

**BEFORE THE MASSAGE THERAPY BOARD
OF THE STATE OF NEW MEXICO**

IN THE MATTER OF:

**RAMON VALLEJOS,
Temporary MT License #4644
(Expired 09/30/11) &
Expire MT License Application,**

Case No.: 12-07-10

Respondent.

DEFAULT ORDER

THIS MATTER came before the New Mexico Massage Therapy Board (hereinafter “Board”) during its regularly scheduled meeting on October 22, 2014, for a decision in the above-referenced matter. With board members Elizabeth Harris, Claudio “Quinn” Lopez, Dawn Saunders and Marta Lucas present, and a unanimous vote of 4-0 in the affirmative, the Board finds as follows:

FINDINGS OF FACT

1. On or about July 17, 2014, the Board issued an NCA against Respondent in case number 12-07-10. The NCA stated that the Board had sufficient evidence to justify the Board in imposing a civil penalty against Respondent in the amount of \$1,000.00 for practicing massage therapy without a license in violation of Section 61-12C-5 of the Massage Therapy Practice Act (hereinafter “Practice Act”), NMSA 1978, Section 61-12C-1 to -28, and Title 16, Chapter 7 of the New Mexico Administrative Code (hereafter, “NMAC”).

2. The NCA stated that, unless explained or rebutted at a formal hearing, Respondent’s alleged conduct justified the Board in imposing a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each violation. See Exhibit A, attached hereto.

3. On or about July 18, 2014, the Board mailed Respondent an NCA in the above-referenced case number, via certified mail, return receipt requested, to two different addresses linked to Respondent. First, the NCA was mailed to Respondent, c/o Center for Ageless Living, at 3316 Highway 47 S, Los Lunas, New Mexico 87031 (hereinafter “Los Lunas address”). The NCA was also sent to a second address linked to Respondent – 5532 Cleo Road, SW, Albuquerque, NM 87121 (hereinafter “Albuquerque address”).

4. The United States Postal Service (“USPS”) delivered the NCA to Respondent’s Los Lunas address. The person who received the NCA, Suzette Lindemuth, returned the package to the Regulation and Licensing Department with the following note: “[o]pened in error – returning document. This individual is no longer employed at the Center for Ageless Living.” See Exhibit B, attached hereto.

5. The USPS attempted to deliver the NCA to Respondent’s Albuquerque address on July 19, 2014. The package containing the NCA was ultimately returned to the Regulation and Licensing Department with the following note: “return to sender/unclaimed/unable to forward.” See Exhibit C, attached hereto.

6. Respondent did not request a hearing within twenty (20) days of service of the NCA, as contemplated by Sections 61-1-4 and 61-1-5 of the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -34.

7. Respondent failed to otherwise respond to the NCA.

CONCLUSIONS OF LAW

Based on the findings of fact, the Board reaches the following conclusions of law:

1. The Board has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the Practice Act and the ULA.
2. Section 61-1-5 of the ULA provides that, where notice is served via certified mail, “it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery[.]” NMSA 1978, § 61-1-5.
3. In accordance with Section 61-1-5 of the ULA, service of the NCA upon Respondent’s Los Lunas address was accomplished when Ms. Lindemuth accepted service of the NCA.
4. In accordance with Section 61-1-5 of the ULA, service of the NCA upon Respondent’s Albuquerque address was accomplished on July 19, 2014, when the USPS last attempted delivery of the package containing the NCA.
5. More than twenty (20) days have passed since Respondent was served with the NCA and Respondent has failed to request a hearing. Thus, the Board is authorized to take the action contemplated in the NCA pursuant to Section 61-1-4(E) of the ULA.
6. The Board has complied with all notice and other procedural requirements of the Practice Act and the ULA.
7. This order is final and not subject to judicial review. See NMSA 1978, § 61-1-4(E).

ORDER

Based on the above findings of fact and conclusions of law, the Board **THEREFORE ORDERS** that Respondent shall immediately **CEASE AND DESIST** from the unlicensed practice of massage therapy.

IT IS FURTHER ORDERED that Respondent **PAY** the Board a fine in the amount of one thousand dollars (\$1,000) for practicing massage therapy without a license.

FOR THE NEW MEXICO
MASSAGE THERAPY BOARD

DATE: 10.31.2014

Elizabeth A Harris

Elizabeth Harris, LMT
Board Chair