

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

In the Matter of

Board Case No.

JEREMY DELLOSA, LMT

21-157

Holder of License No. MT-16774
As a Massage Therapist
In the State of Arizona

**CONSENT AGREEMENT FOR
SURRENDER OF MASSAGE THERAPY
LICENSE**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Massage Therapy (Board) pursuant to A.R.S. § 32-4201, *et. seq.*, Jeremy Dellosa (Respondent), holder of Massage Therapist License Number MT-16774 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order for Voluntary Surrender of licensure (Consent Agreement) as a final disposition of this matter.

RECITALS

1. While Respondent neither admits nor denies the following Findings of Fact and Conclusions of Law, Respondent acknowledges that, should this matter proceed to hearing, the Board could establish by a preponderance of the evidence that Respondent engaged in conduct which, if found to have committed in the future, could be used to order discipline under the Board's statutes or rules. Therefore, Respondent has agreed to enter into this Consent Agreement as an economical and practical means of resolving this case.
2. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.
3. Respondent understands that he has a right to a public administrative hearing concerning this matter, at which hearing Respondent could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein.
4. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.
5. Respondent understands that this Consent Agreement or any part of the agreement may be considered in any future disciplinary action by the Board against Respondent.
6. Respondent understands this Consent Agreement deals with Board case number 21-157 involving allegations that Respondent engaged in conduct that would subject Respondent to discipline under the Board's statutes and rules. The investigation into these allegations against Respondent shall be concluded upon the Board's adoption of this Consent Agreement.
7. Respondent understands that this Consent Agreement does not constitute a dismissal or resolution of any other matters currently pending before the Board, if any, and does

not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigation, action or proceeding.

8. Notwithstanding any language in this Consent Agreement and Order, this Consent Agreement and Order does not preclude in any way any other State agency or officer or political subdivision of this state from instituting proceedings, investigating claims, or taking legal action as may be appropriate now or in the future relating to this matter or other matters concerning Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to the Board, this Consent Agreement and Order makes no representations, implied or otherwise, about the views or intended actions of any other state agency or officer or political subdivisions of the State relating to this matter or other matters concerning Respondent.

9. Respondent acknowledges and agrees that, upon signing this Consent Agreement and returning this document to the Board's Executive Director, Respondent may not revoke Respondent's acceptance of the Consent Agreement or make any modifications to the document regardless of whether the Consent Agreement has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

10. The Consent Agreement is subject to the Board's approval, and will be effective only when the Board accepts it by signature below. In the event the Board in its discretion does not approve this Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value, nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except that Respondent agrees that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this document or of any records relating thereto.

11. This Consent Agreement is effective only when signed by the Executive Director on behalf of the Board.

12. If a court of competent jurisdiction rules that any part of this Consent Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force and effect.

13. Respondent understands that this Consent Agreement constitutes disciplinary action and is a public record that may be publicly disseminated as a formal action of the Board and may be reported as required by law to the National Practitioner Data Bank or other such databases.

14. Respondent agrees that the Board will adopt the following Findings of Fact, Conclusions of Law and Order.

ACCEPTED AND AGREED BY RESPONDENT



JEREMY DELLOSA, LMT

Dated: 7-22-2021

FINDINGS OF FACT

1. The Board is the duly constituted authority for licensing and regulating the practice of Massage Therapy in the State of Arizona.

2. Respondent is the holder of license number MT-16774 to practice as a Massage Therapist in the State of Arizona.

3. On April 6, 2021, the Board received a complaint from LS that alleged that on November 15, 2021, while receiving massage therapy services at Massage Envy in Prescott, Arizona the Respondent committed an actionable violation of Board statute and rule. *2020 Imp*

4. The complaint alleges that the Respondent inserted his fingers into the LS's vagina and moved them in and out. LS alleges that she waited several seconds trying to figure out what was happening, however, when she realized he wasn't going to stop she sat up and told him that this conduct must cease. LS allowed the Respondent to finish massaging her feet as she was too afraid to move or say anything more. The Respondent attempted to hug LS outside of the room after the massage.

6. On November 18, 2020, LS filed a report with the Prescott Police Department (case # 20-010005). The investigation is still pending at this time. On or about November 19, 2020, LS notified Respondent's employer regarding the incident. On November 23, 2020, a 3rd investigation was initiated by Massage Envy. The Respondent quit before the results of the 3rd party investigation were finalized. On November 23, 2021, as a result of the investigation Respondent was terminated from Massage Envy. *2020 Imp*

7. The Board reviewed the preliminary investigative materials at its June 10, 2021, special Board meeting and based on the facts presented, testimony from the complainant and the potential harm to the public health, safety or welfare the Board determined the matter required emergency action and moved to Summarily Suspend Respondent's license pending a formal hearing.

CONCLUSIONS OF LAW

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

2. The Board possesses statutory authority to enter into a consent agreement with a massage therapist and accept the surrender of an active license from a massage therapist who admits to having committed an act, which would subject the licensee to discipline under the Board's statutes or rules. *See* A.R.S. § 32-4254(O)(2).

3. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253 (A)(10), which states, "engaging in conduct that could harm the public."

4. The conduct and circumstances described above may constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(14), which states, "Engaging in the performance of substandard care by a massage therapist due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the person cared for is established."

5. A.R.S. § 32-4253(A)(15), which states, "Engaging in sexual activity with a client," as it relates to A.R.S. § 32-4253(B)(2)(c) which defines "Sexual activity" as, "Making sexual advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual nature with a client," as it relates to A.R.S. § 32-4253(B)(2)(a), which defines "Sexual activity" as, "Sexual conduct," as it relates to A.R.S. § 32-4253(B)(3), which defines "Sexual conduct" as, "[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."

6. The conduct and circumstances described above may constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(16), which states, "failing to adhere to the recognized standards and ethics of the massage therapy profession."

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

ORDER

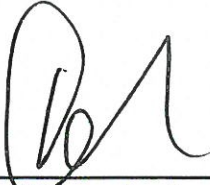
IT IS HEREBY ORDERED THAT License Number 16774 issued to Jeremy Dellosa, LMT shall be **VOLUNTARILY SURRENDERED** upon the acceptance of this consent agreement by the Respondent and the thereafter signing of this Order by the Executive Director of the Board at the approval of the Board.

IT IS FURTHER ORDERED that Jeremy Dellosa may not apply to the Board for reinstatement of ^{HIS} ~~her~~ license for at least one calendar year from the issuance date of this Order, as specified in A.R.S. § 32-3554 (A) and (B).

DATED this 26th day of July, 2021.

ARIZONA STATE BOARD OF MASSAGE
THERAPY

(Seal)

By: 

Thomas Augherton
Executive Director

ORIGINAL OF THE FORGOING FILED
this 26th day of July, 2021, with:

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

EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
this 26th day of July, 2021, to:

Attorney for the Respondent
J. Mitchell Padilla, Esq.
Law Office of J. Mitchell Padilla, PLLC
102 East Union Street
Prescott, Arizona 86303

Jeremy Dellosa
6279 North Moonlight Way
Prescott, Arizona 86314
Respondent

Copy of the foregoing emailed
this 26th day of July, 2021, to:

Seamus Monaghan. AAG
2005 North Central Avenue, SGD/LES
Phoenix, Arizona 85004
Attorney for the State

By: 

#9592613

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**BEFORE THE ARIZONA BOARD
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In the Matter of

Board Case No.

JEREMY DELLOSA, LMT

21-157

Holder of License No. MT-16774
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**RESPONDENT'S OBJECTION TO
STATE'S MOTION TO DEEM
ALLEGATIONS ADMITTED AND
VACATE FORMAL HEARING**

9 Respondent Jeremy Dellosa, though undersigned counsel, responds to the Motion to
10 Deem Allegations Admitted and Vacate Formal Hearing filed by the Office of the Arizona
11 Attorney General (the State).

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RESPONDENT COMPLIED WITH A.R.S. 32-4254(H)

Pursuant to A.R.S. 32-4254(H), the Respondent complied with the rule requirement:

14 "A licensee shall respond in writing to the board within thirty days
15 after notice of the hearing is served. The board may consider a
16 licensee's failure to respond within this time as an admission by
17 default to the allegations stated in the complaint. The board may
then take any disciplinary action allowed pursuant to this chapter
without conducting a hearing."

18 On June 17, 2021, the Respondent received notification that the board hearing would take
19 place on July 26, 2021 at 9:00 a.m. On June 25, 2021, the Respondent emailed a response to the
20 board that Respondent would not be attending the hearing and that he was surrendering his
21 license, MT-16774, as of that date (Attachment A). The Respondent chose to surrender his
22 license and not attend the hearing in light of the board's comments at the June 10, 2021, Special
23 Board Hearing. On July 7, 2021, an acknowledgment of Respondent's notice to surrender his
24 license was sent to Respondent by Andrew B White Jr., Investigator (Attachment B). Whether
25 using June 25, 2021 or July 7, 2021, the Respondent complied with this requirement.
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1 **RESPONDENT NEVER RECEIVED THE CONSENT AGREEMENT FOR**
2 **SURRENDER OF MASSAGE THERAPY LICENSE WITHIN THIRTY DAYS OF**
3 **HEARING NOTICE**

4 Neither Respondent, nor undersigned counsel, ever received the Consent Agreement For
5 Surrender Of Massage Therapy License form that would have allowed Respondent to “formally”
6 notify the board that he would not be attending the hearing on July 26, 2021. Respondent
7 became aware of the State’s Motion to Deem Allegations Admitted and Vacate Formal Hearing
8 on July 22, 2021. The State filed its motion because this consent agreement form was never
9 received by the board. However, as stated above, the consent agreement form was never sent to
10 the Respondent, perhaps because the board acknowledged receipt of the Respondent’s response
11 (via email) to not attend the hearing. Whether the Respondent’s email is accepted as a response,
12 or the board acknowledges it did not send the Respondent a consent agreement in a timely
13 manner, the the Respondent cannot be defaulted for failure to respond.

14 Nonetheless, undersigned counsel contacted the State on July 22, 2021, to ask for a
15 consent agreement form so that the Respondent could “formally” submit his response in a
16 manner other than that of an email (Attachment C).

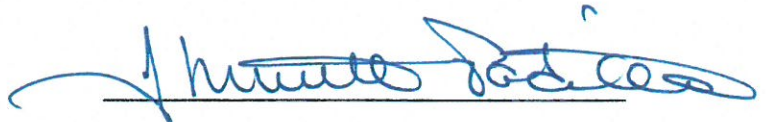
17 As noted in the consent agreement, Page 1, Recital (1), the Respondent neither admits nor
18 denies the boards Findings of Fact and Conclusions of Law. Again, the Respondent chose to
19 surrender his license and not attend the hearing in light of the board’s comments at the June 10,
20 2021, Special Board Hearing.

21 **CONCLUSION**

22 The Respondent has filed this Objection to the State’s motion only to rebut the fact that
23 the Respondent never submitted a response to the board. The fact is that the Respondent was
24 never given an opportunity to submit a signed consent agreement as the board stated he would be
25 given at the June 10, 2021, Special Board Hearing. The Respondent is not asking for a hearing
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1 to be reset. The Respondent only asks the board to acknowledge that the Respondent did
2 respond within the thirty-day time requirement, that the Respondent was never provided an
3 opportunity to submit a consent agreement in order to not attend the hearing on July 26, 2021,
4 and to not default the Respondent with an admission of any or all allegations set forth against
5 him.

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7 Respectfully submitted this 22 day of July, 2021.

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10 J. Mitchell Padilla
11 Attorney for Respondent
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1 ORIGINAL OF THE FORGOING FILED
this 22 day of July_2021, with:

2 Arizona State Board of Massage Therapy
3 1740 West Adams, Suite 3401
Phoenix, Arizona 85007
4 thomas.augherton@massageboard.az.gov

5 EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
6 this 22 day of July_2021, to:

7 Seamus Monaghan, AAG
2005 North Central Avenue, SGD/LES
8 Phoenix, Arizona 85004
seamus.monaghan@azag.gov
9 *Attorney for the State*

10 Copy of the foregoing emailed
this 22 day of July, 2021, to:

11 Attorney for the Respondent
12 J. Mitchell Padilla, Esq.
Law Office of J. Mitchell Padilla, PLLC
13 102 East Union Street
Prescott, Arizona 86303
14 mitchpadillalaw@gmail.com
Attorney for the Respondent

15 Jeremy Dellosa
16 6279 North Moonlight Way
Prescott, Arizona 86314
17 *Respondent*

18 By: 
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