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2006 SEP 11 P 3:16

BEFORE THE CITY COUNCIL

OF THE CITY OF LAS VEGAS, NEVADA

* * *

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

Petitioner,

vs.

DONNA J. LAWRENCE d/b/a V.I.P.
MASSAGE,

Respondent.

**NOTICE OF ENTRY OF FINDINGS
OF FACT, CONCLUSIONS OF LAW
AND ORDER REVOKING MASSAGE
ESTABLISHMENT LICENSE NO.
M03-00137-5-107570, REFLEXOLOGY
ESTABLISHMENT LICENSE NO.
R03-00012-E-107570, AND
MISCELLANEOUS SERVICES
LICENSE NO. M07- 03466-5-107570**


TO: DONNA J. LAWRENCE d/b/a V.I.P. MASSAGE, Respondent:

PLEASE TAKE NOTICE that the FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER REVOKING MASSAGE ESTABLISHMENT LICENSE NO. M03-00137-5-
107570, REFLEXOLOGY ESTABLISHMENT LICENSE NO. R03-00012-E-107570,
AND MISCELLANEOUS SERVICES LICENSE NO. M07- 03466-5-107570 was filed in the
above-entitled matter on September 11, 2006. A copy of said document is attached hereto.

DATED this 11 day of September, 2006.

BRADFORD R. JERBIC
City Attorney

By:


WILLIAM P. HENRY
Senior Litigation Counsel
Nevada Bar No. 101
400 Stewart Avenue, Ninth Floor
Las Vegas, NV 89101
Attorneys for CITY OF LAS VEGAS

*Submitted subsequent
to meeting 8/16/06 #58*

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2006, I served a true and correct copy of the foregoing NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER REVOKING MASSAGE ESTABLISHMENT LICENSE NO. M03-00137-5-107570, REFLEXOLOGY ESTABLISHMENT LICENSE NO. R03-00012-E-107570, AND MISCELLANEOUS SERVICES LICENSE NO. M07- 03466-5-107570 by depositing the same in the United States Mail at Las Vegas, Nevada, postage fully prepaid, certified mail, and addressed to:

Donna J. Lawrence
d/b/a V.I.P. MASSAGE
3053 South Valley View Boulevard
Las Vegas, NV 89102

Donna J. Lawrence
d/b/a V.I.P. MASSAGE
1406-H Santa Margarita
Las Vegas, NV 89146-9305


AN EMPLOYEE OF THE CITY OF LAS VEGAS

BEFORE THE CITY COUNCIL
OF THE CITY OF LAS VEGAS, NEVADA

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* * *

2006 SEP 11 A 10:59

IN THE MATTER OF:

DEPARTMENT OF FINANCE AND
BUSINESS SERVICES on behalf of the
CITY OF LAS VEGAS,

Petitioner,

vs.

DONNA J. LAWRENCE d/b/a V.I.P.
MASSAGE,

Respondent.

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER REVOKING
MESSAGE ESTABLISHMENT LICENSE
NO. M03-00137-5-107570,
REFLEXOLOGY ESTABLISHMENT
LICENSE NO. R03-00012-E-107570,
AND MISCELLANEOUS SERVICES
LICENSE NO. M07- 03466-5-107570**

On August 16, 2006, a meeting of the Las Vegas City Council was held to consider the matter of the Complaint for Disciplinary Action filed against Donna J. Lawrence d/b/a V.I.P. Massage, 3053 South Valley View Boulevard, Las Vegas, Clark County, Nevada. Donna J. Lawrence d/b/a V.I.P. Massage did not appear. The Department of Finance and Business Services, on behalf of the City of Las Vegas, was represented by William P. Henry, Senior Litigation Counsel for the City of Las Vegas. The City Council heard testimony from witnesses presented by the Department of Finance and Business Services, took into account the provisions of LVMC § 6.88.100, and good cause appearing, hereby issues these findings of fact, conclusions of law, and order revoking Massage Establishment License No. M03-00137-5-107570, Reflexology Establishment License No. R03-00012-E-107570, and Miscellaneous Services License No. M07- 03466-5-107570.

FINDINGS OF FACT

1. The Respondent, Donna J. Lawrence d/b/a V.I.P. Massage, holds Massage Establishment License No. M03-00137-5-107570, Reflexology Establishment License No. R03-00012-E-107570, and Miscellaneous Services License No. M07- 03466-5-107570.

.....

1 2. On June 21, 2006, a Complaint for Disciplinary Action was submitted to the
2 Las Vegas City Council by Mark Vincent, the Director of Finance and Business Services for
3 the City of Las Vegas.

4 3. On the same date, the Las Vegas City Council approved the Complaint for
5 Disciplinary Action and set hearing on the matter for August 16, 2006.

6 4. On June 28, 2006, the Complaint for Disciplinary Action and Order Approving
7 Complaint and Notice of Hearing was personally served on the Respondent.

8 5. The Respondent did not answer the Complaint for Disciplinary Action.

9 6. On August 16, 2006, a hearing on the matter was conducted before the Las
10 Vegas City Council. The Respondent did not appear.

11 7. Las Vegas Metropolitan Police Department Officer Regan Alexander appeared
12 and testified that vice officers of that department had been solicited for acts of prostitution on
13 March 30, 2006, and April 13, 2006, by masseuses at V.I.P. Massage, as set forth at page 4
14 of the Complaint for Disciplinary Action.

15 8. Linda Kruger appeared and testified. She told the Council that she was the
16 director of the forensics lab for the Las Vegas Metropolitan Police Department. She further
17 testified that criminalists from that department had, on April 18, 2006, processed four walls of
18 two massage rooms at V.I.P. Massage. Presumptive tests were conducted, and it was
19 determined that seminal fluid adhered to these walls. Thereafter, forensic analysts of the Las
20 Vegas Metropolitan Police Department, under the direction of Ms. Kruger, performed further
21 tests and determined that the samples were positive for the presence of spermatozoa.

22 9. Jim DiFiore, Manager of the Business Services Division of the Department of
23 Finance Business Services, testified that Donna J. Lawrence held the business licenses set forth
24 in the Complaint for Disciplinary Action, and that only she was listed as a manager.

25 10. If any of these findings of fact should more properly be deemed conclusions of
26 law, they shall be so deemed.

27

28

CONCLUSIONS OF LAW

11. LVMC § 6.02.010(O) defines "principal" as follows:

"Principal" means:

(1) Any person who is an officer, director, trustee, personal representative or general partner or who has an ownership interest in or voting control of the business equal to or greater than ten percent of the entire ownership of voting control of such business. If the ownership interest or voting control is held by a person other than an individual, then each officer, director, trustee, personal representative or general partner of such person is a principal;

(2) Any person who is or will be directly engaged in the administration or supervision of the business; and

(3) Any other person if, in the Director's opinion, the person exercises, or is capable of exercising, significant influence over the business.

12. LVMC § 6.06.060 provides:

Each principal must be approved for suitability in order to be associated with a business subject to this Chapter.

13. LVMC § 6.06.190 provides:

A licensee may not employ, allow, permit or suffer to permit a person to exercise any office, authority, control or privilege or perform any act, for the exercise or performance of which a person is required to be approved for suitability, unless such person has been so approved for suitability.

14. LVMC § 6.06.200 provides:

The applicant has a continuing duty and obligation to notify the Department of Business Activity of additions, deletions, changes or modifications in the information furnished the Department and this duty continues as long as a valid approval for suitability remains in effect.

15. LVMC § 6.06.210(A) and (D) provides:

Prior approval must be obtained from the City Council for a licensee or a holder of approval for suitability to do any of the following acts:

(A) Convey the license from one person to another;

.....

.....

1 (D) Transfer any ownership interest or voting control to a
2 person who, because of the transfer, would be required to be
approved for suitability.

3 16. LVMC § 6.06.120(A) provides:

4 The City Council may approve, deny or take such other
5 action with respect to such application as it considers appropriate.
6 The burden of showing qualifications, acceptability or fitness for
a license or approval for suitability is upon the applicant.

7 17. LVMC § 6.52.120(C) and (D) provide:

8 It is unlawful for any person who is required to be
9 licensed under this Chapter to:

10

11 (C) Perform massage unless the person performing the
12 massage is wearing nontransparent outer garments that do not
expose or exhibit that person's genitals, pubic area, buttocks or
chest.

13 (D) Expose the genitals of a client for the purpose of
14 soliciting prostitution.

15 18. LVMC § 6.06.195 provides:

16 (A) It shall be unlawful for any licensee subject to this
17 Chapter or any employee or agent of said licensee to pay any fee,
18 tip, gift, or gratuity of any kind to any taxicab driver for the
19 delivery of any passenger to the business location of the licensee.
20 This Section does not apply to promotional packages or
arrangements whereby a licensee pays a tip or gratuity directly to
a taxicab company in advance as part of the promotional package
or arrangement.

21 (B) Any person who is convicted of violating subsection
22 (A) of this Section shall be punished by a fine of not less than
23 two hundred fifty dollars nor more than one thousand dollars or
by imprisonment for a term of not more than six months, or by
any combination of such fine and imprisonment.

24 19. NRS 201.354 provides:

25 1. It is unlawful for any person to engage in prostitution
or solicitation therefor, except in a licensed house of prostitution.

26 2. Any person who violates subsection 1 is guilty of a
27 misdemeanor.

28

1 20. LVMC § 6.02.330(H) provides:

2 The licensee may be subject to disciplinary action by the
3 City Council for good cause, which may, without limitation,
4 include:

4

5 (H) The actual business activity constitutes a public or
6 private nuisance, or has been or is being conducted in an
7 unlawful, illegal or impermissible manner.

7 21. LVMC § 6.02.350 provides:

8 A licensee under this Chapter shall be subject to
9 disciplinary action not only for acts or omissions done by such
10 licensee but also for acts and omissions done by the principals,
11 managers, agents, representatives, servants or employees of such
12 licensee.

11 22. LVMC § 6.88.100 provides:

12 Failure to timely file his answer or failure of a respondent
13 or his counsel to appear at the hearing shall constitute an
14 admission of all matters and facts contained in the complaint filed
15 with respect to such respondent. In such cases the City Council
16 may take action based upon such admission or upon any other
17 evidence, including affidavits, and without any further notices
18 whatever to respondent. In such cases the City Council shall
19 indicate by appropriate findings of fact and conclusions of law in
20 the record the evidence upon which its action was based.

18 23. Acts of prostitution committed by masseuses at V.I.P. Massage as proven by the
19 Department of Finance and Business Services, as well as all of the acts and omissions in
20 violation of state law and City code admitted to by the Respondent pursuant to LVMC §
21 6.88.100 provide independent bases to revoke the licenses at issue.

22 24. LVMC § 6.88.090 provides:

23 (A) The hearing need not be conducted according to
24 technical rules relating to evidence and witnesses. Any relevant
25 evidence may be admitted.

25 (B) The respondent shall have the right to call and
26 examine witnesses on his own behalf, cross-examine opposing
27 witnesses, introduce exhibits and evidence relevant to the issues
28 of the case, and offer rebuttal evidence.

28

1 25. The hearing was not conducted according to technical rules relating to evidence
2 and witnesses, but all relevant evidence was admitted.

3 26. *Kochendorfer v. Board of County Commissioners of Douglas County*, 93 Nev.
4 419, 566 P.2d 1131 (1977), provides relevantly that a business owner subject to a disciplinary
5 hearing by his licensing authority is entitled to due process. Due process is defined as notice
6 and hearing appropriate to the case. The Respondent, Donna J. Lawrence d/b/a V.I.P.
7 Massage, was provided notice and hearing appropriate to the case.

8 27. If any of these conclusions of law should more properly be deemed findings of
9 fact, they shall be so deemed.

10 **ORDER**

11 IT IS HEREBY ORDERED that Massage Establishment License No. M03-00137-5-
12 107570, Reflexology Establishment License No. R03-00012-E-107570, and Miscellaneous
13 Services License No. M07- 03466-5-107570 held by Respondent Donna J. Lawrence d/b/a
14 V.I.P. Massage are revoked.

15 DATED this 30TH day of August, 2006.

16 THE CITY COUNCIL OF THE
17 CITY OF LAS VEGAS, NEVADA


18 By:

19 
OSCAR B. GOODMAN
Mayor

20 ATTEST:

21 
22 BARBARA JO RONEMUS, City Clerk

23 APPROVED AS TO LEGAL FORM:

24 
25 WILLIAM P. HENRY
26 Senior Litigation Counsel

27 23 AUG 06
Date