

1 **BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY**

2 In the Matter of:

3)
4 Jia Chen, LMT)

5)
6 License No. MT-01686P)

7 As a Massage Therapist)

8 In the State of Arizona)
9

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

10 Pursuant to Notice of Hearing Number 10-100 (Notice) this matter came before the Arizona
11 Board of Massage Therapy (Board) on June 28, 2010.

12 Dennis Beye, president, presided at the meeting with Board members Susan Pomfret, Jennifer
13 Coomes, and John Ortega in attendance.

14 The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant
15 Attorney General, Licensing and Enforcement Section. Mary Jo Foster, of the Solicitor General's
16 Section of the Attorney General's Office was present and available to provide independent legal
17 advice to the Board. Jia Chen (Respondent) was not present.

18 The Board, after considering the testimony and evidence presented, hereby issues the following
19 Findings of Fact, Conclusions of Law, and Order.

20 **AUTHORITIES AND JURISDICTION**

21
22 1. The Board is the duly constituted authority for licensing and regulating the practice of
23 massage therapy in the state of Arizona.

24 2. Respondent is the holder of license number MT-01686P, which allows her to practice as
25 a massage therapist in the state of Arizona.

26 3. Respondent's license expired on April 7, 2010. By letter dated January 14, 2010,
27 Respondent was notified that an investigation was pending against her. According to A.R.S. §

1 32-3202 the license of a massage therapist who does not renew a license and who has been
2 advised in writing that an investigation is pending at the time the license is due to expire does not
3 expire until the investigation is resolved. The license is suspended on the date it would otherwise
4 expire and the massage therapist is not allowed to practice in this state until the investigation is
5 resolved.

6 4. Under A.R.S. §§ 32-3202 and 32-4201 through 32-4259, the Board has jurisdiction over
7 the subject matter and over the Respondent as a licensee of the Board.

8 FINDINGS OF FACT

9 1. During a massage on June 4, 2007, Respondent touched a massage therapy client's
10 genitals and agreed to engage in sexual intercourse with the massage therapy client. The
11 massage therapy client was an undercover Phoenix Police Officer.

12 2. On June 4, 2007, Respondent was arrested and booked by Phoenix Police Officers for the
13 following charges:

- 14 • P.C.C. 23-52A.1: Prostitution, a class one misdemeanor;
- 15 • A.R.S. § 13-3208(A): Employee of house of prostitution, a class one
16 misdemeanor;
- 17 • P.C.C. 10-25.3.A.3.B: Massage while patron's anatomical areas are not covered, a
18 class one misdemeanor
- 19 • P.C.C. 10-25.3.A.3.C: Massage with touching of private anatomical areas, a class
20 one misdemeanor; and
- 21 • P.C.C. 10-25.3.A.3.A: Massage with intent to arouse, a class one misdemeanor.

22 3. On April 8, 2008, Respondent signed, under penalty of perjury, a renewal application for
23 her license with the Board. A question on the application stated: "Have you, during the last two
24 years, been investigated, arrested or charged, or received an issuance of a final order, judgment
25 or conviction of a felony, or other offence involving moral turpitude or prostitution, solicitation
26 or any other similar offense?" Respondent answered "No" to this question.

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CONCLUSIONS OF LAW

1. Under A.R.S. § 32-4201, *et seq.*, the Board possesses jurisdiction over the subject matter and over Respondent.

2. The conduct described above in paragraphs 2 and 3 of the Findings of Fact is grounds for discipline under A.R.S. § 32-4253(A)(2) (Using fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal or reinstatement of a license).

3. The conduct described above in paragraph 1 of the Findings of Fact is grounds for discipline under A.R.S. § 32-4253(A)(15) (Engaging in sexual activity with a client).

4. The conduct described above in paragraph 1 of the Findings of Fact constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(a) (“Sexual activity” means sexual conduct).

5. The conduct described above in paragraph 1 of the Findings of Fact constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(b) (“Sexual activity” means offering to engage in sexual conduct).

6. The conduct described above in paragraph 1 of the Findings of Fact constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(c) (Sexual activity means making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with a client).

7. The conduct described above in paragraph 1 of the Findings of Fact constitutes sexual activity in violation of A.R.S. § 32-4253(B)(3) (“Sexual conduct” means any direct or indirect touching, fondling or manipulating of any part of the genitals or anus by any part of the body or by any object or causing a person to engage in that conduct).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED that Respondent’s license number MT-01686P is REVOKED.

1 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

2 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §
3 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-
4 five (35) days from the date of mailing if the Order was served by certified mail. The petition
5 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.
6 R4-15-401(C). The timely filing of a motion for rehearing or review shall stay the enforcement
7 of the Board's Order. If a motion for rehearing or review is not filed, the Board's Order becomes
8 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the
9 Board has expressly found good cause to believe that this Order shall be effective immediately
10 upon the issuance and has so stated in this Order.

11 Dated and signed this _____ day of June, 2010.

12 ARIZONA BOARD OF MASSAGE THERAPY

13 By: 

14 Craig Runbeck, N.M.D.
15 Executive Director
16

17 ORIGINAL OF THE FOREGOING FILED

18 this 29 day of June, 2010 with the:
19 Arizona State Board of Massage Therapy
20 1400 West Washington, Suite 300
21 Phoenix, AZ 85007

22
23 EXECUTED COPY OF THE FOREGOING MAILED

24 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
25 this 29 day of June, 2010, to:

26
27 Jia Chen
28 746 Geoffrey Court
29 Pomona, CA 91766
30 Respondent

31
32 COPY OF THE FOREGOING MAILED

33 this 29 day of June, 2010, to:
34 Christopher Munns
35 Assistant Attorney General

1 1275 W. Washington Street, CIV/SGO
2 Phoenix, Arizona 85007
3 Attorney for the Board

4
5 Elizabeth Campbell
6 Assistant Attorney General
7 1275 W. Washington Street, CIV/LES
8 Phoenix, Arizona 85007
9 Attorney for the State

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A handwritten signature in cursive script, appearing to read "Stange", is written over a horizontal line that spans across the page.