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

In the Matter of
JOSEPH ESPOSITO, LMT
Holder of License No. MT-23127
As a Massage Therapist
In the State of Arizona

Board Case No. 19-145

**CONSENT AGREEMENT
(Probation)**

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") under A.R.S. § 32-4201, *et. seq.*, Joseph Esposito ("Respondent"), holder of Massage Therapist License Number MT-23127 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

RECITALS

1. 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.

2. Respondent understands that Respondent 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.

1 3. Respondent affirmatively agrees that this Consent Agreement shall be
2 irrevocable.

3 4. Respondent understands that this Consent Agreement or any part of the
4 agreement may be considered in any future disciplinary action by the Board against
5 Respondent.

6 5. Respondent understands this Consent Agreement deals with Board case
7 number 19-148 involving allegations that Respondent engaged in conduct that would
8 subject Respondent to discipline under the Board's statutes and rules. The investigation
9 into these allegations against Respondent shall be concluded upon the Board's adoption
10 of this Consent Agreement.

11 6. Respondent understands that this Consent Agreement does not constitute a
12 dismissal or resolution of any other matters currently pending before the Board, if any,
13 and does not constitute any waiver, express or implied, of the Board's statutory authority
14 or jurisdiction regarding any other pending or future investigation, action or proceeding.

15 7. Respondent also understands that acceptance of this Consent Agreement
16 does not preclude any other agency, subdivision, or officer of this State from instituting
17 any other civil or criminal proceedings with respect to the conduct that is the subject of
18 this Consent Agreement.

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

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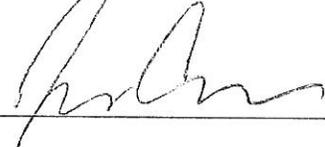
1 9. This Consent Agreement is effective only when signed by the Executive
2 Director on behalf of the Board.

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

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

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

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12 **ACCEPTED AND AGREED BY RESPONDENT**

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Dated: April 12th 2019

15 Joseph Esposito

16 **FINDINGS OF FACT**

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

19 2. Respondent is the holder of license number MT-23127 to practice as a
20 Massage Therapist in the State of Arizona.

21 3 On February 12, 2019, Respondent provided massage therapy services to
22 client SW at Biogenerist in Tucson, AZ.

23 4. During the massage, Respondent failed to provide draping that adequately
24 provided SW with privacy and comfort that met her expectations, and she felt
25 unnecessarily exposed.

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1 the hours required for the renewal of Respondent's massage therapist license under
2 A.R.S. § 32-4225. Respondent shall seek and obtain pre-approval of his continuing
3 education courses from Board or its designee (staff). Continuing education that
4 Respondent obtains pursuant to this Order must occur in a live classroom setting.

5 **2. Termination of Probation/Early Termination.**

6 Respondent must request that the Board terminate his probation when it has
7 elapsed. Respondent may also petition the Board for early termination of his probation if
8 he has completed all of the terms of his probation. Respondent must provide satisfactory
9 evidence to the Board that he has completed his probation successfully. Failure of the
10 Respondent to request that the Board terminate his probation shall cause his probation to
11 continue beyond the time referenced above and until such time as Respondent makes a
12 request or provides the necessary documentation.

13 **3. General Provisions.**

14 a. Respondent shall pay all necessary fees throughout the term of Respondent's
15 probation to maintain Respondent's massage therapy license in active status.

16 b. Throughout the term of Respondent's probation, Respondent shall personally
17 appear before the Board when requested to do so by the Board or its staff.

18 c. Respondent shall obey all federal and state laws and rules governing the
19 practice of Massage Therapists.

20 d. Respondent shall pay all costs associated with complying with this Order.

21 e. If Respondent violates this Order in any way or fails to fulfill the requirements
22 of this Order, the Board, after giving the Respondent notice and the opportunity to be
23 heard, may revoke, suspend or take other disciplinary actions against Respondent's
24 license. The issue at such a hearing will be limited solely to whether this Order has
25 been violated.

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DATED this 10th day of April, 2019.

ARIZONA STATE BOARD OF MASSAGE
THERAPY

(Seal)

By: 
Thomas Augherton
Executive Director

ORIGINAL OF THE FORGOING FILED
this 10th day of April, 2019, with:

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

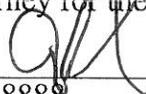
EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
this 10th day of April, 2019, to:

Joseph Esposito
4744 E Baker Street Unit C
Tucson, Arizona 85711
joesposito528@gmail.com
Respondent

 4/12/19

Flynn Carey
Mitchell Stein Carey Chapman
Flynn@mscclaw.com

Michael Raine
Assistant Attorney General
Michael.Raine@azag.gov
Attorney for the Board

By: 
#7818888