

LOUISIANA BOARD OF MASSAGE THERAPY

IN THE MATTER OF

XINGFEN LIU

LICENSE NO. 8676

CONSENT AGREEMENT AND ORDER

WHEREAS, XINGFEN LIU (MS. LIU) is a Licensed Massage Therapist in the State of Louisiana and holds license number 8676 with the Louisiana Board of Massage Therapy (“LBMT”), and is subject to the jurisdiction and rules and regulations of the LBMT;

WHEREAS, on March 28, 2022, LBMT Board Investigator Brandon LeVan performed an inspection on New Fusion (10979 Coursey Blvd., Baton Rouge, Louisiana, 70186), and a Cease and Desist Notice was issued on the same day;

WHEREAS, during the inspection, the inspector noted that the massage establishment building sign did not match the establishment license name and no establishment license or registration was posted. The inspector further noted that all massage therapists working at the establishment at the time of inspection were not currently licensed in the State of Louisiana. Further, all therapists working at the location did not have a license with the establishment address listed. The promotional signs, brochures, displays, or business cards on the premises did not contain the license number of the therapist or the correct name of the establishment. He also reported that there was no evidence that data concerning an individual’s health status was systematically and continuously collected, recorded and communicated in order to determine therapeutic needs as required. Additionally, there was no evidence that current client records were maintained at the establishment in a confidential manner or that client records were maintained for a minimum of five years after the last service.

WHEREAS, during the inspection, two Asian females were present. Both females were wearing lingerie when the inspector entered the establishment. One female identified herself as “You You” and was not licensed by the LBMT and would not provide identification. The second female refused to provide her name or identification. When the inspector advised that he was there for an inspection and needed to conduct a walk-through of the establishment, the females stopped speaking English and stated that they did not understand him. They repeatedly stated that they did not have a license because they did not work there. They stated that they were sleeping and that they do not perform massages. The inspector confirmed that there were two bedrooms in the establishment. The only license posted was for Ms. Liu. Finally, the inspector noted that the establishment showed signs of human trafficking and/or illicit activity including, providers wearing very little clothing, providers speaking very little to no English, providers living in the establishment, and the windows of the establishment were completely covered or blacked out.

WHEREAS, MS. LIU was listed as a licensed massage therapist at New Fusion on its LBMT license application;

WHEREAS, based on the information obtained during the investigations, on May 10, 2022, James E. Steele, Complaint Investigation Officer for the LBMT, signed an Order of Summary Suspension summarily suspending LBMT License number 8676 issued to MS. LIU, pending an administrative hearing scheduled before the LBMT on June 10, 2022;

WHEREAS, on May 17, 2022, LBMT Board Investigator Jessica Menard inspected New Fusion, which was still operating as a massage establishment, in violation of the March 28, 2022 Cease and Desist Order;

WHEREAS, MS. LIU has indicated her desire to resolve this matter through a Consent Agreement and Order provided for in LAC 46:XLIV §5901 and La. R.S. 49:955(D) of the Louisiana Administrative Procedure Act;

WHEREAS, MS. LIU has admitted to the following:

1. MS. LIU is and was at all times pertinent to the facts and matters alleged herein, a licensed massage therapist in the State of Louisiana and holds license number 8676 issued by the LBMT.
2. At the time of the facts and matters alleged herein, MS. LIU was listed as a licensed massage therapist at New Fusion (Note: MS. LIU disputes her knowledge that said license was being used and claims she was living/working out of state at the time.)
3. MS. LIU admits that her conduct violated the following rules and regulations of the LBMT: La. R.S. 37:3546; La. R.S. 37:3556; La. R.S. 37:3558; and LAC 46:XLIV §3101.

WHEREAS, MS. LIU agrees not to repeat the misconduct mentioned in this Consent Agreement and Order, and acknowledges that any further misconduct mentioned in this Consent Agreement and Order will be considered a violation of the terms of this Consent Agreement and Order and shall be cause for further disciplinary action.

WHEREAS, MS. LIU recognizes her right to have an administrative adjudication of the charges outlines in the Order of Summary Suspension, at which time MS. LIU would be entitled to be represented by legal counsel, to call witnesses, and to present witnesses on her behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law in accordance with the Louisiana Administrative Procedure Act. MS. LIU nonetheless waives her right to formal adjudication and, pursuant to La.

R.S. 49:955(D), consents to the entry of the Consent Agreement and Order set forth hereinafter. MS. LIU also acknowledges that she waives any rights to which she may be entitled pursuant to the Louisiana Administrative Procedure Act, La R.S. 49:951, et. seq., or which she otherwise may be afforded by any law, to contest her agreement to, or the force and effect of this Consent Agreement and Order, in any Court or other forum.

IT IS HEREBY ORDERED that in consideration of the foregoing and pursuant to the authority vested in the Board by La R.S. 49:955(D), the Board orders and MS. LIU accepts the following administrative action, which is a final decision pursuant to La. R.S. 49:958:

1. MS. LIU's license shall be moved to "inactive status," and she cannot apply for "active status" for a period of two years. When MS. LIU reapplies for "active status," she must meet the requirements of the rules of the Board to move to "active status" pursuant to LAC 46:XLIV §1701(E).
2. MS. LIU shall pay a fine and administrative costs in the amount of one thousand dollars and 00/100 (\$1,000.00), and the Board acknowledges receipt thereof.
3. MS. LIU specifically acknowledges that failure to comply with the terms of this Consent Agreement and Order may result in a denial, revocation, or suspension of any license, certificate, or registration issued by, or applied for, in accordance with LAC 46:XLIV §1701(E).
4. MS. LIU shall report the terms of this Consent Agreement and Order to any board or agency located in the United States with which she is licensed or registered.
5. By agreeing to the terms of this Consent Agreement and Order, MS. LIU waives all rights to appeal this adjudication.

Effect of Non-Acceptance of Agreement. MS. LIU acknowledges that this Consent Agreement and Order is subject to the approval of the Board. She further acknowledges and agrees that if the Board rejects this Consent Agreement and Order, it will be void, and an Administrative Complaint may be filed relative to the allegations contained herein. If this Consent Agreement and Order is rejected by the Board, it will not constitute a waiver of MS. LIU's right to a hearing on the matters alleged in an Administrative Complaint and the admissions contained herein will have no effect. She further agrees that if the Board rejects this Consent Agreement and Order, the members of the Board may decide the matter after a hearing, and their consideration of this Consent Agreement and Order shall not alone be grounds for recusal of any member of the Board, including any claims that the Board is biased against her, that it cannot fairly decide the case, or that it has received ex parte communication.

Address of Board. All payments ordered and any reports required by this Consent Agreement and Order shall be addressed to Louisiana Board of Massage Therapy, 2645 O'Neal Lane, Building C, Suite E, Baton Rouge, Louisiana 70816.


IT IS HEREBY FURTHER ORDERED that this Consent Agreement and Order shall take effect immediately upon its adoption by the Board and is a public record of the Board. The terms of this Consent Agreement and Order shall be published and reported in, including but not limited to, the LBMT website.

THE ADMISSIONS AND FINDINGS CONTAINED HEREIN are intended solely for the purpose of resolving the case at hand or in connection with other matters before the LBMT involving MS. LIU.

BOARD ORDER
and
ACCEPTANCE OF THE INTERIM CONSENT AGREEMENT BY THE
LOUISIANA BOARD OF MASSAGE THERAPY

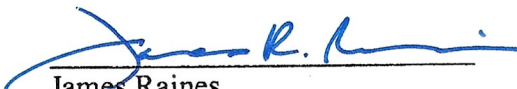
By a majority vote of the Board members voting in favor of the Consent Agreement and Order at the Board meeting on October 31, 2022, the Board hereby adopts said Agreement, and makes it an Order of this Board.

FOR THE BOARD:


Kathy Lea Love, Chair

I, **JAMES R. RAINES**, serving as Prosecutor, do hereby acknowledge negotiation and preparation of this Consent Agreement and Order in order to resolve, with prejudice, all matters for which MS. LIU could be charged under this investigation, and further certify that this Consent Agreement and Order is consistent with the evidence, adequately addresses the complaint, and represents a true and correct statement of that which could be proven at a hearing of this matter.

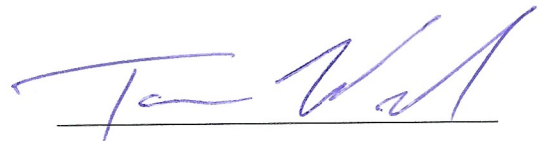
DATED: 10/15/22


James Raines
Prosecutor

I, Tanner C. Woods, retained counsel for **XINGFEN LIU**, make these acknowledgements and waivers in support of a final disposition of the pending investigation by Consent Agreement and Order ("Order") pursuant to La. R.S. 49:955(D), in lieu of the institution and prosecution of formal administrative proceedings, and accordingly consent to the entirety of the Order set forth

hereinbefore and further waive any right to which Ms. Liu may be entitled under the Louisiana Administrative Procedure Act or any other law to contest, in any court, my agreement to this Order. By my subscription hereto, I also hereby authorize, on behalf and at the instruction of Ms. Liu, the Prosecutor to present this Order to the LBMT for its consideration and to disclose to and discuss with the LBMT the nature and results of the investigation of this matter. I, on behalf and at the instruction of Ms. Liu, herein waive any objection to such disclosure based on due process of law under either the State or Federal Constitution or under State statutory law, including La. R.S. 49:960. I, on behalf and at the instruction of Ms. Liu, expressly acknowledge that the disclosure of such information to the LBMT shall be without prejudice to the Prosecutor's authority to file a formal Administrative Complaint, or the LBMT's capacity to adjudicate such Administrative Complaint, should the LBMT decline to approve this Consent Agreement and Order. I, on behalf and at the instruction of Ms. Liu, further acknowledge my awareness that should the LBMT approve this Consent Agreement and Order that the Consent Agreement and Order will become a matter of public record.

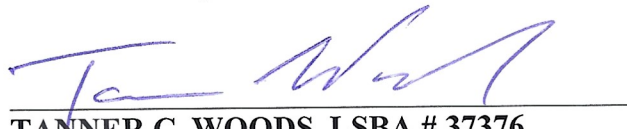
DATED: 10/5/22



Tanner C. Woods, LSBA #37376
Counsel for Ms. Liu

I, counsel for **XINGFEN LIU**, discussed the terms of the above Consent Agreement and Order with my Ms. Liu. She understands and agrees to be bound by its terms and conditions.

DATED: 10/5/22


TANNER C. WOODS, LSBA # 37376

SUBSCRIBED AND SWORN TO before me this 5 day of October,

2022, at EBR, Louisiana.

Brooke DeLaune

Notary Public

Print Name: Brooke DeLaune

My Commission Expires: At death