

Final Order

FILED

DATE: August 15 2020
New Jersey Board of Massage and
Bodywork Therapy

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MASSAGE AND BODYWORK
THERAPY

IN THE MATTER OF THE LICENSE OF

JOHN POPPER, LMBT
LICENSE NO. 18KT00973200

TO PRACTICE MASSAGE AND BODYWORK
THERAPY IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER

Overview

This matter was opened before the New Jersey State Board of Massage and Bodywork Therapy ("Board") on March 2, 2020, upon the filing of a two-count Verified Complaint ("Complaint") and a Notice of a Motion to Proceed Summarily ("Motion"), alleging that John R. Popper, LMBT, ("Respondent") inappropriately touched a client,

K.M.¹, while performing a massage at the Somers Point Hand and Stone on October 29, 2017. The Verified Complaint sought revocation or suspension of Respondent's license to practice massage and bodywork therapy in New Jersey, as well as attorneys' fees and costs.

The allegations in the Complaint are based upon findings made during two separate criminal proceedings, first in Somers Point Municipal Court, and then in Superior Court of New Jersey, Criminal Division, Atlantic County. In both proceedings, the trial judge found beyond a reasonable doubt that Mr. Popper offensively touched K.M. by touching her vagina while performing a massage, in violation of N.J.S.A. 2C:33-4(b) (Harassment).

We herein unanimously conclude that the findings made in the prior criminal proceedings fully support and warrant the permanent revocation of Respondent's license to practice massage and bodywork therapy in the State of New Jersey, and that good cause exists to assess the attorneys' fees and investigation costs which were incurred in bringing this action against Respondent.

We set forth below a summary of the history of this matter, a summation of the arguments made and evidence presented at the hearing held before this Board on June 30 and July 21, 2020, and

¹ K.M. is identified in the Verified Complaint by her initials only, in order to protect confidentiality. K.M.'s identity is known to Respondent.

the legal analysis and rationale for the determinations we herein make.

Prior Criminal Court Proceedings²

On or about January 18, 2018, a Complaint-Summons was issued alleging that on October 29, 2017, Respondent committed criminal sexual contact by placing his hand over K.M.'s vagina while providing her with a massage at the Somers Point Hand and Stone, in violation of N.J.S.A. 2C:14-3(b) (Criminal Sexual Contact). The charges were thereafter downgraded to a violation of N.J.S.A. 2C:33-4(b), the criminal matter was remanded to municipal court, and proceeded to trial on November 13 and December 18, 2018, in Somers Point Municipal Court, before the Honorable Howard E. Freed, J.M.C., with Respondent represented by legal counsel, Robert L. Tarver, Jr., Esq.

At trial, K.M. testified under oath, as follows. On October 29, 2017, K.M. booked a massage and a facial at the Somers Point Hand and Stone. The massage took place first. K.M. entered the massage room, disrobed completely, and got under a sheet. Respondent then came into the room, appeared to have recognized K.M. and asked if she requested for him to perform the massage. When K.M. responded, "no", Respondent stated, "Oh, I guess this

² This section is based Exhibits P-1 through P-5, consisting of documentation from Respondent's criminal proceeding, which were entered into evidence at the hearing held on June 30, 2020.

must be your lucky day." Respondent then proceeded to massage K.M., working on her arms and back. Towards the end of the massage, Respondent first massaged K.M.'s right leg. While massaging K.M.'s right inner thigh, Respondent stated, "Oh, women don't usually let me touch there," to which K.M. responded that she did not understand why, as it was just a part of the leg.

Then, when Respondent began to rub K.M.'s left leg, he slid his hand under the sheet covering her and touched her vagina. After doing so, Respondent asked, "Is this okay?", to which K.M. emphatically replied, "No." In response, Respondent threw his hands in the air and said "Okay." K.M. then went to her facial appointment. During the facial, K.M. began to cry, and then tremble and shake. After a conversation with her cosmetologist, K.M. reported the incident first to Hand and Stone management, and then to the police department.

At the conclusion of the municipal court proceeding, Judge Freed found that K.M. was "very credible" in her testimony regarding Respondent's conduct, and further found that Respondent offensively touched K.M., specifically by his placing of his hand on K.M.'s vagina, and thereafter asking K.M. if that was "okay." Judge Freed concluded by finding beyond a reasonable doubt that Respondent was guilty of harassment, in violation of N.J.S.A. 2C:33-4(b), a disorderly persons offense.

Respondent then appealed his municipal court conviction, and the matter was heard on June 29, 2019, before the Honorable Rodney Cunningham, J.S.C., in Superior Court of New Jersey, Criminal Division, Atlantic County, with Respondent appearing pro se. Following a trial de novo, Judge Cunningham found beyond a reasonable doubt that Respondent harassed K.M. by offensively touching her during the October 29, 2017, massage. Like Judge Freed before him, Judge Cunningham found that K.M. was credible in her testimony, specifically her testimony that while Respondent was massaging her left leg, he touched her vagina. Judge Cunningham noted that K.M. had no reason to lie and that she remained consistent with her recollection of what occurred throughout direct examination, cross examination, and questioning by Judge Freed. On that same date, Judge Cunningham entered a Judgment finding Respondent guilty of a violation of N.J.S.A. 2C:33-4(b).

Board of Massage and Bodywork Therapy Procedural History

On or about March 2, 2020, the Attorney General of New Jersey filed a two-count Complaint seeking, among other things, the suspension or revocation of Respondent's license to practice massage and bodywork therapy in the State of New Jersey. The allegations made by the Attorney General were based wholly upon the testimony provided by K.M. during the Somers Point Municipal Court proceeding, and the findings made by Judges Freed and Cunningham. Specifically, the Attorney General alleged that

Respondent's actions in touching K.M.'s vagina during the massage were in violation of N.J.S.A. 45:1-21(c) (engaged in gross negligence, gross malpractice or gross incompetence); N.J.S.A. 45:1-21(e) (engaged in professional or occupational misconduct); and 45:1-21(h) (violated or failed to comply with the Board's statute and/or regulations), based upon a violation of N.J.A.C. 13:37-3.5(c), (d), (e), and (h); and provided a basis for disciplinary action against Respondent's license to practice massage and bodywork therapy. The Complaint further alleged that Respondent's actions constituted a violation of N.J.S.A. 45:1-21(f) (engaging in any offense involving moral turpitude or relating adversely to the activity regulated by the Board).

Concurrent with the filing of the Complaint, the Attorney General filed a Motion, pursuant to Court Rule 4:67-2(b).³ In its Motion, the Attorney General requested that the Board schedule the summary proceeding for its next scheduled Board meeting, or as soon as the matter may be heard. The Attorney General further

³ Pursuant to R. 4:67-2(b), if the Board is satisfied that the matter may be completely disposed of on the record, which may be supplemented by interrogatories, depositions, and demands for admissions or on minimal testimony the Board may grant a motion to proceed summarily. The usual standard is that if it appears that the matter may be disposed in less than one day, then the motion to proceed summarily may be granted. See R. 4:46-3, and Comment 1 thereon, and R. 4:67-5.

requested that upon a finding of liability, the matter immediately proceed to hearing on penalty.

The matter was then set down for hearing before the Board on April 28, 2020.⁴ Respondent was advised, prior to the hearing date, that should the motion be granted, the Board would then immediately proceed to conduct a hearing on Respondent's liability and that, should liability be found, a hearing on penalty (at which hearing Respondent would be afforded an opportunity to present evidence in mitigation of penalty) would be held.

Hearing on June 30 and July 21, 2020⁵

On June 30, 2020, a hearing on the Attorney General's application was held remotely before the full Board. The Board began the hearing by considering the Attorney General's Motion to Proceed Summarily. Deputy Attorney General Daniel E. Hewitt presented the case on behalf of the Attorney General. Respondent appeared pro se.

⁴ The matter was then adjourned to June 30, 2020, due to the ongoing COVID-19 pandemic. Respondent was advised prior to the rescheduled hearing date that the matter would proceed remotely.

⁵ The June 30, 2020, remote hearing was adjourned during the penalty phase due to Respondent experiencing technical issues. So as to avoid any further technical difficulties, the Board made available to Respondent a computer with a video camera at its Newark location. Respondent was then able to participate in the July 21, 2020, hearing, remotely from the Newark location.

Hearing on Motion to Proceed Summarily

Following an introductory statement made by the hearing chair, David Bank, LMTB, both parties presented oral argument on the Motion. DAG Hewitt argued that the matter could proceed summarily as there were no facts in dispute in this matter. DAG Hewitt pointed out that during the Somers Point municipal court proceeding, Judge Freed found K.M. was "very credible" in her testimony regarding Respondent's conduct, and that Judge Freed found that Respondent offensively touched K.M. by placing his hand on K.M.'s vagina, and asking K.M. if that was "okay." DAG Hewitt noted that Respondent had an opportunity to present his case in municipal court, and he lost, with Judge Freed finding beyond a reasonable doubt that Respondent was guilty of harassment.

DAG Hewitt continued, further noting that Respondent also had an opportunity to appeal his municipal court conviction, with the matter heard in Superior Court. There, following a trial de novo, Judge Cunningham agreed with Judge Freed, also finding beyond a reasonable doubt that Respondent harassed K.M. by offensively touching her during the October 29, 2017, massage.

DAG Hewitt argued that because of the findings made in the two prior criminal proceedings, Respondent was now collaterally estopped from re-litigating those findings. In support, DAG Hewitt cited the holdings of In Re Tanelli, 194 N.J. Super. 492 (App. Div. 1984); State v. Ercolano, 335 N.J. Super. 236 (App. Div.

2000); and Moore v. Youth Correctional Institute at Annadale, 230 N.J. Super. 374 (App. Div. 1989).⁶ Specifically, DAG Hewitt argued, it was not in dispute that Respondent engaged in offensive touching by putting his hand on K.M.'s vagina. DAG Hewitt concluded by urging the Board to grant the Motion and proceed to the liability phase.

In response, Respondent argued that his right to a fair trial during the criminal proceeding was not met.⁷ In support, Respondent advised that he had faced a hostile courtroom, based upon a comment

⁶ Collateral estoppel is an application of law that precludes re-litigation of issues that have already been fully litigated and decided in an earlier action. In re Estate of Dawson, 136 N.J. 1, 20 (1994). It may be applied in proceedings to "establish misconduct previously established in a court proceeding. Tanelli, 194 N.J. Super. at 496-97, citing In re Coruzzi, 95 N.J. 55 (1984). Collateral estoppel may be applied when the misconduct was established in a criminal or a quasi-criminal proceeding "where the burden of proof was greater than the burden required" in the current proceeding. Id. at 497. A disorderly persons conviction may be used to stop a party "from retrying the facts that sustained the judgment because he already had his day in court on those issues." Id. at 498. See also Ercolano, 335 N.J. Super. 236 (holding that an administrative body may base its discipline solely on a municipal court disorderly person's conviction).

⁷ Throughout this proceeding Respondent repeatedly insinuated that there were issues with the criminal proceedings that preceded the Board's action. We simply note that both the municipal court and the Superior Court proceedings concluded with Respondent being found guilty beyond a reasonable doubt of a violation of N.J.S.A. 2C:33-4(b). If there were any errors made by the municipal court or the Superior Court, this action is not the proper forum to re-litigate those findings, as that may only be addressed by the criminal court system.

made by Judge Freed when hearing Respondent's name; that his legal counsel asked him to lie on the record and refused to play the video interviews the police department had conducted with K.M., wherein K.M. allegedly offered two versions of the events that transpired on October 29, 2017; and that his counsel and the municipal court prosecutor knew each other prior to Respondent's matter being heard. Respondent ultimately conceded, however, that the hearing before the Board would likely take less than a day.

Following argument from both parties, we concluded that Respondent was now collaterally estopped from re-litigating the findings made in the two prior criminal proceedings, and we granted the Attorney General's motion to proceed summarily, as we were fully satisfied that the matter could be disposed of in less than one day.⁸

Hearing on Liability

The matter then proceeded to the liability phase of the proceeding. The Attorney General supported its case with documentary evidence, to include the transcripts from the November 13 and December 18, 2018, Somers Point Municipal Court proceeding

⁸ Although the matter proceeded summarily, Respondent was allowed to present documentary evidence and witness testimony. We note that while Respondent continuously referenced possible exhibits to be offered into evidence and possible witnesses that could have been called to testify, at no time during the proceeding did Respondent submit into evidence any exhibits or offer any witness testimony.

(P-2 and P-3); the transcript from the June 25, 2019, Atlantic County Superior Court proceeding (P-4); and the June 25, 2019, Judgment (P-5).⁹ DAG Hewitt argued that the prior criminal proceedings unequivocally established that on October 27, 2017, while performing a massage, Respondent slid his hand under the sheet covering K.M., and touched her vagina. DAG Hewitt, again, pointed out that the fact that it was found beyond a reasonable doubt in two separate prior criminal proceedings that Respondent touched K.M.'s vagina.

DAG Hewitt noted that it was undisputable that Respondent's actions were in clear violation of the Board's statute and regulations, specifically the Board's regulations on sexual misconduct. DAG Hewitt further noted that through its regulations on sexual misconduct, the Board recognizes the great harm such actions cause. DAG Hewitt urged the Board to consider the type of conduct that Respondent engaged in. That, as a massage therapist left alone with a client in a vulnerable position, Respondent crossed a clear boundary by taking advantage of K.M. DAG Hewitt argued that by violating the Board's sexual misconduct regulations, Respondent also engaged in professional misconduct. DAG Hewitt similarly argued that Respondent's actions and the

⁹ A full list of all documents entered into evidence by both parties is appended hereto.

findings made by the municipal and Superior court that Respondent harassed K.M. by offensively touching her during a massage, in violation of N.J.S.A. 2C:33-4(b), demonstrated that Respondent committed an offense involving moral turpitude or relating adversely to the activity regulated by the Board.

In response, Respondent urged the Board to find that K.M. was not credible, as her testimony in municipal court was not consistent, and that she had provided a different version of the events in question to the police. In support, Respondent cited to portions of the municipal court transcript, wherein Respondent believed K.M. contradicted herself. Specifically, Respondent referenced statements K.M. made to the cosmetologist about being unhappy about the massage Respondent provided, and K.M. testifying about her crying during the facial.

Respondent also offered his recollection of what he viewed on the videos of K.M.'s interview with the police. Specifically, that K.M. allegedly stated to the police that she was covered by the blanket and sheet, and that Respondent touched her vagina four times. Respondent also referenced K.M. stating she was draped loosely, even though Respondent is allegedly known for his tight draping and his usage of the diaper drape.

Additionally, Respondent stated that he believed that he was set-up by K.M., and that she was looking for a reason to pursue a lawsuit. Respondent advised that although K.M. stated to him that

she was hung-over at the time of the massage, he could not smell alcohol. Further, according to Respondent, even though K.M. advised him that she was an educator, K.M. was laughing and giggling throughout the massage, which is not something that Respondent believed that professionals do. Respondent added that during the massage, K.M. was wearing an ear piece, and that he could hear a male voice instructing K.M. on what to do. It was Respondent's belief that K.M.'s boyfriend was financing the criminal action taken against him.

Respondent also raised what he believed to have been issues with his municipal court and Superior Court proceedings. Specifically, Respondent did not believe that he was effectively represented at the municipal court proceeding by his counsel. Additionally, following the conclusion of the municipal court proceeding, Respondent observed a new Volkswagen in his counsel's parking lot. Respondent felt that the Volkswagen was obtained from a dealership owned by the owner of Hand and Stone Somers Point as a pay-off for how Respondent's legal counsel acted during the municipal court proceeding. In referencing the issues with the Superior Court proceeding, Respondent stated that he lost that matter because he was not able to submit the police videos into evidence. Respondent claimed, without providing corroboration, that the police videos were lost by his legal counsel following the municipal court proceeding.

In closing, Respondent argued that he was discriminated against, and as a result, did not receive a fair trial during his criminal proceeding. He again advised that K.M. was not credible as she made contradictory statements to the police department and thereafter in her testimony in municipal court.

In his closing statement, DAG Hewitt urged the Board to discount Respondent's various "conspiracy theories." DAG Hewitt again pointed out that both Judge Freed and Judge Cunningham found K.M. to be credible in her testimony. DAG Hewitt continued, noting that Respondent had an opportunity to appeal his municipal court conviction in Superior Court. There, following a trial de novo, Judge Cunningham agreed with Judge Freed's findings, and in doing so, found that there were no issues with the lower court's proceeding. DAG Hewitt specifically noted that Respondent had an opportunity to obtain evidence and present witnesses during this proceeding, and the two prior criminal proceedings, and he did not do so.

After reviewing all of the evidence and deliberating in executive session, we found, as discussed further below, that the Attorney General had proven that there was a basis to impose discipline on Respondent's license to practice massage and bodywork therapy in New Jersey.

Hearing on Penalty

Having found a basis for discipline of Respondent's license, the Board moved immediately to consider the discipline to be imposed on Respondent. Respondent did not present any evidence or testimony, only stating that he did not touch K.M.'s vagina and that he intended to obtain legal counsel.¹⁰ In response, DAG Hewitt urged the Board to permanently revoke Respondent's license, as it had done in prior matters where it was alleged that the licensee inappropriately touched a client during a massage. DAG Hewitt also requested that the Board impose attorney's fees and investigative costs in the amount of \$14,429.53. As part of his presentation, DAG Hewitt submitted into evidence Exhibit P-6, his Certification of Costs. He did not call any witnesses.

Discussion and Conclusion on Liability

We have considered the application before us, and find that it wholly supports a finding that the imposition of discipline on Respondent's license to practice massage and bodywork therapy in New Jersey is warranted and necessary. Before us, we have the sworn and credible testimony by K.M. regarding Respondent's conduct and

¹⁰ This matter was initially scheduled to proceed before the Board on April 28, 2020. The matter was then adjourned to June 30, 2020, due to the on-going COVID-19 pandemic. While the matter commenced on June 30, 2020, it was then adjourned again to July 21, 2020. Respondent had ample opportunity to obtain counsel before the matter was to proceed on April 28 and June 30, 2020, and then had an additional opportunity to obtain counsel prior to July 21, 2020.

a finding, by beyond a reasonable doubt, by two separate courts that on October 29, 2017, Respondent offensively touched K.M., specifically by his placing of his hand on her vagina, and asking her if that was "okay." Based on those findings, Respondent was found guilty of harassment, in violation of N.J.S.A. 2C:33-4(b), a disorderly persons offense, by both Judge Freed in Somers Point Municipal Court, and Judge Cunningham, in a trial de novo, in Atlantic County Superior Court.

The Attorney General's application is predicated upon findings made first in Somers Point Municipal Court, and then in Atlantic County Superior Court.¹¹ All that Respondent has presented to contest or mitigate these facts are self-serving and uncorroborated statements. He has offered no evidence or testimony that would allow the Board to question the findings made by both the Municipal and Superior Courts. Instead, he offers various unsupported theories as to why he, and not K.M., is the victim in this matter. Accordingly, we accept the findings made in the two prior criminal proceedings and the fact of his conviction as a basis for discipline.

Thus, we find that Respondent has violated multiple provisions of our sexual misconduct regulations, specifically

¹¹ As noted above, we find that Respondent is collaterally estopped from re-litigating the findings made in the two prior criminal proceedings.

N.J.A.C. 13:35A-3.5(c), by engaging in sexual contact with K.M.; N.J.A.C. 13:35A-3.5(d), by seeking or soliciting sexual contact with K.M.; N.J.A.C. 13:35A-3.5(g), by sexual harassing K.M.; and N.J.A.C. 13:35A-3.5(h), by engaging in an activity which constitutes an act of sexual abuse. Accordingly, we find that Respondent committed violations of N.J.S.A. 45:1-21(e) (engaged in professional or occupational misconduct); and 45:1-21(h) (violated or failed to comply with the Board's statute and/or regulations), based upon violations of N.J.A.C. 13:37-3.5.

We similarly find that Respondent committed a violation of N.J.S.A. 45:1-21(f) (engaging in any offense involving moral turpitude or relating adversely to the activity regulated by the Board). That finding is based upon Respondent's conviction for violation of N.J.S.A. 2C:33-4(b).¹²

Discussion and Conclusion on Penalty

After due consideration of the record in this matter, we unanimously conclude that good cause exists to order the permanent revocation of Respondent's license to practice massage and bodywork therapy in New Jersey. In making our determination, we are mindful of the compelling need to uphold and support the legitimate practice of massage and bodywork therapy and to

¹² As we find that Respondent committed violations of N.J.S.A. 45:1-21(e), (f), and (h), we will not address the allegations that Respondent committed a violation of N.J.S.A. 45:1-21(c) (engaged in gross negligence, gross malpractice or gross incompetence).

distinguish it from anything associated with sexual misconduct, so as to not erode the public's trust in the profession. For that reason, this Board has continuously imposed the penalty of permanent revocation of upon licensees who have engaged in such conduct, as our purpose to protect the public demands as much.

In our deliberations, we considered whether any action short of permanent revocation could be crafted to allow Respondent to continue to engage in the practice of massage and bodywork therapy, while sufficiently protecting the public. However, we find that Respondent's conduct is so egregious and morally reprehensible, and so fundamentally at odds with anything that we would expect of a massage therapist, that nothing short of permanent revocation would be sufficient to protect the public health, safety and welfare.

Attorneys' Fees and Costs

Finally, we unanimously conclude that Respondent should be assessed the costs incurred - specifically the State's attorneys' fees and the Enforcement Bureau investigation costs - in the prosecution of this matter. The State's costs application is supported by the certification of DAG Hewitt, dated June 16, 2020, (entered into evidence as Exhibit P-6) and the certification of Richard L. Perry, dated May 28, 2020 (entered into evidence as Exhibit P-6, Exhibit C). The Attorney General seeks a total cost

award of \$14,429.53, to include \$12,840.00 in attorneys' fees and \$1,589.53 in investigative costs.

Costs, to include attorneys' fees, are traditionally imposed on a disciplined licensee, pursuant to N.J.S.A. 45:1-25, so as not to pass the cost of those proceedings onto other licensees. We have reviewed the cost application submitted by DAG Hewitt (P-6), and find the costs to be fully reasonable and supported.¹³ Starting with the hourly rates sought, the Attorney General seeks compensation for attorney services at hourly rates of \$200/hour for services provided by DAG Hewitt (admitted to practice since 2017). This hourly rate is consistent with the rates established in a directive of Michelle Miller, Acting Director of the Division of Law ("Miller Directive") which became effective September 1,

¹³ In reviewing the application for attorney's fees, the Board is guided by the general principles established in Rendine v. Pantzer, 141 N.J. 292 (1995), and reaffirmed in Walker v. Giuffre, 209 N.J. 124, 130 (2012). Specifically, the Board is required to establish a "lodestar" fee by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. In evaluating the reasonableness of hours, the Board is to "carefully and critically" evaluate the aggregate hours claimed, and eliminate duplicative or nonproductive time. See also Poritz v. Stang, 288 N.J. Super. 217, 221 (App. Div. 1996) (in evaluating reasonableness of actual hours expended, one must be mindful that "actual time expended does not necessarily equate with reasonable time."). An attorney seeking a fee award must prepare and provide a certification of services that is sufficiently detailed to allow for an accurate calculation of a lodestar. Rendine, 141 N.J. at 337. While "exactitude" is not required, the submission needs to include "fairly definite information as to the hours devoted to various general activities." Id.

2015. We note that Respondent has not raised any contention that the rates were not reasonable. As for the time, DAG Hewitt has documented a total of 64.2 hours of time spent in this matter. The timesheets submitted by the Attorney General contain detailed notes as to work performed, and DAG Hewitt's certification provides additional detail. The Board finds the documentation submitted to be sufficiently detailed to support all of the hours of legal work performed, and concludes that the important state interests which were pursued in this matter provide a more than ample predicate to support an award of all attorneys' fees sought. We therefore conclude that attorneys' fees in the amount of \$12,840.00 shall be assessed against Respondent in this matter.

Similarly, we note that that investigative costs, approved many times in the past, are based on salaries, overhead and costs of state employees. Considering the important state interest to be vindicated, specifically, the protection of the public safety and welfare, the investigative costs sought of \$1,589.53 are certainly reasonable.

The Board's ultimate determination as to the appropriateness of a costs in this matter was completed after a full hearing of the issue and review of the evidence. The time expended by the Deputy Attorney General and investigators in this matter warrants reimbursement consistent with established principles of law. The Board is therefore satisfied that an award of costs and attorneys'

fees in the total amount of \$14,429.53 is appropriate in this matter.

WHEREFORE it is on this 25th day of August, 2020

ORDERED, effective as of July 21, 2020, the date on which this Order was announced on the public record:

1. Respondent's license to practice massage and bodywork therapy in New Jersey is hereby permanently revoked, with no ability to reapply for licensure.

2. Respondent shall immediately cease and desist from holding himself out as a massage and bodywork therapist and shall refrain from the practice of massage and bodywork in the State of New Jersey.

3. Respondent shall immediately forward his license, along with his wallet-sized biennial renewal license forthwith to State Board of Massage and Bodywork Therapy, Attention: ToniAnn Petrella-Diaz, Executive Director, State Board of Massage and Bodywork Therapy, 124 Halsey Street, P.O. Box 45048, Newark, New Jersey 07101.

4. Respondent is assessed attorneys' fees and investigation costs in this matter in the amount of \$14,429.53, to be paid within thirty (30) days of the date this Order is filed. Payment shall be made by bank check, money order, wire transfer or credit card made payable to the New Jersey Board of Massage and Bodywork Therapy and mailed to the State Board of Massage and Bodywork Therapy, Attention: ToniAnn Petrella-Diaz, Executive Director, State Board

of Massage and Bodywork Therapy, 124 Halsey Street, P.O. Box 45048, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. In the event that Respondent fails to make timely payment, interest shall begin to accrue at the annual court rule rate, a Certification of Debt shall be issued, and the Board may institute such other proceedings as are authorized by law.

NEW JERSEY STATE BOARD OF MASSAGE AND
BODYWORK THERAPY

By: David Bank
David Bank, LMBT
Chairperson

Evidence List

Submitted on behalf of the Attorney General

- Exhibit P-1 Complaint-Summons issued in the matter of State of New Jersey v. John R. Popper, Complaint No. S-2018-000015-0121, dated January 17, 2018
- Exhibit P-2 Transcript for the matter of State of New Jersey v. John R. Popper, docketed in Somers Point Municipal Court as SUMMONS NO. 2018-000015, dated November 13, 2018
- Exhibit P-3 Transcript for the matter of State of New Jersey v. John R. Popper, docketed in Somers Point Municipal Court as SUMMONS NO. 2018-000015, dated December 18, 2018
- Exhibit P-4 Transcript for the matter of State of New Jersey v. John R. Popper, docketed in the Superior Court of New Jersey, Law Division, Criminal Part, Atlantic County, New Jersey, Municipal Court appeal #04-19, dated June 25, 2019
- Exhibit P-5 JUDGMENT in the matter of State of New Jersey v. John R. Popper, docketed in the Superior Court of New Jersey, Law Division, Criminal Part, Atlantic County, New Jersey, Municipal Court appeal #04-19 dated June 25, 2019
- Exhibit P-6 Certification of Daniel E. Hewitt, DAG, dated June 16, 2020