

STATE OF FLORIDA  
BOARD OF MASSAGE THERAPY

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK: *Sandra Soto*  
DATE: *7/19/2011*

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2008-16655  
License No.: MA 52091

MARCUS E. McCASTLER, L.M.T.

Respondent.

**NOTICE OF SCRIVENER'S ERROR**

COMES NOW, the Petitioner, Department of Health, and corrects the scrivener's error contained in the Final Order filed on January 14, 2011 as grounds therefore states:

1. The Final Order was filed with rendition number DOH-11-146-S and should have been filed as DOH-11-146-FOF.
2. The Final Order is now correct and remains nunc pro tunc to the filing date.

WHEREFORE, the Petitioner hereby corrects the scrivener's error contained in the Final Order.

Respectfully submitted, on this 19th day of July, 2011.

*Sandra Soto*

Sandra Soto  
Deputy Agency Clerk  
Department of Health  
Central Records Unit  
4052 Bald Cypress Way, Bin #C01  
Tallahassee, Florida 32399

STATE OF FLORIDA  
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DEPARTMENT OF HEALTH,

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**FINAL ORDER**

THIS CAUSE came before the Board of Massage Therapy (hereinafter the "Board") Pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on December 14, 2010, at a duly noticed public meeting by teleconference, for consideration of the Administrative Law Judge's Recommended Order, Respondent's Exceptions and Motion for Final Order (attached hereto as Exhibits "A", "B" and "C", respectively) in the above styled case. Petitioner was represented by S. J. DiConcilio, Esquire, and Assistant General Counsel. Respondent was present and represented by S.A. Siddiqui, Esquire.

Upon review of the Recommended Order, and after a review of the complete record, the Board makes the follow findings and conclusions.

**RULINGS ON EXCEPTIONS**

The Board reviewed the Respondent's Exceptions to the Recommended Order and Petitioner's response to Respondent's Exceptions to the Recommended Order and rules as follows:

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1. The Board accepted Exception number one based because there is no competent and substantial evidence in the record to support the finding that Respondent was counseled by a lawyer, only a counselor.

2. The Board rejected Exception numbers two and three because they do not qualify as exceptions as they are statements not relevant to the evidence adduced at the hearing.

#### **FINDINGS OF FACT**

3. The Board voted to reject in its entirety paragraph number 16 of the Recommended Order after determining the finding was not supported by competent and substantial evidence. The Administrative Law Judge found that Petitioner had been advised by a lawyer to lie on his application for a massage therapy license. After a review of the entire record the Board found that there was no actual reference to a lawyer, but only to a “counselor”.

4. The remaining findings of fact set forth in the Recommended Order are approved, adopted and incorporated by reference herein.

#### **CONCLUSIONS OF LAW**

5. The Board has jurisdiction of the matter pursuant to Section 120.57(1) and Chapter 480, Florida Statutes.

6. The conclusions of law set forth in the Recommended Order are approved, adopted and incorporated by reference herein.

#### **PENALTY**

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED.

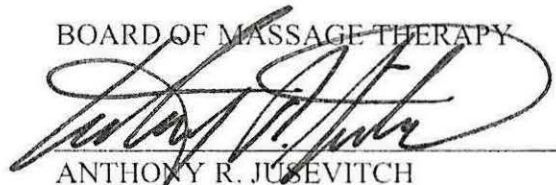
WHEREFORE, it is hereby ORDERED AND ADJUDGED:

- A. Respondent's license to practice Massage Therapy is hereby REVOKED.
- B. Respondent shall pay an administrative fine in the amount of \$10,000.
- C. Respondent shall pay \$46,049.08 costs incurred in the investigation and prosecution of this case.
- D. All fees and costs shall be made within five (5) years of the date of this order.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 13 day of January, 2011.

BOARD OF MASSAGE THERAPY



ANTHONY R. JUSEVITCH  
EXECUTIVE DIRECTOR  
FOR KAREN G. FORD, CHAIR

**NOTICE OF RIGHT TO JUDICIAL REVIEW UNLESS WAIVED**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW, UNLESS WAIVED, PURSUANT TO SECTION 120.68, FLORIDA STATUTES. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to S.A. Siddiqui, Esquire, Post Office Box 44267, Jacksonville, Florida 32222; to Marcus E. McCastler, 11424 Secretariat Lane, Jacksonville, Florida 32218, and by interoffice delivery to Sam Di Concillio, Assistant General Counsel, Prosecutorial Services Unit, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, FL 32399-3265, and by inter-office delivery to Jaime Liang, Assistant Attorney General, Department of Legal Affairs, The Capitol, PL-01, Tallahassee, FL 32399-1050 this 18<sup>th</sup> day of January, 2011.

*Sandra Soto*

**Deputy Agency Clerk**

7010 1060 0001 7032 4055

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