

NSBMT

MAR 18 2022

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BEFORE THE NEVADA STATE BOARD OF
MASSAGE THERAPY

In the Matter of:

Marcelino Martinez,

Licensed Massage Therapist
Nevada License No. NVMT.4283,

Respondent.

Case No. NVMT-C-21087

**STIPULATION FOR SETTLEMENT
OF DISCIPLINARY ACTION
AND ORDER**

WHEREAS, as more fully addressed below, the Nevada State Board of Massage Therapy, (“Board”), and Respondent, Marcelino Martinez (“Respondent”) (collectively referred to as “the Parties”), hereby enter into this Stipulation for Settlement of Disciplinary Actions (“settlement agreement”) as follows:

JURISDICTION

1. Respondent is currently and at all times mentioned herein, licensed as a massage therapist in the State of Nevada and is therefore, subject to the jurisdiction of the Board and the provisions of NRS Chapter 640C.
2. Pursuant to Nev. R. Stat. 233B.121(5), the Board is authorized to enter into settlement agreements to resolve a disputed matter.

ALLEGATIONS

3. On or about November 13, 2021, Respondent, performed a massage on JW at Marcelino Healing Arts located at 650 Buol Rd., Pahrump, NV 89048.
4. After the massage, JW was in the reception area wherein Respondent kissed JW on the lips.
5. The kiss was unwanted and unwelcomed.

SETTLEMENT

6. The Parties desire to resolve any disputed matters relating to the Board’s investigation, and recognize that continued litigation of this dispute would be protracted, costly and time consuming, and therefore, the Parties have reached a settlement agreement in the interest of judicial and administrative economy.

1 7. Respondent admits that the conduct set forth in the complaint and again set forth above
2 constitutes a violation of the provisions of NRS 640C.700(4) and/or (9). This is grounds
3 for discipline pursuant to NRS 640C.700(2).

4 8. Respondent has elected to enter into this settlement agreement rather than face the
5 possibility of further disciplinary action by the Board if the Board were to prevail at a
6 disciplinary hearing.

7 **Administrative Penalty**

9 9. Respondent is placed on PROBATION FOR FIVE (5) YEARS.

10 10. Respondent shall read "The Ethics of Touch" by Ben Benjamin and Cherie Sohnen-Mo e
11 within thirty (30) days of the Board's Order, then discuss the textbook with the Board's
12 Executive Director.

13 a. In the event Respondent does not meet with the Board's Executive Director within
14 thirty days, Respondent agrees that his license shall be immediately suspended.

15 The suspension of Respondent's license shall continue until Respondent meet s
16 with the Executive Director. Respondent acknowledges that if his license is
17 suspended, the suspension is subject to reporting to all appropriate agencies and
18 becomes part of his permanent record.

19 11. Respondent acknowledges that the Board will retain jurisdiction over this matter until all
20 terms and conditions set forth in this settlement agreement have been met to the
21 satisfaction of the Board.

22 12. The Board agrees not to pursue any other or greater remedies or fines in connection to the
23 Respondent's alleged conduct, and that once this agreement is fully performed, the Board
24 will close its file in this matter.

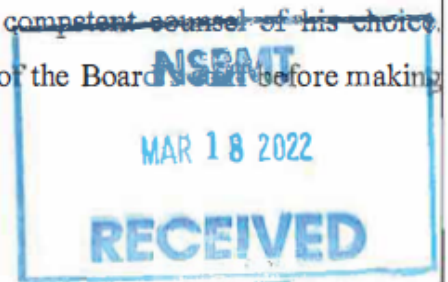
25 **Public Record**

26 13. Respondent acknowledges that if adopted by the Board, this settlement agreement and all
27 associated documentation become a matter of public record.

28 14. Respondent acknowledges that if adopted by the Board, this settlement agreement is
subject to reporting to all appropriate agencies and becomes part of his permanent record.

Voluntary Waiver of Rights

15. Respondent may at all times obtain the advice from ~~constant counsel of his choice.~~
Respondent has, at all times, received full cooperation of the Board ~~before making~~



1 the decision to settle this matter. No coercion has been exerted upon Respondent, nor
2 have any promises been made other than those reflected in this agreement. Respondent
3 freely and voluntarily entered into this agreement, motivated only by a desire to resolve
4 the issues addressed herein. Respondent has executed this settlement only after a careful
5 reading of it and a full understanding of all its terms.

6 16. Respondent is fully aware of his rights to contest the charges pending against him. These
7 rights include: representation by an attorney at his own expense, the right to a public
8 hearing on any charges or allegations filed, the right to confront and cross-examine
9 witnesses called to testify against him, the right to present evidence on his own behalf, the
10 right to compulsory process to secure the attendance of such witnesses, the right to testify
11 on his own behalf, the right to receive written findings of fact and conclusions of law
12 supporting the decision of the merits of the complaint and the right to obtain judicial
13 review of the Board's decision.

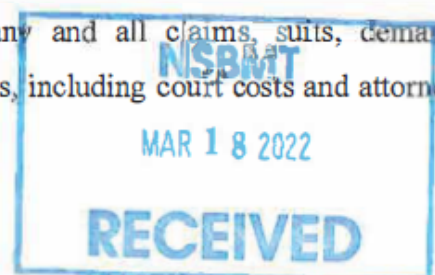
14 ***17. Respondent in exchange for the Board's acceptance of this settlement agreement is
15 voluntarily waiving all of these rights in paragraph 16.***

16 **Release from Liability**

17 18. In execution of this settlement agreement, Respondent for himself, his executors,
18 successors and assigns, hereby releases and forever discharges the state of Nevada, the
19 Board and the Nevada Attorney General and each of their members, agents and employees
20 in their individual and representative capacities, from any and all manner of actions,
21 causes of action, suits, debts, judgments, executions, claims and demands whatsoever
22 known and unknown, in law or equity, that Respondent ever had, now has, may have or
23 claim to have against any or all of the persons or entities names in this paragraph arising
24 out of or by reason of this investigation, this disciplinary action, this settlement or its
25 administration.

26 **Indemnification**

27 19. Respondent, for himself, his heirs, executors, administrators, successors and assigns,
28 hereby indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada
Attorney General's office and each of their members, agents and employees in their
individual and representative capacities against any and all claims, suits, demands,
actions, debts, damages, costs, charges, and expenses, including court costs and attorney's



1 fees against any persons entities as well as all liability, losses, and damages of any nature
2 whatsoever that the persons and entities named in this paragraph shall have or may at any
3 time sustain or suffer by reason of this investigation, this disciplinary action, this
4 settlement or its administration.

5 **Acceptance by the Board**

- 6 20. This settlement agreement will not be submitted for Board consideration until after it has
7 been agreed to and executed by the Respondent. The settlement agreement shall not
8 become effective until it has been approved by a majority of the Board and endorsed by a
9 representative member of the Board.
- 10 21. It is hereby agreed between the parties that this settlement agreement shall be presented to
11 the Board with a recommendation for approval at the next regularly scheduled meeting of
12 the Board.
- 13 22. Respondent understands that the Board is free to accept or reject this settlement agreement
14 and, if rejected by the Board, a formal disciplinary hearing on the complaint against
15 Respondent may be scheduled. The Board members who review this matter for approval
16 of this settlement agreement may be the same members who ultimately hear the
17 disciplinary complaint if this settlement agreement is not approved by the Board.
- 18 23. Respondent understands and agrees that Board staff and counsel for the Board will
19 communicate directly with the adjudicating members of the Board during the meeting
20 regarding this settlement agreement without participation by Respondent or his counsel
21 should they chose to not appear at the meeting.
- 22 24. Respondent hereby agrees to waive any rights she/he might have to challenge the
23 impartiality of the Board to hear the disciplinary complaint, based on prior knowledge
24 obtained by the Board through consideration of this settlement agreement, if after review
25 by the Board, this settlement agreement is rejected.
- 26 25. If the Board does not accept the settlement agreement, it shall be regarded as null and
27 void. Admissions by Respondent in the settlement agreement will not be regarded as
28 evidence against him at the subsequent disciplinary hearing. Respondent will be free to
defend himself and no inferences against him will be made from his willingness to have
entered into this agreement.



1 **Complete Agreement**

2 26. This settlement agreement consists of five pages and embodies the entire agreement
3 between the Board and Respondent. It may not be altered, amended or modified without
4 the express consent of the parties.

5
6 Date: 16 March 2022

Date: March 14, 2022

7
8 By: Marcelino Martinez
Marcelino Martinez, NVMT.4283

By: [Signature]
Sandy Anderson, Executive Director
NEVADA STATE BOARD OF
MASSAGE THERAPY

10
11
12 **ORDER**

13 So Ordered, the above Settlement Agreement is hereby accepted.

14
15 Dated this day of , 2022.

16 **NEVADA STATE BOARD OF MASSAGE THERAPY**

17
18 ELISABETH BARNARD, Chairperson

19
20 Approved as to form and content:
21 AARON D. FORD
NEVADA ATTORNEY GENERAL

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