

IN THE MATTER OF

KUM Y. SONG, M.T.

Certificate Number M01742

APPLICANT

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BEFORE THE

STATE BOARD OF

CHIROPRACTIC EXAMINERS

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**FINAL ORDER OF DENIAL OF RENEWAL OF MASSAGE THERAPY CERTIFICATE**

**BACKGROUND**

On July 11, 2002, the State Board of Chiropractic Examiners (the "Board"), received a report from its investigator that, on December 19, 2001, Kum Y. Song (the "Applicant") performed illegal activities during the course of providing massage therapy to a customer at Ultima Therapy in Germantown, Maryland. On August 8, 2002, the Board, by a majority of its full authorized membership, voted to initially deny the Applicant's renewal application for a massage therapy certificate. Accordingly, on \_\_\_\_\_, 2002, the Board sent the Applicant the Initial Notice of Denial of Massage Therapy Certification, indicating that the Board would sign same if the Applicant failed to request a hearing in writing within 30 days of the date of the notice. More than 30 days have passed since the notice was sent. Therefore, the Board takes the following action.

**FINDINGS OF FACT**

The Board bases its decision to deny the certificate renewal on the following findings of fact:

1. The Applicant was first certified on December 29, 2001. The Applicant's certificate to practice massage therapy expires on October 31, 2002. By application dated September 11, 2002, the Applicant filed a renewal application.

2. At all times relevant hereto, the Applicant worked at Ultima Therapy in Germantown, Maryland.

3. On December 19, 2001, investigators from the Montgomery County Police, Vice and Intelligence Section, conducted a surveillance/investigation of Ultima. Detective Muollo of that unit interviewed a male customer after he left Ultima. The customer stated that he paid the manager of Ultima \$100 for a one hour massage. The manager took him to room #3 and instructed him to take off his clothes and handed him a towel. The Applicant entered the room and took the customer to the table shower where she washed his genitals. After the shower, the Applicant and the customer went back to room # 3, where she gave the customer a massage to his back. After a while, the Applicant told the customer to flip over, which he did. The Applicant immediately started to massage his genitals and gave him a hand release. The Applicant was identified through investigation and photos.<sup>1</sup>

4. The Applicant violated the Act and the regulations thereunder by giving a customer a table shower while he was completely nude and undraped; by massaging a customer's genitals; and, by giving the customer a hand release.

5. As set forth above, the Applicant lacks the good moral character to qualify for a renewal of her application for certification as a massage therapist in Maryland.

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<sup>1</sup> The Applicant was arrested and charged with one count of prostitution, which charge was later dismissed.

## CONCLUSIONS

Based on the foregoing Findings of Fact, the Board concludes, as a matter of law, that, engaging in the aforesaid activities, violated the Maryland Chiropractors Act (the "Act"), Title 3, Md. Health Occ. Code Ann. (2000 Repl. Vol.) in the following manner: § 3-5A-09 (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); (11) (Has violated any provision of this subtitle); and, (21) (Knowingly does an act that has been determined by the Board to be a violation of the Board's regulations [;]). The Board further denies the Applicant a renewal of his massage therapy certificate on the basis that the Applicant violated § 3-5-A-05: (a) To qualify for a certificate, an applicant shall be an individual who: (1) Is of good moral character [;]. The Board further denies the Applicant a renewal of his massage therapy certification for violation of the following regulations, Code Md. Regs. tit. 10 § 43.17 (1999): .05 Application of Certification. (3) (Provide evidence that the applicant is): (a) (Of good moral character [;]). The Board also denies the Applicant a renewal of his massage therapy certification for violation of Code Md. Regs. tit. 10 § 43.18 (1999): and .05 Professional Boundaries, thereof: A. (A certificate holder or registration holder shall): (1) (Maintain professional boundaries, even when the client initiates crossing the professional boundaries of the professional relationship); and (2) (Respect and maintain professional boundaries and respect the client's reasonable expectation of professional conduct); B. (A certificate holder or registration holder may not): (1) (Exploit a relationship with a client for the

certificate holder's or registration holder's personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship); (2) (Engage in a sexually intimate act with a client); or (3) (Engage in sexual misconduct that includes, but is not limited to): (a) (Therapeutic deception), (b) (Non bona fide treatment), or (c) (A sexually exploitative relationship).

**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this day of \_\_\_\_\_, 2002, hereby **ORDERED** that the (renewal) application for certification as a massage therapist of Chung Kang is hereby **DENIED**.

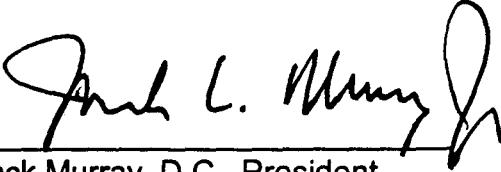
It is further **ORDERED** that this Final Order shall be a public document, pursuant to Md. State Govt. Code Ann. § 10-617(h) (2000 Repl. Vol.).

**NOTICE OF RIGHT OF APPEAL**

In accordance with Md. Health Occ. Code Ann. § 3-316 (2000 Repl. Vol.) and the Administrative Procedure Act, Md. State Govt. Code Ann. § 10-201, *et seq.*, (2000 Repl. Vol.) you have a right to a direct judicial appeal of this decision. A petition for appeal of the Final Board Order shall be filed within thirty days from your receipt of this Final Order and shall be made in accordance with the forecited authority.

JAN 02 2003

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Date

  
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Jack Murray, D.C., President  
Board of Chiropractic Examiners