

1 MARK BRNOVICH
Attorney General
(Firm State Bar No. 14000)

2
3 ELIZABETH A. CAMPBELL
Assistant Attorney General
State Bar No. 018311
4 1275 W. Washington, CIV/LES
Phoenix, Arizona 85007-2997
5 Tel: (602) 542-7681
6 Fax: (602) 364-3202

7 Attorneys for the State of Arizona

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

10 In the Matter of

11 **SARINA YANG, LMT,**

12 Holder of License No. MT-09055
As a Massage Therapist
13 In the State of Arizona

Board Case No. 15-108

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

14
15 Pursuant to Notice of Hearing Number 15-108, this matter came before the Arizona Board of
Massage Therapy (Board) on November 16, 2015.

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

18 The state was represented by the Office of the Attorney General, Elizabeth Campbell, Assistant
19 Attorney General, Licensing and Enforcement Section. Chris Munns, of the Solicitor General's
20 Section of the Attorney General's Office was present and available to provide independent legal
21 advice to the Board. Sarina Yang (Respondent) was present and was represented by counsel, Mr.
Liszewski, and also had an interpreter. The Board, after considering the testimony and evidence
22 presented, hereby issues the following Findings of Fact, Conclusions of Law, and Order.

23
24 **FINDINGS OF FACT**

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

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

2 3. On August 12, 2014, while working as a massage therapist at Isawan Massage in
3 Scottsdale, Arizona, Respondent placed her hand on a male massage therapy client's genitals
4 over the covering towel. Respondent further discussed and agreed to perform a hand job for the
5 massage therapy ^{client} while topless. The massage therapy client was an undercover Scottsdale
6 police officer.

7 4. On August 2014, Respondent was charged with the following offenses in
8 Scottsdale, Arizona, Municipal Court: (1) a violation of Scottsdale City Code 16-221(d)(1)
9 (providing massage with uncovered genitals); (2) a violation of Scottsdale City Code 16-
10 221(d)(3) (providing a massage and touching genitals); (3) a violation of Scottsdale City Code
11 16-221(e)(1) (providing a massage to arouse, appeal, or gratify sexual desires; and (4) a violation
of A.R.S. § 13-3214(A) (prostitution). Respondent failed to report these charges to the Arizona
12 Board within 10 days.

13 5. On August 26, 2014, in Scottsdale Municipal Court, Respondent pleaded no
14 contest and was convicted of attempted prostitution and performing a massage with the client's
genitals uncovered, both Class 2 Misdemeanors.

15 CONCLUSIONS OF LAW

16 1. The conduct described above in paragraphs 3 through 5 is grounds for discipline
under A.R.S. § 32-4253(A)(15) (Engaging in sexual activity with a client).

17 2. The conduct described above in paragraphs 3 through 5 constitutes sexual activity
18 in violation of A.R.S. § 32-4253(B)(2)(b) ("Sexual activity" means offering to engage in sexual
19 conduct).

20 3. The conduct described above in paragraphs 3 through 5 constitutes sexual activity
21 in violation of A.R.S. § 32-4253(B)(2)(c) ("Sexual activity" means making sexual advances ,
22 requesting sexual favors or engaging in other verbal conduct or physical contact of a sexual
nature with a client).

23 4. The conduct described in paragraph 4 of the Findings of Fact constitutes
24 unprofessional conduct for a health professional who has been charged with a misdemeanor
25 involving conduct that may affect patient safety or a felony after receiving or renewing a license
26

1 or certificate to fail to notify the health professional's regulatory board in writing within ten
2 working days after the charge is filed.

3 5. The conduct described above constitutes sexual activity in violation of A.R.S. §
4 32-4253(B)(2)(d). ("Sexual activity" means intentionally viewing a completely or partially
5 disrobed massage therapy client in the course of treatment if the viewing is not related to
6 treatment under current practice standards and is intended to appeal to the prurient interest of the
7 massage therapy client or the massage therapist.

8 6. The conduct described above constitutes grounds for revocation under A.R.S. §
9 32-4254(G) (if after a formal proceeding the Board finds that a licensee has been convicted of
10 prostitution, solicitation, or another similar offense, the Board shall revoke the license.


11 **ORDER**

12 IT IS HEREBY ORDERED THAT License Number MT-09055 issued to Sarina Yang to
13 practice as a massage therapist in the State of Arizona is **REVOKED**.

14 DATED and effective this 16th day of November, 2015.

15 ARIZONA BOARD OF MASSAGE THERAPY

16 SEAL

17 
18 Kathleen Phillips
19 Executive Director

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

21 Respondent has the right to petition for a rehearing or review of this Order. Pursuant to A.R.S. §
22 41-1092.09 and A.A.C. R4-15-401(A), the petition must be filed with the Board within thirty-
23 five (35) days from the date of mailing if the Order was served by certified mail. The petition
24 must set forth legally sufficient reasons for granting the rehearing or review pursuant to A.A.C.
25 R4-15-401(C). The timely filing of a petition for rehearing or review shall stay the enforcement
26 of the Board's Order. If a petition for rehearing or review is not filed, the Board's Order becomes
effective thirty-five (35) days after it is mailed, unless pursuant to A.A.C. R4-15-401(F), the

1 Board has expressly found good cause to believe the Order shall be effective immediately upon
2 the issuance and has so stated in the Order. The failure to file a petition for rehearing or review
3 within thirty-five (35) days after mailing has the effect of prohibiting the parties from seeking
4 judicial review of the Board's decision.

5
6
7 ORIGINAL OF THE FORGOING FILED
this 16th day of November, 2015, with:

8 Arizona Board of Massage Therapy
9 1400 West Washington, Suite 300
Phoenix, Arizona 85007

10 EXECUTED COPY OF THE FOREGOING MAILED
11 BY CERTIFIED MAIL
this 16th day of November, 2015, to:

12 Sarina Yang
13 Address of Record
Respondent

14 EXECUTED COPY OF THE FOREGOING MAILED
15 this 16th day of November, 2015, to:

16 Christopher Munns
17 Assistant Attorney
12745 W. Washington, CIV/SGO
18 Phoenix, Arizona 85007
Attorney for the Board

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

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