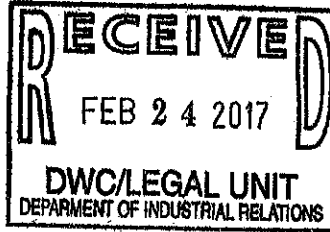




255 South Marengo Avenue
Pasadena, California 91101
p 626.796.7400 f 626.796.7789
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RICHARD A. MOSS
WILLIAM C. FLEMING, JR.
JERRY B. MARSHAK

MARK T. ROOHEK
of counsel

February 23, 2017

VIA FEDEX

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612

Hearing Request
Legal Unit, Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612

Re: Reinstatement Request for Jason Hui-Tek Yang, M.D.

To The Acting Administrative Director and Legal Unit:

Please consider this as formal demand that the Department of Industrial Relations, Division of Workers Compensation (hereafter "DWC"), rescind the Order of Suspension issued by Acting Administrative Director George Parisotto on February 17, 2017, against our client, JASON HUI-TEK YANG, M.D. (hereafter "Dr. Yang"). The Order incorrectly states that Dr. Yang "did not submit a written request for hearing within ten (10) calendar days of the date of mailing of the [Notice of Suspension]."

On January 25, 2017, Dr. Yang properly requested a hearing by written correspondence addressed to both the Acting Administrative Director and the DWC Legal Unit following the procedures set forth in the Notice of Provider Suspension dated January 17, 2017. Both letters were sent via FedEx, and were received by the DWC on January 26, 2017. A receptionist/front desk clerk named "T. Glenn" signed for both mailings at 9:22 a.m. (See Exhibits 1, 2, 3, and 4.) Dr. Yang's request for a hearing was timely and was received by the DWC before the expiration of the ten calendar day period.

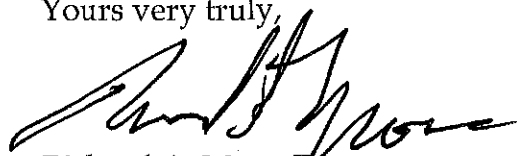
Letter to DWC
February 23, 2017
Re: Jason Hui-Tek Yang, M.D.
Page 2

The Order of Suspension must be set aside and rescinded on the following grounds:

1. DWC failed to convene a hearing within the 30 day period mandated in Cal. Labor Code § 139.21(b).
2. Pursuant to Cal. Penal Code § 1237, there has thus been no final judgment issued by the court in the criminal case against Dr. Yang. Therefore, he has not been adjudged "convicted" of any crime as required for a suspension under Cal. Labor Code § 139.21(a)(1)(A).

We shall await confirmation that Dr. Yang has been reinstated as a provider in the workers' compensation system.

Yours very truly,



Richard A. Moss, Esq.

Enclosures
RAM/lm

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is: 255 South Marengo Avenue, Pasadena, California 91101.

On **February 23, 2017**, I served the foregoing document described as: **REINSTATEMENT REQUEST** on interested parties in this action as follows:

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612
Original + 1 copy

Hearing Request
Legal Unit, Division of Workers'
Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612
1 copy

XX **(EXPRESS SERVICE CARRIER):** I deposited in a box or other facility regularly maintained by FedEx, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, an original or a true and correct copy of the foregoing document(s) in an envelope designed by the said express service carrier, with delivery fees paid or provided.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **February 23, 2017** at Pasadena, California.



Lisa Moore

EXHIBIT 1

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
LEGAL UNIT
1515 Clay Street, Suite 1700
Oakland, California 94612
Tel (510) 286 -7100 Fax (510) 286-0687



Date: January 17, 2017

Jason Hui-Tek Yang
280 South Euclid Avenue, Apt. 205
Pasadena, CA 91101

NOTICE OF PROVIDER SUSPENSION – WORKERS' COMPENSATION

Dear Mr. Yang,

The Acting Administrative Director of the Division of Workers' Compensation (DWC) is required by Labor Code section 139.21(a)(1)(A) to suspend you from participation in the California workers' compensation system because you have been convicted of a crime described in Labor Code section 139.21(a)(1)(A). Enclosed is a copy of the document(s) relied upon by the Acting Administrative Director as the basis for taking this action.

Your suspension will start 30 calendar days after the date of mailing of this notice, unless you submit a written request for a hearing, which will stay the suspension pending the outcome of the hearing. Your request must be made within 10 calendar days of the date of mailing of this notice. If you do not request a hearing within the 10-day time limit, you will be suspended from participation in the California workers' compensation system pursuant to California Code of Regulations, title 8, section 9788.2(b).

Your request for a hearing must contain:

- Your current mailing address;
- The legal and factual reasons as to why you do not believe Labor Code section 139.21(a)(1) is applicable to you; and
- Your original signature or the original signature of your legal representative.

The scope of the hearing is limited to whether or not Labor Code section 139.21(a)(1) is applicable to you. The Acting Administrative Director is required to suspend you unless you provide proof in the hearing that Labor Code section 139.21(a)(1) does not apply.

Your original request for a hearing and one copy of the request must be filed with the Acting Administrative Director. Additionally, you must also serve one copy of the request for a hearing on the DWC Legal Unit. The addresses for the Acting Administrative Director and the Legal Unit are:

Jason Hui-Tek Yang
January 17, 2017

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

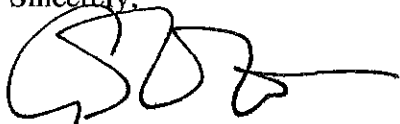
and

Hearing Request
Legal Unit, Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, California 94612

The original and all copies of the request for hearing must have a proof of service attached. A sample proof of service, containing all necessary elements, can be found on the DWC website at <https://www.dir.ca.gov/dwc/forms.html>, under the category "Court Forms," and then "Proof of Service." The Acting Administrative Director is required to hold your hearing within 30 days of the receipt of your written request. The hearing will be conducted by a hearing officer appointed by the Acting Administrative Director. You will be notified shortly after the receipt of your request of the date and time of the hearing.

For more information about the suspension procedure, please refer to Provider Suspension Regulations, California Code of Regulations, title 8, sections 9788.1 - 9788.4, which can be found on the DWC website at <http://www.dir.ca.gov/dwc/DWCPropRegs/Provider-Suspension-Procedure/Clean-Version/Text-of-Regulations.pdf>.

Sincerely,



George Parisotto
Acting Administrative Director
Division of Workers' Compensation

EXHIBIT 2



255 South Marengo Avenue
Pasadena, California 91101
p 626.796.7400 f 626.796.7789
www.rmosslaw.com

RICHARD A. MOSS
WILLIAM C. FLEMING, JR.
JERRY B. MARSHAK

MARK T. ROOCHK
of counsel

January 25, 2017

VIA FEDERAL EXPRESS

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612

Hearing Request
Legal Unit, Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612

Re: Hearing Request for Jason Hui-Tek Yang, M.D.

To The Acting Administrative Director:

This office represents provider JASON HUI-TEK YANG, M.D. (hereafter "Dr. Yang") in regard to the interim suspension of his provider status for worker's compensation, as discussed in your Notice of Provider Suspension – Workers' Compensation to him, dated January 17, 2017. Please direct all correspondence and contact to the undersigned, exclusively.

Please be advised that, pursuant to Cal. Labor Code § 139.21(b), Dr. Yang hereby requests that a hearing be conducted within the next thirty (30) days in order to determine the applicability of suspending his provider account, pursuant to Cal. Labor Code § 139.21(a)(1). In the interim, we request that the imposition of any such suspension be stayed, pursuant to Cal. Labor Code § 139.21(b)(2), until such time as the above hearing is completed.

As alleged in the above Notice of Suspension, newly-enacted Cal. Labor Code § 139.21(a)(1) provides that:



The administrative director shall promptly suspend, pursuant to subdivision (b), any physician, practitioner, or provider from participating in the workers' compensation system as a physician, practitioner, or provider if the individual or entity meets any of the following criteria:

- (A) The individual has been convicted of any felony or misdemeanor and that crime comes within any of the following descriptions:
 - (i) It involves fraud or abuse of the Medi-Cal program, Medicare program, or workers' compensation system, or fraud or abuse of any patient.
 - (ii) It relates to the conduct of the individual's medical practice as it pertains to patient care.
 - (iii) It is a financial crime that relates to the Medi-Cal program, Medicare program, or workers' compensation system.
 - (iv) It is otherwise substantially related to the qualifications, functions, or duties of a provider of services.

As alleged in the Notice of Suspension, Dr. Yang entered into a written plea agreement on or about October 13, 2016 in Riverside Superior Court that called for him to plead guilty to five counts of violating Cal. Insurance Code § 1871.4(a)(1).

Dr. Yang asserts that Labor Code § 139.21(a)(1) is not applicable to him because as of now he has not been convicted of any crime. The criminal proceedings in which Dr. Yang is involved remain pending. While Dr. Yang has entered a plea of guilty in the case, this was done pursuant to a Plea Agreement negotiated with the Riverside County District Attorney's Office, which involves and requires Dr. Yang's ongoing cooperation with law enforcement authorities, including testimony in any and all legal proceedings relating to the pending case. To this effect, sentencing has been continued and deferred until such time as Dr. Yang completely performs his commitments under the Plea Agreement. In addition, the Plea Agreement further provides that, although satisfactory completion by Dr. Yang of his commitments will result in the District Attorney recommending a certain sentence for him, if in fact the court decides to impose a more severe sentence, Dr. Yang will be allowed to withdraw his guilty plea, and prosecution of the case will proceed accordingly. This could result in anything from a trial, another plea agreement, or dismissal.

As such, there been no sentence imposed on Dr. Yang. Pursuant to Cal. Penal Code § 1237, there has thus been no final judgment issued by the court in that case such that he has not been adjudged "convicted" of any crime. Furthermore, the case's final disposition, including whether *any* conviction will result therefrom, is currently unknown. Thus, it is premature for the Acting Administrative Director to subject Dr. Yang to suspension at this time; instead, such action should wait until the pending criminal proceedings conclude with the resolution of the Plea Agreement, whether to Dr. Yang's benefit or detriment, and either the sentencing of Dr. Yang pursuant to the Plea Agreement, or, should Dr. Yang be permitted to withdraw his guilty plea as described above, a final judgment after trial, which it must be noted could result in Dr. Yang's acquittal.

Dr. Yang will present evidence at the scheduled hearing in support of the summary representations above to establish that Labor Code § 139.21(a)(1) does not and should not apply at this time.

Dr. Yang's mailing address for all purposes herein is in care of his attorneys of record:

Richard A. Moss, Esq.
Jerry B. Marshak, Esq.
Moss Law Group
255 South Marengo Avenue
Pasadena, California 91101.

I look forward to hearing from you and to scheduling a mutually-convenient date and time for the above hearing. Please do not hesitate to contact me with any question or any other matter.

Yours very truly,



Richard A. Moss, Esq.

RAM/lm

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is: 255 South Marengo Avenue, Pasadena, California 91101.

On **January 25, 2017**, I served the foregoing document described as: **REQUEST FOR HEARING** on interested parties in this action as follows:

Hearing Request
Acting Administrative Director
Division of Workers' Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612
Original + 1 copy

Hearing Request
Legal Unit, Division of Workers'
Compensation
1515 Clay Street, Suite 1800
Oakland, CA 94612
1 copy

XX **(EXPRESS SERVICE CARRIER)**: I deposited in a box or other facility regularly maintained by FedEx, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, an original or a true and correct copy of the foregoing document(s) in an envelope designed by the said express service carrier, with delivery fees paid or provided.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on **January 25, 2017** at Pasadena, California.



Yoana Palomar

EXHIBIT 3

Yoana Palomar

From: TrackingUpdates@fedex.com
Sent: Thursday, January 26, 2017 9:25 AM
To: Yoana Palomar
Subject: FedEx Shipment 778276626735 Delivered

Your package has been delivered

Tracking # 778276626735

Ship date:
Wed, 1/25/2017
RICHARD A. MOSS
MOSS LAW GROUP
PASADENA, CA 91101
US



Delivered

Delivery date:
Thu, 1/26/2017 9:22 am
Acting Administrative
Director
Division of Workers'
Compensation
1515 Clay Steet Suite 1800
OAKLAND, CA 94612
US



Shipment Facts

Our records indicate that the following package has been delivered

Tracking number: 778276626735

Status: Delivered: 01/26/2017 09:22 AM
Signed for By: T.GLENN

Reference: Yang

Signed for by: T.GLENN

Delivery location: OAKLAND, CA

Delivered to: Receptionist/Front Desk

Service type: FedEx Priority Overnight

Packaging type: FedEx Envelope

Number of pieces: 1

Weight: 0.50 lb.

Special handling/Services: Adult Signature Required
Deliver Weekday

Standard transit: 1/26/2017 by 10:30 am

EXHIBIT 4

Yoana Palomar

From: TrackingUpdates@fedex.com
Sent: Thursday, January 26, 2017 9:25 AM
To: Yoana Palomar
Subject: FedEx Shipment 778276766098 Delivered

Your package has been delivered

Tracking # 778276766098

Ship date:
Wed, 1/25/2017
RICHARD A. MOSS
MOSS LAW GROUP
PASADENA, CA 91101
US



Delivered

Delivery date:
Thu, 1/26/2017 9:22 am
Legal Unit
Division of Workers'
Compensation
1515 Clay Steet Suite 1800
OAKLAND, CA 94612
US



Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number: 778276766098
Status: Delivered. 01/26/2017 09:22 AM Signed for By: T GLENN
Reference: Yang
Signed for by: T.GLENN
Delivery location: OAKLAND, CA
Delivered to: Receptionist/Front Desk
Service type: FedEx Priority Overnight
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Adult Signature Required
Deliver Weekday
Standard transit: 1/26/2017 by 10:30 am