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BEFORE THE STATE OF OREGON  
BOARD OF MASSAGE THERAPISTS

In the Matter of the licensure of

Case No. 1512

CHEN, FANG K  
LMT #3897

FINAL STIPULATED ORDER

Licensee

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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.

Fang K. Chen (*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 3620 NE 122ND AVE STE D, PORTLAND, OR 97230.

FINDINGS OF FACTS

3.

On November 15, 2012, the Board received a complaint alleging that there was possible unlicensed practice at the Licensee's place of business. During the course of the investigation it was determined that Licensee had allowed the practice of massage by an unlicensed individual at his establishment.

4.

4.1 On November 15, 2012, the Board received a complaint alleging the unlicensed practice of massage at the business of the Licensee. A review of Licensee's disciplinary history with the Board showed that Licensee had previously been disciplined for such action by the Board. On August 17, 2007, the Licensee entered into a Stipulated Agreement with the Board, whereby he was issued a reduced civil penalty in the amount of \$2,000 for 1 violation of OAR 334-010-0025(8), failure to display license at place of business; 2 violations of OAR 334-010-0025(9), failure to include license number on advertising; 1 violation of OAR 334-030-0025(10), allowing the practice of massage by an unlicensed individual;

1 1 violation of OAR 334-030-0005(2)(a), failure to foster safety and trust; and 1 violation of OAR 334-020-  
2 0050(4), failure to place all soiled linens in a covered receptacle. Item #3.5 of the Stipulated Agreement  
3 and Final Order states, "Further violations shall be grounds for prosecution and the full penalties of this  
4 case will be enacted."

5 4.2 On January 24, 2013, the Board assigned the case to an investigator to determine if the  
6 allegations of unlicensed practice could be substantiated.

7 4.3 On February 5, 2013, a Board Investigator visited the business located at 3620 NE 122<sup>nd</sup>  
8 Avenue, Suite #D, Portland, Oregon for a massage. The Investigator was asked to complete a client  
9 information form, provide identification and pay \$65. The investigator completed the form, provided his  
10 driver's license and paid \$65 cash and requested a receipt. The receptionist provided a receipt and  
11 escorted the investigator to room #3. The investigator disrobed to his underwear and laid face down on  
12 the massage table. A short time later the Licensee entered the room and spoke with the investigator  
13 about the massage session and his sore back. They briefly discussed acupuncture and how effective it  
14 can be in treating sore muscles. The Licensee left the room and a short time later a female entered the  
15 room and began a massage on the investigators back. The female began the massage session by  
16 applying lotion on the left side of the investigators back and used her hands and elbows to massage the  
17 muscles. The female then moved to the right side and used her hands and elbows to massage the  
18 muscles. The female then got onto the massage table that the investigator was lying on, and began  
19 massaging his back and glutes, pulling his underwear down and massaging the glutes without any  
20 draping. The female then dismounted the massage table and massaged his arms and hands. She  
21 massaged the thighs and then the lower leg calf muscle. The female then massaged both legs and then  
22 requested that the investigator turn over. The investigator rolled over onto his back and she held the  
23 draping towel and placed it over him. She asked the investigator if he wanted his stomach massaged or  
24 the legs. The investigator responded by telling her the legs would be fine. She massaged his thighs and  
25 lower leg, first the right leg and then the left leg. The female asked the investigator to turn over again and  
26 left the room. A short time later the female returned to the room with a hot towel. She removed the lotion

1 with a warm towel and then draped the warm towel over the investigator and left the room stating that she  
2 was going to bring him water. The investigator got dressed.

3 4.4 When the female returned to the room the Board Investigator identified himself to her. The  
4 woman revealed to the Board Investigator that she is not a licensed massage therapist in Oregon. The  
5 investigator went to the front desk and spoke with the Licensee and obtained a copy of the female's  
6 California Massage Certificate, and California Identification.

7 CONCLUSIONS OF LAW

8 5.

9 Based on the acts and conduct described above, the Board finds that if the matter proceeded to  
10 hearing it would find that Licensee committed:

11 5.1 One violation of OAR 334-010-0025(11), Assisting, employing or permitting an unlicensed  
12 person to practice massage;

13 STIPULATIONS & FINAL ORDER

14 6.

15 The parties desire to settle this matter and, pursuant to ORS 183.415(5), stipulate and agree as  
16 follows in full and final settlement:

17 6.1 The Board has jurisdiction over Licensee, and over the subject matter of this proceeding;

18 6.2 The Board may issue and enter the Final Order;

19 6.3 Licensee has been advised of his right to request a hearing in this matter pursuant to ORS  
20 183.415(2)(a), and to be represented at a hearing pursuant to ORS 183.415(3);

21 6.4 Licensee waives any and all rights to a hearing and waives any right to appeal or  
22 otherwise challenge the Final Order;

23 6.5 The Board has the right to take further action against Licensee for any violation of the  
24 terms of the Final Order. Further violations of this order shall be grounds for prosecution and the full  
25 penalties of this case will be enacted; and;

26 6.6 This document is a public document.

1           6.7    Licensee shall pay a civil penalty of \$2,000.00 payable to the Board in monthly payments  
2 of \$250.00 due by the 25<sup>th</sup> of each month until paid in full. The first payment of \$250.00 is due on  
3 November 25, 2013. If timely minimum payments are not made within 60 days of the order date or the  
4 scheduled payment date, the agency deems the full civil penalties will be enacted and will be accelerated  
5 and due and payable immediately. Collection of the amount owed may, in the discretion of the agency,  
6 be referred to collection or a lien may be filed for recovery against your assets.

7           6.8    Licensee agrees to complete 8 hours of continuing education in the areas of ethics and  
8 professional conduct and this amount is in excess of that required for licensure. Licensee will provide  
9 written verification to the Board of the CE fulfillment.

10  
11 IT IS SO STIPULATED AND AGREED TO BY:

12  
13                   Signature on File

5/2013

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16  
17           BOARD OF MASSAGE THERAPISTS  
18           State of Oregon

19  
20                   Signature on File

1/17/13

BEFORE THE STATE OF OREGON  
BOARD OF MASSAGE THERAPISTS

In the Matter of the licensure of

Case No. 1512

**CHEN, FANG K**  
LMT #3897

**NOTICE OF PROPOSED ACTION**  
*(Revocation & Civil Penalties)*

Licensee

and  
**NOTICE OF RIGHT TO HEARING**

1.  
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2.  
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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 26<sup>th</sup> day of March, 2013.

**BOARD OF MASSAGE THERAPISTS**  
State of Oregon

**Signature on File**