

1 BEFORE THE ARIZONA BOARD OF MASSAGE THERAPY

2 In the Matter of:

3 )  
4 **JIE TIAN, LMT** )

5 )  
6 License No. MT-07473 )

7 As a Massage Therapist )

8 In the State of Arizona )  
9

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

10 Pursuant to Notice of Hearing Number 14-121 (Notice) this matter came before the Arizona  
11 Board of Massage Therapy (Board) on November 17, 2014.

12 Victoria Bowman, presided at the meeting with Board members John Ortega, Earl Duskey, and  
13 Diane Pruetz in attendance and Dennis Beye absent.

14 The State was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant  
15 Attorney General, Licensing and Enforcement Section. Chris Munns, of the Solicitor General's  
16 Section of the Attorney General's Office was present and available to provide independent legal  
17 advice to the Board. Jie Tian (Respondent) was present with an interpreter and was not  
18 represented by counsel.

19 The Board, after considering the testimony and evidence presented, hereby issues the following  
20 Findings of Fact, Conclusions of Law, and Order.

21 **AUTHORITIES AND JURISDICTION**

22  
23 1. The Board is the duly constituted authority for licensing and regulating the practice of  
24 massage therapy in the state of Arizona.

25 2. Respondent is the holder of license number MT-07473 as a massage therapist in the state  
26 of Arizona.

27 3. Under A.R.S. §§ 32-4201 through 32-4259, the Board has jurisdiction over the subject  
28 matter and over the Respondent as a licensee of the Board.

**FINDINGS OF FACT**

1  
2 1. On March 12, 2014, while working as a massage therapist at Relax AZ Spa in Scottsdale,  
3 Arizona, Respondent touched the massage therapy client's penis. The massage therapy client  
4 was an undercover Scottsdale Police Officer.

5 2. On March 17, 2014, Respondent was charged with the following offenses: (1) A violation  
6 of Scottsdale City Code 16-221(d)(3) (providing a massage and touching genitals); and (2) A  
7 violation of Scottsdale City Code 16-221(e)(1) (providing a massage to arouse, appeal, or gratify  
8 sexual desires). Respondent failed to report these charges to the Arizona Board within ten  
9 working days.

**CONCLUSIONS OF LAW**

10  
11 1. Under A.R.S. § 32-4201 *et seq.*, the Board has jurisdiction over the subject matter and  
12 over the Respondent as a licensee of the Board.

13 2. The conduct described above in the Factual Allegations paragraph 1 is grounds for  
14 discipline under A.R.S. § 32-4253(A)(15)(engaging in sexual activity with a client).

15 3. The conduct described above in the Factual Allegations paragraph 1 constitutes sexual  
16 activity in violation of A.R.S. § 32-4253(B)(2)(a). ("Sexual activity" means sexual conduct).

17 4. The conduct described above in the Factual Allegations, paragraph 1 constitutes sexual  
18 activity in violation of A.R.S. § 32-4253(B)(2)(c) ("Sexual activity" means making sexual  
19 advances, requesting sexual favors or engaging in other verbal conduct or physical contact of a  
20 sexual nature with a client).

21 5. The conduct described above in the Factual Allegations, paragraph 1 constitutes sexual  
22 activity in violation of A.R.S. § 32-4253(B)(3) ("Sexual conduct" means any direct or indirect  
23 touching, fondling or manipulating of any part of the genitals or anus by any part of the body or  
24 by any object or causing a person to engage in that conduct).

25 6. The conduct described above in the Factual Allegations, paragraph 2 constitutes  
26 unprofessional conduct under A.R.S. § 32-3208(A) and (D), which provide that is unprofessional

1 conduct for a health professional who has been charged with a misdemeanor involving conduct  
2 that may affect patient safety or a felony after receiving or renewing a license or certificate to  
3 fail to notify the health professional's regulatory board in writing within ten working days after  
4 the charge is filed.

5 **ORDER**

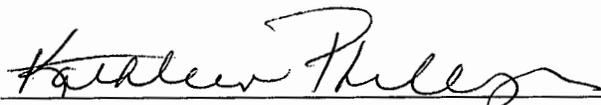
6  
7 Based on the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY ORDERED**  
8 that Respondent's license number **MT-07473** is **REVOKED**.

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

10 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §  
11 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-  
12 five (35) days from the date of mailing if the Order was served by certified mail. The petition  
13 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.  
14 R4-15-401(C). The timely filing of a motion for rehearing or review shall stay the enforcement  
15 of the Board's Order. If a motion for rehearing or review is not filed, the Board's Order becomes  
16 effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the  
17 Board has expressly found good cause to believe that this Order shall be effective immediately  
18 upon the issuance and has so stated in this Order. The failure to file a motion for rehearing or  
19 review within thirty days after service of the decision has the effect of prohibiting the parties  
20 from seeking judicial review of the Board's decision.

21 Dated and signed this 19th day of November, 2014.

22 ARIZONA BOARD OF MASSAGE THERAPY

23  
24 By:   
25 Kathleen Phillips  
26 Executive Director  
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ORIGINAL OF THE FOREGOING FILED  
this 19<sup>th</sup> day of November, 2014 with the:  
Arizona State Board of Massage Therapy  
1400 West Washington, Suite 300  
Phoenix, AZ 85007

EXECUTED COPY OF THE FOREGOING MAILED  
BY CERTIFIED & REGULAR FIRST-CLASS MAIL  
this 19<sup>th</sup> day of November, 2014, to:

Jie Tian  
Address of Record  
Respondent/Licensee

COPY OF THE FOREGOING MAILED  
this 19<sup>th</sup> day of November, 2014

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

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Assistant Attorney General  
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