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2 (Firm State Bar No. 14000)

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1275 W. Washington, CIV/LES  
5 Phoenix, Arizona 85007-2997  
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Attorneys for the State

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

10 In the Matter of

11 **JOE TAYLOR, LMT**

12 Holder of License No. MT-18195  
As a Massage Therapist  
13 In the State of Arizona

Board Case No. 15-139

**MOTION TO DEEM**

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15 The State of Arizona hereby requests that the Arizona Board of Massage Therapy  
16 Examiners (the "Board") vacate the hearing set for November 16, 2015, at 11:00 a.m. and  
17 deem 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 The Complaint and Notice of Hearing notified Respondent that, pursuant to A.R.S.  
21 § 32-4254(H), Respondent was required to prepare and file with the Board a written  
22 Answer to the allegations in the Complaint within 30 days after service. It further  
23 notified Respondent that the Board could consider Respondent's failure to respond within  
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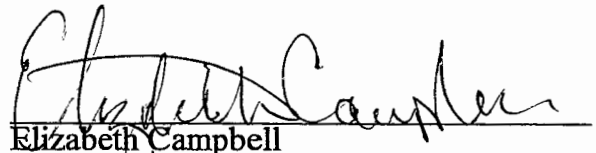
1 30 days an admission by default to the allegations stated in the Complaint and that the  
2 Board could then take disciplinary action without conducting a hearing.

3 The Complaint and Notice of Hearing was mailed by first-class and certified mail  
4 on August 20, 2015, 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 16<sup>th</sup> day of November, 2015.  
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15 MARK BRNOVICH  
16 Attorney General

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18 Elizabeth Campbell  
19 Assistant Attorney General  
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\*HAND DELIVERED AT MEETING on November 16, 2015



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

11 After the hearing, if the Board determines that you have committed unprofessional  
12 conduct, or otherwise violated the Board's statutes and rules, the Board may revoke or  
13 suspend your license, impose a civil penalty of up to \$10,000 for each violation, issue a  
14 decree of censure, impose probation, order the payment of restitution, and/or take other  
15 disciplinary action. A.R.S. § 32-4254. If the Board determines that you have violated the  
16 Board's statutes or rules, it may also charge you the costs of the formal hearing. A.R.S. §  
17 32-4254(K).

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

23 Pursuant to A.R.S. § 32-3206, you have the right to request a copy of the  
24 following information from the Board:  
25  
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1 ALLEGED VIOLATIONS

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

4 2. The Board may discipline a massage therapist who has engaged in sexual  
5 activity with a client. A.R.S. § 32-4253(A)(15).

6 3. The conduct and circumstances described above constitute sexual activity  
7 in violation of A.R.S. § 32-4253(B)(2)(a) ("Sexual activity" means sexual conduct).  
8 "Sexual conduct" means any direct or indirect touching, fondling, or manipulating of any  
9 part of the genitals or anus by any part of the body or by any object or causing a person to  
10 engage in that conduct. A.R.S. § 32-4253(B)(3).

11 4. The conduct and circumstances described above constitute sexual activity  
12 in violation of A.R.S. § 32-4253(B)(2)(c) ("Sexual activity" means making sexual  
13 advances, requesting sexual favors or engaging in other verbal conduct or physical  
14 contact of a sexual nature with a client).

15  
16 DATED this 8th day of October, 2015.

17 ARIZONA BOARD OF MASSAGE  
18 THERAPY

19 By: Kathleen Phillips  
20 KATHLEEN PHILLIPS,  
21 Executive Director  
22  
23  
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1 ORIGINAL OF THE FORGOING FILED  
this 8th day of October, 2015, with:

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

4  
5 COPY OF THE FOREGOING MAILED  
BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
this 8<sup>th</sup> day of October, 2015, to:

6  
7 Joe Taylor  
Respondent

8 COPY OF THE FOREGOING MAILED  
this 8<sup>th</sup> day of October, 2015, to:

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

12  
13 Elizabeth A. Campbell  
Assistant Attorney General  
1275 W. Washington Street, CIV/LES  
14 Phoenix, Arizona 85007  
Attorney for the State

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17 S. Conger

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

In the Matter of

**Joe Taylor, LMT,**

Holder of License No. MT-18195

As a Massage Therapist

In the State of Arizona

Board Case No. 15-139

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

On November 16, 2015, the Arizona Board of Massage Therapy (“the Board”) considered the state’s Motion to Deem Allegations Admitted. Elizabeth Campbell, Assistant Attorney General, appeared on behalf of the State. Neither Respondent nor Respondent’s attorney appeared at the Board meeting. Christopher Munns of the Solicitor General’s Office was available to provide independent legal advice to the Board.

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

**PARTIES 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-18195, which allows him to practice as a massage therapist in the State of Arizona.
3. Under A.R.S. § 32-4201, *et seq.*, the Board possess jurisdiction over the subject matter and over Respondent as a licensee of the Board.

**FINDINGS OF FACT**

1. On April 30, 2015, female massage therapy client KW received a massage from Respondent in Tucson, Arizona.
2. During the massage, Respondent touched KW’s genitals and rubbed his erect



penis against her knee.

### CONCLUSIONS OF LAW

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

2. The Board may discipline a massage therapist who has engaged in sexual activity with a client.

3. The conduct and circumstances described above constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(a) (“Sexual activity” means 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))

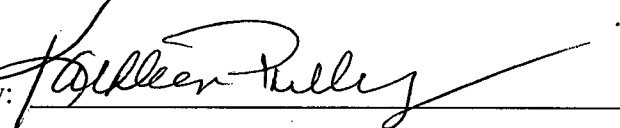
4. The conduct and circumstances described above constitute sexual activity in violation of A.R.S. § 32-4253(B)(2)(c) (“Sexual activity” means making sexual advances, requesting sexual favors or physical of a sexual nature with a client.

### ORDER

**IT IS HEREBY ORDERED** that Respondent’s license is **Revoked**.

DATED this 16th day of November, 2015

**ARIZONA STATE BOARD OF MASSAGE  
THERAPY**

By: 

Kathleen Phillips  
Executive Director

### NOTICE

Any aggrieved party may appeal this decision by filing a written request for Rehearing or Review with the Board within thirty (30) days of service of this Decision. Service of this Decision is effective on personal delivery or five days after the day of mailing. A Motion for Rehearing or Review shall conform to the requirements set forth in the Board’s rules at A.A.C. R4-15-401 and shall be served on the opposing party. The filing of a Motion for Rehearing or

Review is required in order to exhaust a party's administrative remedies. The failure to file a Motion for Rehearing or Review will preclude a party to seeking judicial review of this Decision.

ORIGINAL OF THE FORGOING FILED

this 16th day of September 2015, with:

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

COPY OF THE FOREGOING MAILED

BY CERTIFIED & REGULAR FIRST-CLASS MAIL

this 16th day of November, 2015, to:

(Address of Record)

Respondent

COPY OF THE FOREGOING MAILED

this 16th day of November, 2015, to:

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

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