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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF
TIMOTHY SCHIMICK TO PRACTICE AS A
MESSAGE THERAPIST IN THE STATE OF
UTAH

STIPULATION AND ORDER

Case no DOPL-2006-224

TIMOTHY SCHIMICK ("Respondent") and the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") stipulate and agree as follows

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action
- 2 Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily
- 3 The Respondent understands that he has the right to be represented by counsel in this matter and Respondent's signature below signifies that he has either consulted with an attorney or that he waives Respondent's right to counsel in this matter
- 4 Respondent understands that he is entitled to a hearing before the Utah State Board of Massage Therapy ("the Board"), or other Division Presiding Officer, at which time Respondent

may present evidence on his own behalf, call witnesses, and confront adverse witnesses

Respondent acknowledges that by executing this document he hereby waives the right to a hearing and any other rights to which he may be entitled in connection with said hearing

5 Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter

6 Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities

7 Respondent admits the following facts

a From approximately March 2005 to May 2005 Respondent was employed as a massage therapy instructor at the Utah College of Massage Therapy (UCMT)

b While employed at UCMT, Respondent provided instruction to E M (name withheld for confidentiality) in Craniosacral Therapy and in Structural Integration

c In May 2005 Respondent had a sexual relationship with E M

8 Respondent admits that his conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501 (2)(b) and Utah Admin Code R156-47b-502(7), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(1), 58-47b-302(2)(c), and 58-1-401(2)(a)

9 Respondent agrees that an order may be entered by the Division issuing a public reprimand based on the above conduct Respondent further agrees that he will not renew his license upon its expiration on May 31, 2007, and that he will not apply to reinstate his license during the subsequent two year reinstatement period

10 The Division does not guarantee than any future application by Respondent for licensure will be granted If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a Massage Therapist in the State of Utah

Respondent understands that he will not receive any refund of license or renewal fees previously paid to the Division

11 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification

12 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order There are no verbal agreements that modify, interpret, construe or affect this Stipulation

13 Respondent has read each and every paragraph contained in this Stipulation and Order Respondent understands each and every paragraph contained in this Stipulation and Order Respondent has no questions about any paragraph or provision contained in this Stipulation and Order

14 The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order

ORDER

THE ABOVE STIPULATION, in the matter of Timothy Schimuck, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 19 day of April, 2007

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F DAVID STANLEY
Director