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**BEFORE THE ARIZONA STATE BOARD
OF MASSAGE THERAPY**

In the Matter of
Yia Jia Yin, LMT,

Holder of License No. MT-03815P
As a Massage Therapist
In the State of Arizona

Board Case No. 14-110

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

On September 28, 2015, the Arizona Board of Massage Therapy (“the Board”) considered the state’s Motion to Deem Allegations Admitted. Elizabeth Campbell, Assistant Attorney General, appeared on behalf of the State. Respondent was not present at the Board meeting. Christopher Munns of the Solicitor General’s Office was available to provide independent legal advice to the Board.

After reviewing the record, the Board granted the State’s Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-4254(H) and the Complaint and Notice of Hearing filed in this matter, the Board issues the following Findings of Fact, Conclusions of Law, and Order.

PARTIES AND JURISDICTION

1. The Board is the duly constituted authority for licensing and regulating the practice of massage therapy in the State of Arizona.
2. Respondent is the holder of license number MT-03815P, which allows her to practice as a massage therapist in the State of Arizona.
3. Under A.R.S. § 32-4201, *et seq.*, the Board possess jurisdiction over the subject matter and over Respondent as a licensee of the Board.

FINDINGS OF FACT

1. On December 4, 2013, a male massage therapy client received a massage from Respondent at Sunbird Asian Massage in Scottsdale, Arizona.

1 completely or partially disrobed massage therapy client in the course of treatment if the viewing
2 is not related to treatment under current practice standards and is intended to appeal to the prurient
3 interest of the massage therapy client or massage therapist.

4 7. The conduct and circumstances described above constitute sexual activity in
5 violation of A.R.S. § 32-4253(B)(2)(i). ("Sexual activity" means exposing the massage therapist's
6 breasts to a client).

7 8. The conduct described above constitutes grounds for discipline under A.R.S. § 32-
8 4253(A)(16) (Failing to adhere to the recognized standards and ethics of the massage therapy
9 profession). A.R.S. § 4251(B) further requires that a massage therapist refrain from engaging in
10 sexual activity with the client even if the client attempts to sexualize the relationship. A.A.C. R4-
11 15-103(1)(H).

12 9. The conduct described in the Findings of Fact constitute grounds for discipline
13 under A.R.S. 32-4253(A)(16) (Failing to adhere to the recognized standards and ethics of the
14 massage therapy profession). A.R.S. § 32-4251(B) further requires that a massage therapist adhere
15 to the recognized standards and ethics of the massage therapy profession. When a licensee agrees
16 to provide massage therapy to a client, the licensee shall provide draping that ensures the safety,
17 comfort, and privacy of the client.

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

21 **ORDER**

22 **IT IS HEREBY ORDERED** that Respondent's license is **Revoked**.

23 DATED this 5 day of October, 2015

24 **ARIZONA STATE BOARD OF MASSAGE**
25 **THERAPY**

26 By: 

Kathleen Phillips
Executive Director

NOTICE

1 Any aggrieved party may appeal this decision by filing a written request for Rehearing or
2 Review with the Board within thirty (30) days of service of this Decision. Service of this
3 Decision is effective on personal delivery or five days after the day of mailing. A Motion for
4 Rehearing or Review shall conform to the requirements set forth in the Board's rules at A.A.C.
5 R4-15-401 and shall be served on the opposing party. The filing of a Motion for Rehearing or
6 Review is required in order to exhaust a party's administrative remedies. The failure to file a
7 Motion for Rehearing or Review will preclude a party to seeking judicial review of this Decision.

8 ORIGINAL OF THE FORGOING FILED

9 this 5th day of October 2015, with:

10 Arizona Board of Massage Therapy
11 1400 West Washington, Suite 300
12 Phoenix, Arizona 85007

13
14 COPY OF THE FOREGOING MAILED

15 BY CERTIFIED & REGULAR FIRST-CLASS MAIL

16 this 5th day of October, 2015, to:

17 Yi Jia Yin
18 (Address of Record)
19 Respondent

20 COPY OF THE FOREGOING MAILED

21 this 5th day of October, 2015, to:

22
23 Christopher Munns
24 Assistant Attorney General
25 1275 W. Washington Street, CIV/SGO

1 Phoenix, Arizona 85007
2 Attorney for the Board
3 Elizabeth A. Campbell
4 Assistant Attorney General
5 1275 W. Washington Street, CIV/LES
6 Phoenix, Arizona 85007
7 Attorney for the State

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9 S. Conger _____

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

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

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

10 In the Matter of

11 **YI JIA YIN, LMT**

12 Holder of License No. MT-03815P
As a Massage Therapist
13 In the State of Arizona

Board Case No. 14-110

MOTION TO DEEM

14
15 The State of Arizona hereby requests that the Arizona Board of Massage Therapy
16 Examiners (the "Board") vacate the hearing set for September 28, 2015, at 11:00 a.m. and
17 deem the allegations contained in the Board's Complaint and Notice of Hearing admitted
18 pursuant to A.R.S. § 32-4254(H). A copy of the Complaint and Notice of Hearing is
19 attached.

20 The Complaint and Notice of Hearing notified Respondent that, pursuant to A.R.S.
21 § 32-4254(H), Respondent was required to prepare and file with the Board a written
22 Answer to the allegations in the Complaint within 30 days after service. It further
23 notified Respondent that the Board could consider Respondent's failure to respond within
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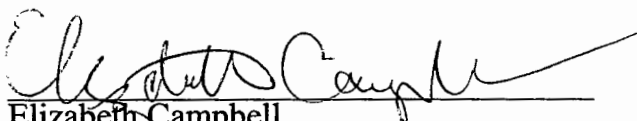
1 30 days an admission by default to the allegations stated in the Complaint and that the
2 Board could then take disciplinary action without conducting a hearing.

3 The Complaint and Notice of Hearing was mailed by first-class and certified mail
4 on August 20, 2015, to Respondent's address of record with the Board. Notice of a
5 complaint and hearing is effective by a true copy of it being sent by certified mail to the
6 licensee's last known address if record. A.R.S. § 32-4254(N). Notice of the complaint
7 is complete on the date of its deposit in the mail. *Id.*

8 Respondent has failed to file an Answer within the time permitted by statute. As
9 such, the State requests that the scheduled hearing be vacated and that the allegations
10 contained in the Complaint and Notice of Hearing be deemed admitted pursuant to A.R.S.
11 § 32-4254(H).
12

13 RESPECTFULLY SUBMITTED this 28th day of September, 2015.

14
15 MARK BRNOVICH
16 Attorney General

17 
18 Elizabeth Campbell
19 Assistant Attorney General

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25 *HAND DELIVERED AT MEETING ON September 28, 2015
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