

1 TOM HORNE
Attorney General
2 (Firm State Bar No. 14000)
3 ELIZABETH A. CAMPBELL
Assistant Attorney General
4 State Bar No. 018311
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7681
6 Fax: (602) 364-3202
Attorneys for the State

7
8 **BEFORE THE ARIZONA BOARD**
9 **OF MESSAGE THERAPY EXAMINERS**

10 In the Matter of

11 **CHIA HUA SHIH, LMT**

12 Holder of License No. MT-13370
As a Massage Therapist
13 In the State of Arizona

Board Case No. 14-112

MOTION TO DEEM

14

15 The State of Arizona hereby requests that the Arizona Board of Massage Therapy
16 Examiners (the "Board") vacate the hearing set for June 23, 2014, at 9:00 a.m. and deem
17 the allegations contained in the Board's Complaint and Notice of Hearing admitted
18 pursuant to A.R.S. § 32-4254(H). A copy of the Complaint and Notice of Hearing is
19 attached.

20

21 The Complaint and Notice of Hearing notified Respondent that, pursuant to A.R.S.
22 § 32-4254(H), Respondent was required to prepare and file with the Board a written
23 Answer to the allegations in the Complaint within 30 days after service. It further
24 notified Respondent that the Board could consider Respondent's failure to respond within

25

26

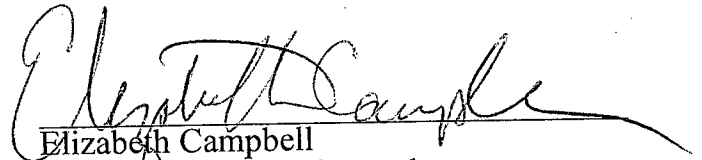
1 30 days an admission by default to the allegations stated in the Complaint and that the
2 Board could then take disciplinary action without conducting a hearing.

3 The Complaint and Notice of Hearing was mailed by first-class and certified mail
4 on April 17, 2014, to Respondent's address of record with the Board. Notice of a
5 complaint and hearing is effective by a true copy of it being sent by certified mail to the
6 licensee's last known address if record. A.R.S. § 32-4254(N). Notice of the complaint
7 is complete on the date of its deposit in the mail. *Id.*

8 Respondent has failed to file an Answer within the time permitted by statute. As
9 such, the State requests that the scheduled hearing be vacated and that the allegations
10 contained in the Complaint and Notice of Hearing be deemed admitted pursuant to A.R.S.
11 § 32-4254(H).
12

13 RESPECTFULLY SUBMITTED this 18th day of June, 2014.
14

15 TOM HORNE
16 Attorney General

17 
18 Elizabeth Campbell
19 Assistant Attorney General
20
21
22
23
24
25
26

1 **FILED** this 18th day of
June, 2014, with:

2 Arizona Board of Massage Therapy
3 kathleen.phillips@massageboard.az.gov

4 **COPY** of the foregoing mailed first class mail
This 18th day of June, 2014, to:

5 Chia Hua Shih
6 10313 N Scottsdale Rd
7 Scottsdale, AZ 85253
Respondent

8 **COPY** of the foregoing mailed interoffice
This 18th day of June, 2014, to:

9 Christopher Munns
10 Assistant Attorney General
11 1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
12 Attorney for the Board

13 
14 _____

3854623

15
16
17
18
19
20
21
22
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

In the Matter of

CHIA HUA SHIH, LMT,

Holder of License No. MT-13370
As a Massage Therapist
In the State of Arizona

Board Case No. 14-112

**COMPLAINT AND NOTICE OF
HEARING**

I. NOTICE OF PUBLIC HEARING

YOU ARE HEREBY NOTIFIED, the Arizona Board of Massage Therapy ("Board") will conduct an administrative hearing at the following place and time, to determine whether grounds exist to revoke or take other action regarding Massage Therapist License No. MT-13370 held by Chia Hua Shih ("Respondent"):

**Arizona Board of Massage Therapy
1400 West Washington, Basement Meeting Room B-1
Phoenix, Arizona 85007
On June 23, 2014, at 9:00 a.m.**

and continuing on successive days until concluding, concerning the matters set forth in this Complaint and Notice of Hearing, at which time and place, evidence, testimony and argument in support of the charges set forth in the Complaint will be presented. If you desire to make a defense to the charges at the hearing, you may appear at the hearing in person and may be represented by legal counsel and may at that time cross-examine the witnesses against you and present testimony of witnesses, evidence and argument in your own behalf.

Whether or not you intend to appear at the hearing, pursuant to A.R.S. § 32-4254(H), YOU ARE REQUIRED to prepare and file a written Answer to the allegations alleged in the above Complaint with the Board within 30 days after

1 **service of this Complaint and Notice of Hearing.** Your Answer must be in writing and
2 filed with the Board within thirty (30) days after service of the Complaint. *Id.* **THE**
3 **BOARD MAY CONSIDER YOUR FAILURE TO RESPOND WITHIN THIS TIME**
4 **AS YOUR ADMISSION BY DEFAULT TO THE ALLEGATIONS STATED IN**
5 **THE COMPLAINT.** *Id.* The Board may then take disciplinary action without
6 conducting a hearing. If you Answer and fail to appear for the hearing, the Board may
7 proceed in your absence. If you desire to waive a hearing and not contest the facts herein
8 alleged, you may file an Answer consisting of a declaration that the material allegations
9 of the Complaint are admitted.

10 After the hearing, if the Board determines that you have committed unprofessional
11 conduct, or otherwise violated the Board's statutes and rules, the Board may revoke or
12 suspend your license, impose a civil penalty of up to \$10,000 for each violation, issue a
13 decree of censure, impose probation, order the payment of restitution, and/or take other
14 disciplinary action. A.R.S. § 32-4254. If the Board determines that you have violated the
15 Board's statutes or rules, it may also charge you the costs of the formal hearing. A.R.S. §
16 32-4254(K).

17 In accordance with Title II of the Americans with Disabilities Act (ADA), the
18 Board does not discriminate on the basis of disability in admission to and participation in
19 hearings. Should you, or anyone you call as a witness need special accommodations,
20 please contact the Board office at (602) 542-8225 at least three working days before the
21 hearing.

22 Pursuant to A.R.S. § 32-3206, you have the right to request a copy of the
23 following information from the Board:

- 24
- 25 1. Any review conducted by an expert or consultant providing an evaluation
26 of or opinion on the allegations.
 2. Any records on the patient obtained by the board from other health care
providers.

- 1 3. The results of any evaluations or tests of the health professional conducted
 at the board's direction.
- 2 4. Any other factual information that the board will use in making its
 determination.

3
4 Please be advised that if you obtain the above-referenced information from the Board,
5 you may not release it to any other person or entity or use it in any proceeding or action
6 except the administrative proceeding or appeals related to the administrative proceeding.
7 Violation of this restriction constitutes an act of unprofessional conduct per A.R.S. § 32-
8 3206(B). Also, please be advised that pursuant to A.R.S. § 32-3206(C), you or your
9 attorney may be charged for the cost of providing the information received up to the fee
10 for making a copy of each page as prescribed by A.R.S. § 12-284(A).

11 Pursuant to A.R.S. § 41-1092.06(A), you have the right to request an informal
12 settlement conference by filing a written request with the Board no later than twenty (20)
13 days before the scheduled hearing. The conference will be held within fifteen (15) days
14 after receipt of your request. Please note that you waive any right to object to the
15 participation of the Board's representative in the final administrative decision of the
16 matter if it is not settled at the conference.

PARTIES AND JURISDICTION

- 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 holds license number MT-13370 as a massage therapist in the
20 State of Arizona.
- 21 3. Under A.R.S. §§ 32-4201 through -4259, the Board has jurisdiction over
22 the subject matter and over Respondent as a licensee of the Board.

FACTUAL ALLEGATIONS

- 24 1. On January 3, 2014, while working as a massage therapist at A Day Spa in
25 Scottsdale, Arizona, Respondent exposed a male massage therapy client's genitals,
26

1 touched the massage therapy client's penis, and agreed to perform a hand job. The
2 massage therapy client was an undercover Scottsdale Police Officer. Respondent was
3 charged with offenses including prostitution. Respondent failed to report the charge to
4 the Arizona Board within ten days.

5 **ALLEGED VIOLATIONS**

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

8 2. The conduct described above in the Factual Allegations is grounds for
9 discipline under A.R.S. § 32-4253(A)(15) (Engaging in sexual activity with a client).

10 3. The conduct described above in the Factual Allegations constitutes sexual
11 activity in violation of A.R.S. § 32-4253(B)(2)(a) ("Sexual activity" means sexual
12 conduct).

13 4. The conduct described above in the Factual Allegations constitutes sexual
14 activity in violation of A.R.S. § 32-4253(B)(2)(b) ("Sexual activity" means offering to
15 engage in sexual conduct).

16 5. The conduct described above in the Factual Allegations constitutes sexual
17 activity in violation of A.R.S. § 32-4253(B)(2)(c) ("Sexual activity" means making
18 sexual advances, requesting sexual favors or engaging in other verbal conduct or physical
19 contact of a sexual nature with a client).

20 6. The conduct described above in the Factual Allegations constitutes sexual
21 activity in violation of A.R.S. § 32-4253(B)(2)(d) ("Sexual activity" means intentionally
22 viewing a completely or partially disrobed massage therapy client in the course of
23 treatment if the viewing is not related to treatment under current practice standards and is
24 intended to appeal to the prurient interest of the massage therapy client or the massage
25 therapist).

26

1 ORIGINAL OF THE FORGOING FILED
this 17th day of April, 2014, with:

2 Arizona Board of Massage Therapy
3 1400 West Washington, Suite 300
4 Phoenix, Arizona 85007

5 COPY OF THE FOREGOING MAILED
BY CERTIFIED & REGULAR FIRST-CLASS MAIL
this 17th day of April, 2014, to:

6 Chia Hua Shih
7 Address of Record
8 Respondent/Licensee

9 COPY OF THE FOREGOING MAILED
this 17th day of April, 2014, to:

10 Christopher Munns
Assistant Attorney General
11 1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
12 Attorney for the Board

13 Elizabeth A. Campbell
Assistant Attorney General
14 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
15 Attorney for the State

16 

17 #3050807

18
19
20
21
22
23
24
25
26

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

3
4 **In the Matter of:**
5 **Chia Hua Shih, LMT**

6 **Holder of License No. MT-13370**

Case No. 14-112

**FINDINGS OF FACT, CONCLUSIONS
7 OF LAW, AND ORDER**

8 On June 23, 2014, the Arizona Board of Massage Therapy (the "Board") considered the
9 State's Motion to Deem Allegations admitted. Elizabeth Campbell, Assistant Attorney General,
10 appeared on behalf of the State. Neither Respondent nor an attorney for Respondent was
11 present. Christopher Munns of the Solicitor General's Office was available to provide
12 independent legal advice to the Board.

13 After reviewing the record and hearing from the parties, the Board granted the State's
14 Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-4254(H) and the Complaint and
15 Notice of Hearing filed in this matter, the Board issues the following Findings of Fact,
16 Conclusions of Law, and Order.

17
18 **FINDINGS OF FACT**

19 1. On January 3, 2014, while working as a massage therapist at A Day Spa in Scottsdale,
20 Respondent exposed a male massage therapy client's genitals, touched the massage therapy
21 client's penis, and agreed to perform a hand job. The massage therapy client was an undercover
22 Scottsdale Police Officer. Respondent was charged with offenses including prostitution.
23 Respondent failed to report the charge to the Arizona Board within ten days.
24
25

CONCLUSIONS OF LAW

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

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

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

7 5. The conduct described above in the Findings of Fact constitutes sexual activity in
8 violation of A.R.S. § 32-4253(B)(2)(c) (“Sexual activity” means making sexual advances,
9 requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual
10 nature with a client).

11 6. The conduct described above in the Findings of Fact constitutes sexual activity in
12 violation of A.R.S. § 32-4253(B)(2)(d) (“Sexual activity” means intentionally viewing a
13 completely or partially disrobed massage therapy client in the course of treatment if the viewing
14 is not related to treatment under current practice standards and is intended to appeal to the
15 prurient interest of the massage therapy client or the massage therapist).

16
17 7. The conduct described above in the Findings of Fact constitutes sexual activity in
18 violation of A.R.S. § 32-4253(B)(3) (“Sexual conduct” means any direct or indirect touching,
19 fondling or manipulating of any part of the genitals or anus by any part of the body or by any
20 object or causing a person to engage in that conduct).

21
22 8. The conduct described above in the Findings of Fact constitutes unprofessional conduct
23 under A.R.S. § 32-3208(A) and (D), which provide that it is unprofessional conduct for a health
24 professional who has been charged with a misdemeanor involving conduct that may affect
25 patient safety or a felony after receiving or renewing a license or certificate to fail to notify the
health professional’s regulatory board in writing within ten working days after the charge is
filed.

ORDER

IT IS HEREBY ORDERED that Respondent’s license number MT-13370 is **Revoked**.

Dated this 24th day of June, 2014.

1 Arizona Board of Massage Therapy

2 *Kathleen Phillips*

3 Kathleen Phillips, JD
4 Executive Director

5 NOTICE

6 Any aggrieved party may appeal this decision by filing a written request for Rehearing or
7 Review with the Board within thirty (30) days of service of this Decision. Service of this
8 Decision is effective on personal delivery or **five** days after the date of mailing. A motion for
9 Rehearing or Review shall conform to the requirements set forth in the Board's rules at A.A.C.
10 R4-15-401 and shall be served on the opposing party. The filing of a Motion for Rehearing or
11 Review is required in order to exhaust a party's administrative remedies. The failure to file a
12 Motion for Rehearing or Review will preclude a party from seeking judicial review of this
13 Decision.
14

15
16 ORIGINAL of the foregoing filed this
17 25th day of June, 2014, with:

18 Arizona Board of Massage Therapy
19 1400 W Washington St, Suite 300
20 Phoenix, AZ 85007

21 COPY of the foregoing sent certified and first class mail
22 this 25th day of June, 2014, to:

23 Address of Record
24 Respondent/Licensee

25 COPY of the foregoing mailed/delivered this
25th day of June, 2014, to:

Elizabeth Campbell
Assistant Attorney General
1275 W. Washington, CIV/LES
Phoenix, AZ 85007

Christopher Munns
Assistant Attorney General

1 Solicitor General's Office
2 1275 W. Washington
3 Phoenix, AZ 85007

4 By *Singer*

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25