

1 **BEFORE THE STATE OF ARIZONA BOARD**
2 **OF CHIROPRACTIC EXAMINERS**

3 In the Matter of:) Case No.: 2018-006
4 Neal A. Cross, D.C.) **FINDINGS OF FACT, CONCLUSIONS**
5 Holder of License No. 8517) **OF LAW AND ORDER OF**
6 For the Practice of Chiropractic) **REVOCATION**
7 In the State of Arizona)
8 Respondent)

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10 **INTRODUCTION**

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12 On February 21, 2018, the Arizona Board of Chiropractic Examiners (“Board”) convened
13 to hold an Administrative Hearing. Assistant Attorney General Michael Raine represented the
14 State. Respondent did not appear and was not represented by legal counsel. Assistant Attorney
15 General Marc Harris, of the Licensing and Enforcement Office, appeared in person to provide
16 independent legal advice to the Board. At issue was the State’s Motion to Deem Allegations
17 Admitted regarding the Complaint and Notice of Hearing in this matter and the imposition of the
18 appropriate disciplinary action(s) pursuant to A.R.S. § 32-924. The Board, after considering the
19 State’s Motion, granted the Motion to Deem the Allegations Admitted and issued the following
20 Findings of Fact, Conclusions of Law and Order:
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22 **FINDINGS OF FACT**

- 23
24 1. On or about June 10, 2017, a Scottsdale Police Department (“SPD”) officer initiated a
25 stop on the Respondent’s vehicle because its registration had expired.
26 2. Upon checking the status of Respondent’s driver’s license, the SPD officer learned that
27 Respondent’s driver’s license had been suspended and that there was an outstanding warrant for
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1 his arrest.

2 3. The outstanding warrant for Respondent's arrest arose from, on information and belief, a
3 prior citation for driving on a suspended license in a vehicle that lacked proper registration,
4 which occurred on or about April 30, 2017, followed by Respondent failing to appear in court.

5 4. The SPD officer placed Respondent under arrest for the outstanding warrant and new
6 violations, and performed a search of Respondent's person incident to the arrest and an inventory
7 search of Respondent's vehicle. During the searches, the SPD officer located a small, plastic bag
8 with white residue in Respondent's front pocket, which the officer believed to be and
9 Respondent later admitted was cocaine. The officer also located two glass pipes in Respondent's
10 vehicle, one on the driver's side floorboard, and the other in Respondent's backpack.

11 5. On or about June 16, 2017, Respondent pleaded guilty to drug paraphernalia
12 possession/use, a Class 6 felony.

13 6. On or about June 16, 2017. Respondent pleaded guilty to driving on a suspended license,
14 a Class 1 misdemeanor.

15 7. On information and belief, Respondent has been noncompliant with the terms of his
16 release and has failed to appear at subsequent court proceedings.

17 8. Respondent did not notify the Board of the charges that were filed against him.

18 9. On October 3, 2017, the Board issued a subpoena requiring Respondent to appear before
19 the Board at its meeting on November 8, 2017, and mailed the subpoena to Respondent at his
20 address on file, but Respondent failed to appear as directed.

21 10. Respondent has not responded to Board attempts to contact him at his phone number or
22 address on file, which is believed to be no longer valid.

23 11. Respondent has not filed a change of address form with the Board or otherwise updated
24 his contact information.

25 12. Board staff mailed a copy of the Complaint to Respondent on December 19, 2017, via
26 U.S. Postal Service Certified Mail (Return Receipt Requested) to Respondent's address of
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1 record with the Board. On January 29, 2018, the Board received confirmation of delivery of the
2 Complaint. In its Complaint, the Board advised Respondent of the requirement that he respond
3 and of the consequences of his failure to file a response pursuant to A.R.S. § 32-924(H).
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5 **CONCLUSIONS OF LAW**

6 1. The conduct and circumstances described above in paragraphs 4 & 5 in the Findings
7 of Fact constitute a violation of A.R.S. § 32-924(A)(4) (“Habitual use of alcohol, narcotics or
8 stimulants to the extent of incapacitating the licensee for the performance of professional
9 duties.”) Respondent’s actions, described above, could provide the Board with sufficient
10 factual basis to suspend or revoke Respondent’s chiropractic license pursuant to A.R.S. § 32-
11 924(G).
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13 2. The conduct and circumstances described above in the Findings of Fact constitute a
14 violation of A.R.S. § 32-924(A) (5), “Unprofessional or dishonorable conduct of a character
15 likely to deceive or defraud the public or tending to discredit the profession.” Board rules
16 provide that the following activities are “unprofessional conduct” pursuant to A.R.S. § 32-
17 924(A): A.A.C R4-7-902(14) (“Failing to timely comply with a board subpoena pursuant to
18 A.R.S. § 32-929”), A.A.C R4-7-902(32) (“Committing a felony, whether or not involving
19 moral turpitude, or a misdemeanor involving moral turpitude. Conviction of a court of
20 competent jurisdiction or a plea of no contest is conclusive evidence of the commission.”),
21 A.A.C. R4-7-902(36) (“Violating any federal or state statute or rule or regulation applicable to
22 the practice of chiropractic.”), and A.A.C. R4-7-902(37) (“Any act or omission identified in
23 A.R.S. § 32-924(A).”). Respondent’s actions, described above, could provide the Board with
24 sufficient factual basis to suspend or revoke Respondent’s chiropractic license pursuant to
25 A.R.S. § 32-924(G).
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1 3. The conduct and circumstances described above in paragraphs 5 and 6 in the
2 Findings of Fact constitute a violation of A.R.S. § 32-924(A)(6) (“Conviction of a
3 misdemeanor involving moral turpitude or of a felony.”) Respondent’s actions, described
4 above, could provide the Board with sufficient factual basis to suspend or revoke Respondent’s
5 chiropractic license pursuant to A.R.S. § 32-924(G).
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7 4. The conduct and circumstances described above in the Findings of Fact constitute a
8 violation of A.R.S. § 32-924(A) (15), “Any conduct or practice contrary to recognized
9 standards in chiropractic or any conduct or practice that constitutes a danger to the health,
10 welfare or safety of the patient or the public or any conduct, practice or condition that impairs
11 the ability of the licensee to safely and skillfully practice chiropractic.” Respondent’s actions,
12 described above, could provide the Board with sufficient factual basis to suspend or revoke
13 Respondent’s chiropractic license pursuant to A.R.S. § 32-924(G).
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15 5. The conduct and circumstances described above in the Findings of Fact constitute a
16 violation of A.R.S. § 32-924(A)(16) (“Violating or attempting to violate, directly or indirectly,
17 or assisting in or abetting the violation of or conspiring to violate any of the provisions of this
18 chapter or any board order.”) as it relates to the several statutory violations alleged in this
19 section. Respondent’s actions, described above, could provide the Board with sufficient factual
20 basis to suspend or revoke Respondent’s chiropractic license pursuant to A.R.S. § 32-924(G).
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23 6. The conduct and circumstances described above in the Findings of Fact constitute a
24 violation of A.R.S. § 32-3208(A) (“A health professional who has been charged with a
25 misdemeanor involving conduct that may affect patient safety or a felony after receiving or
26 renewing a license or certificate must notify the health professional's regulatory board in
27 writing within ten working days after the charge is filed.”) and (D) (“A health professional who
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1 does not comply with the notification requirements of this section commits an act of
2 unprofessional conduct. The health professional's regulatory board may impose a civil penalty
3 of not more than one thousand dollars in addition to other disciplinary action it takes.”).

4 Respondent's actions, described above, could provide the Board with sufficient factual basis to
5 suspend or revoke Respondent's chiropractic license pursuant to A.R.S. § 32-924(G).
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7 **ORDER**

8 Based upon the above Findings of Fact and Conclusions of Law, **IT IS HEREBY**

9 **ORDERED:**

10 1. Chiropractic License No. 8517, issued to Respondent to practice chiropractic in the
11 State of Arizona is **Revoked**.
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14 **NOTICE:** This Order constitutes a formal decision and order of the Board. If the
15 Respondent desires to challenge the Order, Respondent shall file a written motion for rehearing
16 with the Board's Executive Director within thirty (30) days after service of the Order. Service
17 of the Order is effective five days after the date of mailing to Respondent. Under A.A.C. R4-7-
18 305 (C), the motion for rehearing must state with specificity the grounds for rehearing. Failure
19 to file a motion for rehearing or review has the effect of prohibiting judicial review of the
20 Board's Order, according to A.R.S. § 41-1092.09 (B) and A.R.S. § 12-904 et seq.
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Dated this 22nd day of February, 2018

STATE OF ARIZONA BOARD OF
CHIROPRACTIC EXAMINERS

By James Badge, D.C.

James Badge, D.C., Chair
State of Arizona Board of
Chiropractic Examiners

COPY of the foregoing mailed by
U.S. Certified mail (Return receipt requested)
This 22nd day of February, 2018
Certificate No. 7016 3010 0000 3535 5760 to:

Neal A. Cross, D.C.
P.O. Box 14977
Scottsdale, AZ 85259

Respondent

COPY of the foregoing mailed electronically
This 22nd day of February, 2018, to:

Michael Raine, Assistant Attorney General
Michael.Raine@azag.gov
Arizona Attorney General's Office

Marc H. Harris, Assistant Attorney General
Marc.Harris@azag.gov
Independent Counsel to the Board

Justin Bohall, Executive Director
Board Operations