BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY

In the Matter of: **SERGIO CASTRO** Holder of License No. **MT-18740** For the Practice as a Massage Therapist In the State of Arizona, Respondent.	**BOARD CASE NOS. 19-118** **DECISION AND ORDER**

On February 25, 2018, the Arizona State Board of Massage Therapy ("Board") held an Administrative Hearing in the above referenced matter. Sergio Castro ("Respondent") appeared represented himself. Assistant Attorney General Michael Raine represented the State. Assistant Attorney General, Marc H. Harris, of the Licensing and Enforcement Section of the Attorney General's Office, appeared in person to provide independent legal advice to the Board. After considering all of the evidence and arguments, the Board issues the following Findings of Fact, Conclusions of Law and Order ("Decision and Order"):

FINDINGS OF FACT

1. On October 18, 2018, the Board issued an Order placing Respondent's license on probation in case number 18-129 following a formal hearing that occurred on October 1, 2018.

2. On October 27, 2018, Respondent provided massage therapy services to client NK.

3. During the massage, Respondent applied massage therapy techniques and made oral statements of a sexual nature that made NK uncomfortable, including the following: Although NK had kept her underwear on for the massage, Respondent placed his hands underneath NK's underwear and massaged her bare buttocks; Respondent massaged NK's buttocks with too much pressure causing her pain and stated that NK could scream out if she desired; Respondent pulled NK's hair during the massage; Respondent continued to massage NK after the allotted time, leaving the room and returning with a breath mint and beginning a

massage technique that focused on her chest; and Respondent asked NK whether she had a boyfriend.

CONCLUSIONS OF LAW

1. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(6) (engaging in any act or practice in violation of this chapter or any board rule).

2. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(10) (engaging in conduct that could result in harm or injury to the public).

3. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(14) (engaging in substandard care due to deliberate or negligent conduct, whether or not it results in actual injury to a client).

4. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(15) (engaging in any "sexual activity" with a client, as that term is defined in A.R.S. §§ 32-4253(B)(2)(a) (defining "sexual activity" to include "sexual conduct"), -4253(B)(3) (defining "sexual conduct" to include direct or indirect touching of the genitals to any part of the body), and -4253(B)(2)(e) (defining "sexual activity" to include a breast massage without prior written consent).

5. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(23) (violating Board statutes, rules or orders).

ORDER

Based on the Board's adoption of the Findings of Fact and Conclusions of Law, the Board issues the following Order:

It is ordered **REVOKING** Respondent's massage therapy license no. MT-18740.

The effective date of this Decision and Order is the date that is signed by Board's Executive Director.

NOTICE OF APPEAL RIGHTS

Respondent is hereby notified that he has the right to request a rehearing or review by filing a petition with the Board's Executive Director within 30 days after service of this Decision and Order. Service of this Decision and Order is effective on the date of personal delivery or five days after the date of mailing. A.R.S. § 41-1092.09. The request for a rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-15-401(C). If a motion for rehearing or review is not filed, the Board's Decision and Order becomes effective 35 days after it is mailed to Respondent. Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 27TH day of February, 2019.

ARIZONA STATE BOARD OF
MASSAGE THERAPY

By: _____
Thomas Aughertor, Executive Director

Original Decision and Order
filed this 27th day of February, 2019 with the:

Arizona State Board of Massage Therapy
1740 West Adams Street, Suite 3401
Phoenix, Arizona 85007

Copy of the foregoing sent via
Regular and Electronic Mail
this 27th day of February, 2019 to:

Sergio Castro
1210 S Turquise Vista Drive #601
Tucson, Arizona 85710
serjcastro@gmail.com
Respondent

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Copy of the foregoing sent via Electronic Mail
This 27th day of February, 2019 to:

Michael Raine, Assistant Attorney General
Office of Arizona Attorney General-SGD/LES
2005 North Central Avenue
Phoenix, Arizona 85004
michael.raine@azag.gov
Attorney for the State

Marc H. Harris
Office of the Attorney General-SGD/LES
2005 North Central Avenue
Phoenix, Arizona 85004
Independent Attorney Advisor
marc.harris@azag.gov

By: _____
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