

ORIGINAL

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, NEVADA,

Petitioner,

vs.

WU GUO d/b/a ASIAN MAGIC,

Respondent.

AFFIDAVIT OF SERVICE

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

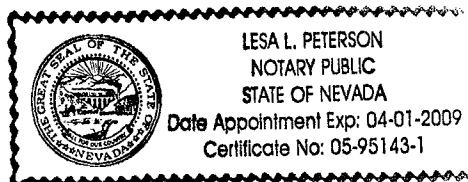
LEONARD D. WILSON, being first duly sworn, says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, and not a party to or interested in the proceeding in which this affidavit is made. That on February 7, 2008, affiant received a copy of the Order Approving Complaint and Notice of Hearing along with the Complaint for Disciplinary Action, and served the same on Wu Guo on the corner of Spring Mountain and Wynn Roads in Las Vegas, Clark County, Nevada, February 11, 2008.

DATED this 12th day of February, 2008.


LEONARD D. WILSON

SUBSCRIBED AND SWORN TO before
me this 12th day of February, 2008.


NOTARY PUBLIC



Submitted at City Council
Date 3/19/08 Item 45

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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, NEVADA,

Petitioner,

vs.

WU GUO d/b/a ASIAN MAGIC,

Respondent.

**ORDER APPROVING
COMPLAINT AND NOTICE OF HEARING**

TO: WU GUO d/b/a ASIAN MAGIC, Respondent:

The Complaint for Disciplinary Action by the DEPARTMENT OF FINANCE AND BUSINESS SERVICES on behalf of the CITY OF LAS VEGAS, NEVADA, against you dated January 17, 2008, a copy of which is attached to this Order and Notice, having come before the City Council of the City of Las Vegas, Nevada, at its regular meeting held on February 6, 2008, and the Council being satisfied that probable grounds exist for disciplinary action against you as alleged in the Complaint for Disciplinary Action;

IT IS ORDERED that the issuance of the Complaint for Disciplinary Action and a hearing on the Complaint for Disciplinary Action are approved.

YOU ARE HEREBY NOTIFIED that the hearing will be held before the City Council of the City of Las Vegas, Nevada, at the Council Chambers, City Hall, 400 Stewart Avenue, Las Vegas, Nevada, 89101, on March 19, 2008, beginning at the hour of 9 a.m. or as soon thereafter as the matter can be heard.

.....

1 The hearing will be upon the charges in the Complaint for Disciplinary Action which
2 has been served upon you. You may be present at the hearing and you may be represented by
3 a lawyer. You may present any relevant evidence you have, and you will be given full
4 opportunity to cross examine all witnesses testifying against you.

5 YOU ARE FURTHER NOTIFIED that within twenty (20) days after service of the
6 Complaint for Disciplinary Action, but not later than five (5) days before the hearing date, you
7 must file with the City Clerk, First Floor, City Hall, 400 Stewart Avenue, Las Vegas,
8 Nevada, 89101, and serve a copy upon the City Attorney of your answer to the charges made
9 in the Complaint for Disciplinary Action, and set forth any affirmative defenses you intend to
10 raise.

11 YOU ARE ALSO NOTIFIED that your failure to file an answer to the Complaint for
12 Disciplinary Action or to appear at the hearing shall constitute an admission to all the matters
13 contained in the Complaint for Disciplinary Action as provided by Las Vegas Municipal Code
14 § 6.88.100.

15 DATED this 6th day of February, 2008.

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

18 By: 
19 GARY REESE
20 Mayor Pro Tem

21 APPROVED AS TO LEGAL FORM:

22 Attest: By 
23 BEVERLY K. BRIDGES, CMC, City Clerk

24 
25 WILLIAM P. HENRY
26 Senior Litigation Counsel

27 6 FEB 08
28 Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

WU GUO d/b/a ASIAN MAGIC,

Respondent.

**COMPLAINT FOR
DISCIPLINARY ACTION**

The DEPARTMENT OF FINANCE AND BUSINESS SERVICES, on behalf of the CITY OF LAS VEGAS, NEVADA (Department), Petitioner, makes this Complaint for Disciplinary Action against WU GUO d/b/a ASIAN MAGIC, 1717 South Decatur Boulevard, Las Vegas, Clark County, Nevada, and states:

1. Respondent holds Reflexology Establishment License No. R03-00019-H-127248 and Reflexology Practitioner License No. R11-00037-A-127248.

2. Records in the Department's possession reflect that the ownership of ASIAN MAGIC, 1717 South Decatur Boulevard, Las Vegas, Clark County, Nevada, is in the name of WU GUO.

3. Las Vegas Municipal Code (LVMC) § 6.02.330(A), (C), (E), (G) and (H) provides:

A licensee may be subject to disciplinary action by the City Council for good cause, which may, without limitation, include the following:

The licensee or any of its principals is engaged, or has commenced, instituted, advertised, aided, carried on, continued or engaged, in a business, trade or profession **without having obtained a valid license**, an approval for suitability, a permit or

1 a work card when such a person knew that one was required or
2 under such circumstances that they reasonably should have known
3 one was required, or has solicited, encouraged, caused or pro-
4 cured another to do so;

5 The licensee or any of its principals has been **convicted of**
6 **an act** which constitutes a crime which involves moral turpitude
7 or involves any local, state or federal law or regulation **which**
8 **relates to the same or a similar business**, or has been convicted
9 of having solicited, encouraged, caused or procured another to
10 commit such a violation;

11 The licensee or any of its principals has been **convicted of**
12 **having perpetrated**, or has solicited, encouraged, caused or
13 **procured another to perpetrate, deceptive practices** upon the
14 public;

15 The **premises** on which the business is conducted **do not**
16 **satisfy** local, state or federal law or regulations which pertain to
17 the activity which is actually engaged in;

18 The **business activity constitutes**, promotes, causes,
19 allows, fosters, aids, or otherwise enables a **private nuisance,**
20 **public nuisance or chronic nuisance**, or has been or is being
21 conducted in an unlawful, illegal or impermissible manner,
22 including but not limited to causing, allowing, promoting, foster-
23 ing, aiding, enabling, exercising deliberate ignorance towards or
24 failing to abate a private nuisance, public nuisance or chronic
25 nuisance [Emphasis added.]

26 4. LVMC § 6.52.040(A) provides:

27 Except as otherwise provided in this Section, **no person**
28 **shall engage in**, conduct or carry on, or permit to be engaged in,
conducted or carried on, in or upon any premises, **the operation**
of a massage establishment or the performance of massage as a
massage therapist or as an independent massage therapist, **with-**
out first obtaining and thereafter maintaining a **valid unexpired**
license for that activity pursuant to this Title. [Emphasis added.]

5. LVMC § 6.69.130(A) and (B) provides:

It is unlawful for any licensee, employee, or person
contracted by a licensee to:

Use lotions, creams or mechanical devices in perform-
ing reflexology; or

1 Diagnose or treat for specific diseases; practice spinal or
2 other joint manipulations; prescribe or adjust medication; or
prescribe or administer vitamins. [Emphasis added.]

3 6. Records held by and investigation conducted by the Business Services Division
4 of the City of Las Vegas' Department of Finance and Business Services reveal that licensee,
5 **WU GUO d/b/a ASIAN MAGIC**, was cited by City of Las Vegas business licensing officer
6 Robert Cone for performing massage without a business license in violation of LVMC §
7 6.52.040 January 26, 2007. **WUO GUO** pled **nolo contendere** in the Las Vegas Municipal
8 Court and was found **guilty** April 11, 2007.

9 7. As a result of this conviction, the Department alleges that **WU GUO d/b/a**
10 **ASIAN MAGIC** has operated in an illegal manner, contrary to law, and in violation of LVMC
11 §§ 6.02.330, 6.52.040, and 6.69.130.

12 8. LVMC § 6.88.090 sets forth the procedure for the conduct of a disciplinary
13 hearing and provides:

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

16 (B) The respondent shall have the right to call and exam-
17 ine witnesses on his own behalf, cross-examine opposing wit-
18 nesses, introduce exhibits and evidence relevant to the issues of
the case, and offer rebuttal evidence.

19 (C) The respondent may be called and examined by the
20 City.

21 9. LVMC § 6.02.360, sets forth the range of penalties available to the City
Council upon finding a violation by a licensee, and provides:

22 Upon a showing of good cause and in the discretion of the
23 City Council, disciplinary action against a holder may take the
24 form of cancellation, revocation, refusal to renew, suspension,
25 imposition of conditions or restrictions or civil fine in an amount
26 not to exceed one thousand dollars for each day that the violation
27 which forms the subject matter of the complaint that recommends
28 such disciplinary action is demonstrated to have been in exis-
tence, or any combination of such actions, as the particular
situation may require. The Council may also impose against the
licensee the actual costs incurred, and a reasonable amount for
attorney's fees, resulting from the imposition of disciplinary
action. The disciplinary actions available in this Section shall be

1 in addition to, and not exclusive of, any other civil or criminal
2 remedy which otherwise might be available.

3 10. As a result of these convictions, the Department alleges that WU GUO d/b/a
4 ASIAN MAGIC has operated in an illegal manner contrary to law and in violation of LVMC
5 §§ 6.02.330, 6.52.040, and 6.69.130.

6 11. The allegations set forth above constitute grounds for disciplinary action with
7 respect to WU GUO d/b/a ASIAN MAGIC.

8 WHEREFORE, the Petitioner respectfully requests the City Council to:

9 A. Approve the Complaint for Disciplinary Action and order a disciplinary hearing
10 at which the Respondent shall appear and show cause why the licenses that are the subject of
11 this Complaint should not be suspended or revoked, or other disciplinary action taken; or

12 B. Grant such other and further relief as the Council deems appropriate.

13 DATED this 17th day of January, 2008.

14 RESPECTFULLY SUBMITTED:

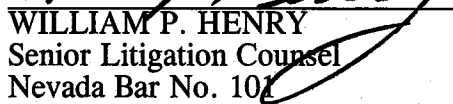
15
16 By:



17 MARK R. VINCENT, Director
Finance and Business Services

18 BRADFORD R. JERBIC
19 City Attorney

20 By:



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

DEFENCE TO THE COMPLAINT FOR DISCIPLINARY ACTION

RECEIVED
CITY CLERK

2008 FEB 26 P 4: 47

Dear sirs and ladies,

FEB 26 2008

I was trained professionally as a massage therapist in 2000. Then I worked on massage therapy for years and highly skilled and experienced.

CK S

In 2006, I moved to Las Vegas. I leased a booth in the FANTASTIC SWAPMEET, I obtained business license doing reflexology.

In Jan.26, 2007, because I applied massage on a client's shoulder or back, I was cited by the business licensing officer.

In Apr.11, 2007, on the Court, I admitted guilty and paid fine \$300.

One year passed, now the Department in charge submitted COMPLAINT FOR DISCIPLINARY ACTION, suspending or revoking the business license or more.

I consider this further disciplinary action is too heavy and too much. The cause is as follows:

1) LVMC 6.52.030(A) provides:

The Following persons while engaged in their respective professions or occupations for which they are licensed to practice or perform in Nevada, if they do not hold themselves out to the public as massage therapists and their performance of massage is only in connection with their profession or occupation:

- (1) Physicians, doctors of oriental medicine, surgeons, chiropractors, osteopaths or physical therapists, and persons directly under their control and supervision.
- (2) Registered nurses.
- (3) Barbers, hairdressers and cosmeticians.
- (4) Reflexologists licensed under the provisions of LVMC Chapter 6.69.

I understood the above item as: the (1), (2), (3), (4) kind of persons can do some massage which is relative to their professions. But they can't say themselves as massage therapist. Reflexologists generally work on feet, hands and ears, sometime in order to make the client relax, also rob other parts of the body, such as shoulders.

Especially for my business, it is in a swapmeet. The client is served in a open booth and they are fully dressed. It is a simple healthy activity.

2) For this thing, I already paid the fine \$300. In the court, the court- person gave me two choices. One is guilty, the fine was \$300. Another one is not guilty, I have to sue the department, it may cost more than a thousand. So I chose to pay \$300. I don't know why it is unfinished after one year.

3) I maybe have a misunderstanding to the LVMC 6.52.030(A). I just moved from California, and English is poor. It is easy to have a misunderstanding. I would like to follow all the regulations.

Now I already closed my business. I am taking the examination of National Certification Board for Therapeutic Massage and Bodywork.

Submitted at City Council

Date 3/19/08 Item #45

According to above reason, I ask the City give me a favorable consideration. I will very appreciate.

Respectfully Submitted:

By: WU GUO / ASIAN MAGIC

February 25, 2008

A handwritten signature in black ink that reads "Wu Guo". The letters are cursive and somewhat stylized, with the first letter 'W' being particularly prominent.

DATE OF PRINT: 11/21/07

JUDGMENT

CITY OF LAS VEGAS
VS

PAGE 1 OF 2

DEF:GUO, WU
AKA:

SS#:623-21-7188 DOB:08/27/63
ID#:2609100 SID#:0004001207

HIST#:1174815
DR#:0244324

CASE NUMBER: C-0678834-A VDT:01/26/07 OCTDT:03/09/07 OB: 508 OCD:

NRS: CLO:6.52.040 CFR: VIOL CODE: 9592
VIOL: NO MASSAGE LICENSE ACC: SCH ZN: PREV: DRINK:

SMRY: PUR REC BW FBDU FPD BPD AD AP AB CD CP CB BOND FEED FEED TDUE
CPLT: 203 203 80 80 17 17

TOTAL DUE:
=====

ACTIONS:

TYP	PW	ACTDT	ACTION	JUDGE	CLERK
T	N	01/26/07	CONTINUANCE GRANTED	ABS	GEN
		CONT DT:03/09/07	DEPT:6 PURPOSE: ARRAIGNMENT	TIME:1300	
T	N	02/22/07	RESET POSTCARD SENT	LLK	AMW
		CONT DT:03/22/07	DEPT:6 PURPOSE: ARRAIGNMENT	TIME:1300	
T	Y	03/22/07	SEE NOTATION LINES: 23	RWB	RIL
		CONT DT:04/11/07	DEPT:6 PURPOSE: ARRAIGNMENT	TIME:1300	
T	Y	04/11/07	TBA0136	RWB	LHW
T	Y	04/11/07	PLED NOLO CONTENDRE	RWB	LHW
T	Y	04/11/07	FOUND GUILTY-FINE IMPOSED= 203	RWB	LHW
T	Y	04/11/07	ADM ASSESS FEE DUE= 80	RWB	GEN
		CONT DT:10/17/07	DEPT:6 PURPOSE: EXECUTION JUDGMEN	TIME:0800	
T	Y	04/11/07	ADM ASSESSMENT FEE PAID= 80	RWB	KTS
T	Y	04/11/07	CONST ASSESSMENT FEE PAID= 10	RWB	KTS
T	Y	04/11/07	SPECIALTY ASSESSMENT FEE PAID=7	RWB	KTS

Submitted at City Council

Date 3/19/08 Item 45

DATE OF PRINT: 11/21/07

JUDGMENT

CITY OF LAS VEGAS
VS

PAGE 2 OF 2

DEF:GUO, WU
AKA:

SS#:623-21-7188 DOB:08/27/63
ID#:2609100 SID#:0004001207

HIST#:1174815
DR#:0244324

CASE NUMBER: C-0678834-A VDT:01/26/07 OCTDT:03/09/07 OB: 508 OCD:

ACTIONS: (CONTINUED)

TYP	PW	ACTDT	ACTION	JUDGE	CLERK
T	Y	04/11/07	INSTALLMNT PAYMNT/IN AMT OF: 203	RWB	KTS

NOTATIONS:

- 1. 12187082A
- 2. CHINEESE INTER.
- 3. ORDERED
- 4.

DISPOSITION	DISP. DATE
COMPLAINT: FP 203	04/11/07

I SWEAR THAT THIS IS A TRUE AND ACCURATE RECORD.

JUDGE'S SIGNATURE: _____

JUDGE ROB W. BARE