

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

2 In the Matter of:

3
4 **SEAN ROMMES, LMT**

5
6 Holder of License No. MT-17289

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, Case Number 13-118, this matter came before the Arizona Board
11 of Massage Therapy (Board) on July 22, 2013.

12 Dennis Beye, president, presided at the meeting with Board members Victoria Bowman, John

13 Ortega, and Earl Duskey in attendance. The State was represented by the Office of the Attorney

14 General, Elizabeth Campbell, Assistant Attorney General, Licensing and Enforcement Section.

15 Chris Munns of the Solicitor General's Section of the Attorney General's Office was available to

16 provide independent legal advice to the Board. Respondent was not present at the hearing and

17 was not represented by an attorney. The Board, after considering the testimony and evidence

18 presented, hereby issues the following Findings of Fact, Conclusions of Law, and Order.

19 **AUTHORITIES AND JURISDICTION**

20
21 1. The Board is the duly constituted authority for licensing and regulating the practice of
22 massage therapy in the state of Arizona.

23 2. Respondent is the holder of license number MT-17289, which allows him to practice as a
24 massage therapist in the state of Arizona.

25 3. Under A.R.S. §§ 32-4201, et seq., the Board has jurisdiction over the subject matter and
26 over Respondent as a licensee of the Board.
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1 **FINDINGS OF FACT**

- 2 1. On October 6, 2012, female massage therapy client MS received a massage from
3 Respondent.
- 4 2. During the massage, Respondent touched MS's breast and genitals. ^{MS CP}CM had not
5 consented to a breast massage. In addition, Respondent inappropriately viewed MS
6 during the massage.
7

8 **CONCLUSIONS OFLAW**

- 9
- 10 1. The Board may discipline a massage therapist who has engaged in sexual activity with a
11 client. A.R.S. § 32-4201 *et seq.*
- 12 2. The conduct and circumstances described in the Findings of Fact with regard to MS
13 constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(a) ("Sexual activity means
14 sexual conduct). "Sexual conduct" means any direct or indirect touching, fondling, or
15 manipulating of any part of the genitals or anus by any part of the body or by any object or
16 causing a person to engage in that conduct. A.R.S. § 32-4253(B)(3).
- 17 3. The conduct and circumstances described in the Findings of Fact with regard to MS
18 constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(c) ("Sexual activity means
19 making sexual advances, requesting sexual favors or engaging in other verbal conduct or
20 physical contact of a sexual nature with a client).
- 21 4. The conduct and circumstances described in the Findings of Fact with regard to MS
22 constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(d) ("Sexual activity" means
23 intentionally viewing a completely or partially disrobed massage therapy client in the course of
24 treatment if the viewing is not related to treatment under current practice standards and is
25 intended to appeal to the prurient interest of the massage therapy client or the massage therapist).
- 26 5. The conduct and circumstances described in the Findings of Fact with regard to MS
27 constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(e) ("Sexual activity" means
28 massaging, touching or applying any instrument or device by a licensee in the course of

1 practicing or engaging in massage therapy to the breasts of a female client unless the client
2 requests breast massage and signs a written consent). (Breast means any portion of the female
3 breast below a point immediately above the top of the areola. A.R.S. § 32-4253(B)(1)).

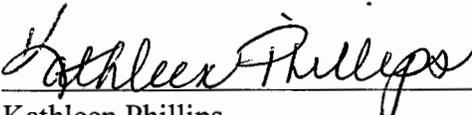
4 6. The conduct and circumstances described in the Findings of Fact with regard to MS
5 constitute grounds for disciplinary action under S.R.S. § 32-4253(A)(10) (Engaging in conduct
6 that could result in harm or injury to the public).

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8 **ORDER**

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10 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**
11 that Respondent's license number **MT-17289** is **REVOKED**.

12 Dated and signed this 25th day of July, 2013.

13 ARIZONA BOARD OF MASSAGE THERAPY

14 By: 
15 Kathleen Phillips
16 Executive Director
17

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

19 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §
20 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-
21 five (35) days from the date of mailing if the Order was served by certified mail. The petition
22 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.
23 R4-15-401(C). The timely filing of a motion for rehearing or review shall stay the enforcement
24 of the Board's Order. If a motion for rehearing or review is not filed, the Board's Order becomes
25 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the
26 Board has expressly found good cause to believe that this Order shall be effective immediately
27 upon the issuance and has so stated in this Order. The failure to file a motion for rehearing or

1 review within thirty days after service of the decision has the effect of prohibiting the parties
2 from seeking judicial review of the Board's decision.

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4 ORIGINAL OF THE FOREGOING FILED

5 this 25th day of July, 2013 with the:
6 Arizona State Board of Massage Therapy
7 1400 West Washington, Suite 300
8 Phoenix, AZ 85007

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10 EXECUTED COPY OF THE FOREGOING MAILED
11 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
12 this 25th day of July, 2013, to:

13

14 Sean Rommes
15 Address of Record
16 Respondent/Licensee

17

18

19 COPY OF THE FOREGOING MAILED
20 this 25th day of July, 2013, to:

21

22 Chris Munns
23 Assistant Attorney General
24 1275 W. Washington Street, CIV/SGO
25 Phoenix, Arizona 85007
26 Attorney for the Board

27

28 Elizabeth Campbell
29 Assistant Attorney General
30 1275 W. Washington Street, CIV/LES
31 Phoenix, Arizona 85007
32 Attorney for the State

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