

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
ACUPUNCTURISTS**

IN RE:)
CHARLES F. MARTLEY) Docket No. ULP-ACU04-0107

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont, through State Prosecuting Attorney, Edward G. Adrian, and Respondent, Charles F. Martley, who stipulate and agree as follows:

Authority

1. The administrative law officer has jurisdiction to investigate and adjudicate allegations of unlicensed practice to 3 V.S.A. §§129 and 129a; Title 26, Chapter 75 of the Vermont Statutes Annotated; the Administrative Rules for Licensed Acupuncturists; and the Rules of the Office of Professional Regulation.

Statement of Facts

2. The Respondent, Charles F. Martley currently resides in North Fayston, Vermont. The Respondent has never been licensed as an acupuncturist in the State of Vermont
3. In an interview conducted by State Investigator Gregory Kelly on or about March 12, 2007, the Respondent advised investigator Kelly that in that past few years there have been "a couple incidences" when he has performed acupuncture on individuals other than family members.

Administrative Statutory Charge

4. By providing acupuncture treatment without a valid license, Respondent has engaged in the unlicensed practice of acupuncture in violation of:
- i. 3 V.S.A. § 127(b) (a person practicing a regulated profession without authority may, upon the complaint of the attorney general or a state's attorney or an attorney assigned by the office of professional regulation, be enjoined there from by the superior court and may be assessed a civil penalty of not more than \$1,000.00. The attorney general or an attorney assigned by the office of professional regulation may elect to bring an action seeking only a civil penalty of not more than \$1,000.00 for practicing a regulated profession without authority before the board having regulatory authority over the profession. Such hearings will be conducted in the same manner as disciplinary hearings).

STATE OF VERMONT



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05609-1107

Understandings

5. The Respondent understands that the A.L.O. must review and accept the terms of the Order set forth below and that if the A.L.O. rejects all or any portion of the Order, then this entire document shall be null and void.
6. Respondent waives any notification period and requests that this be heard at the next available meeting of the A.L.O. Respondent specifically waives any claims that any disclosures made to the A.L.O. during the A.L.O.'s review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the A.L.O.
7. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
8. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
9. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and has not been coerced by anyone into signing this Stipulation and Consent Order.
10. Respondent voluntarily waives his right to a contested hearing before the A.L.O. and waives any right to appeal from this Stipulation and Consent Order.
11. Respondent agrees that the A.L.O. may enter the Order set forth below.
12. The Office of Professional Regulation represents that it does not intend on bringing any other charges in respect to the facts as outlined above.
13. This Stipulation is neither an admission of liability nor fact by the Respondent nor a concession by the State of Vermont that its charges are not well founded. To avoid delay, uncertainty, inconvenience, and expense of protracted litigation of the charges above the Parties reach a full and final Stipulation pursuant to these Understandings and the Order below. Respondent does not contest that if this matter were to go to a Merits Hearing, the Administrative Law Officer could find that the allegations were substantiated by a preponderance of the evidence.

ORDER

Based upon the stipulation above, it is **ORDERED AND ADJUDGED** as follows:

- A. Respondent's actions described above demonstrate grounds for a finding of unlicensed practice pursuant to 3 V.S.A. § 127(b).
- B. The Respondent is required to pay an **ADMINISTRATIVE PENALTY OF SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00)**. Said penalty shall be payable at a rate of

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seventy-five dollars (\$75.00) per month from the date of entry of this order until the full amount has been paid.

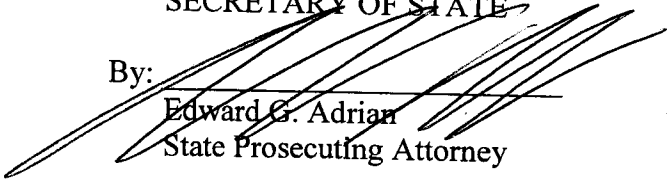
C. The Respondent agrees that he will not practice acupuncture, in Vermont, until he is duly licensed as an acupuncturist in the State of Vermont. Notwithstanding this Stipulation the Respondent shall be free to take the necessary examinations for licensure at the next available date or anytime thereafter.

D. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).

E. This Stipulation and Consent Order will remain part of Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

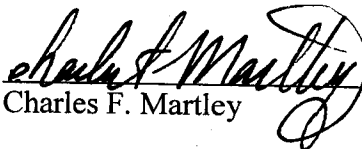
STATE OF VERMONT
SECRETARY OF STATE

Dated: 9/4/07

By: 
Edward G. Adrian
State Prosecuting Attorney

CHARLES F. MARTLEY
RESPONDENT

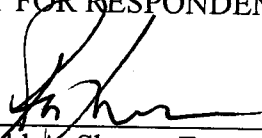
Dated: 8/29/07


Charles F. Martley

APPROVED AS TO FORM:

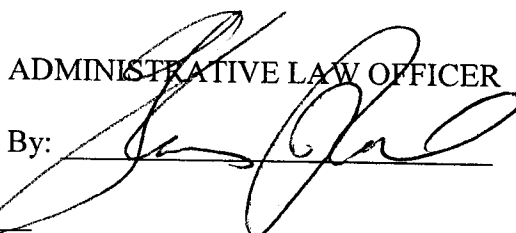
ATTORNEY FOR RESPONDENT

Dated: 8/29/07

By: 
Ronald A. Shems, Esq.

APPROVED AND SO ORDERED: ADMINISTRATIVE LAW OFFICER

Dated: 09/06/07

By: 

Date of entry: 9/17/07

ulp.acu.martley.stip2

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