

L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
Heber M Wells Building
Box 146741
Salt Lake City, UT 84114-6741
Telephone (801) 366-0310

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

| | | |
|-----------------------------------|---|------------------------------|
| IN THE MATTER OF |) | CEASE AND DESIST |
| ANDREA CARVER |) | STIPULATION AND ORDER |
| PRACTICING AS A MASSAGE THERAPIST |) | |
| IN THE STATE OF UTAH |) | CASE NO DOPL 2009--89 |
| WITHOUT A LICENSE |) | |

ANDREA CARVER ("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 Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter

4 Respondent understands that Respondent is entitled to a hearing before a Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses Respondent understands that by signing this document Respondent hereby waives the right to a hearing, the right to present evidence on Respondent's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Respondent may be entitled in connection with said hearing Respondent understands that by signing this document Respondent hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15

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 are true

- a Between January 2005 and March 2009 Respondent engaged in the practice of massage therapy while employed at a health clinic in Utah The website of the clinic and Respondent's business cards identify Respondent as a licensed massage therapist
- b Respondent was not licensed to practice massage therapy in the State of Utah between January 2005 and March 2009

- c Respondent graduated from a school of massage therapy in 2005 but never became licensed in the State of Utah. Respondent performed craniosacral massage at the health clinic. Respondent's supervisor at the health clinic, Lisa Larson, knew that Respondent was not licensed to practice massage therapy in the State of Utah, but allowed Respondent to continue to engage in massage therapy without a license. Lisa Larson ordered the website and business cards that identified Respondent as a licensed massage therapist.

8 Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann. § 58-1-501(1), and that said conduct provides a basis for the Division to issue an Order restraining Respondent from engaging in the unlicensed practice of massage therapy in the State of Utah pursuant to Utah Code Ann. § 58-1-401(4).

9 Respondent agrees the Division may issue an Order requiring Respondent to cease and desist from engaging in the practice of massage therapy as defined in Utah Code Ann. § 58-47b-101 through § 58-47b-503, until Respondent is properly licensed to do so. Respondent agrees to obey the Order and cease and desist from engaging in the practice of massage therapy as defined in Utah Code Ann. § 58-47b-101 through § 58-47b-503, until Respondent is properly licensed to do so.

10 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative 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 prejudice they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

11 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.

12 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. Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to sanctions. Respondent understands that failure to comply with this Order may subject Respondent to a civil penalty of up to \$2,000 (two-thousand dollars) for each day the order is violated pursuant to Utah Code Ann. § 58-1-503(1).

13 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law.

14 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

1
Stipulation and Order

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
SALLY A STEWART
Bureau Manager

DATE 04/13/2009

RESPONDENT

BY 
ANDREA CARVER

DATE April 13 09

MARK L SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

DATE 13 Apr 2009

ORDER

THE ABOVE STIPULATION, in the matter of **ANDREA CARVER**, 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 14 day of April, 2009

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F DAVID STANLEY
Director

Investigator Pamela Bennett