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

10 In the Matter of
11 **KIMBERLY THORNTON,**
12 Holder of License No. MT-01070P
As a Massage Therapist
13 In the State of Arizona

Board Case No. 12-113
**CONSENT AGREEMENT FOR
SURRENDER**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona Board of
17 Massage Therapy ("Board") under A.R.S. § 32-4201, *et. seq.*, Kimberly Thornton
18 ("Respondent"), holder of Massage Therapist License Number MT-01070P in the State
19 of Arizona, and the Board enter into the following Recitals, Findings of Fact,
20 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
21 matter.

22 **RECITALS**

23 1. Respondent has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
26

1 2. Respondent understands that she has a right to a public administrative
2 hearing concerning this matter at which hearing she could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against her.

11 5. Respondent understands this Consent Agreement deals with Board Case
12 No. 12-113 involving allegations of unprofessional conduct against Respondent. The
13 investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

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

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Deputy Director, she may not
25 revoke her acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the Deputy
2 Director. Any modification to this original document is ineffective and void unless
3 mutually agreed by the parties in writing.

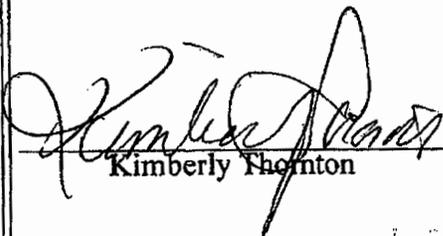
4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Deputy Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that
16 may be publicly disseminated as a formal action of the Board and may be reported as
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
18 Protection Data Bank.

19 12. Respondent agrees that the Board will adopt the following Findings of Fact,
20 Conclusions of Law and Order.

21
22 ACCEPTED AND AGREED BY RESPONDENT

23
24 
25 Kimberly Thornton
26

Dated: April 25, 2013

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for licensing and regulating
3 massage therapists in the State of Arizona.

4 2. On November 7, 2012, Respondent was convicted of Facilitation to
5 Commit Illegal Control of an Enterprise, a class 6 felony, in Maricopa County Superior
6 Court case number CR2011-005314-018. As part of its order, the Court ordered
7 Respondent for forfeit her massage therapy certificate for a period of 5 years.

8 3. Respondent failed to notify the Board that she had been charged with a
9 felony offense within 10 days after the charge was filed. The Board was kept informed
10 of the status of the case by Scottsdale police officers.

11 4. The felony conviction constitutes grounds for discipline under A.R.S. § 32-
12 4253(A)(4) (Being convicted of a felony or other offense involving moral turpitude or
13 conviction for prostitution, solicitation or another similar offense. A conviction by a
14 court of competent jurisdiction is conclusive evidence of the commission of the crime).

15 5. The conduct described also constitutes unprofessional conduct under
16 A.R.S. § 32-3208(A) and (D), which provide that it is unprofessional conduct for a health
17 professional who has been charged with a misdemeanor involving conduct that may
18 affect patient safety or a felony after receiving or renewing a license or certificate to fail
19 to notify the health professional's regulatory board in writing within ten working days
20 after the charge is filed.
21

22 **CONCLUSIONS OF LAW**

23 1. The Board possesses jurisdiction over the subject matter and over
24 Respondent pursuant to A.R.S. § 32-4201 *et seq.*
25
26

1 ORIGINAL OF THE FORGOING FILED
2 this 20 day of May, 2013, with:

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

6 EXECUTED COPY OF THE FOREGOING MAILED
7 BY CERTIFIED MAIL
8 this _____ day of _____, 2013, to:

9 Kimberly Thornton
10 Address of Record
11 Respondent

12 EXECUTED COPY OF THE FOREGOING MAILED
13 this 20 day of May, 2013, to:

14 Elizabeth A. Campbell
15 Assistant Attorney General
16 1275 W. Washington Street, CIV/LES
17 Phoenix, Arizona 85007
18 Attorney for the Board

19 #3266349

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Attorney General's Office
Licensing & Insurance Unit