirmed positive finding will be considered a violation of probation.

3. <u>COURSEWORK</u> Respondent shall enroll in a course in ethics, at Respondent's
expense, approved in advance by the Board or its designee. Failure to successfully complete the
course, which shall consist of not less than two (2) semester units or three (3) quarter units of
coursework in ethics, during the first year of probation, is a violation of probation. All
coursework shall be taken at the graduate level at a school approved by the Board. Classroom

attendance must be specifically required. The required coursework must be in addition to any continuing education courses that may be required for license renewal. Respondent shall submit a 2 certification of successful completion to the Board or its designee not later than 15 calendar days 3 after successfully completing the course, or not later than 15 calendar days after the effective date 4 of the Decision, whichever is later. 5

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4. OBEY ALL LAWS Respondent shall obey all federal, state and local laws and all regulations governing the practice of acupuncture in California. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence.

5. QUARTERLY REPORTS Respondent shall submit quarterly declarations under 10 penalty of perjury on forms provided by the Board, stating whether there has been compliance 11 with all the conditions of probation. 12

6. <u>SURVEILLANCE PROGRAM</u> Respondent shall comply with the Board's probation 13 surveillance program and shall, upon reasonable notice, report to the assigned investigative 14 district office. Respondent shall contact the assigned probation surveillance monitor regarding 15 any questions specific to the probation order. Respondent shall not have any unsolicited or 16 unapproved contact with 1) victims or complainants associated with the case; 2) Board members 17 or members of its staff; or 3) persons serving the Board as expert examiners. 18

7. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent shall appear in 19 person for interviews with the Board or its designee upon request at various intervals and with 20 reasonable notice. 21

8. CHANGES OF EMPLOYMENT Respondent shall notify the Board in writing, 22 through the assigned probation surveillance compliance officer of any and all changes of 23 employment, location and address within 30 days of such change. 24

9. TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE In the event 25 Respondent should leave California to reside or to practice outside the State, Respondent must 26 notify the Board in writing of the dates of departure and return. Periods of residency or practice 27 outside California will not apply to the reduction of this probationary period. 28

10. <u>EMPLOYMENT AND SUPERVISION OF TRAINEES</u> Respondent shall not employ or supervise or apply to employ or supervise acupuncture trainees during the course of this probation. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this probation.

5 11. <u>COST RECOVERY</u> Within 180 days of the effective date of this Decision,
6 Respondent shall pay to the Board its costs of investigation and enforcement in the amount of
7 \$3,867.50.

8 12. <u>VIOLATION OF PROBATION</u> If Respondent violates probation in any respect, the 9 Board may, after giving Respondent notice and the opportunity to be heard, revoke probation and 10 carry out the disciplinary order that was stated. If an accusation or petition to revoke probation is 11 filed against Respondent during probation, the Board shall have continuing jurisdiction until the 12 matter is final, and the period of probation shall be extended until the matter is final. No petition 13 for modification or termination of probation shall be considered while there is an accusation or 14 petition to revoke probation pending against Respondent.

13. <u>COMPLETION OF PROBATION</u> Upon successful completion of probation,
 Respondent's license will be fully restored.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Daniel M. DiRe, Esq.. I understand the stipulation and the effect it will have on my acupuncturist's license. I enter into this Stipulated Settlement and Disciplinary Order knowingly, intelligently, freely and voluntarily, and agree to be bound by the Decision and Order of the Acupuncture Board.

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DATED:

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I have read and fully discussed with Respondent ROD KENNETH ANDERSON the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary

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ROD KENNETH

Respondent

STIPULATED SETTLEMENT AND DISCIPLINARY ORDER (1A-2010-222)

1	Order. I approve its form and content.	
2	DATED: 2222 (DANIELM DIRE ESO	
3		
4	ENDORSEMENT	
5	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully	
6	submitted for consideration by the Acupuncture Board of the Department of Consumer Affairs.	
7	Dated: March 8, 2012 Respectfully sui	bmitted,
8	Kamala D. Ha	RRIS
9	Thomas S. Laz	al of California AR
10		puty Attorney General
11	theur	ris
12	Deputy Attorne	IS v General
13	Attorneys for C	omplainant
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Exhibit A

Statement of Issues No. 1A-2010-222

K	AMALA D. HARRIS	FILED
ті	ttorney General of California HOMAS S. LAZAR	
Su Ti	upervising Deputy Attorney General ESSA L. HEUNIS Deputy Attorney General	JUN 1 2011
St	tate Bar No. 241559 110 West "A" Street, Suite 1100	ACUPUNCTURE BOARD
	San Diego, CA 92101 P.O. Box 85266	
11	San Diego, CA 92186-5266 Telephone: (619) 645-2074	
	Facsimile: (619) 645-2061 Attorneys for Complainant	
	ACUPUN	FORE THE ICTURE BOARD
	DEPARTMENT O	OF CONSUMER AFFAIRS OF CALIFORNIA
	SIAIL	
	In the Matter of the Statement of Issues	Case No. 1A-2010-222
11 -	Against:	
	Against: ROD KENNETH ANDERSON	
	ROD KENNETH ANDERSON 5470 Adams Avenue	STATEMENT OF ISSUES
	ROD KENNETH ANDERSON	
	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115	
	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115	
	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges:	PARTIES
3	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H	PARTIES prings this Statement of Issues solely in her official
3	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H	PARTIES
3 3 7 7 1	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac	PARTIES prings this Statement of Issues solely in her official
3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3 3	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac 2. On or about October 6, 2010, t	PARTIES prings this Statement of Issues solely in her official supuncture Board, Department of Consumer Affairs. he Acupuncture Board, Department of Consumer
2 3 3 3 3	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac 2. On or about October 6, 2010, t Affairs (the Board) received an application	PARTIES prings this Statement of Issues solely in her official supuncture Board, Department of Consumer Affairs. he Acupuncture Board, Department of Consumer a for examination and licensure as a California
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2 3 1 2 3 4	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac 2. On or about October 6, 2010, t Affairs (the Board) received an application acupuncturist (the application) from ROD October 4, 2010, Applicant certified under answers and representations in the applica	PARTIES prings this Statement of Issues solely in her official supuncture Board, Department of Consumer Affairs. he Acupuncture Board, Department of Consumer of for examination and licensure as a California KENNETH ANDERSON (Applicant). On or about penalty of perjury to the truthfulness of all statemen tion.
3 3 3 3 3 1 2 3 4 25	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac 2. On or about October 6, 2010, t Affairs (the Board) received an application acupuncturist (the application) from ROD October 4, 2010, Applicant certified under answers and representations in the applica 3. On or about December 10, 20	PARTIES prings this Statement of Issues solely in her official pupuncture Board, Department of Consumer Affairs. the Acupuncture Board, Department of Consumer of for examination and licensure as a California KENNETH ANDERSON (Applicant). On or about penalty of perjury to the truthfulness of all statement tion. 10, the Board learned of a prior criminal conviction of
3 3 3 3 3 3 4 25 26	ROD KENNETH ANDERSON 5470 Adams Avenue San Diego, CA 92115 Applic Complainant alleges: 1. Janelle Wedge (Complainant) H capacity as the Executive Officer of the Ac 2. On or about October 6, 2010, t Affairs (the Board) received an application acupuncturist (the application) from ROD October 4, 2010, Applicant certified under answers and representations in the applica 3. On or about December 10, 20	PARTIES prings this Statement of Issues solely in her official supuncture Board, Department of Consumer Affairs. he Acupuncture Board, Department of Consumer of for examination and licensure as a California KENNETH ANDERSON (Applicant). On or about penalty of perjury to the truthfulness of all statement

1	letter to Applicant, advising him of this fact and requesting details of the prior criminal conviction	
2	and a written explanation for its omission from the application.	
3	4. On or about March 21, 2011, Applicant signed a supplementary application and again	
4	certified under penalty of perjury to the truthfulness of all statements, answers and representations	
5	in the application. The supplementary application was received by the Board on or about March	ĺ
6	24, 2011.	
7	5. The Board denied Applicant's application for licensure on April 25, 2011. On May 2,	
8	2011, Applicant requested a hearing to contest said denial.	
9	JURISDICTION	
10	6. This Statement of Issues is brought before the Board under the authority of the	
11	following laws. All section references are to the Business and Professions Code (Code) unless	
12	otherwise indicated.	
13	7. Section 4955 of the Code states:	
14	"The board may deny, suspend, or revoke, or impose probationary conditions upon,	
15	the license of any acupuncturist if he or she is guilty of unprofessional conduct.	
16	"Unprofessional conduct shall include, but not be limited to, the following:	
17	"(a) Using or possessing any controlled substance as defined in Division 10	
18	(commencing with Section 11000) of the Health and Safety Code, or dangerous drug or	
19	alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any	
20	other person, or to the public, and to an extent that the use impairs his or her ability to	
21	engage in the practice of acupuncture with safety to the public.	
22	"(b) Conviction of a crime substantially related to the qualifications, functions, or	
23	duties of an acupuncturist, the record of conviction being conclusive evidence thereof.	
24	····	
25	"(h) Disciplinary action taken by any public agency for any act substantially related	
26	to the qualifications, functions, or duties of an acupuncturist or any professional health care	2
27	licensee.	
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1	"(i) Any action or conduct that would have warranted the denial of the acupuncture
2	license.
3	" " ···
4	8. Section 480 of the Code states:
5	"(a) A board may deny a license regulated by this code on the grounds that the
6	applicant has one of the following:
7	"(1) Been convicted of a crime. A conviction within the meaning of this section
8	means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
9	Any action that a board is permitted to take following the establishment of a
10	conviction may be taken when the time for appeal has elapsed, or the judgment of
11	conviction has been affirmed on appeal, or when an order granting probation is made
12	suspending the imposition of sentence, irrespective of a subsequent order under the
13	provisions of Section 1203.4 of the Penal Code.
14	"····
15	"(3) (A) Done any act that if done by a licentiate of the business or profession in
16	question, would be grounds for suspension or revocation of license.
17	"(B) The board may deny a license pursuant to this subdivision only if the
18	crime or act is substantially related to the qualifications, functions, or duties of the
19	business or profession for which application is made.
20	···
21	"(c) A board may deny a license regulated by this code on the ground that the
22	applicant knowingly made a false statement of fact required to be revealed in the
23	application for the license."
24	9. Section 4955.1 of the Code states:
25	"The board may deny, suspend, revoke, or impose probationary conditions upon the
26	license of any acupuncturist if he or she is guilty of committing a fraudulent act including,
27	but not be limited to, any of the following:
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"(c) Committing any act involving dishonesty or corruption with respect to the qualifications, functions, or duties of an acupuncturist.

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10. Section 4956 of the Code states:

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

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

11. Section 493 of the Code provides:

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

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Crime Substantially Related to the Practice of an Acupuncturist)

12. Applicant's application is subject to denial under Code sections 4955, subdivision (b), and 480, subdivisions (a)(1) and (a)(3)(B), in that he was convicted of a crime substantially related to the qualifications, functions, and duties of an acupuncturist. The circumstances are as follows:

On or about March 17, 1997, in a criminal proceeding entitled The People of a. 7 the State of California v. Rod Kenneth Anderson, Case Number SCD127792 in San Diego County 8 Superior Court, Applicant was charged with one count each of a violation of Health and Safety 9 Code sections 11378 (possession for sale of a controlled substance, to wit, methamphetamine¹), 10 11377, subdivision (a) (possession of a controlled substance, to wit, methamphetamine), and 11 11364 (possession of paraphernalia used for narcotics). On March 26, 1997, Applicant was 12 convicted by plea of guilty to Health and Safety Code section 11378, a felony. The remaining 13 charges were dismissed. 14

b. On or about May 1, 1997, Applicant was sentenced to three (3) years' formal
probation with terms and conditions, including the requirement that he complete a six-month
substance abuse residential rehabilitation program and aftercare program and spend 180 days in
custody (stayed pending successful completion of the substance abuse rehabilitation program),
and payment of \$550.00 in fines.

c. On September 8, 2003, Applicant's plea of guilty was set aside, a plea of Not
Guilty was entered, and the accusatory pleading was dismissed pursuant to Penal Code section
1203.4 and 1203.4a.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Unlawful Use or Possession of a Controlled Substance)

Applicant's application is further subject to denial under section 4955, as defined by
 section 4955, subdivision (a), of the Code, in that he unlawfully possessed methamphetamine, as
 Methamphetamine is a Schedule II controlled substance under Health and Safety Code
 section 11055, subdivision (d)(2) and a dangerous drug under Code section 4022.

11	
1	more particularly alleged in paragraph 11(a), above, which is hereby incorporated by reference as
2	if fully set forth herein.
3	THIRD CAUSE FOR DENIAL OF APPLICATION
4	(Dishonesty)
5	14. Applicant's application is further subject to denial under Code sections 4955.1,
6	subdivision (c), and 480, subdivision (c), in that he knowingly made a false statement of fact
7	required to be revealed in his application for examination and licensure. The circumstances are as
8	follows:
9	a. On or about October 4, 2010, Applicant submitted his Application for
10	Examination to the Board. The following notice appeared as a preamble to the application:
11	"All items of information are mandatory The information will be used to
12	determine qualification for examination and licensure."
13	b. Question 17 on the application asked:
14	"Have you ever been convicted of, or pled nolo contendere to any offense,
15	misdemeanor or felony in any state, the United States, or a foreign country? NOTE: You
16	are required to list any conviction that has been set aside and dismissed under Section
17	1203.4 Penal Code or under any other provision of law." (bolding in original)
18	c. At the conclusion of the application was a statement by Applicant, certifying
19	"under penalty of perjury under the laws of the State of California that all statements made herein
20	are true in every respect, and that misstatements, or omissions of material facts may be cause for
21	denial of this application"
22	d. Despite knowing that he had been convicted of a felony as set forth in
23	paragraph $11(a)$, above, and despite the explicit written admonition that he was "required ² to list
24	any conviction that has been set aside and dismissed under Section 1203.4 Penal Code or under
25	any other provision of law," and despite his certification that all statements contained in the
26	application were "true in every respect," Applicant answered "No" to question 17.
27	
28	² Bolding in original.
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II

1	e. Paragraph 11(a) through (c), above, is hereby incorporated by reference as if
2	fully set forth herein.
3	PRAYER
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5	and that following the hearing, the Acupuncture Board issue a decision:
6	1. Denying the application of ROD KENNETH ANDERSON for an Acupuncturist
7	License; and
8	2. Taking such other and further action as deemed necessary and proper.
9	$\bigcap M G \bigcap M$
10	DATED: JUN 0 1 2011 JANELLE WEDGE
11	Executive Officer
12	C Acupuncture Board Department of Consumer Affairs State of California
13	Complainant
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