

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
VLAD I. THOMAS, CMT,	:	LS0512095MTB
RESPONDENT.	:	

[Division of Enforcement Case No. 04 MTB 001]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Vlad I. Thomas, CMT
910 W. Walworth Avenue
Whitewater, WI 53190

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter subject to the approval of the Department. The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Vlad I. Thomas, CMT, Respondent, date of birth April 4, 1928, is certified by the Department of Regulation and Licensing as a massage therapist or bodyworker in the state of Wisconsin, pursuant to certificate number 100, which was first granted February 18, 1999.
2. Respondent's last address reported to the Department of Regulation and Licensing is 910 W. Walworth Avenue Whitewater, WI 53190. Respondent has a part-time massage therapy practice out of his home that he began in 1987.
3. In January 2004, Ms. A (DOB: 10/6/42) injured her back at work. Ms. A, who lives near Respondent contacted Respondent for the purpose of receiving massage therapy for her injuries. Respondent came to Ms. A's place of employment to perform an ergonomic assessment of her workstation and provided her with a lumbar cushion at that time. Ms. A agreed to receive neuromuscular massage therapy from Respondent for her back, abdominal and groin muscles and saw him at his home/office for that purpose on January 21, 28 and February 4, 2004.
4. In the afternoon on February 29, 2004, Ms. A answered the door to her apartment and found that Respondent had come to see her. Ms. A, who was on the telephone, was surprised and did not know why Respondent was there, but invited Respondent to come inside to wait while she finished her conversation. The following occurred:
 - a. After she concluded her telephone conversation, Ms. A asked Respondent why he was there. He mentioned that he was interested in the street on which she lived and inquired about her health and asked how she was feeling. Ms. A told Respondent that she was feeling somewhat depressed and he asked if she would like to take a walk.

with him. Ms. A declined, saying she would feel uncomfortable taking a walk with him, without his significant other.

b. Ms. A says that Respondent asked if he could see her apartment and she showed it to him. He asked if he could give her a back massage and she said he could do so. Ms. A straddled a kitchen chair and leaned forward. Respondent worked with light fists along both sides of her spine and back and then on her shoulder blades. He then did back and side of neck finger work.

c. Respondent asked if she would like any work on her legs and body and she agreed. She went to the living room and lay down on the couch. With the exception of removing her shoes, Ms. A remained fully clothed in pants and a sweat shirt. Respondent asserts that he then rubbed her feet, slowly moved the massage up her legs, massaged her abdomen, moved up her trunk along the lateral rib cage to her shoulders and then up her arms. Ms. A described Respondent as massaging through her clothing: her feet and legs, including her inner thighs, her shoulders, the sides of her rib cage and her breast area.

d. Ms. A reports that when Respondent touched her breast area, it brought back memories of her childhood sexual abuse and she felt frozen and did not know what to do or say.

e. There was little or no conversation during the massage. After the massage, Respondent asked her how she felt and Ms. A responded that she was maybe a little relaxed but felt very agitated and confused.

f. Respondent again asked Ms. A if she would like to go for a walk. They walked outside and engaged in small talk. As they returned to Ms. A's apartment, they talked a little more and Ms. A told him that she was a survivor of child abuse and was seeing a therapist.

5. The next day, Respondent called Ms. A at work to tell her how much he enjoyed their walk the previous day. Respondent knew Ms. A did not work on Wednesday afternoons and asked her if she would like to come over to his residence for a massage that coming Wednesday afternoon. This upset Ms. A and she declined.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 460.14(2) and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by going to the residence of Ms. A, uninvited and for reasons not related to treatment sought by Ms. A, has practiced in a manner which departs from the standard of care ordinarily exercised by a massage therapist or bodyworker, and is subject to discipline pursuant to Wis. Stat. § 460.14(2)(g) and Wis. Admin. Code § RL 94.01(21).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The certificate of Vlad I. Thomas, CMT, Respondent, as a massage therapist or bodyworker in the State of Wisconsin is hereby suspended for an indefinite period of time.

2. The suspension will end when Respondent provides proof sufficient to the Department that:

a. Respondent has taken and completed "Professional Guidelines for Massage Therapists, Bodyworkers, and Movement Teachers," a home study course with testing at completion offered by HealthPositive.com. The course has 6 CE hours in ethics (including roles and boundaries, professionalism, confidentiality and prevention of sexual misconduct).

b. If Respondent is unable to complete the specified course, Respondent may petition for permission to take a substitute course. Prior to taking any substitute course, Respondent shall provide sufficient information about the course to the Department or its designee and receive approval that the course is substantially equivalent to the specified course.

c. Respondent has paid to the Department the costs of this proceeding in the amount of \$620.00 pursuant to Wis. Stat. § 440.22(2).

3. If Respondent believes that the Department's refusal to end the suspension is inappropriate, Respondent may

seek a class 1 hearing pursuant to Wis. Stat. §227.01(3)(a) in which the burden shall be on Respondent to show that the Department's decision is arbitrary or capricious. The suspension of Respondent's certificate shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. Requests, notices, proof and payment shall be sent to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Telephone: (608) 267-3817
Fax: (608) 266-2264
E-mail: department.monitor@drl.state.wi.us

5. This Order is effective on the date of its signing.

Department of Regulation and Licensing

By: Celia M. Jackson
Secretary

12/09/05
Date