

JH4 1233PM

BEFORE THE ARIZONA BOARD  
OF MASSAGE THERAPY EXAMINERS

In the Matter of

Board Case Nos.

HUA YANG, LMT

21-120

Holder of License No. MT-26998  
As a Massage Therapist  
In the State of Arizona

CONSENT AGREEMENT FOR  
SURRENDER OF MASSAGE  
THERAPY LICENSE

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Massage Therapy (Board) under A.R.S. § 32-4201, *et. seq.*, Hua Yang (Respondent), holder of Massage Therapist License Number MT-26998 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order for Voluntary Surrender of her license to practice massage therapy (Consent Agreement) as a final disposition of this matter.

RECITALS

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

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

1           3.     Respondent affirmatively agrees that this Consent Agreement shall be  
2 irrevocable.

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

6           5.     Respondent understands this Consent Agreement deals with Board case  
7 number 20-120 involving allegations that Respondent engaged in conduct that would  
8 subject Respondent to discipline under the Board's statutes and rules. The investigation  
9 into these allegations against Respondent shall be concluded upon the Board's adoption  
10 of this Consent Agreement.

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

15          7.     Notwithstanding any language in this Consent Agreement and Order, this  
16 Consent Agreement and Order does not preclude in any way any other State agency or  
17 officer or political subdivision of this state from instituting proceedings, investigating  
18 claims, or taking legal action as may be appropriate now or in the future relating to this  
19 matter or other matters concerning Respondent, including but not limited to, violations of  
20 Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to  
21 the Board, this Consent Agreement and Order makes no representations, implied or  
22 otherwise, about the views or intended actions of any other state agency or officer or  
23 political subdivisions of the State relating to this matter or other matters concerning  
24 Respondent.

1           8.     Respondent acknowledges and agrees that, upon signing this Consent  
2 Agreement and returning this document to the Board's Executive Director, Respondent  
3 may not revoke Respondent's acceptance of the Consent Agreement or make any  
4 modifications to the document regardless of whether the Consent Agreement has been  
5 signed by the Executive Director. Any modification to this original document is  
6 ineffective and void unless mutually agreed by the parties in writing.

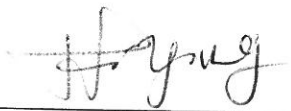
7           9.     This Consent Agreement is effective only when signed by the Executive  
8 Director on behalf of the Board.

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

12           11.    Respondent understands that this Consent Agreement constitutes  
13 disciplinary action and is a public record that may be publicly disseminated as a formal  
14 action of the Board and may be reported as required by law to the National Practitioner  
15 Data Bank or other such databases.

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

18  
19 ACCEPTED AND AGREED BY RESPONDENT

20 

Dated: 12-24-2020

21  
22 Hua Yang

23 **FINDINGS OF FACT**

24           1.     The Board is the duly constituted authority for licensing and regulating the  
25 practice of Massage Therapy in the State of Arizona.

1           2.     Respondent is the holder of license number MT-26998 to practice as a  
2     Massage Therapist in the State of Arizona.

3           3.     On March 5, 2020, Respondent was arrested and charged with  
4     Misdemeanor Solicitation/Engage in Prostitution, by the Las Vegas Metropolitan Police  
5     Department. The arrest and charges were the result of an undercover operation at the  
6     Respondent's place of employment, which was suspected of engaging in illegal  
7     prostitution activity.

8           4.     On May 16, 2020, Respondent submitted an application for licensure to the  
9     Board. On question 8 of the Professional Conduct section, the Respondent answered  
10    "NO" to the question, "*Are you currently under investigation, suspension, revocation, or*  
11    *restriction by a political subdivision of this state, a national massage therapy certifying*  
12    *agency or a regulatory agency in another jurisdiction in the United States for an act that*  
13    *occurred in that jurisdiction, and that would be subject to discipline pursuant to chapter*  
14    *A.R.S. § 32-4201 et seq.*" Respondent did not indicate to the Board that she had been  
15    arrested and charged with Prostitution/Solicitation when she submitted her application for  
16    licensure in Arizona.

17          5.     On or about June 8, 2020, the Board received documentation from the  
18    Nevada State Massage Therapy Board that indicated that the Respondent's license was in  
19    good standing.

20          6.     On June 22, 2020, the district attorney assigned to the Respondent's case  
21    declined to prosecute the Solicitation/Prostitution charge and the matter was dropped.

22          7.     On July 16, 2020, the Board finalized and issued Respondent her license to  
23    practice massage therapy based on the affirmation of her license in Nevada.

24          8.     On July 17, 2020, the Respondent was notified via Complaint and Notice of  
25    Hearing from the Nevada State Massage Therapy Board, that an administrative hearing  
26



1 would take place on August 19, 2020, at which time the ongoing status of her license in  
2 Nevada would be determined. The Respondent failed to then notify the Board of the  
3 pending action against her license as required by law.

4 9. On August 19, 2020, the Nevada State Massage Therapy Board revoked  
5 Respondent's license to practice massage therapy. Specifically, the Nevada board found  
6 based on the evidence presented and the testimony of the arresting officer that by  
7 soliciting sex during a massage the Respondent had violated state statute.

8 10. On October 8, 2020, the Board received a complaint from the Nevada State  
9 Massage Therapy Board indicating that the Respondent's license had been revoked in  
10 Nevada by an order dated August 31, 2020. This information was not reported to the  
11 Board by the Respondent, as required by law.

12 11. At the December 14, 2020, meeting the Board voted to offer this Consent  
13 Agreement for Voluntary Surrender of Respondent's license.

#### 14 CONCLUSIONS OF LAW

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

17 2. The Board possesses statutory authority to enter into a consent agreement  
18 with a massage therapist and accept the surrender of an active license from a massage  
19 therapist who admits to having committed an act, which would subject the licensee to  
20 discipline under the Board's statutes or rules. *See* A.R.S. § 32-4254(O)(2).

21 3. The conduct and circumstances described above constitute grounds for  
22 discipline pursuant to A.R.S. § 32-4253(A)(2), which states, "Using fraud, deceit or  
23 misrepresentation in obtaining or attempting to obtain a license or the renewal or  
24 reinstatement of a license."

4. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253 (A)(6), which states, “Engaging in any act or practice in violation of this chapter or any board rule or aiding, abetting or assisting any other person in the violation of these provisions or rules.”

4. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(7), which states, “Having a license or certificate revoked or suspended or any other disciplinary action taken or an application for licensure or certification refused, revoked or suspended by the proper authorities of another state, territory or country.”

6. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(19), which states, “Failing to report to the board any act or omission of a licensee or applicant or applicant or any other person who violates this chapter.”

7. The conduct and circumstances described above constitute grounds for discipline pursuant to A.R.S. § 32-4253(A)(23), which states, “Violating this chapter, board rules or a written order of the board.”

## ORDER

IT IS HEREBY ORDERED that License Number MT-26998 issued to Hua Yang to practice as a massage therapist in the State of Arizona is hereby SURRENDERED.

DATED this 31<sup>st</sup> day of December, 2020.

ARIZONA STATE BOARD OF MASSAGE  
THERAPY

By:

Thomas Augherton  
Executive Director

ORIGINAL OF THE FORGOING FILED  
this 31<sup>st</sup> day of December \_\_2020, with:

Arizona State Board of Massage Therapy  
1740 West Adams, Suite 3401  
Phoenix, Arizona 85007

EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED  
this 31<sup>st</sup> day of December \_\_2020, to:

Hua Yang  
3859 South Valley View Blvd, #2-293  
Las Vegas, Nevada 89103  
Respondent

Seamus Monaghan, AAG  
2005 North Central Avenue, SGD/LES  
Phoenix, Arizona 85004  
Attorney for the Board

By:   
#9159849