1	BEFORE THE ARIZONA BOARD		
2	OF MASSAGE THERAPY EXAMINERS		
3 4 5 6 7 8		Board Case No. 21-128 CONSENT AGREEMENT AND ORDER FOR PROBATION	
9	interest, statutory requirements and the responsibilities of the Arizona State Board of Massage		
10	Therapy (Board) under A.R.S. § 32-4201, et. seq., Danny Shan (Respondent), holder of Massage		
11 12	Therapist License Number MT-26073 in the State of Arizona, and the Board enter into the		
12	following Recitals, Findings of Fact, Conclusions of Law and Order for Suspension (Consent		
13	Agreement) as a final disposition of this matter.		
15	<u>RECITALS</u> 1. While Respondent neither admits nor denies the following Findings of Fact and		
16	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		
18	which, if found to have committed in the future, could be used to order discipline under the		
19	Board's statutes or rules. Therefore, Respondent has agreed to enter into this Consent Agreement		
20	as an economical and practical means of resolving this case.		
21	2. Respondent has read and understa	ands this Consent Agreement and has had the	
22	opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to		
23	discuss this Consent Agreement with an attorney.		
24	3. Respondent understands that he l	has a right to a public administrative hearing	
25	concerning this matter, at which hearing Respondent could present evidence and cross-examine		
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1 witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily 2 relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, 3 reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein. 4

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4. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable. 6 5. Respondent understands that this Consent Agreement or any part of the agreement 7 may be considered in any future disciplinary action by the Board against Respondent.

8 6. Respondent understands this Consent Agreement deals with Board case number 9 21-128 involving allegations that Respondent engaged in conduct that would subject Respondent 10 to discipline under the Board's statutes and rules. The investigation into these allegations against 11 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

7. 12 Respondent understands that this Consent Agreement does not constitute a 13 dismissal or resolution of any other matters currently pending before the Board, if any, and does 14 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction 15 regarding any other pending or future investigation, action or proceeding.

16 8. Notwithstanding any language in this Consent Agreement and Order, this Consent 17 Agreement and Order does not preclude in any way any other State agency or officer or political 18 subdivision of this state from instituting proceedings, investigating claims, or taking legal action 19 as may be appropriate now or in the future relating to this matter or other matters concerning 20 Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act. 21 Respondent acknowledges that, other than with respect to the Board, this Consent Agreement 22 and Order makes no representations, implied or otherwise, about the views or intended actions of 23 any other state agency or officer or political subdivisions of the State relating to this matter or 24 other matters concerning Respondent.

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1	9. Respondent acknowledges and agrees that, upon signing this Consent Agreement	
2	and returning this document to the Board's Executive Director, Respondent may not revoke	
3	Respondent's acceptance of the Consent Agreement or make any modifications to the document	
4	regardless of whether the Consent Agreement has been signed by the Executive Director. Any	
5	modification to this original document is ineffective and void unless mutually agreed by the	
6	parties in writing.	
7	10. This Consent Agreement is effective only when signed by the Executive Director	
8	on behalf of the Board.	
9	11. If a court of competent jurisdiction rules that any part of this Consent Agreement	
10	is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full	
11	force and effect.	
12	12. Respondent understands that this Consent Agreement constitutes disciplinary	
13	action and is a public record that may be publicly disseminated as a formal action of the Board	
14	and may be reported as required by law to the National Practitioner Data Bank or other such	
15	databases.	
16	13. Respondent agrees that the Board will adopt the following Findings of Fact,	
17	Conclusions of Law and Order.	
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19	ACCEPTED AND AGREED BY RESPONDENT	
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21	Dated: 07-09-2021	
22	Danny Shan	
23	FINDINGS OF FACT	
24	1. The Board is the duly constituted authority for licensing and regulating the	
25	practice of Massage Therapy in the State of Arizona.	
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2. Respondent is the holder of license number MT-26073 to practice as a Massage
 2 Therapist in the State of Arizona.

- 3 3. On December 31, 2020, the Board received information from the Maricopa 4 County Sheriff's Department (MCSO) that alleged illegal massage activity was occurring at La 5 Bella Reflexology Spa in Litchfield Park, Arizona. The complaint was the result of an 6 investigation undertaken by MCSO after receiving three complaints between August and 7 December of 2020 regarding unlicensed massage activity and improper sexual conduct with 8 clients. The complaint indicated that an individual was holding themselves about to be a licensed 9 massage therapist.
- 4. The complaint also alleged that during the MCSO raid, which occurred in
 December of 2020, the Respondent and an individual named Chi Hen-Wei were detained for
 investigation. Chi Hen-Wei admitted to police that he was working at La Bella Reflexology Spa
 performing massages without a valid Arizona massage therapy license. MCSO issued citations
 for the unlicensed activity and notified the Board's investigator of the activity. The investigations
 are ongoing but the Board was provided with three MCSO report numbers; 20-036394, 20034428, 20-023212.
- 17 5. At all times pertinent to the allegations regarding this activity Respondent was the
 18 owner of La Bella Reflexology Spa in Litchfield Park, Arizona, and was responsible for hiring
 19 staff at that location.
- In response to the complaint the Respondent sent an answer via email on January
 21, 2021. In his response, the Respondent admitted to hiring massage therapists who were not
 licensed in Arizona because he was having a hard time finding qualified workers. The answer
 goes on to further state that the Respondent allowed unlicensed massage therapists to work in his
 establishment because of the protracted time required to convert out of state licenses. Finally, the
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Respondent admits that he has temporarily suspended all employees without Arizona licensure
 from performing full body massage.

- 7. At its May 25, 2021, Board meeting the Respondent attended and contradicted his
 above statement as well as those made to police by stating that he hired reflexologists who were
 not performing full body massages. The Board noted this contradiction and voted to move this
 matter forward to formal hearing for possible revocation of the Respondent's license to practice
 massage therapy in the state of Arizona pursuant to its authority under A.R.S. 32 § 4254(G).
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CONCLUSIONS OF LAW

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

11 2. The Board possesses statutory authority to enter into a consent agreement with a
12 massage therapist to limit or restrict the licensee's practice or to rehabilitate the licensee, protect
13 the public and ensure the licensee's ability to safely engage in the practice of massage therapy.
14 The Board may also require the licensee to successfully complete a Board approved
15 rehabilitative, retraining, continuing education or assessment program. *See* A.R.S. § 3216 4254(D).

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

4. The conduct and circumstances described above 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."

5. The conduct and circumstances described above constitute grounds for discipline
pursuant to A.R.S. § 32-4253(A)(18), which states, "Aiding or abetting a person who is not
licensed in this state and who directly or indirectly performs activities requiring a license."

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6. 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

4 IT IS HEREBY ORDERED that License Number MT-26073 issued to Danny Shan to practice
5 as a massage therapist in the State of Arizona is hereby placed on a term of <u>Probation</u> for a
6 period of <u>Two Years</u>, to begin on the effective date of this Consent Agreement, subject to the
7 following terms and conditions:

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1. Continuing Education.

9 Within 12 months of the effective date of this Consent Agreement, Respondent shall 10 complete 12 hours of continuing education, which must include courses covering the 11 following subjects: ethics and business practices. Six hours must be in the area of ethics 12 and the other six hours must be in the area of business practices. These continuing 13 education hours shall be in addition to and shall not be used to satisfy the hours required 14 for the renewal of Respondent's massage therapist license under A.R.S. § 32-4225. 15 Respondent shall seek and obtain pre-approval of his continuing education courses from 16 Board or its designee (staff) within 60 days of the effective date of this order. Respondent 17 shall provide the Board or its staff with proof of successful completion of the continuing education hours in satisfaction of this requirement within 12 months of the effective 18 19 date of this order.

20 2.

2. Civil Penalty.

Respondent shall remit a \$500.00 civil penalty <u>via certified funds</u> to the Board's administrative office <u>within 12 months</u> of the effective date of this order.

3. Termination of Probation/Early Termination

Respondent may petition the Board for early termination of his probation one year from the effective date of this Order, if he has completed all of the terms of this Order. Failure

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1	of the Respondent to request that the Board terminate his probation early shall cause his			
2	probation to continue beyond the time referenced above and until such time as			
3	Respondent makes a written request and provides the necessary documentation.			
4	4. General Provisions.			
5	a. Respondent shall pay all necessary fees throughout the term of Respondent's			
6	probation and suspension to maintain Respondent's massage therapy license in active			
7	status.			
8	b. Respondent shall pay all costs associated with complying with this Order.			
9	c. If Respondent violates this Order in any way or fails to fulfill the requirements of this			
10	Order, the Board, after giving the Respondent notice and the opportunity to be heard			
11	may revoke, suspend or take other disciplinary actions against Respondent's license. The			
12	issue at such a hearing will be limited solely to whether this Order has been violated.			
13	d. This Order shall terminate <u>2 years</u> from the effective date of the Order, but only if all			
14	terms and conditions have been successfully completed to the satisfaction of the Board,			
15	and Respondent requests in writing and is granted release by the Board.			
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18	DATED this day of, 2021.			
19				
20	ARIZONA STATE BOARD OF MASSAGE THERAPY			
21	(Seal)			
22	By:			
23	Thomas Augherton Executive Director			
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1	ORIGINAL OF THE FORGOING FILED thisday of June_2021, with:
2	Arizona State Board of Massage Therapy
3	1740 West Adams, Suite 3401 Phoenix, Arizona 85007
4	EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
5	this _ day of June 2021, to:
6	Danny Shan 5110 North Dysart Road, Unit #164
7	Litchfield Park, Arizona 85340 Respondent
8	Seamus Monaghan, AAG
9	2005 North Central Avenue, SGD/LES Phoenix, Arizona 85004
10	Attorney for the State
11	By:
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13	10507212
14	#9597312
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