

1                                   **BEFORE THE ARIZONA BOARD**  
2                                   **OF MASSAGE THERAPY EXAMINERS**  
3

In the Matter of

**JONATHON THOMPSON, LMT,**

Holder of License No. MT-07160  
As a Massage Therapist  
In the State of Arizona

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

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6 Pursuant to Notice of Hearing Number 14-100, this matter came before the Arizona Board of  
7 Massage Therapy (Board) on February 23, 2015.

8 Dennis Beye, Chair, presided at the meeting with Board members Victoria Bowman, John Ortega,  
9 Earl Duskey, and Diane Pruetz in attendance.

10 The state was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant  
11 Attorney General, Licensing and Enforcement Section. Chris Munns, of the Solicitor General's  
12 Section of the Attorney General's Office was present and available to provide independent legal  
13 advice to the Board. Jonathon Thompson (Respondent) was present and was represented by  
14 attorney Tom Gorman. The Board, after considering the testimony and evidence presented, hereby  
15 issues the following Findings of Fact, Conclusions of Law, and Order

16                                   **PARTIES AND JURISDICTION**

17           1.     The Board is the duly constituted authority for licensing and regulating the practice  
18 of massage therapy in the State of Arizona.

19           2.     Respondent is the holder of license number MT-07160, which allows him to  
20 practice as a massage therapist in the State of Arizona.

21           3.     Under A.R.S. § 32-4201, *et seq.*, the Board possess jurisdiction over the subject  
22 matter and over Respondent as a licensee of the Board.

23

1 **FINDINGS OF FACT**

2 1. On April 2, 2013, female massage therapy client ZM received a massage from  
3 Respondent at Hozho Shiatsu & Massage in Cottonwood, Arizona.

4 2. During the massage, which was ZM's fourth massage with Respondent,  
5 Respondent touched and massaged ZM's breasts. ZM had not consented to a breast massage.  
6 During ZM's previous appointment with Respondent, ZM noticed that Respondent's draping was  
7 looser and Respondent had exposed ZM's breast.

8 3. In approximately 2008, DS received a massage from Respondent in Cottonwood,  
9 Arizona. During the massage, Respondent exposed DS's breast and touched DS's breast.

10 **CONCLUSIONS OF LAW**

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

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

15 3. The conduct and circumstances with regard to ZM and DS constitute sexual activity  
16 in violation of A.R.S. § 32-4253(B)(2)(d) ("Sexual activity" means intentionally viewing a  
17 completely or partially disrobed massage therapy client in the course of treatment if the viewing  
18 is not related to treatment under current practice standards and is intended to appeal to the prurient  
19 interest of the massage therapy client or the massage therapist).

20 6. The conduct and circumstances described above constitute sexual activity in  
21 violation of A.R.S. § 32-4253(B)(2)(e) ("Sexual activity" means massaging, touching or applying  
22 any instrument or device by a licensee in the course of practicing or engaging in massage therapy

1 to the breasts<sup>1</sup> of a female client unless the client requests breast massage and signs a written  
2 consent).

3 **ORDER**

4 Based on the foregoing Finding of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**  
5 that Respondent's license number MT-07160 is suspended for 90 days, followed by one year of  
6 probation beginning on the last day of suspension. During the probationary period Respondent  
7 shall complete 20 hours of staff preapproved continuing education consisting of four hours of  
8 draping and 16 hours in ethics, boundaries and communications. This continuing education is in  
9 addition to the 24 hours required for license renewal. Respondent shall appear before the Board to  
10 request release from probation.

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

12 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §  
13 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-  
14 five (35) days from the date of mailing if the Order was served by certified mail. The petition  
15 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.  
16 R4-15-401(C). The timely filing of a petition for rehearing or review shall stay the enforcement  
17 of the Board's Order. If a petition for rehearing or review is not filed, the Board's Order becomes  
18 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the  
19 Board has expressly found good cause to believe the Order shall be effective immediately upon  
20 the issuance and has so stated in the Order. The failure to file a petition for rehearing or review  
21 within thirty-five (35) days after mailing has the effect of prohibiting the parties from seeking  
22 judicial review of the Board's decision.

23  
24 DATED this \_\_\_\_ day of March, 2015.

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<sup>1</sup> "Breast" means any portion of the female breast below a point immediately above the top of the areola. A.R.S. § 32-4253(B)(1).

ARIZONA BOARD OF MASSAGE THERAPY

By: Kathleen Phillips  
KATHLEEN PHILLIPS,  
Executive Director

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21 ORIGINAL OF THE FORGOING FILED  
22 this 3<sup>rd</sup> day of March, 2015, with:

23  
24 Arizona Board of Massage Therapy  
25 1400 West Washington, Suite 300  
26 Phoenix, Arizona 85007  
27

28 COPY OF THE FOREGOING MAILED  
29 BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
30 this 3<sup>rd</sup> day of March, 2015, to:

31  
32 Jonathon Thompson  
33 Respondent  
34 Address of record  
35

36 COPY OF THE FOREGOING MAILED  
37 this 3<sup>rd</sup> day of March, 2015, to:

38  
39 Thomas A. Gorman  
40 300 Apache Trail  
41 Sedona, AZ 86336  
42 Attorney for Respondent  
43

44 Christopher Munns  
45 Assistant Attorney General  
46 1275 W. Washington Street, CIV/SGO  
47 Phoenix, Arizona 85007  
48 Attorney for the Board  
49

50 Elizabeth A. Campbell  
51 Assistant Attorney General

1 1275 W. Washington Street, CIV/LES  
2 Phoenix, Arizona 85007  
3 Attorney for the State  
4  
5

S. Berger