1	BEFORE THE ARIZONA STATE BOARD OF MASSAGE THERAPY		
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3	In the Matter of:		
4	JAIME MARTINEZ Holder of License No. MT-18370	<b>BOARD CASE NOS. 18-118</b>	
5	Tionder of Electrise No. NIT-10570		
6	For the Practice as a Massage Therapist	DECISION AND ORDER	
7	In the State of Arizona		
8	RESPONDENT		
9			
10	On October 1, 2018, during a re	egularly scheduled board meeting, the Arizona State	
11	Board of Massage Therapy ("Board") held an Administrative Hearing to hear evidence, testimony		
12	and arguments regarding this case. Assistant Attorney General Michael Raine represented the		
13	State. Jaime Martinez ("Respondent") was present and represented by Richard Gaxiola. Assistant		
14	Attorney General, Mary DeLaat Williams, of the Licensing and Enforcement Section of the		
15	Attorney General's Office, appeared, in person, to provide independent legal advice to the Board.		
16	After hearing all of the evidence and arguments presented by the parties, the Board issues the		
17	following Findings of Fact, Conclusions of L	aw and Order:	
	FINDIN	NGS OF FACT	
18	1. On November 17, 2017, cl	ient ST received massage therapy services from	
19	Respondent at Massage Envy in Phoenix, Arizona.		
20		pain and scheduled a ninety-minute massage with	
21	Respondent.		
22		pondent for massage therapy services on multiple	
23	occasions.		
24		ent inserted his fingers into ST's vagina without her	
25	consent, causing her pain.		
26	5. ST initially believed that Res	pondent's act of inserting his fingers into her vagina	
	was a mistake, and said nothing so as not to e		
	, as a moune, and said nothing so as not to	1	

After the second instance of Respondent inserting his fingers into ST's vagina, ST 7. 3 told Respondent to "please stop!" 4 8. Respondent stopped his conduct momentarily, but then inserted his fingers into 5 ST's vagina a third time, without her consent, causing her pain. 6 9. ST again told Respondent to "stop!" 7 Respondent stopped his conduct momentarily, but then inserted his fingers into 10. ST's vagina a fourth time, without her consent, causing her pain. 8 ST told Respondent "enough!" and pushed Respondent's hand away from her 11. 9 genital area. 10 12. ST felt that Respondent was trying to pin her down to the table. 11 ST called Massage Envy to lodge a complaint on November 19, 2017. 13. 12 14. ST also reported the incident to the Phoenix Police Department (#2017-13 00002145595). 14 CONCLUSIONS OF LAW 15 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 16 any board rule). 17 2. The conduct and circumstances described above constitute grounds for discipline 18 pursuant to A.R.S. § 32-4253(A)(8) (committing an act of malpractice, gross negligence, or 19 incompetency). 20 3. The conduct and circumstances described above constitute grounds for discipline 21 pursuant to A.R.S. § 32-4253(A)(10) (engaging in conduct that could result in harm or injury to 22 the public). 23 4. 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 24 conduct, whether or not it results in actual injury to a client). 25 5. The conduct and circumstances described above constitute grounds for discipline 26 pursuant to A.R.S. § 32-4253(A)(15) (engaging in any "sexual activity" with a client, as that term 2

Respondent then inserted his fingers into ST's vagina a second time, without her

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consent, causing her pain.

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is defined in A.R.S. §§ 32-4253(B)(2)(a) (defining "sexual activity" to include "sexual conduct") and -4253(B)(3) (defining "sexual conduct" to include touching a client's genitals).

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

## ORDER

Based on the Board's adoption of the Findings of Fact and Conclusions of Law, the Board issues its order **REVOKING** the Respondent's massage therapy license no. MT-18370.

## NOTICE OF APPEAL RIGHTS

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

DATED this 18th day of October, 2018

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Contraction of	Edmonson, Executive I

ARIZONA STATE BOARD OF MASSAGE THERAPY

Original Decision and Order filed this <u>18th</u> day of <u>October</u> 2018 with the:

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

1	Copy of the foregoing sent via Regular and Electronic mail this
2	<u>18th</u> day of <u>October</u> 2018 to:
3	Jaime Martinez
4	1622 W. Villa Maria Phoenix, Arizona 85023
5	jaimemartinez1159@gmail.com
6	Copy of the foregoing sent via Electronic mail this <u>18th</u> day of <u>October</u> 2018 to:
7	Michael Raine, Assistant Attorney General
8	Office of Arizona Attorney General – SGD/LES 2005 North Central Avenue
9	Phoenix, Arizona 85067 michael.raine@azag.gov
10	
11	Mary DeLaat Williams, Assistant Attorney General Licensing & Enforcement Section
12	Office of the Attorney General - SGD/LES 2005 North Central Avenue
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