BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

In the Matter of:

MARISTELA HOODSPITH, LMT

License No. MT-11228
As a Massage Therapist
In the State of Arizona

Pursuant to Notice of Hearing, Case Number 12-110, (Notice) this matter came before the Arizona Board of Massage Therapy (Board) on May 20, 2013.

Dennis Beye, president, presided at the meeting with Board members Victoria Bowman, John Ortega, Diane Pruetz, and Earl Duskey in attendance. The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant Attorney General, Licensing and Enforcement Section. Diana Rasner of the Solicitor General’s Section of the Attorney General’s Office was available to provide independent legal advice to the Board. Respondent was not present at the hearing. The Board, after considering the testimony and evidence presented, hereby issues the following Findings of Fact, Conclusions of Law, and Order.

AUTHORITIES AND JURISDICTION

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-11228, which allows her to practice as a massage therapist in the state of Arizona.

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

FINDINGS OF FACT

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1. During a massage on January 6, 2010, Respondent provided massage therapy to a client at Scottsdale Massage in Scottsdale, Arizona. The massage therapy client was an undercover Scottsdale Police Officer.

2. During the massage on January 6, 2010, Respondent offered to perform a nude or partially nude hand job for money.

3. During an interview with police on December 14, 2010, Respondent admitted to engaging in sexual conduct, including specifically providing hand jobs, with massage therapy clients at Scottsdale Massage, Busy Bodies Massage, and/or Paradise Island Massage from June 2008 until May 2010.

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 the Findings of Fact is grounds for discipline under A.R.S. § 32-4253(A)(15) (Engaging in sexual activity with a client).

3. The conduct described above in the Findings of Fact constitutes sexual activity in violation of A.R.S. § 32-4253(B)(2)(a) ("Sexual activity" means offering to engage in sexual conduct”). "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. A.R.S. § 32-4253(B)(3).

4. The conduct described above in 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). "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. A.R.S. § 32-4253(B)(3).

5. The conduct described above in 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).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED
that Respondent's license number MT-11228 is REVOKED.

RIGHT TO PETITION FOR REHEARING OR REVIEW

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

Dated and signed this 22nd day of May, 2013.

ARIZONA BOARD OF MASSAGE THERAPY

By: Kathleen Phillips
Deputy Director
ORIGIN OF THE FOREGOING FILED
this 11th day of May, 2013 with the:
Arizona State Board of Massage Therapy
1400 West Washington, Suite 300
Phoenix, AZ 85007

EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED & REGULAR FIRST-CLASS MAIL
this 22nd day of May, 2013, to:
Maristela Hoodspith
19635 N Cave Creek Rd. #126
Phoenix, Arizona 85024
Respondent/Licensee

COPY OF THE FOREGOING MAILED
this 23rd day of May, 2013, to:
Diana Rasner
Assistant Attorney General
1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
Attorney for the Board

Elizabeth Campbell
Assistant Attorney General
1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the State

[Signature]
BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

In the Matter of:

MARISTELA HOODSPITH, LMT

ORDER DENYING RESPONDENT'S
REQUEST FOR REHEARING OR REVIEW

Holder of License No. MT-11228
As a Massage Therapist
In the State of Arizona

On September 23, 2013, the Arizona Board of Massage Therapy (Board) met to consider Respondent’s request for rehearing or request of the Board’s Order on May 22, 2013. The Board was represented by the Office of the Attorney General, Elizabeth Campbell. After full consideration of the record in this matter and the arguments of the parties, the Board voted to DENY Respondent’s request for rehearing or review. Respondent has set forth no grounds upon which a rehearing or review should be granted.

ORDER
Respondent’s Motion for Rehearing is Denied. The Board’s Order dated May 22, 2013 remains in effect.

NOTICE
Respondent is notified that this Order is the final administrative decision of the Board and that Respondent has exhausted her administrative remedies. Respondent is advised that an appeal to superior court may be taken from this decision pursuant to A.R.S. §§ 12-901 et seq within thirty-five (35) days from the date this decision is served.

Dated and signed this 23rd day of September, 2013.

ARIZONA BOARD OF MASSAGE THERAPY

By: Kathleen Phillips
   Executive Director

ORIGINAL OF THE FOREGOING FILED
this 23th day of September, 2013 with the:
Arizona State Board of Massage Therapy
1400 West Washington, Suite 300
Phoenix, AZ 85007

EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED & REGULAR FIRST-CLASS MAIL
this 23th day of September, 2013, to:

Maristela Hoodspith
Respondent/Licensee
Address of Record

COPY OF THE FOREGOING MAILED
this 23th day of September, 2013, to:

Chris Munns
Assistant Attorney General
1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
Attorney for the Board

Elizabeth Campbell
Assistant Attorney General
1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the State

[Signature]

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