BEFORE THE NEVADA STATE BOARD OF MASSAGE THERAPY

3 In the Matter of:

David Peter Trecha,

Licensed Massage Therapist

Nevada License No. NVMT.12027

Respondent.

Case No. NVMT-C-24014

COMPLAINT AND NOTICE OF HEARING

The Nevada State Board of Massage Therapy (Board), by and through its Executive Director, Elisabeth Barnard, hereby notifies David Peter Trecha ("Respondent") of an administrative hearing, which is to be held pursuant to Chapters 233B, 241, 622, and 622A of the Nevada Revised Statutes (NRS) and 640C of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC). The purpose of the hearing is to consider the allegations stated below and to determine if the Respondent should be subject to an administrative penalty as set forth in NRS 640C.710, if the stated allegations are proven at the hearing by the evidence presented.

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.

IT IS HEREBY ALLEGED AND CHARGED AS FOLLOWS:

ALLEGED FACTS

- On or about February 17, 2024, Respondent, while employed with Massage Heights,
 located at 1371 W. Warm Springs Rd., Suite B, Henderson, NV 89014, performed a massage on A.M.
- The subject massage was a couple's massage, wherein A.M.'s significant other, "J.H.,"
 was also receiving a massage in the same room.
- 3. At the beginning of the massage, A.M. was laying on her stomach. Shortly after the massage started, Respondent touched A.M. near the side of each of her breasts.

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- 4. After, Respondent then began to rub A.M.'s legs and thighs. While massaging A.M.'s thighs, Respondent moved both of A.M.'s legs outward at the hip and knee, exposing the inside of her thighs and groin.
- Respondent then began to massage A.M.'s inner upper thighs, wherein Respondent touched A.M.'s vagina, over her underwear, between 2 and 6 times.
- Respondent then moved his hands to A.M.'s lower leg, but shortly thereafter, moved his hands towards her groin again.
- Respondent started massaging A.M.'s right upper thigh area, moving his hands increasingly closer to A.M.'s groin.
 - 8. Suddenly, Respondent penetrated A.M.'s vagina 3 times with in and out movements.
- A.M. turned to her significant other, J.H., and exclaimed that Respondent had just "fingered" her.
- 10. J.H. then confront Respondent, to which Respondent held his hands up in the air, stating, "I'm sorry, it was an accident, it slipped."
- A.M. and her significant other then requested the manager of Massage Heights and subsequently called the Henderson Police Department ("HPD").
- 12. The other Massage Heights employee, who was massaging J.H. at the time of the incident in the same room, confirmed during her interview with HPD, that she heard A.M. exclaim that Respondent had inappropriately touched her.
- 13. The manager of Massage Heights stated to HPD that he spoke with Respondent about the incident, wherein Respondent stated that the inappropriate touch was an accident. Respondent also admitted to the manager that he had a similar incident occur a few months prior.
 - 14. J.H. also confirmed the aforementioned details during his HPD interview.
- 15. During Respondent's interview with HPD, Respondent stated to the officer that he had touched A.M.'s vagina on accident. Moreover, during Respondent's interview with HPD, when asked if he penetrated A.M.'s vagina, he first denied this allegation but then later claimed that he believed the sheet covering A.M. had slipped upwards towards her vagina and then inside of her body.

- Respondent was taken into custody by HPD and charged with various crimes. (HPD Incident Number 24-03303).
- 17. On May 14, 2024, as a result of the foregoing allegations, Respondent entered a guilty plea under an Alford plea agreement to Attempt Sexual Assault (Category B Felony NRS 200.364, 200.366, 193.153) (Case Number: C-24-381196-1).
- 18. The aforementioned guilty plea agreement provided that Respondent also attempted to digitally penetrate another victim's, "B.J." genital/anal opening. Upon information and belief, this was the incident that Respondent referred to in his conversation with the Massage Heights Manager and occurred during a massage.

VIOLATIONS OF LAW

COUNT ONE

19. By pleading guilty to Attempt Sexual Assault, Respondent violated NRS 640C.700(2) by violating the provisions of NRS 640C and NAC 640C. This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT TWO

20. By pleading guilty to Attempt Sexual Assault of A.M., Respondent violated the provisions of NRS 640C.700(3) by being convicted of a crime involving a sexual offense. This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT THREE

21. By pleading guilty to Attempt Sexual Assault of B.J., Respondent violated the provisions of NRS 640C.700(3) by being convicted of a crime involving a sexual offense. This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT FOUR

22. By engaging in sexual activity during the course of practicing massage without the consent of A.M., including touching the genitals of A.M., as defined in NAC 640C.400(2), Respondent violated the provisions of NRS 640C.700(4). This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT FIVE

23. By engaging in sexual activity during the course of practicing massage without the consent of A.M., including touching of a sexual nature, as defined in NAC 640C.400(5), Respondent violated the provisions of NRS 640C.700(4). This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT SIX

24. By engaging in sexual activity during the course of practicing massage without the consent of A.M., including a behavior that may be reasonably interpreted as sexual, as defined in NAC 640C.400(15), Respondent violated the provisions of NRS 640C.700(4). This is grounds for discipline pursuant to NRS 640C.700 and NRS 640C.710.

COUNT SEVEN

25. By inappropriately touching A.M. during the course of practicing massage and pleading guilty to a crime of Attempt Sexual Assault, Respondent violated NRS 640C.700(9) for engaging in unethical and unprofessional conduct.

PRAYER FOR RELIEF

WHEREFORE, Executive Director, Elisabeth Barnard, prays as follows:

1. That the Board conduct a hearing on this complaint as provided by statute, and after such hearing, that the Board impose upon Respondent the discipline permitted by NRS 640C.710, which may include the following, (a) the imposition of an administrative fine of not more than \$5,000.00 per violation, (b) recovery of reasonable investigative fees and costs incurred, (c) recovery of attorney fees pursuant to NRS 622.400, (d) licensee be publicly reprimanded, (e) suspend, revoke or place conditions on the licensee's license, (f) place the licensee on probation, and/or (g) such other impositions as may be permitted by Nevada law.

PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named Respondent in accordance with Chapters 233B, 622, 622A and 640C of the Nevada Revised Statutes.

THE HEARING WILL TAKE PLACE on October 23, 2024, commencing at 9:00 a.m. or as soon thereafter, at 254 E Plumb Ln., Suite 254, Reno, NV 89502. The hearing may also be attended virtually via Zoom. The Zoom information is as follows:

https://us06web.zoom.us/j/81343970844?pwd=cfae4rZh4nwlx8fh2B1EdLI51Xq1zu.1

Meeting ID: 813 4397 0844

Passcode: 242530

PURSUANT TO NRS 622A.320, Respondent may, but is not required to, file an answer to this Complaint with the Board.

PURSUANT TO NRS 622A.330, Respondent may seek limited discovery from the Board.

As the Respondents, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through counsel of your choice. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

You have the right to request that the Board issue subpoenas to compel witnesses to testify and/or evidence to be offered on your behalf. In making this request, you may be required to demonstrate the relevancy of the witnesses' testimony and/or evidence.

The purpose of the hearing is to determine if the Respondent has violated the provisions of Chapter 640C of NRS and if the allegations contained herein are substantially proven by the evidence presented to further determine what administrative penalty is to be assessed against the Respondent, if any, pursuant to NRS 640C.710.

If you require the services of an interpreter, one will be provided for you at no charge. Please notify our office by calling (775) 687-9955 or emailing nvmassgebd@lmt.nv.gov by Wednesday, October 16, 2024, of your request.

Should the Respondent fail to appear at the hearing, a decision may still be reached by the Board. As the Respondent, you are further advised that you may be charged with the attorney's fees and/or costs associated with the hearing pursuant to NRS 622.400.

Pursuant to NRS 233B.121(5), informal disposition of this case may be made by stipulation, agreed settlement, consent order, or default. Any attempt to negotiate this case should be made by contacting Angela M. Lee, Esq. at amlee@ag.nv.gov. Pursuant to NRS 241.033(2)(b), the Nevada State Board of Massage Therapy may, without further notice, take administrative action against your license and/or certificate to practice within the State of Nevada if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. Dated this 1st day of October, 2024. NEVADA STATE BOARD OF MASSAGE THERAPY ELISABETH BARNARD, Executive Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 1, 2024, I deposited for mailing at Reno, Nevada, via Certified U.S. Mail, with return receipt and postage prepaid, a true and correct copy of the foregoing **COMPLAINT AND NOTICE OF HEARING**, properly addressed as follows:

David Peter Trecha 18218 Paradise Mountain Rd. Space #75 Valley Center, CA 92082

NEVADA STATE BOARD OF MASSAGE THERAPY

Employee

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