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

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| **In the Matter of:**<br><br>**Shiman Zhang, LMT,**<br><br>Holder of License No. MT-22156<br>As a Massage Therapist in the<br>State of Arizona,<br><br>Respondent. | **Board Case No. 20-120**<br><br>**CONSENT AGREEMENT FOR CIVIL PENALTY** |

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.*, Shiman Zhang ("Respondent"), holder of Massage Therapist License Number MT-22156 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("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 Respondent 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.

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

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

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

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

7. All admissions Respondent makes in this Consent Agreement are made solely for the final disposition of this matter, and any related administrative proceedings or civil litigation involving the Board and Respondent. This Consent Agreement is not intended to be used for any other regulatory agency proceedings, or civil or criminal proceedings, whether in the State of Arizona or any other state or federal court, except related to the enforcement of the Consent Agreement itself.

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

9. Respondent acknowledges and agrees that, upon signing this Consent Agreement and returning this document to the Board's Executive Director, Respondent may not revoke Respondent's acceptance of the Consent Agreement or make any modifications to the document regardless of whether the Consent Agreement has been signed by the

Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

10. This Consent Agreement is effective only when signed by the Executive Director upon approval by the Board.

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

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

13. Respondent understands that any violation of this Consent Agreement and Order constitutes unprofessional conduct pursuant to A.R.S. § 32-4253(23).

14. Respondent agrees that the Board adopts the following Findings of Fact, Conclusions of Law and Order.

**ACCEPTED AND AGREED BY RESPONDENT**

Shiman Zhang

Shiman Zhang
Respondent

Dated: 2-4-20

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## FINDINGS OF FACT

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-22156 to practice as a Massage Therapist in the State of Arizona.

3. On December 12, 2019, Respondent pled guilty to massage locked door, a strict liability, city code violation, 5-12-16(A)(3) in Mesa City Court, case number 2019-037371. Respondent was required to remit a $500.00 fine that was satisfied on the same date.

4. Respondent did not notify the Board of her arrest within ten (10) business days as required in A.R.S. § 32-3208.

## CONCLUSIONS OF LAW

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

2. The conduct and circumstances described in the Findings of Fact constitute grounds for discipline pursuant to A.R.S. § 32-3208(A)("A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professionals' regulatory board in writing within ten working days after the charge is filed.").

## ORDER

**IT IS HEREBY ORDERED** that Respondent, Shiman Zhang shall remit a $150.00 civil penalty to the Board's administrative office **within six (6) months** of the effective date of this Order.

DATED this 5th day of February, 2020.

ARIZONA STATE BOARD OF MASSAGE THERAPY

(Seal)

By: _____
Thomas Augherton
Executive Director

ORIGINAL of the foregoing filed
this 5th day of February, 2020, with:

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

EXECUTED COPY of the foregoing sent U.S. Certified Mail and Email
this 5th day of February, 2020, to:

Matthew D. Liszewski, Esq.
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*Attorney for the Respondent*

Shiman Zhang
1421 North Matlock Court
Mesa, Arizona 85203
*Respondent*

COPY of the foregoing sent by Email
this 5th day of February, 2020, to:

Sabrina Khan
Assistant Attorney General
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Sabrina.Khan@azag.gov
*Attorneys for the Arizona State Board of Massage Therapy* _____

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