BEFORE THE STATE OF OREGON
BOARD OF MASSAGE THERAPISTS

In the Matter of GOETZ, BRETT J, Respondent.	Case No. 1445 **FINAL DEFAULT ORDER** *(Civil Penalties)*

1.

Pursuant to ORS chapter 687, the Oregon Board of Massage Therapists (Board) is the agency responsible for licensing, disciplining and regulating massage therapists in the State of Oregon.

2.

Brett J. Goetz (*Licensee*) is currently licensed to practice as a massage therapist in the State of Oregon and is subject to the jurisdiction of the Board. Licensee's last known address is 17218 SW WHITLEY WAY, BEAVERTON, OR 97006.

FINDINGS OF FACTS

3.

The Licensee was selected for a Continuing Education (CE) Audit. Licensee has failed to respond to multiple attempts by the Board to obtain verification of CE hours. Licensee has been found in violation of Board Rules and Statutes.

4.

4.1 On 07/05/2012, the Board issued a letter to the Licensee indicating that he had been selected for a continuing education audit. The letter indicated that he had 30 days in which to provide verification of meeting his continuing education requirements. The letter was enclosed with a CE audit summary form. The Licensee did not respond to the audit request.

4.2 On 08/21/2012, a non-compliance with a Board order letter was issued to the Licensee, to the address on file, which was 17218 SW Whitley Way, Beaverton, Oregon 97006. The letter indicated that a previous letter had been issued from the Board on 07/05/2012 stating that he had been selected for a CE audit. The letter further indicated that to date, there had been no response from the Licensee. The Licensee was informed that the Compliance Unit was prepared to bring his file before the Board for consideration of disciplinary action for violation of OAR 334-040-0010(17)(a), for

failure to furnish documents as requested by the Board, if he did not provide the requested information to the Board within 21 days of the date of the letter. On 09/27/2012 Licensee contacted the Board office by telephone and informed the Board that he was no longer at the address on record. He provided the Board verbally with a new address of 1715 NW 173rd Avenue #207, Beaverton, Oregon 97006. He was informed of the CE audit at that time. Because he had not received the mailing, the deadline to respond was extended to 11/01/2012. The letter was re-issued by regular and certified mail. The certified letter was returned to the Board office as unclaimed. The regular mail was not returned.

4.3 On 12/13/2013, the Board issued a FINAL NOTICE of non-compliance to the Licensee at 1715 NW 173rd Avenue #207, Beaverton, Oregon 97006. The letter indicated that on 08/21/2012, the Board issued a letter indicating that he had been selected for a continuing education audit. The letter indicated that he had 30 days in which to provide verification of meeting his continuing education requirements. A copy of that letter was enclosed for his review. The letter further stated that on 09/27/2012, he contacted the Board office by telephone and informed the Board that he was no longer at the address on record. As such, the deadline was extended to 11/01/ 2012. The prior letter stated that to date, the Board had not received a response to the continuing education audit. As a result, the Compliance Unit was prepared to bring this case before the Board for consideration of disciplinary action for violation of OAR 334-040-0010(17)(a), for failure to furnish documents as requested by the Board. Licensee was informed that he would need to provide the required CE Audit Summary and the required CE verification by 12/27/2012 and that failure to meet this deadline would result in this matter going before the Board for consideration of disciplinary action, which could include issuance of civil penalties of up to $1,000 and possible suspension of his massage license. The letter included copies of all correspondence on the matter to date. The certified letter signature card was returned to the Board office on 12/19/2012, signed by Brooke Boyer. The Licensee made no contact with the Board office.

4.4 The Board Executive Director made multiple attempts to contact the Licensee by telephone before the Board meeting, to attempt to resolve the matter before discipline would be taken. She left voicemail messages at the telephone numbers on file, including one with the Licensee's employer. Licensee did not return the calls.

4.5 On 03/11/2013, the Board reviewed the facts of this case and determined that the Licensee is in violation.

5.

5.1 On 03/25/2013, the Board served a Notice of Proposed Action (Suspension) and a Notice of Right to Hearing (Notice) upon the Licensee by regular and certified mail. The certified letter was returned to the Board office on 04/18/2013 as "unclaimed" but the regular mail was not returned to the Board office. The 21-days in which to request a hearing expired on 04/16/2013. In the Notice of Proposed Action, the Notice indicated that for the purposes of default, the Board record herein would be used as prima facie evidence of the record. The Board did not receive a request for hearing.

CONCLUSIONS OF LAW

6.

Based on the acts and conduct described above, Respondent committed:

6.1 One violation of OAR 334-040-0010(17)(a), for failure to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to: failure to furnish requested papers or documents; and

6.2 One violation of OAR 334-040-0010(18), failing to comply with a Board Order.

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ORDER

7.

Based on the foregoing, the Board ORDERS:

7.1 Issuance of a civil penalty in the amount of $500 for:

7.2 One violation of OAR 334-040-0010(17)(a), pursuant to ORS 687.250 (2); and

7.3 One violation of OAR 334-040-0010(18), pursuant to ORS 687.250 (2); and

7.4 Licensee's Oregon Board of Massage Therapist's massage license number 15191 is suspended until such time as he meets compliance of the Board, pursuant to ORS 687.081(1).

DATED AND SERVED upon the above-named Respondent by regular and certified mail, addressed to Respondent at last known address, this 18th day of June, 2013.

BOARD OF MASSAGE THERAPISTS

Signature on File

A party is entitled to judicial review of the Final Order. Judicial review is by the Oregon Court of Appeals pursuant to the provisions of ORS 183.482. Judicial review may be obtained by filing a petition for review with the Office of State Court Administrator, Supreme Court Building, Salem, Oregon 97310. ORS 183.482 requires that an appeal is requested by filing a petition in the Court of Appeals within 60 days following the date the order upon which the petition is based is served.

BEFORE THE STATE OF OREGON
BOARD OF MASSAGE THERAPISTS

In the Matter of the licensure of **GOETZ, BRETT J** LMT #15191 Licensee	)	Case No. **1445** **NOTICE OF PROPOSED ACTION** *(Suspension & Civil Penalties)* and **NOTICE OF RIGHT TO HEARING**

1.

Pursuant to ORS chapter 687, the Oregon Board of Massage Therapists (*Board*) is the agency responsible for licensing, disciplining and regulating massage therapists in the State of Oregon.

2.

Brett J. Goetz (*Licensee*) is currently licensed to practice as a massage therapist in the State of Oregon and is subject to the jurisdiction of the Board. Licensee's last known address is 17218 SW WHITLEY WAY, BEAVERTON, OR 97006.

FINDINGS OF FACTS

3.

The Licensee was selected for a Continuing Education (CE) Audit. Licensee has failed to respond to multiple attempts by the Board to obtain verification of CE hours. Licensee has been found in violation of Board Rules and Statutes.

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4.1 On 07/05/2012, the Board issued a letter to the Licensee indicating that he had been selected for a continuing education audit. The letter indicated that he had 30 days in which to provide verification of meeting his continuing education requirements. The letter was enclosed with a CE audit summary form. The Licensee did not respond to the audit request.

4.2 On 08/21/2012, a non-compliance with a Board order letter was issued to the Licensee, to the address on file, which was 17218 SW Whitley Way, Beaverton, Oregon 97006. The letter indicated that a previous letter had been issued from the Board on 07/05/2012 stating that he had been selected for a CE audit. The letter further indicated that to date, there had been no response from the Licensee. The Licensee was informed that the Compliance Unit was prepared to bring his file before the Board for consideration of disciplinary action for violation of OAR 334-040-0010(17)(a), for failure to furnish documents as requested by the Board, if he did not provide the requested information to the Board within 21 days of the date of the letter. On 09/27/2012 Licensee contacted the Board office by telephone and informed the Board that he was no longer at the address on record. He provided the Board verbally with a new address of 1715 NW 173rd Avenue #207, Beaverton, Oregon 97006. He was informed of the CE audit at that time. Because he had not received the mailing, the deadline to respond was extended to 11/01/2012. The letter was re-issued by regular and certified mail. The certified letter was returned to the Board office as unclaimed. The regular mail was not returned.

4.3 On 12/13/2013, the Board issued a FINAL NOTICE of non-compliance to the Licensee at 1715 NW 173rd Avenue #207, Beaverton, Oregon 97006. The letter indicated that on 08/21/2012, the Board issued a letter indicating that he had been selected for a continuing education audit. The letter indicated that he had 30 days in which to provide verification of meeting his continuing education requirements. A copy of that letter was enclosed for his review. The letter further stated that on 09/27/2012, he contacted the Board office by telephone and informed the Board that he was no longer at the address on record. As such, the deadline was extended to 11/01/ 2012. The prior letter stated that to date, the Board had not received a response to the continuing education audit. As a result, the Compliance Unit was prepared to bring this case before the Board for consideration of disciplinary action for violation of OAR 334-040-0010(17)(a), for failure to furnish documents as requested by the Board. Licensee was informed that he would need to provide the required CE Audit Summary and the required CE verification by 12/27/2012 and that failure to meet this deadline would result in this matter going before the Board for consideration of disciplinary action,

which could include issuance of civil penalties of up to $1,000 and possible suspension of his massage license. The letter included copies of all correspondence on the matter to date. The certified letter signature card was returned to the Board office on 12/19/2012, signed by Brooke Boyer. The Licensee made no contact with the Board office.

4.4 The Board Executive Director made multiple attempts to contact the Licensee by telephone before the Board meeting, to attempt to resolve the matter before discipline would be taken. She left voicemail messages at the telephone numbers on file, including one with the Licensee's employer. Licensee did not return the calls.

4.5 On 03/11/2013, the Board reviewed the facts of this case and determined that the Licensee is in violation.

CONCLUSIONS OF LAW

5.

Based on the acts and conduct described above, Licensee committed:

5.1 One violation of OAR 334-040-0010(17)(a), for failure to cooperate with the Board in any licensing action or disciplinary proceeding, including but not limited to: failure to furnish requested papers or documents; and

5.2 One violation of OAR 334-040-0010(18), failing to comply with a Board Order

6.

Based on the foregoing, the Board proposes:

6.1 To issue a total civil penalty of $500 for:

6.2 One violation of OAR 334-040-0010(17)(a), pursuant to ORS 687.250 (2); and

6.3 One violation of OAR 334-040-0010(18), pursuant to ORS 687.250 (2); and

6.4 Licensee's Oregon Board of Massage Therapist's massage license number 15191 is suspended until such time as he meets compliance of the Board, pursuant to ORS 687.081(1); and

6.5 Licensee is assessed costs of this disciplinary proceeding, including attorney fees, pursuant to ORS 687.081(6).

NOTICE OF RIGHT TO HEARING

7.

You have the right, if you so request, to have a formal hearing to contest the matter set out above, as provided by the Administrative Procedures Act (Chapter 183), Oregon Revised Statutes. You may be represented by an attorney at the hearing. Your request for hearing must be made in writing to the Board and ***received by the Board*** within 21 days from the date of mailing of this notice (or if not mailed, the date of personal service).

8.

If you request a hearing, before commencement of that hearing, you will be notified of the date, time, and location of the hearing, and you will be given information on the procedures, rights of representation, and other rights of the parties relating to the conduct of the hearing.

9.

If you fail to timely request a hearing, withdraw a hearing request, or fail to appear at a scheduled hearing, you shall have waived your right to a hearing and the Board may issue a Final Order by Default and impose against you the above sanctions. If the Board issues a Final Order by Default, it designates its file on this matter as the record for the purposes of proving a *prima facie* case.

DATED AND SERVED upon the above-named Respondent by regular and certified mail, addressed to Respondent at last known address, this 26th day of March, 2013.

BOARD OF MASSAGE THERAPISTS
State of Oregon

Signature on File