

## SETTLEMENT AGREEMENT

### A. PARTIES

This Settlement Agreement is made by and between the North Dakota Board of Massage Therapy (Board) and Jeremy Baker (Baker) – license #18140.

### B. RECITALS

The Board is appointed by the Governor to administer and enforce the laws governing the practice of massage in North Dakota. The Board is authorized by North Dakota Century Code (N.D.C.C.) § 43-25-10 and North Dakota Administrative Code (N.D.A.C.) § 49-01-02-04 to take disciplinary action, including revoking, suspending, or placing on probation the license of any massage therapist in the state who has committed a violation of N.D.C.C. ch. 43-25 or of any administrative rule adopted by the Board.

Baker is a licensed massage therapist in North Dakota – license #18140.

The Board received a complaint alleging Baker engaged in sexual activities during a massage without the client's consent. Baker is charged in District Court in the Montana Seventh Judicial District Court, Dawson County, Case No.: DC-18-054, with Count 1: Sexual Intercourse Without Consent, a felony, in violation of Section 45-5-503, M.C.A. – regarding sexual activities during a massage with a client.

N.D.C.C. § 43-25-10(1) allows the Board to take disciplinary action against a licensee upon the grounds of (f) gross negligence in the practice of massage and/or (g) violating a chapter or rule of the Board. N.D.A.C. 49-01-02-04(3) requires licensee to be of good moral character and "ineligible to be licensed" if the licensee (a) engages in criminal conduct involving the client as a victim and/or (b) initiates or engages in any

sexual conduct, sexual activities, or sexualizing behavior involving a current massage client of the licensee.

The Board therefore found grounds exist to initiate disciplinary action against Baker's license pursuant to N.D.C.C. § 43-25-10 and N.D.A.C. § 49-01-02-04.

Baker acknowledges that he has been informed and understands that he has the right to seek and obtain the advice of legal counsel to assist him in this matter, and in connection with his respective considerations and the execution of this Settlement Agreement. Baker acknowledges that he has been informed and understands he has a right to a hearing and appeal pursuant to N.D.C.C. ch. 28-32, prior to any adverse action being taken regarding his license.

The Board and Baker agree to resolve this matter as follows:

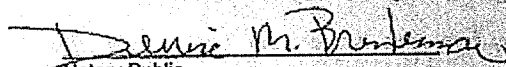
1. Baker waives his right to an administrative hearing and appeal pursuant to N.D.C.C. ch. 28-32.
2. Baker agrees that his North Dakota massage therapist license will be suspended, effective immediately.
3. In the event that Baker is convicted of the criminal charge pending against him in Dawson County referenced above, is convicted of a lesser included offence, pleads guilty to this or any related charge, or pleads no contest to this or any related charge, Baker's massage therapy license will be revoked without further action or hearing. In that event, Baker may reapply for licensure five years after the date of conviction or the date that the plea is accepted by the court.

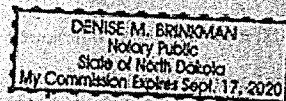
4. In the event Baker is not guilty or the charge against him is dismissed, with or without prejudice, the suspension of Baker's license will be terminated and his license will be reinstated. In this event, the Board will be free to reexamine this issue and determine whether to bring an action in relation to Baker's massage therapy license.
5. There are no covenants, promises, undertakings, or understandings outside this agreement other than as herein specifically set forth.
6. This agreement shall be governed by the substantive laws of the state of North Dakota without regard to conflicts of law principles.
7. Each undersigned party represents and declares that in signing this document they have relied solely upon their own judgment, belief, and knowledge and the advice and recommendation of their own independently selected counsel concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in signing this document by representation or statements except those referred to or contained in this document.
8. This agreement is effective when signed by both parties.

Dated this 5 day of 9, 2018.


  
Jeremy Baker

Subscribed and sworn to before me this  
5 day of September, 2018.

  
Notary Public



Dated this 27<sup>th</sup> day of September, 2018.

  
Heidi Strain, President  
North Dakota Board of Massage