

1 BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

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5 ADMINISTRATIVE HEARINGS

6 AND

7 BOARD MEETING

8 Monday, June 4, 2007

9

10

11 BE IT REMEMBERED that on Monday, the 4th day of June

12 2007, before the Arkansas State Board of Cosmetology and its

13 department staff at 8:30 a.m. in the South Basement Conference

14 Room of the Main Street Mall, located at 101 East Capitol Avenue,

15 Little Rock, Pulaski County, Arkansas, business and

16 administrative hearings came on for hearing as follows:

17

18

SUSAN B. WHITSON, CCR

19

Arkansas Supreme Court Certificate No. 158

20

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WhitsonCCR@aol.com

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25

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1 APPEARANCES:

2 Board Members:

- 3 JANE POWELL - President
- PATRICIA TURMAN - 2nd Vice President
- 4 LaJOY GORDON - Secretary
- BARBARA WARD - Treasurer
- 5 ANN PICKERING
- SCOTTIE BURCHETT
- 6 KATHY GOSSAGE (not present)
- CATHY CAVER-BLADE

7

8 Staff Members Present:

- 9 KATHY WITTUM - Executive Director
- AMBER McCUIEN
- 10 SHAUNTA BELMONT

11 Board Inspectors Present:

- 12 SHEILA CAUDLE
- ROSE HORNER
- 13 PAT BLAND JACKSON
- LAVONNE GREEN
- 14 BRENDA MORGAN

15

16 ON BEHALF OF THE BOARD:

- 17 ERIKA GEE, ESQ.
- Assistant Attorney General
- 18 323 Center Street, Suite 200
- Little Rock, Arkansas 72201

19

20 HEARING OFFICER:

- 21 KENDRA AKIN JONES, ESQ.
- Assistant Attorney General
- 22 323 Center Street, Suite 1100
- Little Rock, Arkansas 72201

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1 RESPONDENTS PRESENT:

2 Jacquita Hayden

3 ADDITIONAL WITNESSES PRESENT:

4 Judy Azlin

5 Heather Scarborough

6

7 Court Reporter:

8 Susan B. Whitson, CCR
Arkansas Supreme Court Certificate No. 158

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1 P R O C E E D I N G S

2 MS. POWELL: The Arkansas State Board of

3 Cosmetology meeting will come to order.

4 Madam Secretary, will you take the roll?

5 MS. GORDON: Yes. Everyone is present except

6 Gossage.

7 MS. WITTUM: Kathy, did -- well, first off, let me

8 just inform anyone that I didn't catch when I was

9 making calls last week, that Kathy Gossage has decided

10 not to vacate her position, so she will continue

11 serving in the cosmetologist position. She did have to

12 be in Pine Bluff this morning, but she said that she

13 would be here this afternoon if the meeting is still

14 continuing.

15 MS. POWELL: Madam Treasurer, will you give the

16 report, please.

17 MS. WARD: Okay. We collected five dollars from

18 each of the board members that are present today and

19 that brings our total up to \$282.67.

20 COURT REPORTER: I couldn't hear that.

21 MS. POWELL: How much?

22 MS. WARD: \$282.67.

23 MS. POWELL: Thank you.

24 At this time I'll ask the -- Director Wittum to
25 give the board member update.

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1 MS. WITTUM: Okay. I gave you the update on Kathy
2 Gossage.

3 On Cathy Caver-Blade, the governor's office
4 informed us that they needed her term to expire in
5 2012. They were setting up a structure that would
6 allow two board members to come off of the board each
7 year between 2008 and 2012. So since you -- your term
8 had been drawn as 2010, we just moved it to 2012 to
9 clean up their records up there.

10 MS. CAVER-BLADE: Uh-huh.

11 MS. POWELL: We have some respondents who
12 requested a continuance?

13 MS. WITTUM: Yes. We just need approval to grant
14 them a continuance.

15 MS. POWELL: Okay.

16 MS. WITTUM: The two respondents there for 07-341
17 and 07-400 have requested a continuance since they

18 would not be able to be in town today. So we -- we are
19 asking for them to be moved to the July meeting, with
20 your approval.

21 MS. POWELL: Can I have a motion, please?

22 MS. PICKERING: I make a motion we grant the
23 continuance.

24 MS. GORDON: I second.

25 MS. POWELL: I have a motion and a second. Any

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11

1 discussion?

2 In all those in favor, raise your right hand.

3 (Hands raised.)

4 Motion is unanimous. Thank you.

5 At this time I'll turn the meeting over to our

6 Hearing Officer, Kendra Jones.

7 HEARING OFFICER JONES: If I could get the sign-in
8 sheet, please?

9 Bob?

10 MS. POWELL: That's Ann's husband.

11 Different last name.

12 HEARING OFFICER JONES: Okay. We're going to
13 start with Jacquita Hayden, 07-312. Please come up to
14 the table. If you have counsel with you, bring them as
15 well.

16 MS. HAYDEN: No, but I got a lot of moral support,
Page 11

17 how about that one?

18 This is my other two office personnel and

19 instructors.

20 HEARING OFFICER JONES: So which one of you --

21 you're Jacquita?

22 MS. HAYDEN: I am.

23 HEARING OFFICER JONES: Is that how you pronounce

24 it?

25 MS. HAYDEN: JQ. Yeah.

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12

1 HEARING OFFICER JONES: JQ? Okay.

2 MS. HAYDEN: Uh-huh. It sounds funny to hear

3 Jacquita.

4 HEARING OFFICER JONES: Okay. Good morning. My

5 name is Kendra Akin Jones and I'm the Hearing Officer

6 today in the matter of Jacquita Hayden, d/b/a

7 Lynndale's Fundamentals of Beauty, Hearing No. 07-312,

8 to be heard before the Arkansas State Board of

9 Cosmetology.

10 Today is June 4, 2007. We're located in the

11 conference room of the Main Street Mall.

12 If you are going to be a witness in this case, at

13 this time please raise your hand and I'll have the

14 court reporter swear you in.

15 (WHEREUPON, five witnesses were sworn.)

16 MS. HAYDEN: So help me God.

17 HEARING OFFICER JONES: Okay. And would you
18 please identify yourself for the record, and we do need
19 your full name for that.

20 MS. HAYDEN: I'm Jacquita Hayden from Lynndale's
21 Fundamentals of Beauty School in El Dorado, Arkansas.

22 HEARING OFFICER JONES: Okay. And you do not have
23 counsel with you today?

24 MS. HAYDEN: No.

25 HEARING OFFICER JONES: And you did receive a copy

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1 of the Order and Notice of Hearing?

2 MS. HAYDEN: Yes.

3 HEARING OFFICER JONES: Okay. State counsel,
4 please reference -- or please identify yourself for the
5 record this morning.

6 MS. GEE: Erika Gee, Assistant Attorney General.

7 I don't know my own name.

8 MS. POWELL: Did I do that to you? I think I did
9 that to you.

10 MS. GEE: It's your fault.

11 HEARING OFFICER JONES: Just for your benefit, I'm
12 going to go over a few of just some procedural things
13 today.

14 The board bases its decision today solely on the
Page 13

15 evidence that's presented here. They have -- all they
16 know of this case is what they have in their notice of
17 hearing and that's all the information they have at
18 this time, so it's up to you to present that evidence
19 and the state's counsel to present their evidence.

20 This hearing is being held under the
21 Administrative Procedures Act, which means that there
22 are not the strict rules of evidence to be applied, and
23 then that means as Hearing Officer, I have some leeway
24 as to allow hearsay statements and photocopies of
25 documents and that sort of thing that would not

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1 typically be allowed.

2 To ensure the efficiency of this proceeding I may
3 grant some requests and/or objections and deny some.
4 Like I said, the board members know only of what's in
5 their packets.

6 All participants to the hearing should be aware
7 that this is available under the Freedom of Information
8 Act and it is open to the public.

9 Okay. Preliminary matters. Ms. Gee, any
10 preliminary matters?

11 MS. GEE: I do. I would like to introduce some
12 exhibits, if I could, please.

13 First of all, I would like to introduce the

14 board's rules and statutes, which I believe everyone
15 present has a copy of, and our court report has a copy
16 also, as Exhibit 1.

17 HEARING OFFICER JONES: Those will be admitted for
18 the state as Exhibit 1.

19 (WHEREUPON, State's Exhibit No. 1 was received in
20 evidence.)

21 MS. GEE: And then as Exhibit 2, I would like to
22 introduce the Order and Notice of Hearing.

23 HEARING OFFICER JONES: And that will also be
24 admitted, Exhibit 2 for the state is the Order and
25 Notice of Hearing.

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1 (WHEREUPON, State's Exhibit No. 2 was received in
2 evidence.)

3 MS. GEE: Okay. And as Exhibit 3, which I think
4 is actually attached to the Order and Notice of
5 Hearing, I would like to introduce the school
6 inspection report and the notes attached to that.

7 And, Ms. Hayden, please correct me if I'm wrong,
8 but I think you said you had seen that and didn't
9 object to them being introduced. Is that right?

10 MS. HAYDEN: Oh, yeah. Correct.

11 (WHEREUPON, State's Exhibit No. 3 was received in
12 evidence.)

13 HEARING OFFICER JONES: Is that all of your
14 exhibits at this time, Ms. Gee?

15 MS. GEE: Yes, ma'am.

16 HEARING OFFICER JONES: Ms. Hayden, do you have
17 exhibits or anything you would like to introduce at
18 this time? Anything you would like the board to see?

19 MS. HAYDEN: Oh, oh, I like that one.

20 I have a -- we put together a little booklet that
21 will give us, give you a little opening.

22 HEARING OFFICER JONES: If you will let Ms. Gee
23 look at that for a minute and see if she objects to it.

24 MS. HAYDEN: Okay.

25 HEARING OFFICER JONES: What is in this booklet?

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1 MS. HAYDEN: It's basically just showing some
2 exhibits of the corrections have been received and this
3 is our rules and reg book.

4 MS. GEE: Okay. Thank you.

5 I don't have any objection.

6 HEARING OFFICER JONES: Okay. This will be
7 admitted as Exhibit 1 for the respondent.

8 (WHEREUPON, Respondent's Exhibit No. 1 was
9 received in evidence.)

10 MS. HAYDEN: I don't have but three, three you all
11 might could share, instead of doing ten. This is our

12 rules and regs if you all want to review those.

13 Because I think what the big problem was on that was

14 that in renewing the license, it does not state

15 anything about up to dating rules and regulations book.

16 And Kathy -- the one that Kathy looked at was

17 incorrect, because it was the -- when I first opened

18 the school. So --

19 HEARING OFFICER JONES: Okay. We will admit the

20 rules and regulations as Exhibit 2 for the respondent.

21 (WHEREUPON, Respondent's Exhibit No. 2 was

22 received in evidence.).

23 MS. GEE: Please, just to clarify. That's your

24 school catalog rules and regs?

25 HEARING OFFICER JONES: Yeah. School catalog

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17

1 rules and regs.

2 Sorry. Just to make sure we have a clear record.

3 MS. HAYDEN: We didn't send you one?

4 I was thinking that we mailed you one of them, the

5 updated.

6 MS. WITTUM: Yes. That's the one I have.

7 HEARING OFFICER JONES: Is there anything else you

8 would like to enter as exhibits at this time?

9 And, I mean, if there is something that comes up

10 later, it can be entered later.

11 MS. HAYDEN: Okay. Let's do that then.

12 HEARING OFFICER JONES: It's just kind of an
13 efficiency thing at this point to get them all in and
14 know what we're all going to be looking at.

15 If there are no other preliminary matters, we will
16 proceed to opening statements.

17 Counsel for the state.

18 MS. GEE: I have a brief opening statement. Board
19 members you have before you today a cosmetology school
20 owner who is alleged to have allowed seven of her
21 students in her school to perform services on the
22 public before they had acquired 150 hours of
23 instruction, as required by Arkansas Code 17-26-417.

24 That's all I have for opening.

25 HEARING OFFICER JONES: Ms. Hayden, if you would

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18

1 like to say anything as an opening to the board, now is
2 your chance. This is just to kind of give them an
3 overview.

4 MS. HAYDEN: Oh. Basically -- basically, the
5 whole situation would be just an oversight, in getting
6 too involved in the progress of the students'
7 education, and not paying attention and not being a
8 clock watcher. I have to take full credit as being the
9 one -- you know, they're -- they are here to support me

10 because they are the ones that basically do the
11 recording and tell me the hours and stuff. I do most
12 of the practical work on the floor. But once again,
13 it's still me. I should have known better.

14 The progress of a student, I don't feel like,
15 should be judged by the hours, because you can have 150
16 hours of doing nothing and still not be an educated
17 hairdresser. And I go by what I train them for.

18 And usually my students, within two weeks after
19 they begin their enrollment, they have already gone
20 over and we've gone through basics many, many times,
21 within two weeks they are there. Because when you have
22 a student -- and I'm a small school. We don't have --
23 we barely have 30 students at a time. So we get
24 one-on-one involved with our students.

25 I'm -- I'm the little old lady who lives in a

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1 shoe, got so many kids she don't know what to do
2 because I personally get involved with their education.

3 If you will notice, we showed you our pass/failure
4 rate. If my students don't pass State Board, I turn
5 and look at myself to me where I went wrong. Because
6 they spend 1,500 hours with me, they should pass State
7 Board with flying colors.

8 And this past year has been a little bit harder on
Page 19

9 me. My daughter quit. Lord knows the state board
10 office has been in a chaos with school owners and all
11 this other chaos going on. And I think a lot of it has
12 been just oversight and getting too involved and trying
13 to spread yourself a little too thin.

14 But I do feel like that my, as far as my students
15 and the services they perform, the progress that they
16 do, I oversee it and I do know that they are very well
17 qualified. And I would, I would stake my life on any
18 student that, when they do a service, they are doing
19 it. And if they are not, I'm right there with them,
20 because I'm a basic one-on-one. I remember my days in
21 school, and I want to make sure that my students, when
22 they graduate, are able to go out in the world and be a
23 hairdresser and not a, I call a -- what is it when you
24 go in and -- what's it called, you guys?

25 I forgot.

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1 When you go in -- you're the go fetch it. You
2 know, fetch me this shampoo, fetch me that shampoo.
3 Because when I got out of school, that's where I went
4 into. And I feel like my students when they graduate
5 are hair stylists and they are qualified to go into
6 their own salon.

7 Most of the students that I do graduate out, they
Page 20

8 do own their own salons. They put their own salons in
9 at their home. The reason they are there is because
10 they want a way of being moms and also to help support
11 the family.

12 And I'm 38 years in the field, and if it hadn't
13 have been for cosmetology, I probably would have
14 starved and wouldn't be here today.

15 So, basically, even without 150 hours, I think
16 that is also another rule --

17 HEARING OFFICER JONES: Okay.

18 MS. HAYDEN: -- that we need to --

19 HEARING OFFICER JONES: You're kind of getting
20 into the rules and everything, and I'm going to cut you
21 off there.

22 I'm going to give you plenty of opportunity to
23 explain your side and what you think and stuff.

24 MS. HAYDEN: Oh, I'm good.

25 HEARING OFFICER JONES: And so we're going to move

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21

1 on at this point and I will give you another
2 opportunity to go into a little more detail as to what
3 your school does and how you feel that these violations
4 are not existent or, you know, shouldn't be deemed as
5 such.

6 At this time we're going to start with witnesses.

7 Ms. Gee, you can start with your first witness.

8 MS. GEE: I would like to call Sheila, please.

9 WHEREUPON,

10 SHEILA CAUDLE,

11 having been called for examination, and having been first duly

12 sworn by the undersigned notary public, was examined and

13 testified, as follows:

14 DIRECT EXAMINATION

15 BY MS. GEE:

16 Q Could you state your name for the record, please.

17 A Sheila Caudle.

18 Q And what is your occupation?

19 A I'm an inspector for the Arkansas State Board of

20 Cosmetology.

21 Q How long have you been in that position?

22 A Almost 15 years.

23 Q Did you visit a place called Lynndale's Fundamentals of

24 Beauty in El Dorado?

25 A I did.

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1 Q And what date was that visit?

2 Do you recall?

3 A No. I don't.

4 Q Okay.

5 MS. HAYDEN: 17th --

6 THE WITNESS: 12/5/06.

7 Might have been 17, but I have wrote 12/5 on the

8 interview form.

9 BY MS. GEE:

10 Q If it would help you to look at, I believe it was Exhibit 3,

11 Board's Exhibit 3, to refresh your recollection, the inspection

12 report.

13 A Well, it's not on the inspection report. That's what I'm

14 looking at.

15 Q Okay. Well, then we will move on.

16 A November 17, 2006.

17 Q Okay. Thank you.

18 Who is the owner of that school?

19 A Jacquita Hayden, also known as JQ.

20 Q Maybe we should just say JQ?

21 A There you go.

22 Q And that is the respondent today?

23 A Yes, ma'am.

24 Q Okay. And do you know what licenses JQ currently holds with

25 the cosmetology board?

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23

1 A As far as school license --

2 Q Yes, ma'am.

3 A -- cosmetology license, and instructor license.

4 Q Thank you.

5 And when you visited Lynndale's Fundamentals of Beauty, did
6 you speak with any of the students there?

7 A Yes, we did. We interviewed three clients while we were
8 there.

9 Q Okay. And did the students tell you anything in those
10 interviews that you found concerning?

11 A We had one that said that they were going on to the floor
12 before they had the 150 hours.

13 Q Okay. Performing services on the public before --

14 A Right.

15 Q -- they had been there 150 hours?

16 A And we had one that also told us that grades were not being
17 distributed to the students on a monthly basis. After checking
18 that, we did find sign-off sheets where they were getting their
19 grades distributed to them.

20 Q Okay.

21 A Where the student themselves had signed the sign-off sheets.

22 Q Okay. Okay. And let's go back for just a moment to the
23 performing services on the public.

24 Did you investigate the school's records with regard to
25 that?

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1 A We did.

2 Q Okay.

3 A Several hours.

4 Q Okay. Let's go through each student, if we could?

5 A Okay.

6 Q Do you have those notes before you?

7 A I do. Uh-huh.

8 Q Okay. How many students were there all together that --

9 A Seven.

10 Q Okay. And with the first student, could you identify the
11 student, when they were eligible to work on the floor, and when
12 they actually had appointments?

13 A Yes. Sherry Anderson didn't have enough hours to go on the
14 floor until August the 16th, and I wrote a list of all of her
15 appointments before that time. She had an appointment on July
16 the 21st, July the 26th, July the 28th, August the 1st, August
17 the 3rd, two appointments, August the 4th, August the 10th,
18 August the 15th, and August the 18th.

19 Q Okay. And the next student?

20 A Was Lachandra Lindsey, she should have went on the floor for
21 clients 11/9/06. And listed are her appointments. On 10/6 she
22 had an appointment. She only had one.

23 Q Okay. And just -- just so the board is aware, you are
24 looking at the notes attached to school inspection report?

25 A Yes, ma'am.

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25

1 Q Which is, I think, Exhibit 3. Is that right?

2 Okay. Exhibit 3.

3 Thank you.

4 Can you go on to the next student, please.

5 A John Littrell, he should have went on to the floor for
6 clients on 5/17/06. His listed appointments in the appointment
7 book was two on 5/9, and two on 5/16.

8 Q Okay. And the next student?

9 A Brittney Bernard should have went on the floor on 10/18 and
10 her listed appointment was 10/17 she had one.

11 Marilyn McRae should have went on the floor 11/7/06, and she
12 had an appointment on 11/2.

13 Patricia Fuller, these appointments were listed under other
14 on the appointment book, which means there was no student name up
15 there, but we tracked it down to that Patricia Fuller was the one
16 who done these appointments. We found who provided the services
17 through the daily receipts that were turned in by each student.
18 She had an appointment on 10/24, 10/4, and 10/6.

19 Kimberly Ogwin should have went on the floor for clients
20 8/15. Listed are appointments before this date 7/21, 7/25, 7/26,
21 two on 7/28, one on 8/2, one on 8/3, one on 8/4, one on 8/8, one
22 on 8/9, and one on 8/10.

23 Q Okay. Thank you.

24 A You're welcome.

25 Q And did you have an opportunity to speak with Ms. Hayden

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1 about the students who performed these services?

2 A Yes, ma'am. I did.

3 I told her what we had found and she helped us get all the
4 records that we needed to proceed with the investigation. She
5 had told me that while she took full responsibility, that her
6 daughter had been working there, that her daughter no longer
7 worked there and it was her daughter's responsibility.

8 MS. GEE: Thank you very much.

9 THE WITNESS: You're welcome.

10 MS. GEE: I have nothing further.

11 HEARING OFFICER JONES: Ms. Hayden, do you have
12 any questions you would like to ask of the inspector?

13 MS. HAYDEN: No. Not really. Because basically
14 she's -- that is what has happened.

15 The only thing is is we did find out --

16 HEARING OFFICER JONES: Wait just a second.

17 MS. HAYDEN: Oh, I'm sorry.

18 HEARING OFFICER JONES: If you have any questions
19 for her.

20 MS. HAYDEN: Oh, excuse me.

21 HEARING OFFICER JONES: We're in questions right
22 now.

23 CROSS-EXAMINATION

24 BY MS. HAYDEN:

25 Q Sheila, when I approached you and we were discussing, you

1 know, we were trying to find out about this other, you know, that
2 name that was up there that said other, what we found out was
3 Crystal Powell was the reception most times, but she was pregnant
4 and she just had a baby. And she said that was -- she used
5 that --

6 HEARING OFFICER JONES: Okay. Ms. Hayden, do you
7 have a question?

8 MS. HAYDEN: Yeah. I was going to ask her.

9 HEARING OFFICER JONES: Okay.

10 BY MS. HAYDEN:

11 Q Do you remember me saying that we didn't know what that was,
12 so therefore it was used for, those students, they are new
13 students to put on their records that they observed. And I did
14 bring something up for that.

15 A Yeah. These are the ones that we could prove positively
16 that she done, but there were some more.

17 Q Yeah. But that's what I was wanting you to know that we
18 discovered.

19 A Yes, ma'am.

20 MS. HAYDEN: We discussed them.

21 HEARING OFFICER JONES: Okay. Any more questions
22 for Sheila from you?

23 BY MS. HAYDEN:

24 Q Not any that -- except for maybe the definite reasoning for
25 the --

1 A For the what?

2 Q Review. Yeah. Go ahead and tell them.

3 A That's the way we do all the schools. That's the way, since
4 Ms. Wittum took over as director, as far as the way we do the
5 schools now, they are all done the same, and they are just done
6 periodically. But they are all done the same every time now.

7 Q You have a form you do use now for each one of them?

8 A Yes. Yes, ma'am.

9 MS. HAYDEN: Okay. No further questions.

10 HEARING OFFICER JONES: Okay. Does the board have
11 any questions they would like to ask of Sheila?

12 MS. GORDON: I do.

13 HEARING OFFICER JONES: Go right ahead.

14 MS. GORDON: Maybe I missed it, but I didn't hear,
15 what brought this investigation?

16 THE WITNESS: All the schools are done this way
17 now. It wasn't an investigation. It was just an
18 inspection of the school and the records and all the
19 schools, since Ms. Wittum took over, are done exactly
20 the same. We go in, we talk to students, we check the
21 records, we talk to the instructors, as well as doing a
22 health and safety inspection.

23 MS. GORDON: So it's a routine thing that's done?

24 THE WITNESS: It's a routine thing with every
25 school now.

1 MS. GORDON: Is it once a year, twice a year, or
2 just --

3 THE WITNESS: About three times a year.

4 MS. POWELL: I have a question.

5 Ms. Caudle, in the past years, the inspectors have
6 gone into the schools and done investigations or
7 inspections?

8 THE WITNESS: Yes, ma'am.

9 MS. POWELL: And they have spoke to the students?

10 THE WITNESS: Yes, ma'am.

11 MS. POWELL: For years?

12 THE WITNESS: Yes, ma'am.

13 MS. POWELL: That's not a new procedure?

14 THE WITNESS: That's not a new procedure. The
15 only time that we did speak to the students in previous
16 years were if there was a problem at that school. If
17 we had a complaint, then we would go in and talk to
18 that -- those students, as far as an interview process.
19 Other than that, we would just do just an inspection,
20 health and safety inspection.

21 MS. POWELL: And speak to the students?

22 THE WITNESS: Not in the previous years. No,
23 ma'am.

24 Only if there was a complaint. If there was a
25 complaint for any particular school in the previous

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1 years, we would go in and we would talk to students
2 that may have filed the complaint.

3 MS. POWELL: Are you talking about one on one
4 or --

5 THE WITNESS: Yes, ma'am.

6 MS. POWELL: -- on the --

7 THE WITNESS: I'm talking about an interview
8 process.

9 MS. POWELL: Okay.

10 THE WITNESS: That's the only time we would talk
11 to students. If it was a complaint generated thing,
12 then we would go in, we would talk to either the
13 student who filed the complaint or who the complaint
14 was about, we would talk to those students only.

15 MS. POWELL: My understanding is that the
16 inspection or the inspector would go in to the site and
17 have students validate who they were or sign on the
18 inspection --

19 THE WITNESS: That was --

20 MS. POWELL: What do you -- what do you call that?

21 THE WITNESS: That was a monthly hour report that
22 we went in.

23 MS. POWELL: Uh-huh.

24 THE WITNESS: And we took that monthly hour report
25 for the students to initial by their hours.

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1 MS. POWELL: Okay. So there was some one-on-one
2 communication with the students?

3 THE WITNESS: There was communication, but it was
4 not like an extensive interview thing like we do now.

5 MS. POWELL: Okay. I understand now. Okay.

6 THE WITNESS: Yeah. It was a monthly hour report.
7 And, of course, you as a school owner knows that that
8 monthly hour report is a month behind.

9 MS. POWELL: Right.

10 THE WITNESS: So when the student signed it, they
11 would always say, I have more hours than this, you
12 know, because it is a month behind, so that was kind of
13 done away with.

14 MS. POWELL: Okay. And also I would like to know,
15 how did you arrive at these hours during your
16 investigation that you just reported on on those seven
17 students?

18 THE WITNESS: How did I arrive at it?

19 MS. POWELL: How did you arrive? Because and the
20 reason I'm asking that is I see that Ms. Hayden has, as
21 one of her exhibits, given a breakdown of hours. She
22 has given her monthly reports in some of this.

23 THE WITNESS: We pulled the daily records --

24 MS. POWELL: And has that --

25 THE WITNESS: -- the daily time cards and

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1 calculated all the times from each day.

2 MS. POWELL: Okay. So you validated the time
3 cards. It had nothing to do with the monthly hour
4 reports?

5 THE WITNESS: No, ma'am.

6 MS. POWELL: Thank you.

7 THE WITNESS: You're welcome.

8 HEARING OFFICER JONES: Any board members?

9 Go ahead, Ms. Turman.

10 MS. TURMAN: It looks like to me it says due to an
11 interview sheet filled out by Sherry Anderson,
12 indicated that she had an appointment before her 150
13 hours?

14 THE WITNESS: Yes, ma'am. That's how we came --

15 MS. TURMAN: So evidently there was a complaint
16 from a student when you went in?

17 THE WITNESS: When I went in.

18 MS. TURMAN: Okay.

19 THE WITNESS: There wasn't a complaint generated
20 by our office.

21 MS. TURMAN: Yes. But there was a complaint --

22 THE WITNESS: And when we go in --

23 MS. TURMAN: -- by the student?

24 THE WITNESS: Then we go in and do these interview
25 sheets, and if there is a complaint we put it on that

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1 sheet, then we investigate it before we leave that
2 school.

3 MS. TURMAN: But it wasn't just like you went in
4 there and just started picking out students? This one
5 student did file a complaint?

6 THE WITNESS: When this was filed, actually this
7 was filed, we went through every student in the school,
8 we went through every record before we left there that
9 day.

10 MS. TURMAN: Thank you.

11 THE WITNESS: You're welcome.

12 HEARING OFFICER JONES: Any further questions from
13 the board?

14 If there are no further questions from the board,
15 Sheila, you can step down.

16 (Witness excused.)

17 Ms. Gee, you can call your next witness.

18 MS. GEE: I would like to call Kathy Wittum,
19 please.

20 WHEREUPON,

21 KATHY WITTUM,

22 having been called for examination, and having been first duly

23 sworn by the undersigned notary public, was examined and

24 testified, as follows:

25 DIRECT EXAMINATION

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1 BY MS. GEE:

2 Q Could you state your name for the record, please.

3 A Kathy Wittum.

4 Q And what is your occupation?

5 A Director for the State Board of Cosmetology.

6 Q And how long have you been in that position?

7 A Two years.

8 Q Okay. Are you familiar with the respondent today,

9 Ms. Hayden?

10 A Yes.

11 Q Are you familiar with the board's records regarding

12 Ms. Hayden's licensing?

13 A Yes.

14 Q And can you tell us what licenses Ms. Hayden currently

15 holds?

16 A She has the school license, the cosmetologist license, and

17 an instructor license.

18 Q And those license are current?

19 A Yes, ma'am.

20 Q Okay. To your knowledge, has there been any disciplinary

21 actions against Ms. Hayden previously?

22 A Not to my knowledge.

23 MS. GEE: Thank you.

24 I have nothing further.

25 HEARING OFFICER JONES: Ms. Hayden, would you like

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1 to ask Ms. Wittum any questions at this point?

2 MS. HAYDEN: No. She reported just fine. It was
3 kind of hard to say anything when it's --

4 HEARING OFFICER JONES: Does the board have any
5 questions -- does the board have any questions they
6 would like to ask Ms. Wittum?

7 Okay. Ms. Gee, next witness.

8 MS. GEE: I would like to call Ms. Hayden, please.

9 WHEREUPON,

10 LACQUITA HAYDEN,

11 having been called for examination, and having been first duly

12 sworn by the undersigned notary public, was examined and

13 testified, as follows:

14 DIRECT EXAMINATION

15 BY MS. GEE:

16 Q Could you state your name for the record, please.

17 A Jacquita Hayden. JQ.

18 Q JQ?

19 Should I call you JQ?

20 A Oh, please.

- 21 Q Okay.
- 22 A Makes me feel younger.
- 23 Q All right. And you are the respondent here today?
- 24 A Yes, I am.
- 25 Q And the owner of Lynndale's Fundamentals of Beauty?

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- 1 A Well, I make the monthly notes.
- 2 Q You make the monthly --
- 3 A The bank owns me, but I make the monthly note.
- 4 Q All right. Based on what you were saying earlier in this
- 5 proceeding, it sounded to me that you agreed with Ms. Caudle's
- 6 evaluation of your records as far as --
- 7 A Agree.
- 8 Q -- that they were accurate, that those students were
- 9 performing services before they received 150 hours?
- 10 A Agreed.
- 11 Q Okay. And that all seven of these students were performing
- 12 those services. Is that correct?
- 13 A Well, I can't very verify it out, but as long as she found
- 14 it, it must be true.
- 15 Q Okay. So you have no dispute with that today?
- 16 A (Shaking head from side to side.)
- 17 MS. GEE: Okay. I have nothing further.
- 18 Thank you.
- 19 THE WITNESS: Okay.

20 MS. AZLIN: When --

21 HEARING OFFICER JONES: Wait. Wait. You just
22 can't talk. You have to be called as a witness.

23 Okay. I'm going to let the board ask you some
24 questions at this time, Ms. Hayden.

25 Go ahead, Ms. Turman.

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1 MS. TURMAN: Ms. Hayden, I would like to know, how
2 did the board and how did the office staff come in with
3 your recordkeeping, because you mentioned that the
4 office staff was in chaos and all of that stuff at the
5 time of your recordkeeping. Can you explain that --

6 THE WITNESS: Oh, no, no. Not of my
7 recordkeeping. It was just basically what was going on
8 in the confusion of the rules and regulations and the
9 meetings we were having and stuff, and I basically was
10 trying to assist and keep up with what was going on, at
11 the same time with running a school.

12 MS. TURMAN: Uh-huh.

13 THE WITNESS: As far as a definite thing, no. No.
14 I mean, it wasn't anything to do with me personally.
15 Has to do with all of us in general, as far as what was
16 going on in my life at that time.

17 MS. TURMAN: But how did the staff, our office
18 staff, have anything to do, this is what I would like

19 to know, because you mentioned --

20 THE WITNESS: What are you saying?

21 MS. TURMAN: Okay. Because you mentioned that
22 they would -- you know, with all that going on, it
23 could possibly be -- it was an insinuation -- maybe I'm
24 wrong.

25 THE WITNESS: Okay.

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1 MS. TURMAN: That it was our office staff that,
2 with your recordkeeping --

3 THE WITNESS: No. No. No. You're mistaken.

4 MS. TURMAN: Okay.

5 THE WITNESS: I didn't blame it on you all.

6 MS. TURMAN: All right.

7 THE WITNESS: I blamed it on my office staff.

8 MS. TURMAN: Okay. Thank you.

9 HEARING OFFICER JONES: Ms. Pickering.

10 MS. PICKERING: I have a question for JQ.

11 You knew that they could not go -- was not

12 supposed to go on the floor before they got 150 hours?

13 THE WITNESS: Yes.

14 MS. PICKERING: But you did let them, these seven?

15 THE WITNESS: (Nodding head up and down.)

16 By not paying attention like I should have and not

17 checking with my office personnel that keeps the time

18 and stuff on me, and by listening to a student say that
19 they thought they had enough hours and just really not
20 being as observant as I should have, you know, to
21 verify that they had it, because I don't. I mean I'm
22 not -- the way I feel about education is, I'm not there
23 to do their hour stuff. All right? I could become a
24 clock watcher or I could become a cosmetology educator.
25 Okay. Because clocks are -- I know you don't like me

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1 to do that, do you.

2 But I feel, I feel like I train, I'm out there to
3 assist them and to train them how to do hair. Okay.
4 How to do services of cosmetology. They are the ones
5 that keep my records. And sometimes I get so busy with
6 what I'm doing out there that I don't communicate as
7 well as I should have with my -- with Judy on keeping
8 my records.

9 MS. PICKERING: Okay. So --

10 THE WITNESS: So, I mean, I have to still say it's
11 my fault. Yes.

12 MS. PICKERING: So you are admitting that your two
13 staff people was negligent about giving you the correct
14 hours when the students --

15 THE WITNESS: No. I was negligent about not
16 communicating with them to get it.

17 MS. PICKERING: But you --

18 THE WITNESS: Yeah. I should be the one that gets
19 kicked on all of it, because I should have been the one
20 to be more responsive to their need, and I didn't. But
21 I --

22 MS. PICKERING: Are your two -- excuse me. Are
23 your two employees there at all times during the school
24 hours?

25 THE WITNESS: Judy works two days a week. She

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1 works on Tuesday and Wednesday. And then Heather works
2 full time, full time Tuesday through Friday.

3 MS. PICKERING: Okay. So both of them -- or
4 one -- one or the other is there at all times?

5 THE WITNESS: Correct.

6 MS. PICKERING: During your student hours?

7 THE WITNESS: Uh-huh.

8 MS. PICKERING: Thank you.

9 HEARING OFFICER JONES: Further questions from the
10 board?

11 Is there any further questions from the board?

12 Ms. Gee, any further witnesses?

13 MS. GEE: No, ma'am. I have nothing further.

14 HEARING OFFICER JONES: Okay. Ms. Hayden, you can
15 call your first witness.

16 And if you would like to make a statement on your
17 own behalf, I will let you do so at this time.

18 MS. HAYDEN: Okay.

19 HEARING OFFICER JONES: If there is anything else
20 you want to tell the board.

21 MS. HAYDEN: Ms. Judy.

22 HEARING OFFICER JONES: Please state --

23 MS. HAYDEN: I would like to call Judy Azlin.

24 HEARING OFFICER JONES: Okay. Please state your
25 name for the record.

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1 MS. AZLIN: Judy Azlin.

2 HEARING OFFICER JONES: Okay. Go ahead. You have
3 to ask her questions, she can't just talk.

4 WHEREUPON,

5 JUDY AZLIN,

6 having been called for examination, and having been first duly

7 sworn by the undersigned notary public, was examined and

8 testified, as follows:

9 DIRECT EXAMINATION

10 BY MS. HAYDEN:

11 Q Okay. Would you recall what happened on the day that we had
12 the inspection and what are your thoughts on it, please.

13 A At that time we had just started doing the hours, Heather
14 and I. Patricia had just left and that had been her job. And we

15 were learning the smart system. And we were doing it but it was
16 an oversight. We messed up and did not get the information to
17 you that they did not have 150 hours yet. It was our fault. And
18 that's all.

19 MS. HAYDEN: Ms. Heather, would you like --

20 HEARING OFFICER JONES: Wait, wait.

21 MS. HAYDEN: Oh, I'm sorry.

22 HEARING OFFICER JONES: We have to question one
23 witness at a time.

24 MS. HAYDEN: Oh. Excuse me.

25 HEARING OFFICER JONES: If you have any other

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1 questions or anything else that she wants to state, now
2 is -- now is your chance.

3 MS. HAYDEN: Thank you.

4 Do you have any more?

5 THE WITNESS: (Shaking head from side to side.)

6 HEARING OFFICER JONES: Okay. Ms. Gee, do you
7 have any questions for Ms. Azlin?

8 MS. GEE: No. No questions.

9 HEARING OFFICER JONES: Does the board have any
10 questions they would like to ask this witness?

11 Okay. You may call your next witness, Ms. Hayden.

12 MS. HAYDEN: Ms. Heather, do you have anything you
13 would like to add to this situation or case?

14 MS. SCARBROUGH: (Inaudible.)

15 COURT REPORTER: I can't hear you.

16 MS. HAYDEN: No more than what Judy said.

17 HEARING OFFICER JONES: I think it was just a side
18 conversation.

19 MS. AZLIN: We're nervous over here.

20 MS. HAYDEN: We're trying.

21 HEARING OFFICER JONES: It's fine. We just got to
22 make sure that our court reporter knows what's going
23 on.

24 Ms. Hayden, is there anything else you would like
25 to state for the board? Because, like I'm telling you,

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1 all they know is what you're telling them here today.

2 MS. HAYDEN: Yes.

3 WHEREUPON,

4 JACQUITA HAYDEN,

5 having been called for examination, and having been first duly

6 sworn by the undersigned notary public, was examined and

7 testified, as follows:

8 DIRECT TESTIMONY

9 THE WITNESS: Number one is, just like when

10 Ms. Powell asked Sheila about the inspection, that's

11 the reason I asked her that question was because,

12 normally the only time you get two inspectors on you

13 and discuss anything and talking to your students is
14 somebody has called in. In the previous time it did
15 not take but one person to call in and they were right
16 on me, you know. I have had cases where it has
17 happened in the past. It, in my school, as small as we
18 were and as close knit as we are, it really causes
19 chaos in your class for the day and for the rest of the
20 week, because I promise you, they all know my business,
21 so I couldn't hide anything if I wanted to.

22 The only thing is I would ask that something with
23 this occurrence is if it could some way be checked
24 about or reviewed over the way it's taken care of, to
25 where it doesn't infect the whole class or the whole

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1 area.

2 Another thing of it is, when they come in, and I
3 don't know if any of you all have ever seen the -- is
4 that report in there about -- they have a report where
5 they ask the questions, which that was the first time I
6 did it, and we also copied it because the students,
7 when I got the report back on the questions they asked,
8 well we can also use it in our school. But at the time
9 when this was turned in, Sherry Anderson was mad at me
10 because I had corrected her about doing a hair style
11 when she had a client, which at that time I did not

12 know that -- I mean I think at that time she had enough
13 hours on the floor. I don't really know.

14 Like I said, I'm not a clock watcher. I'm more on
15 education and what I teach them and how they -- how
16 they are being taught and what they are learning, and
17 that's my fault as an educator. So I apologize for
18 that. But I believe in what I'm teaching and I do
19 believe that my students are very qualified to do hair,
20 because they are not there.

21 HEARING OFFICER JONES: Ms. Gee, are there any
22 further questions you would like to ask Ms. Hayden?

23 MS. GEE: No.

24 HEARING OFFICER JONES: Does the board have any
25 further questions for Ms. Hayden?

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1 MS. BURCHETT: I just a have one.

2 HEARING OFFICER JONES: Go ahead.

3 MS. BURCHETT: So the question -- are you talking
4 about the questionnaire, what you referred to just
5 then?

6 THE WITNESS: Uh-huh.

7 MS. BURCHETT: That's given to the students?

8 THE WITNESS: Uh-huh.

9 HEARING OFFICER JONES: Hold on just a second.

10 When you answer, make sure it's audible so the
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11 court reporter can pick it up.

12 THE WITNESS: Yes.

13 HEARING OFFICER JONES: Thank you.

14 MS. BURCHETT: So that's the questionnaire that
15 when an inspector comes in on a routine inspection and
16 they ask to speak with, you know, a select few
17 students, that's the questionnaire that you're
18 referring to?

19 THE WITNESS: Uh-huh.

20 I had never seen it before. I mean this was the
21 first time that I had ever had them come in and -- and,
22 in fact, I don't even know where I was at.

23 Ladies, was I at -- where was I at? At the
24 hospital or something that day and had to come back?

25 And when I got there, they had already done the

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1 inspection.

2 Of course, I mean, it's their job. I love them to
3 death as people and they have a responsibility, you all
4 have your responsibility you have to do, so, you know,
5 I know we all have to do what we have to do. But this
6 was the first time they had ever come in and chosen,
7 they picked some students out and gave them a
8 questionnaire, and I had never seen this before.

9 MS. BURCHETT: Okay. I just --

10 THE WITNESS: And this one student that they gave
11 it to, Sherry Anderson, she was mad at me, so she said
12 this.

13 MS. BURCHETT: I just wanted to be sure that that
14 was the questionnaire that you are referring to.

15 THE WITNESS: Uh-huh.

16 HEARING OFFICER JONES: Further questions from the
17 board?

18 All right. Then if there are no further
19 questions, we'll move to -- do you have any further
20 witnesses you would like to call, Ms. Hayden?

21 MS. HAYDEN: (Shaking head from side to side.)

22 HEARING OFFICER JONES: Okay. We'll move to
23 closing argument.

24 Ms. Gee?

25 MS. GEE: I would just like to refer the board to

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1 the Order and Notice of Hearing where the allegations
2 and charges are set out. The only charge set out in
3 the Order and Notice of Hearing is the one regarding
4 allowing students to perform services on the public
5 before 150 hours. There is no charge regarding the --
6 the allegation that mentions students not being
7 apprised of their progress, just to point that out to
8 you.

8 record for this motion, since you all didn't have any
9 deliberations, you went straight into it.

10 If you would restate your motion just to make sure
11 for clarity that the court reporter has it.

12 Ms. Turman?

13 MS. TURMAN: Okay. Finding the allegations being
14 true, I move and order the respondent to pay a fine in
15 the amount of \$500, payable within 30 days of the
16 decision -- receipt of this board's order. Failure to
17 pay the fine as ordered will result in the suspension
18 of the respondent's school license beginning 30 days
19 from the receipt of the order and continue for a period
20 of 90 days.

21 I think I've said it all.

22 HEARING OFFICER JONES: Thank you.

23 And second?

24 MS. POWELL: Thank you.

25 MS. GORDON: Second.

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1 HEARING OFFICER JONES: Ms. Gordon has a second.

2 All in favor of the motion, please raise your
3 hands.

4 (Hands raised.)

5 Thank you.

6 The motion is unanimous. Let the record reflect
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7 that decision. It will be reduced to writing and
8 service will be made or attempted upon all parties. If
9 the respondent cares to appeal the decision, appeal can
10 be taken under the Administrative Procedures Act,
11 25-15-201, and sequence, and if there is such, any
12 specific provision under the cosmetology rules.

13 Are there any further questions or comments
14 regarding this hearing?

15 If there are none, this hearing is concluded and
16 the record is closed.

17 Thank you, Ms. Hayden.

18 MS. HAYDEN: Thank you, all.

19 ---o---

20 MS. POWELL: I need order. This meeting is still
21 in session.

22 MS. TURMAN: Oh, I'm sorry.

23 HEARING OFFICER JONES: At this time we have no
24 other respondents that have showed up for hearings
25 today. So we will make one final call for all the

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1 respondents by name and hearing number and allow the
2 board an opportunity to accept the recommendations of
3 the director and the cosmetology board to as to fines.

4 At this time if anybody is present in the
5 following cases, please let it be known: Alkaly Keila,

6 African Hair Braiding, 07-314. 07-314. It appears
7 that no one is present.

8 Graciela Ayala, 07-319. 07-319. Appears there is
9 no one present.

10 Lordes Ayala, Ke-Fe Beauty Salon, 07-320. 07-320.
11 Appears that there is no one present.

12 Tony Le, Esprit de Nails, 07-325. 07-325. It
13 appears there is no one present for Mr. Le.

14 Robert Walters, Wayne's Special Touch, 07-327.
15 07-327. Appears no one is present for Mr. Walters.

16 Rhonda Wong, Unique Hair Designs, 07-334. 07-334.
17 Once again, it appears no one is present for Ms. Wong.

18 Susie Williams, The Body Shoppe and Spa, 07-339.
19 07-339. Once again, there is no one present.

20 Rachel Hourston, Ultimate Styles by Rachel,
21 07-341. 07-341. Appears no one is present for
22 Ms. Hourston.

23 Kimberly Gullic, Moravia, that's the d/b/a.
24 07-343. 07-343. It appears no one is present for
25 Ms. Gullic.

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1 Thai Thach, 07-350. 07-350. No one is present
2 for Ms. Thach.

3 Danette Yandall, Golden Shears, d/b/a, 07-360.
4 07-360. No one is present for Ms. Yandall.

5 Penny Butikefer, The Upper Cut, 07-361. 07-361.

6 Appears no one is present.

7 Edna Jones, Ultimate Nails, 07-362. 07-362. No
8 one is present for Ms. Jones.

9 Paula Sims, Paula's Le Hair Gallery, 07-363.
10 07-363. No one is present for Ms. Sims.

11 Vashti Lantz, 07-364. 07-364. No one is present.

12 Teresa Avery, Cutting Loose Style Shop, 07-366.
13 07-366. No one is present.

14 Natalie Maier, 07-369. 07-369. No one is
15 present.

16 Phaleesha Lucy, Gabby's Cut and Curl, d/b/a,
17 07-370. 07-370. No one is present for Ms. Lucy.

18 Maria Montes, d/b/a Beauty Salon Gela & Mary,
19 07-371. 07-371. No one is present.

20 Gina Gregory, d/b/a Glam Hair Salon, 07-372.
21 07-372. No one is present for Ms. Gregory.

22 La'Shunda Jackson, Gorgeous Beauty Salon, 07-374.
23 07-374. No one is present for Ms. Jackson.

24 Beverly Miller, 07-376. 07-376. Ms. Miller is
25 not present.

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1 Russell Watkins, d/b/a Celebrity Style Beauty and
2 Barber, 07-378. 07-378.

3 MS. TURMAN: I'm sorry, I don't mean to interrupt
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4 you, but this gentleman also, Mr. Russell Watkins, has
5 an unpaid penalty from 2006. I don't know what this
6 has to do with it, but he still has an unpaid penalty.

7 HEARING OFFICER JONES: Okay. Let's finish --
8 I'll finish going through these and then we'll address
9 that at that point. How about that?

10 MS. TURMAN: Okay.

11 HEARING OFFICER JONES: Russell Watkins, 07-378.

12 Appears there is no one present for Mr. Watkins.

13 Marie Ramirez d/b/a Estetica Manantial 07-379.

14 07-379. There is no one present for Ms. Ramirez.

15 Maribel Duenas, 07-380. 07-380. No one is
16 present.

17 Vernon Withers, d/b/a High Profile, 07-381.

18 07-381. Appears there is no one present for

19 Mr. Withers.

20 Beauré Stewart, d/b/a Above Average Barber and

21 Beauty, 07-387. 07-387. Appears there is no one

22 present for Mr. Stewart.

23 Rachael Haynes, 07-388. 07-388. Appears there is

24 no one present for Ms. Haynes.

25 Melissa Kendrix, d/b/a Melissa's Beauty Shop,

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1 07-389. 07-389. Appears there is no one present for

2 Ms. Kendrix.

3 Rochelle Hunter, 07-390. 07-390. Appears there
4 is no one present for Ms. Hunter.

5 Shelley Hillis, Shelley's Tanning & Nails, 07-391.
6 07-391. Appears there is no one present for
7 Ms. Hillis.

8 At this time we'll move back to 07-378,
9 Mr. Russell Watkins. Is that the one you were --

10 MS. TURMAN: That's correct.

11 HEARING OFFICER JONES: Okay. It appears that
12 Mr. Watkins has an outstanding --

13 MS. TURMAN: Penalty. Uh-huh.

14 HEARING OFFICER JONES: -- penalty.

15 Ms. Gee, how would the board like to handle this?

16 MS. GEE: Well, the board can handle that how ever
17 they want to handle it. I mean I guess what you all
18 need to do is decide what you would like to do about
19 that. What a lot of boards do is they don't allow the
20 license to be renewed without paying their, whatever
21 outstanding penalties that they have, which it appears
22 that that's part of the problem is that he was --
23 didn't have a current license.

24 MS. TURMAN: Uh-huh.

25 MS. GEE: So, as a practical matter, proceeding on

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2 really very effective. But you all can -- I mean what
3 would you like to do, I guess is my question.

4 MS. TURMAN: Well, I know he isn't licensed and
5 I -- he hasn't renewed his license, but I still
6 think -- what do we normally do in a situation like
7 this if they don't pay?

8 There is nothing we can really do?

9 MS. WITTUM: I think the ones from last year, the
10 licenses were suspended until the penalties were paid.

11 MS. GEE: Now, I'm not saying there is nothing you
12 can do about it.

13 HEARING OFFICER JONES: Ms. Gordon, go ahead with
14 your question.

15 MS. GORDON: Repeat what you're saying, Kathy.

16 MS. WITTUM: Last year what the board voted to do
17 is suspend the licenses until all of the penalties were
18 paid.

19 MS. GORDON: Was his license suspended?

20 MS. WITTUM: Uh-huh.

21 MS. GORDON: So he is working again without them?

22 MS. WITTUM: He was found to be working again
23 without a license.

24 MS. PICKERING: Excuse me.

25 HEARING OFFICER JONES: Go ahead, Ms. Pickering.

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1 MS. PICKERING: Did you say that he is working
2 without a license?

3 MS. GEE: He's a barber --

4 MS. PICKERING: Still?

5 MS. GEE: -- and he has an establishment license.

6 MS. WITTUM: Right.

7 MS. PICKERING: From '06. So in '06 his license
8 was taken from him and he's not renewed?

9 MS. GEE: Uh-huh.

10 HEARING OFFICER JONES: Ms. Gordon?

11 MS. GORDON: He is a barber?

12 MS. GEE: He is a barber and he employs two
13 cosmetologists and has an expired and suspended
14 establishment license.

15 MS. WITTUM: And Brenda may know if there is
16 actually cosmetologists who are still working there?

17 MS. MORGAN: I'm trying to find -- yes, there are.
18 But I was just going to say that he was a barber and he
19 has an establishment license in his name, I believe.

20 MS. WITTUM: Well, and on the inspection report
21 that's attached to the hearing order that you have,
22 down at the bottom it gives the name, Brenda gave the
23 names of the cosmetologists who are working there. So
24 that they -- the two cosmetologists licenses are
25 current but the establishment license is not current.

1 MS. PICKERING: Okay.

2 MS. POWELL: But they are working in an
3 unlicensed --

4 MS. TURMAN: Yes. Establishment.

5 MS. POWELL: -- establishment. So if we --

6 HEARING OFFICER JONES: If we can speak one at a
7 time for the board, just so the court report catches
8 everything.

9 MS. TURMAN: Okay.

10 MS. POWELL: So it appears that they are in
11 violation as well at this time. Correct?

12 MS. WITTUM: Yes.

13 I don't see Adrian Jackson or Lakeysha Lawson
14 listed on the list who have paid, so I don't believe a
15 penalty was issued for either one of those people. The
16 penalty was just issued for him.

17 MS. GORDON: But shouldn't they have had one, too,
18 for working in an unlicensed --

19 MS. WITTUM: That's what I'm saying. We did not
20 issue one for them, only for him.

21 MS. POWELL: I think Brenda has something she
22 would like to say.

23 HEARING OFFICER JONES: Would you all like to
24 hear -- would the board like to hear from Brenda, the
25 inspector that inspected this establishment?

1 MS. GORDON: Yes, I would.

2 HEARING OFFICER JONES: Brenda, if you would come
3 to the table and raise your right hand and be sworn in,
4 and we'll let Ms. Gee ask you a few questions and try
5 to clear up some questions for the board.

6 WHEREUPON,

7 BRENDA MORGAN,

8 having been called for examination, and having been first duly
9 sworn by the undersigned notary public, was examined and
10 testified, as follows:

11 DIRECT EXAMINATION

12 BY MS. GEE:

13 Q Let's go back to the beginning. Would you state your name
14 for the record, please.

15 A Brenda Morgan.

16 Q And how are you employed, Ms. Morgan?

17 A I'm an inspector for the State Board of Cosmetology.

18 Q Okay. And did you, on March 29, 2007, perform an inspection
19 on the Celebrity Styles Beauty and Barber?

20 A Yes, ma'am. I did.

21 Q Which is a d/b/a for Russell Watkins?

22 A Yes, ma'am.

23 Q Okay. And are you aware of the current status of
24 Mr. Watkins' licenses with this board? If that question made any
25 sense?

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1 Do you know whether Mr. Watkins has a license issued by this
2 board?

3 A I know he has a license issued by this board. I'm quite
4 unsure about the previous violation, I don't remember what date
5 that was. I don't have a copy of that before me, so if Kathy
6 could help me out there maybe.

7 Q Okay. Sure. We'll come back to that.

8 A Okay.

9 Q And when you -- when you visited Celebrity Styles Beauty and
10 Barber, what did you find?

11 A I found that Mr. Watkins was working that day. He is a
12 barber. He holds a barber license for the -- I mean a barber
13 establishment and a cosmetology establishment.

14 There was the '06 license, I believe, posted that day.
15 There were no hairdressers, or -- seems like there was one
16 hairdresser working that day. But both of the hairdressers had
17 current '07 license posted. They are in separate rooms away from
18 his salon area.

19 Spoke to him about it and he just said it was a -- he just
20 forgot to renew.

21 Q Okay. So he acknowledged that he --

22 A Yes. He knew he was not current.

23 Q And that he had to have an establishment license?

24 A Yes.

25 Q Okay. Do you recall whether you spoke to either one of the
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1 cosmetologists on that day?

2 A (Shaking head from side to side.)

3 I'm not quite sure if one -- I know that, if there was,

4 there was only one there. There was somebody shampooing, I

5 believe, and I believe it was one of the cosmetologists. I don't

6 know which one.

7 Q Okay. Is there anything else you would like to tell the

8 board about this respondent?

9 A About this? No, ma'am.

10 MS. GEE: Thank you.

11 HEARING OFFICER JONES: Does the board have any

12 questions they would like to ask Brenda at this time

13 about this incident?

14 Go ahead.

15 MS. TURMAN: Okay. The respondent has not renewed

16 his license, it appears, since May 3, 2007. And the

17 reason why that he did receive this penalty was because

18 one of the same hairdressers, this Adrian Jackson, was

19 operating without -- expired practitioner's license at

20 that point and it said it had been unpaid. We

21 should -- evidently she's one of the two that's still

22 working there. Did she have a -- she did have a

23 current license at this --

24 THE WITNESS: She had a current license the day

25 that I was in there, in March of this year. March 29.

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1 I don't know, I'm not sure about the last violation.

2 MS. TURMAN: Thank you.

3 HEARING OFFICER JONES: Further questions?

4 Go ahead, Ms. Burchett.

5 MS. BURCHETT: I thought I understood that his
6 license were suspended because of not paying his fine?

7 MS. WITTUM: I apologize.

8 HEARING OFFICER JONES: Wait. Wait.

9 Hold on just a second.

10 If this isn't a question for Brenda, I'm going to
11 let her sit down and then you can ask Ms. Wittum.
12 Okay?

13 MS. BURCHETT: Sorry.

14 MS. POWELL: That's okay.

15 Ms. Ward?

16 MS. WARD: At the time that you was in there, you
17 wasn't -- were you aware that his license was
18 suspended?

19 THE WITNESS: No, ma'am.

20 MS. WARD: Okay. That's why you didn't write the
21 girl up, the cosmetologist that was working in there?
22 That's the reason you --

23 THE WITNESS: Yeah. I could only write up what I
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24 saw, that they had current license posted, and he did
25 not.

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1 MS. WARD: Yeah.

2 THE WITNESS: I was unaware of what happened in a
3 previous violation.

4 MS. WARD: Because if you would have been aware of
5 it, then you would have written her up for working in
6 an unlicensed establishment. Am I correct?

7 MS. WITTUM: Can we clear -- let me clear this up.

8 She can't answer.

9 HEARING OFFICER JONES: Hold on.

10 Wait, Ms. Wittum. Wait.

11 MS. WITTUM: Okay.

12 HEARING OFFICER JONES: Okay. We'll let you have
13 your say in just a moment and go through this properly,
14 in case he decides to appeal.

15 MS. WARD: Okay.

16 HEARING OFFICER JONES: Any further questions for
17 Brenda?

18 Okay. Thank you.

19 Ms. Gee?

20 MS. GEE: I would like to call Ms. Wittum.

21 HEARING OFFICER JONES: Very well.

22 Ms. Wittum, have you been sworn in?

23 MS. WITTUM: Yes.

24 HEARING OFFICER JONES: Okay.

25 WHEREUPON,

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1 KATHY WITTUM,

2 having been called for examination, and having been first duly

3 sworn by the undersigned notary public, was examined and

4 testified, as follows:

5 DIRECT EXAMINATION

6 BY MS. GEE:

7 Q Could you state your name for the record, please.

8 A Kathy Wittum.

9 Q And what is your occupation?

10 A Director.

11 Q Of?

12 A State Board of Cosmetology.

13 Q Okay. Are you familiar with the board's record with regard

14 to Russell Watkins?

15 A Yes.

16 Q Okay. The respondent in this matter?

17 A Yes.

18 Q Okay. Can you give us, give the board an overview, please,

19 of the current status of his license as issued by the board.

20 A Yes.

21 I misstated earlier. It is not suspended. It is -- he is

22 unlicensed, but it was not suspended. He was violated -- or he
23 was issued a violation on October -- or excuse me, July 17, 2006,
24 for allowing Adrian Jackson to work in the establishment, and
25 Adrian Jackson was unlicensed.

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1 The date of that inspection was April 28, 2006.

2 He was ordered to pay \$215. He received notice of this,
3 findings of facts, and he failed to pay that \$215.

4 Q Okay. Was Adrian Jackson -- was -- I'm not sure if that's a
5 man or a woman. Was Adrian Jackson never licensed or was the
6 license expired?

7 A It was not -- he was not licensed at that time. He is now
8 licensed, as you can see from the current inspection report.

9 MS. GORDON: I have a question.

10 HEARING OFFICER JONES: Okay. Just a minute.

11 MS. GEE: I have nothing further.

12 The board can ask questions.

13 HEARING OFFICER JONES: Ms. Gordon, go right
14 ahead.

15 MS. GORDON: So they are working in an
16 unlicensed --

17 THE WITNESS: Uh-huh.

18 MS. GORDON: -- or a salon where the license is
19 not current?

20 THE WITNESS: That's true.

21 MS. GORDON: And they didn't get written up for
22 working in an unlicensed establishment?

23 THE WITNESS: No. They did not.

24 Amber, do you have something?

25 MS. McCUIEN: Uh-huh. I haven't been sworn in or

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1 anything.

2 HEARING OFFICER JONES: You're allowed to be
3 called as a witness, so we'll get to you in -- we'll
4 get you in in just a minute. Okay?

5 MS. GEE: I would just like to say -- can I say
6 something real quickly?

7 HEARING OFFICER JONES: Sure.

8 MS. GEE: They still can be. I mean they can
9 still be brought up on these violations, if that's what
10 the board wants to do. I mean we just need to focus on
11 Mr. Watkins right now. But we can -- I mean that --
12 that train is not gone, I mean.

13 HEARING OFFICER JONES: Okay. Any further
14 questions for Ms. Wittum from the board concerning
15 Mr. Watkins' license or penalties or nonpayment?

16 MS. GORDON: I have another question.

17 HEARING OFFICER JONES: Go ahead.

18 MS. GORDON: I was on this before. But what can
19 we do in a situation like this where his -- his license

20 is not suspended. Right?

21 THE WITNESS: Uh-huh.

22 MS. GORDON: But he doesn't have a current
23 license?

24 THE WITNESS: Uh-huh.

25 MS. GEE: Right.

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1 MS. GORDON: So what are our -- what are our
2 limits or what can we do to convince him that he needs
3 to pay?

4 HEARING OFFICER JONES: Before you answer, because
5 I think this gets more into the deliberations, we're
6 going to --

7 MS. GEE: Deliberations. Yes.
8 I'm remembering your question.

9 MS. GORDON: Okay.

10 HEARING OFFICER JONES: Okay. We're going to
11 close the record at this time and have deliberations by
12 the board before a motion is made, we will go back on
13 the record.

14 (WHEREUPON, the Commission retired to deliberate,
15 off the record, and returned with the following
16 motion.)

17 HEARING OFFICER JONES: Okay. At this time we'll
18 back on the record.

19 Is there a motion? Ms. Ward?

20 MS. WARD: If I can get it straight.

21 MS. GEE: Just say you make a motion --

22 MS. WARD: Okay. I make a motion to continue the
23 Russell Watkins hearing until our next board meeting.

24 HEARING OFFICER JONES: Okay. The motion is to
25 continue Russell Watkins, which is 07-378, until the

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1 July board meeting. Is there a second?

2 MS. PICKERING: I second it.

3 HEARING OFFICER JONES: Second, Ms. Pickering.

4 MS. POWELL: I have a motion --

5 HEARING OFFICER JONES: All those in favor?

6 (Hands raised.)

7 The vote is unanimous. Let the record reflect
8 that that decision is unanimous. Please reduce this to
9 writing and inform the respondent, Mr. Watkins, that
10 his has been continued because the board has further
11 issues.

12 If there are no questions or comments pertaining
13 to Mr. Watkins, we'll close his hearing.

14 ---o---

15 HEARING OFFICER JONES: Okay. Back to all the no
16 shows. I'm going to call these numbers one more time
17 and at which time we'll take a motion from the board:

18 07-314; 07-319; 07-320; 07-325; 07-327; 07-334; 07-339;
19 07-341; 07-343; 07-350; 07-360; 07-361; 07-362; 07-363;
20 07-364; 07-366; 07-369; 07-370; 07-371; 07-372; 07-374;
21 07-376; 07-379; 07-380; 07-381; 07-387; 07-388; 07-389;
22 07-390; 07-391. Upon a second calling of these
23 hearings, there is still no one present for any of
24 them.
25 At this time what is the desire of the board

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1 concerning these no shows?

2 MS. GEE: If I could interrupt for just a moment,
3 Madam Hearing Officer, 07-341, I think you called that
4 number, and that is one of the respondents who
5 requested a continuance.

6 HEARING OFFICER JONES: Sorry about that. 341 is
7 taken off. I'm sorry. I just didn't get that taken
8 off my list. If the court reporter would take 07-341
9 out.

10 Okay. What would the board like to do with these
11 that did not show? The director has recommended
12 penalties for each of them, I believe.

13 Is there a motion?

14 MS. POWELL: Are these --

15 MS. PICKERING: I make a motion -- I make a motion
16 that -- I would like to make a motion that --

17 HEARING OFFICER JONES: Ms. Pickering?

18 MS. PICKERING: Excuse me.

19 HEARING OFFICER JONES: Go right ahead.

20 MS. PICKERING: I would like to make a motion that
21 these, each one that was listed, to be fined
22 accordingly.

23 MS. GORDON: Second.

24 HEARING OFFICER JONES: Second.

25 There is a motion and a second by several people,

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1 so --

2 MS. POWELL: Does that -- do you want to amend
3 your motion to include the administrative fees?

4 MS. PICKERING: Yes. Yes. I make a motion --

5 MS. POWELL: Twenty-five dollars?

6 MS. PICKERING: Yes.

7 HEARING OFFICER JONES: Okay. The motion is to
8 accept the penalties as stated in the notices of
9 hearing and assess a 25-dollar administrative fee to
10 each of those that did not show. And we have a second
11 for that motion.

12 MS. TURMAN: I'll second.

13 HEARING OFFICER JONES: Okay. There is a motion
14 and a second.

15 All those in favor.

16 (Hands raised.)

17 Let the record reflect the decision of the board
18 was unanimous to -- to fine each of these individuals
19 the recommended amount, plus \$25 for the administrative
20 fee. Please reduce that to writing and send it out to
21 the parties and let them know that they can take an
22 appeal under the Administrative Procedures Act
23 25-15-201.

24 If there are no other questions or comments
25 concerning these, these respondents, we will close the

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1 record.

2 Thank you.

3 At this time we'll read off the respondents who
4 have waived their rights, and they are: 07-313, Carla
5 Allen; 07-315, Wyndilyn Ratcliff; 07-316, Angie
6 Blankenship; and 07-316, again, Candice Holladay;
7 07-317, Nikki Smith; 07-318, Julie Teague; 07-321, Phi
8 Hong T. Huynh; 07-322, Scott Tho Huynh; 07-323, Thuy
9 Huynh; 07-324, Yam Nguyen; 07-326, Nhut Nguyen; 07-328,
10 Mary Royal; 07-330, Glenda Hinton; 07-331, Cheryl
11 Irvan; 07-332, Lindsey Daniel; 07-333, Glenda Mills;
12 07-335, Long Truong; 07-337, Wendy Busby; 07-338,
13 Ashley Poteat; 07-339, Susie Williams; 07-340, Cari
14 Ablonde. These individuals as respondent have waived

15 their rights to a hearing and have paid their -- their
16 assessed fines to the office.

17 Do I have a motion?

18 Oh, sorry. I seem to be -- excuse me. We have
19 some more to add to those. I missed a sheet.

20 Hold on on your motion.

21 Back to the ones who have waived their rights.

22 07-342, Kristie Tweedle; 07-344, Ronald Rogers; 07-345,
23 Cheryl Philpot; 07-346, Katregna Berry; 07-348, Long
24 Bui Truong; 07-349, Tammy Nguyen; 07-351, Rebecca
25 Baldwin; 07-351, Joseph Nguyen; 07-353, Teresa Payton;

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1 07-354, Tabitha Fears; 07-355, Irma Manus; 07-356,
2 Ginger Pixley; 07-357, Christie Rogers; 07-358, Voung
3 Pham; 07-359, Debbie McAfee; 07-365, Minnesota Regis
4 Corporation, d/b/a Smart Style #307; 07-369, Natalie
5 Maier; 07-370, Phaleesha Lucy; 07-373, Magahi Acurio
6 Sanchez; 07-375, Amy McNabb; 07-376, Charlene Rainey;
7 07-380, Maria Ramirez; 07-384, Leia Seong Cha; 07-385,
8 Christopher Wittenburg; 07-386, Mary Burton; 07-391,
9 Shelley Hillis. All these have waived their rights and
10 have paid their fines.

11 So at this time that is it for the hearings and
12 those who have paid and all of that.

13 MS. POWELL: Do I have a motion?

14 MS. PICKERING: I make a motion that we --
15 MS. POWELL: To accept those?
16 MS. PICKERING: Right.
17 MS. TURMAN: Second.
18 MS. POWELL: We have a motion and a second. All
19 those in -- any discussion?
20 All those in favor, raise your right hand.
21 (Hands raised.)
22 The motion is unanimous.
23 HEARING OFFICER JONES: Waivers have been accepted
24 by the board, will be reflected as such.
25 There are no further hearings at this time.

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1 MS. POWELL: At this time I will open the floor
2 for public comment.
3 Does anyone want to approach the board?
4 Close the floor for public comment.
5 Okay. The meeting is adjourned.
6 (WHEREUPON, at 10:11 a.m., the above-entitled
7 proceedings were concluded.)

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SUSAN B. WHITSON, CCR, INC. (501) 455-1170

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1 CERTIFICATE

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3 STATE OF ARKANSAS)

4 COUNTY OF PULASKI)

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6 I, SUSAN B. WHITSON, Certified Court Reporter and
7 notary public in and for Pulaski County, State of Arkansas, do
8 hereby certify that the witnesses were duly sworn by me prior to
9 the taking of testimony as to the truth of the matters attested
10 to and contained therein; that the meeting and hearings before
11 the Arkansas State Board of Cosmetology, June 4, 2007, was taken

12 by me in Stenotype and reduced to computer-generated typewritten
13 form by me or under my direction and supervision; and that the
14 same is a true and correct reflection of the proceedings that
15 occurred, to the best of my knowledge and ability.

16 I FURTHER CERTIFY that I am neither counsel for,
17 related to, nor employed by any of the parties to the action in
18 which this proceeding was taken; and, further that I am not a
19 relative or employee of any attorney or counsel employed by the
20 parties hereto, nor financially interested, or otherwise, in the
21 outcome of this action; and that I have no contract with the
22 parties, attorneys, or persons with an interest in the action
23 that affects or has a substantial tendency to affect
24 impartiality, that requires me to relinquish control of an
25 original transcript or copies of the transcript before it is

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1 certified and delivered to the custodial attorney, or that
2 requires me to provide any service not made available to all
3 parties to the action.

4 SIGNED AND SWORN this _____ day of
5 _____.

6

7

8 _____
9 SUSAN B. WHITSON, CCR, #158

10 NOTARY PUBLIC IN AND FOR

PULASKI COUNTY, ARKANSAS

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12 My Commission Expires: June 4, 2012.

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