

**IN THE MATTER OF**

\*

**BEFORE THE STATE**

**LOUIS J. UNIGLICHT, C.M.T.**

\*

**BOARD OF CHIROPRACTIC**

**Respondent**

\*

**EXAMINERS**

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

Pursuant to Md. Code Ann., Health Occ. ("H.O.") § 3-315(a), and Maryland Code of Regulations (COMAR) 10.43.02.07, The Maryland State Board of Chiropractic Examiners (the "Board") hereby renders the following final decision and order:

**BACKGROUND**

On November 3, 2004 the Board charged Mr. Louis J. Uniglicht, Respondent, for violations of certain provisions of the Md. Health Occ. Code Ann. § 3-5A-01, et. seq., ("the Massage Therapists Act") after having received information from the Baltimore County Police Department that his employees at the Soothing Touch Spa had been charged with prostitution and massage violations. On November 6, 2004, Respondent was served with these charges via certified mail. Specifically, the Board charged the Respondent with violation of the following provisions of § 3-5A-09:

(a) Subject to the hearing provisions of § 3-315 of this title, the Board may deny a certificate or registration to any applicant, reprimand any certificate holder or registration holder, place any certificate holder or registration holder on probation, or suspend or revoke the certificate of a certificate holder or the registration of a registration holder if the applicant, certificate holder, or registration holder:

- (2) Fraudulently or deceptively uses a certificate or registration;
- (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy;

A hearing on the merits was held on March 10, 2005. Present were the following Board members, which constituted a quorum: Dr. Marc Gammerman, Vice-President of the Board, who presided at the hearing; Dr. Margaret Renzetti; Dr. Duane Sadula; Dr. Kay O'Hara; Issie Shelton Jenkins;

and Mary Anne Frizzera-Hucek. Also present were Pamela Grant, Massage Therapy Advisory Committee ("MTAC") Member; Roberta Gill, Assistant Attorney General/Administrative Prosecutor; Sheryl McDonald, Legal Assistant to Ms. Gill; Grant. D. Gerber, Board Counsel; Larry J. Feldman, Respondent's Counsel, Louis J. Uniglicht, Respondent; and James J. Vallone, Board Executive Director.

### EXHIBITS

The following exhibits were introduced at the hearing:

#### **STATE'S EXHIBITS**

No. 1	Computer Printout of Info
2	Respondent's Application w/ attachment
4A	Baltimore County Vice Investigative Report, dated 4/5/02
4B	Baltimore County Vice Investigative Report, dated 2/4/04
5A	Murphy Investigative Report, dated 4/16/02
5B	Murphy Investigative Report, dated 4/17/02
5C	Uniglicht Interview, dated 5/28/02
5E	Murphy Investigative Report, dated 8/20/02
5F	Murphy Investigative Report, dated 10/22/02
5G	Murphy Investigative Report, dated 2/04/04
5H	Murphy Investigative Report, dated 3/29/04
5I	Murphy Investigative Report, dated 3/29/04
5J	Uniglicht Interview, dated 4/27/04
5K	Lyudmyla Bean Interview, dated 4/27/04

#### **BOARD'S EXHIBITS**

No. 6A	Letter of Procedure, dated 11/3/04
No. 6B	Charges
No. 6C	Summons
No. 6D	Certified Receipt

## SYNOPSIS OF CASE

The prosecutor advised that her case will focus on Mr. Uniglicht's his arrests for prostitution and massage violations. (T. 8 4-21). Ms. Gill dismissed the charges that Respondent had fraudulently or deceptively obtained or attempted to obtain a certificate or registration for the applicant or for another and had failed to cooperate with the Board's investigation. Mr. Feldman will be offering testimony and argument in support of mitigation. (T. 12 20-21).

Ms. Gill's first witness was detective Kevin D. Smith of the Baltimore County Police Department's Vice Unit. Detective Smith stated that the Department had received an anonymous tip that a business called Soothing Touch Spa, "Soothing Touch", owned by Louis J. Uniglicht, Certified Massage Therapist, "CMT", was illegally offering massage by unlicensed individuals. (T. 32 16-19). Additionally, it was alleged that Mr. Uniglicht had instructed these unlicensed individuals to perform sexual favors with customers. (T. 32 19-21, 33 1-5).

Detective Smith testified that on March 29, 2002, he went to L & J Associates, also known as, Soothing Touch, and requested a massage. (T. 14 10 – 21, 15 4- 20). Ms. Christine Lynne Landers greeted detective Smith at the door of Soothing Touch. (T. 15 10 – 16). She presented a notebook to the detective. This notebook contained a list of services available from Soothing Touch and pictures of each massage therapist. (T. 15 17 – 21). The photos in the notebook were of partially nude women and included each woman's height and weight. (T. 16 17 – 21). The services available at Soothing Touch included "regular", "bikini" and "lingerie" massages. (T. 16 1-2). Ms. Landers

arranged for Detective Smith to get a forty-five minute "lingerie massage" from a black female named "Teonna". (T. 16 20-21, 17 1-8).

Detective Smith was led to a back room at Soothing Touch and given a "lingerie massage" by Teonna Douglas. (T. 17 10-14). When the massage started, Ms. Douglas was attired only in a black bra and panties. (T. 18 16-20). Smith paid Ms. Douglas fifty dollars extra to remove her bra and panties. (T. 19 1-12). In addition, Ms. Douglas agreed to give Detective Smith a hand job (manual masturbation to ejaculation). (T. 20 1-4). Next, Ms. Douglas removed the Smith's pants and began to massage his back. (T. 20 10-20). Immediately thereafter, the Baltimore County Vice Unit raided Soothing Touch and arrested Ms. Douglas for prostitution. (T. 21 3-6). Detective Smith testified Ms. Douglas was not licensed to practice massage therapy in Maryland. (T. 21 7-15). Ms. Douglas was also charged with massage violations.

On cross-examination, Smith testified that Ms. Douglas' plead guilty to these charges and received probation before judgment. (T. 34 7 – 15). Smith admitted that Mr. Uniglicht was not on the premises during this incident. (T. 32 1-10).

On February 4, 2004, Detective Smith conducted an additional investigation of Soothing Touch. (T. 22 9-11). Upon entering Soothing Touch, Detective Smith was advised that the cost of a massage would be \$100.00 an hour. (T. 22 20-21). After reviewing the book of photographs and selecting a black female named "Monika", he paid the person that answered the door \$100.00. (T. 23 1-21). Detective Smith was led to a massage room and instructed to get undressed. (T. 24 2-7).

A few minutes later, the female massage therapist that Detective Smith had

selected entered the room. Monika was later identified as Monique Rene Newman. (T. 24 6-10). Ms. Newman informed Detective Smith that, for \$100.00, she would get undressed and would give him a massage while she was naked. (T. 24 16-19). Detective Smith told Ms. Newman that he wanted a hand job, so that he could ejaculate on her body. (T. 24 20-21, 25 1-2). Ms. Newman agreed, but stated that she needed the \$100 first, which Detective Smith gave her. (T. 25 4-7). Ms. Newman then removed all of her clothes and placed them on the counter, where she had placed the \$100.00. (25 7-10). Ms. Newman began the massage, by rubbing his body with her hands and breasts. (T. 26 3-9).

Moments later, the County Police entered the location and Ms. Newman was placed under arrest for performing massage without certification and prostitution. (T. 27 6-8). Detective Smith stated that another detective at the scene identified Mr. Uniglicht as the owner of Soothing Touch. (T. 26 10-19). Mr. Uniglicht informed Smith that Ms. Newman was not certified to practice massage therapy (this was later confirmed by the Board). (T. 26 15-21). Detective Smith stated that Ms. Newman stated that Mr. Uniglicht had not instructed her to perform illegal massage and prostitution. (T. 40 7-21). Due to an error of law, Ms. Newman was eventually found not guilty of prostitution and performing massage without certification. (T. 42 16-21, 43 1-21).

Ms. Gill's next witness was Mr. Paul Murphy, Investigator for MTAC. Mr. Murphy began an investigation of Soothing Touch in 2002. Accordingly, he inspected Soothing Touch on March 15, 2002. State's Ex. 5A. Mr. Murphy was met by someone named "Christine," who informed him that an hour "bikini massage" would be \$60 and a "lingerie massage" was \$80. *Id.* Mr. Murphy stated that he would take the "lingerie massage" and

was shown a book containing photographs of females. *Id.* He chose Christine and was escorted to a massage room. Christine was later identified as Christine Lynne Landers. (T. 63 19-21, 64 1-7). During the massage, Mr. Murphy was not properly draped and, on several occasions, he was totally exposed. Mr. Murphy asked Christine where she had been trained and she stated that she had received a few days of training from the Respondent before she started to work. *Id.* Christine was not certified to do massage therapy. (T. 58 1-3).

Mr. Murphy interviewed the respondent as part of his investigation. Mr. Uniglicht stated that Soothing Touch provided both relaxation therapy and massage therapy. (T. 56 17-21, 57 1-7). Mr. Uniglicht told him that he was at Soothing Touch ninety five percent of the time it was open. (T. 57 14-15). Respondent insisted that only certified massage therapists performed massage at Soothing Touch. (T. 57 4-7). Respondent stated that bikini and lingerie massages were to fulfill a fantasy only. (T. 58 6-14). Mr. Uniglicht stated that he had fired Ms. Douglas because of her arrest for prostitution and that he had installed peepholes in all the rooms to put a stop to this kind of behavior. (T. 57 18-21, 59 5-18).

Mr. Feldman called Mr. Uniglicht to testify. Mr. Uniglicht admitted that he was a C.M.T. and the owner of Soothing Touch. (T. 92 7-10). Mr. Uniglicht refuted some of the details of Detective Smith's version of the events of April 15, 2002. He stated that Ms. Douglas had been explicitly ordered not perform massage or prostitution on the premises. (T. 103 1-21). . Mr. Uniglicht testified that Ms. Newman had been instructed not charge money for sexual services or for the removal of clothing. (T. 107 14-21).

Mr. Uniglicht did not deny instructing Ms. Landers to perform massage at Soothing Touch.

Respondent stated that it was not usual or customary for a massage therapist to perform a massage in a bikini or lingerie. (T. 114 15-21, 115 1-9). This service was offered to customers to fulfill a fantasy. (T. 116 1-12). Mr. Uniglicht stated that, "other than fantasy, there is actually no point" to this treatment. (T. 125 13-14).

### **FINDINGS OF FACT**

The Board makes the following Findings of Fact:

1. At all times relevant hereto, that Louis J. Uniglicht was certified as a massage therapist in Maryland.
2. At all times relevant hereto, Louis J. Uniglicht owned/operated a massage establishment on Reisterstown Road in Baltimore County, Maryland, called Soothing Touch Spa, also known as L&J Associates.
3. That an unlicensed employee, Christine Lynne Landers was performing massage at Soothing Touch on March 15, 2002. Ms. Landers did not follow appropriate standards for draping patients. Ms. Landers was acting under instruction from Mr. Uniglicht.
4. That an unlicensed employee, Ms. Douglas was arrested and charged with prostitution and massage violations for acts taking place at Soothing Touch on April 15, 2002. Ms. Douglas received probation before judgment on these charges.
5. That an unlicensed employee, Ms. Newman was arrested and charged with

prostitution and massage violations for acts taking place at Soothing Touch on February 4, 2004. Ms. Newman was found not guilty of these charges.

6. Soothing Touch offered bikini and lingerie massage to its clients and that these services provided no bona fide medical treatment.
7. That Mr. Uniglicht installed peep holes in each treatment room in violation a patient's right to privacy and generally accepted standards of practice.

### OPINION

The results in the criminal matter are not dispositive in the administrative proceeding. This is essentially so because of the differing elements and standards of proof. *One Lot Emerald Cut Stones and One Ring v. United States*, 409 U.S. 232 (1972). Md. Code Ann., State Gov't, § 10-213(c) provides for the admission of hearsay evidence in administrative hearings. The Court in *Cade v. Charles H. Hickey School*, 80 Md. App. 721 (1989) noted that in an administrative hearing hearsay evidence that is credible and probative is admissible. The Board views the testimony offered by the State's witness as having met this standard.

An impetus for the enactment of Md. Code Ann., Health Occ. ("H.O.") § 3-5A-01 *et seq* was to protect the citizens of Maryland from the kinds of sexual activities that take place in places like Soothing Touch. The legislature did not contemplate massage therapists providing "bikini massage", "lingerie massage" and sex for hire. Further, the Board may use its "experience, technical competence, and specialized knowledge in the evaluation of evidence" in determining whether or not the standards of a profession



have been breached. Md. Code Ann., State Gov't § 10-213(i).

Mr. Uniglicht's admission that he offered massage services to fulfill a fantasy and not for any bona fide medical treatment is in and of itself sufficient for the board to conclude that he violated the Massage Therapy Practice Act for which there must be consequences. Specifically, respondent was found to be in violation of H.O. § 3-5A-09(8) (does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy), *to wit* Code of Maryland Regulations ("COMAR") 10.43.18.05(3) (engage in sexual misconduct that includes, but is not limited to: therapeutic deception, non bona fide treatment, or a sexually exploitive relationship).

The arrests at Soothing Touch on April 15, 2002 and February 4, 2004 were not isolated incidents. Mr. Uniglicht was a willing participant in all of the illicit sexual activities taking place at Soothing Touch. Mr. Uniglicht was the owner/manager, of Soothing Touch, and he used his massage therapy certification to lend legitimacy to prostitution and the unlicensed practice of massage therapy. For these actions, respondent was found to be in violation of H.O. § 3-5A-09(2)(fraudulently or deceptively uses a certificate or registration).

Finally, Mr. Uniglicht's use of peepholes to monitor activity in his establishment was found to be in violation of the Act. Respondent was found to be in violation of H.O. § 3-5A-09(8), *to wit* COMAR 10.43.18.06(A) (a certificate holder shall: respect and maintain the privacy and confidentiality of the client). The Board does not believe that licensees should have peepholes in treatment areas.

**CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact and Opinion, the Board concludes, as a matter of law, that Mr. Uniglicht violated H.O. § 3-5A-09(a) (2) Fraudulently or deceptively uses a certificate or registration; (8) Does an act that is inconsistent with generally accepted professional standards in the practice of massage therapy.

**ORDER**

Based on the foregoing Findings of Fact, Opinion and Conclusions of Law, it is, this 17<sup>th</sup> day of May, 2005, by the Maryland State Board of Chiropractic Examiners hereby

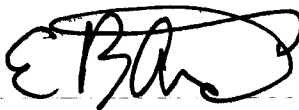
**ORDERED** that, pursuant to the authority vested in the Board of Chiropractic Examiners by Md. Code Ann., Health Occ. Article, § 3-5A-09, the Respondent's massage therapy certification is hereby **REVOKED**; and be it further

**ORDERED** that Respondent must immediately return to the Board both the wall and wallet size certificate numbered **M00232**; and be it further

**ORDERED** that the Respondent, reimburse the Board its hearing costs totaling \$1,425.50 (\$725.50 Reporting Services/\$700.00 Board Per Diem); and be it further

**ORDERED** that this document is a public record, pursuant to Md. Code Ann., State Gov't Article, § 10-617(h).

5/17/05  
Date

  
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Brian Ashton, D.C.  
Board President

**NOTICE OF RIGHT OF APPEAL**

In accordance with Md. Code Ann., Health Occ. Article, § 3-316, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Findings of Fact, Conclusions of Law and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't Article, §§ 10-201 *et seq.*, and Title 7 Chapter 200 of the Maryland Rules.