

1
2
3
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8
9
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11
12
13
14
15
16
17
18
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BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

ADMINISTRATIVE HEARINGS
AND
BOARD MEETING

December 3, 2007

BE IT REMEMBERED that on Monday, the 3rd day of
December 2007, before the Arkansas State Board of Cosmetology and
its department staff, at 8:30 a.m. in the South Basement
Conference Room of the Main Street Mall, located at 101 East
Capitol Avenue, Little Rock, Pulaski County, Arkansas, business
and administrative hearings came on for hearing as follows:

SUSAN B. WHITSON, CCR

Arkansas Supreme Court Certificate No. 158

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Mabelvale, Arkansas 72103
(501) 455-1170
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SUSAN B. WHITSON, CCR, INC. (501) 455-1170

1 APPEARANCES:

2 Board Members:

3 CATHY CAVER-BLADE - President
JANE POWELL (not present)

4 PATRICIA TURMAN - Secretary
LaJOY GORDON (not present)

5 BARBARA WARD - Treasurer
SUSAN COLLINS-BURROUGH

6 ANN PICKERING
SCOTTIE BURCHETT

7 JOYCE SMITH

8

9 Staff Members Present:

10 KATHY WITTUM - Executive Director
AMBER McCUIEN

11 SHAUNTA BELMONT

12 Board Inspectors Present:

13 SHEILA CAUDLE
ROSE HORNER

14 PAT BLAND JACKSON
LAVONNE GREEN

15 BRENDA MORGAN

16 ON BEHALF OF THE BOARD:

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

19

20 HEARING OFFICER:

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

23

24

25

1 ON BEHALF OF TRI MINH LE, CALIFORNIA NAILS:

2 BRIAN A. ACHORN, ESQ.
3 Robinson & Associates
4 720 West Sixth Street
5 Pine Bluff, Arkansas 71601

6 RESPONDENTS PRESENT:

7 Tim Collins
8 Beatriz Bonillo
9 Hanh Nguyen
10 Tri Minh Le
11 Tonya K. Domineck
12 Frank Sullivan
13 Melissa Welch

14 ADDITIONAL WITNESSES PRESENT:

15 Maria Figueroa
16 Andrea Sosa
17 Lorene Campbell

18 ALSO PRESENT:

19 Veda Traylor
20 Linda Lee
21 Lucille Coleman
22 Linda Holloway
23 Anetria Perry
24 Amanda Holloway
25 Carla Jones
26 Jessica Smith
27 Ida McLean
28 Marie Lanza, Certified Interpreter
29 Ngau Van Tu, Interpreter

30 Court Reporter:

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

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36

I N D E X		
	AGENDA ITEM	PAGE
1		
2	AGENDA ITEM	PAGE
3	CAPTION	1
4	APPEARANCES	1
5	CALL TO ORDER - Roll Call	12
6	Board member update	
7	Joyce Smith, Manicurist	13
8	ADMINISTRATIVE HEARINGS	
9	HEARING ORDER NO. 07-515	14
10	WITNESSES:	
11	PAT JACKSON	
12	Direct by Ms. Gee	18
13	Examination by the Board	21
14	TIM COLLINS	
15	Direct Testimony	22
16	Cross by Ms. Gee	24
17	Examination by the Board	24
18	EXHIBITS:	
19	BOARD'S:	
20	1 (Order and Notice of Hearing)	20
21	2 (Inspection report)	20
22	3 (Rules and regulations)	20
23	Decision of the Board	28
24	HEARING ORDER NO. 07-532	29
25	WITNESSES:	

1	ROSE HORNER	
2	Direct by Ms. Gee	33
3	Cross by Ms. Bonillo	35
4	Examination by the Board	36
5	MARIA FIGUEROA	
6	Direct by Ms. Bonillo	39
7	Cross by Ms. Gee	40
8	Examination by the Board	40
9	ANDREA SOSA	
10	Direct by Ms. Bonillo	44
11	Examination by the Board	45
12	BEATRIZ BONILLO	
13	Direct Testimony	47
14	Cross by Ms. Gee	47
15	Examination by the Board	48
16	EXHIBITS:	
17	BOARD'S:	
18	1 (Rules and regulations)	38
19	2 (Order and Notice of Hearing)	38
20	3 (Inspection report)	38
21	Decision of the Board	50
22	HEARING ORDER NO. 07-534	57
23	WITNESSES:	
24	ROSE HORNER	
25	Direct by Ms. Gee	60

1	Examination by the Board	65
2	HANH NGUYEN	
3	Direct Testimony	66
4	Cross by Ms. Gee	67
5	Examination by the Board	70
6	ROSE HORNER	
7	Redirect by Ms. Gee	74
8	Examination by the Board	75
9	EXHIBITS:	
10	BOARD'S:	
11	1 (Rules and regulations)	64
12	2 (Order and Notice of Hearing)	64
13	3 (Inspection report)	64
14	Decision of the Board	77
15	HEARING ORDER NO. 07-533	80
16	WITNESSES:	
17	PAT JACKSON	
18	Direct by Ms. Gee	85
19	Cross by Mr. Achorn	93
20	Examination by the Board	100
21	Redirect by Ms. Gee	107
22	LORENE CAMPBELL	
23	Direct by Mr. Achorn	111
24	Cross by Ms. Gee	116
25	Examination by the Board	121

1	Redirect by Mr. Achorn	129
2	Recross by Ms. Gee	130
3	TRI MINH LE	
4	Direct by Mr. Achorn	131
5	Cross by Ms. Gee	143
6	Examination by the Board	149
7	EXHIBITS:	
8	BOARD'S:	
9	1 (Rules and regulations)	87
10	2 (Order and Notice of Hearing)	87
11	3 (Inspection report)	87
12	RESPONDENT'S:	
13	1 (Photo)	134
14	2 (Photo)	134
15	3 (Photo)	135
16	4 (Copies of licenses)	137
17	Decision of the Board	171
18	HEARING ORDER NO. 07-418	177
19	WITNESSES:	
20	PAT JACKSON	
21	Direct by Ms. Gee	179
22	Examination by the Board	181
23	TONYA DOMINECK	
24	Direct Testimony	183
25	Examination by the Board	185

1	EXHIBITS:	
2	BOARD'S	
3	1	(Rules and regulations) 182
4	2	(Order and Notice of Hearing) 182
5	3	(Inspection report) 182
6	Decision of the Board	188
7	HEARING ORDER NO. 07-540	190
8	SHEILA CAUDLE	
9	Direct by Ms. Gee	193
10	Cross by Mr. Sullivan	205
11	FRANK SULLIVAN	
12	Direct Testimony	208
13	Cross by Ms. Gee	210
14	Examination by the Board	217
15	SHEILA CAUDLE	
16	Examination by the Board	222
17	EXHIBITS:	
18	BOARD'S:	
19	1	(Order and Notice of Hearing) 198
20	2	(Rules and regulations) 198
21	3	(Inspection report) 198
22	4	(Summary regarding Connie Tate) 198
23	5	(Notes regarding student appointment) 200
24	6	(Notes regarding instructor
25	appointments)	201

1	7	(Notes regarding Willie Bowser)	202
2	8	(Notes regarding Kimberly Walton)	202
3	9	(Notes regarding Constance Williams)	203
4	10	(Notes regarding Gabrielle Cummings)	204
5		Decision of the Board	222
6		HEARING ORDER NO. 07-500	226
7		WITNESSES:	
8		PAT JACKSON	
9		Direct by Ms. Gee	230
10		MELISSA WELCH	
11		Direct by Ms. Gee	234
12		MELISSA WELCH	
13		Direct Testimony	237
14		EXHIBITS:	
15		BOARD'S:	
16	1	(Rules and regulations)	230
17	2	(Order and Notice of Hearing)	230
18	3	(Inspection report)	230
19		Decision of the Board	238
20		ADMINISTRATIVE HEARINGS:	
21		HEARING ORDER NO. 07-416	241
22		Decision of the Board	250
23		HEARING ORDER NO. 07-368	241
24		Decision of the Board	250
25		HEARING ORDER NO. 07-367	241

1	Decision of the Board	251
2	HEARING ORDER NO. 07-427	241
3	Decision of the Board	251
4	HEARING ORDER NO. 07-423	241
5	Decision of the Board	252
6	HEARING ORDER NO. 07-518	241
7	Decision of the Board	252
8	HEARING ORDER NO. 07-529	241
9	Decision of the Board	253
10	HEARING ORDER NO. 07-501	241
11	Decision of the Board	254
12	HEARING ORDER NO. 07-393	241
13	Decision of the Board	254
14	WITNESSES:	
15	AMBER McCUIEN	
16	Direct by Ms. Gee	244
17	ADMINISTRATIVE HEARINGS:	
18	HEARING ORDER NO. 07-420	255
19	HEARING ORDER NO. 07-525	255
20	HEARING ORDER NO. 07-522	255
21	HEARING ORDER NO. 07-437	255
22	Decision of the Board	256
23	BUSINESS	
24	Board's Treasurer Report	256
25	Approval of Minutes, September 17, 2007	256

1	Director Updates	257
2	Staff	257
3	Newsletter	257
4	Renewals	258
5	Access Database Development	260
6	Legislative Joint Auditing Committee	262
7	Professional Credential Services	263
8	Reciprocity Errors	270
9	Handouts	297
10		
11	Reporter's certificate	301
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

2 MS. CAVER-BLADE: Okay. I call the meeting to
3 order.

4 First of all, Pat, are you going to do the roll
5 call?

6 MS. TURMAN: Yes. I'm going to do a roll call.
7 Scottie Burchett?

8 MS. BURCHETT: Here.

9 MS. TURMAN: Cathy Caver-Blade?

10 MS. CAVER-BLADE: Here.

11 MS. TURMAN: Susan Collins-Burrough?

12 MS. COLLINS-BURROUGH: Here.

13 MS. TURMAN: LaJoy?

14 Ann Pickering?

15 MS. PICKERING: Here.

16 MS. TURMAN: Jane Powell?

17 Joyce Smith.

18 MS. SMITH: Here.

19 MS. TURMAN: She's here.

20 And Barbara Ward?

21 MS. WARD: Here.

22 MS. TURMAN: Six board members, but LaJoy and Jane
23 are not present.

24 MS. CAVER-BLADE: Okay. And --

25 MS. WITTUM: Well, I was just going to let

1 everybody know, LaJoy's daughter called. She said that
2 LaJoy had surgery at the end of last week. She didn't
3 elaborate on it, but she just said that she was doing
4 well but wouldn't be able to be here today.

5 MS. CAVER-BLADE: And I would like to welcome new
6 board member Joyce Smith. I haven't met you yet, but
7 I'm glad you're here.

8 And then at this time I do turn it over to
9 Barbara.

10 MS. WITTUM: We're going to turn it over to Kendra
11 to do the hearings.

12 MS. CAVER-BLADE: Okay. Kendra, all yours.

13 HEARING OFFICER JONES: Great.

14 Well, this morning we're going to start out with
15 Estillo's Beauty Salon, and that is 07-532. 07-532.

16 Just come on forward. Have a seat up here at the
17 table.

18 It's 07-532.

19 MS. GEE: Kathy, is the interpreter here?

20 Is the interpreter here?

21 MS. WITTUM: She's not here yet.

22 MS. GEE: Okay. We'll call you when she gets
23 here. The interpreter is coming. Okay?

24 MS. WITTUM: The interpreter is not here yet.

25 HEARING OFFICER JONES: Okay. We're going to go

1 on to the next one. We have an interpreter coming for
2 that one.

3 ADMINISTRATIVE HEARING NO. 07-515

4 We'll go with Classic Cuts Beauty Shop, Tim
5 Collins. Classic Cuts Beauty Shop, Tim Collins. And
6 it is 07-515. Have a seat, Mr. Collins. 07-515. And
7 I'll give the board members a minute to find the
8 paperwork.

9 If everybody has got the paperwork in front of
10 them, we'll get started.

11 My name is Kendra Akin Jones and I'm the Hearing
12 Officer today in the matter of Tim Collins, Classic
13 Cuts Beauty Shop, Owner; Hearing No. 07-515, to be
14 heard before the Arkansas State Board of Cosmetology.
15 Today is December 3, 2007, and we're located in
16 Conference Room C of the Main Street Mall.

17 Would the respondent please identify yourself for
18 the record.

19 MR. COLLINS: First of all, good morning. And my
20 name is Tim Collins, and I'm from Pine Bluff, Arkansas.

21 HEARING OFFICER JONES: Okay. Thank you,
22 Mr. Collins.

23 And do you have counsel here with you today? Do
24 you have an attorney?

25 MR. COLLINS: No. I don't.

1 HEARING OFFICER JONES: Okay. Did you receive a
2 copy in the mail of the Order and Notice of Hearing for
3 you to be here today?

4 MR. COLLINS: Well, to be honest with you, I'm
5 going through a divorce and I couldn't get my mail.

6 HEARING OFFICER JONES: Okay. Right.

7 MR. COLLINS: And I heard through word of mouth
8 through one of the ladies that used to work for me --

9 HEARING OFFICER JONES: Okay.

10 MR. COLLINS: -- she told me and I came up last
11 Monday to find out what was going on.

12 HEARING OFFICER JONES: Okay. And you got a copy
13 of it then?

14 MR. COLLINS: Yes. I got it. I did not bring it
15 with me.

16 HEARING OFFICER JONES: Okay. That's all right.
17 As long as you were notified of it, that's the main
18 thing.

19 MR. COLLINS: Yes.

20 HEARING OFFICER JONES: State's counsel, identify
21 yourself for the record.

22 MS. GEE: Assistant Attorney General Erika Gee.

23 HEARING OFFICER JONES: Okay. For the
24 respondent's behalf, as well as anybody else present
25 today who may not have appeared before in an

1 administrative hearing, I will explain briefly kind of
2 what the board will do and how its decision will be
3 reached. The board will base its decision solely upon
4 the evidence presented here today.

5 This hearing is being held under the
6 Administrative Procedures Act, which means that the
7 strict rules of evidence that would apply in a regular
8 court of law do not apply. That means as Hearing
9 Officer I have certain latitude to allow evidence to be
10 entered, certain statements or documents that might not
11 typically be entered in a court of law. To ensure the
12 efficiency of the proceedings, I may grant some
13 objections, caution the parties as necessary.

14 The board members know of this case only as it
15 appears and is set forth in the Notice of Hearing, and
16 if you have anything that you would like to have
17 submitted to them for their consideration, you may
18 present that and we'll determine whether they can
19 review that. You must offer anything you want to be
20 considered into evidence today or it will not be
21 considered by the board.

22 All participants of the hearing should be aware
23 that the proceedings are subject to the Freedom of
24 Information Act, and that all hearings, including the
25 deliberations of the board, are open to the public.

1 Okay. For those of you who are going to be a
2 witness in this hearing, please raise your right hand
3 and we'll ask the court reporter to swear you in.
4 Mr. Collins, that will include you.

5 (WHEREUPON, the witnesses were sworn.)

6 HEARING OFFICER JONES: Okay. Any preliminary
7 matters, Ms. Gee?

8 MS. GEE: No.

9 HEARING OFFICER JONES: Mr. Collins, anything?

10 MR. COLLINS: (Shaking head from side to side.)

11 HEARING OFFICER JONES: Okay. Then I will allow
12 Ms. Gee to make her opening statement.

13 MS. GEE: Briefly, Mr. Collins is here today as an
14 establishment owner who has, on more than one occasion,
15 operated his establishment without a license. And
16 Inspector Jackson will testify about her visits to the
17 salon and the status of its license at that time.

18 HEARING OFFICER JONES: Thank you, Ms. Gee.

19 Mr. Collins, is there anything you would like to
20 say to the board in opening?

21 And you will have a chance to give your full --
22 your full story. This is just kind of your chance
23 to --

24 MR. COLLINS: I'll just wait until after she's
25 through.

1 HEARING OFFICER JONES: Okay. Ms. Gee, you can
2 call your first witness.

3 MS. GEE: I would like to call Pat Jackson,
4 please. And she's here.

5 WHEREUPON,

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

10 DIRECT EXAMINATION

11 BY MS. GEE:

12 Q Could you please state your name and occupation for the
13 record?

14 A Pat Bland Jackson, Inspector, Arkansas State Board of
15 Cosmetology.

16 Q All right. And as the inspector for the cosmetology board,
17 have you had occasion to visit Classic Cuts Beauty Shop?

18 A Yes. I have.

19 Q In Pine Bluff?

20 A Yes. I have.

21 Q And is that the establishment owned by Tim Collins?

22 A Yes. It is.

23 Q Okay. And did you first visit that shop on May 10, 2007?

24 A Yes.

25 Q Okay. And when you visited on May 10, 2007, what was the

- 1 status of the license as posted? The licenses posted there?
- 2 A At that time the license had expired and there was no
3 current 2007 license.
- 4 Q What year was the license that was posted, if you recall?
- 5 A 2005. 2005 is the last one that I saw.
- 6 Q Okay. And were there any practitioners working there at the
7 time?
- 8 A Yes. There were.
- 9 Q Okay. Did you return to that salon after May 10, 2007, for
10 another inspection?
- 11 A I have not.
12 Oh, I'm sorry. I didn't have my glasses on.
13 Yes. I did.
- 14 Q Okay. And was that in August?
- 15 A August 24th.
- 16 Q Okay. And in August when you returned, what was the status
17 of the license at that time?
- 18 A The license were expired.
- 19 Q Okay. To your knowledge, according to the board's records,
20 has Mr. Collins ever operated his establishment without a current
21 license before?
- 22 A In the past, yes.
- 23 Q Okay. Can you tell us a little bit more about those
24 previous occasions?
- 25 A May 2002, license was expired. February 2004, license was

1 expired.

2 Q Okay. Let me see.

3 Do you have a copy of the inspection report you filled out
4 in May of 2007?

5 A Yes. I do.

6 MS. GEE: Okay. Let me provide a copy to
7 Mr. Collins here, in the event that he doesn't have
8 one.

9 And what I would like to do also is --
10 Can I borrow that for a minute?

11 THE WITNESS: Sure.

12 MS. GEE: I would like to introduce the hearing
13 Order -- excuse me -- Order and Notice of Hearing as
14 Board's Exhibit 1; the inspection report summary as
15 Board's Exhibit 2; and the cosmetology rules and law as
16 Board's Exhibit 3, if you have no objection.

17 MR. COLLINS: (Shaking head from side to side.)

18 HEARING OFFICER JONES: Mr. Collins, do you have
19 any objection to this?

20 MR. COLLINS: No.

21 HEARING OFFICER JONES: Then the Notice and Order
22 of Hearing will be Exhibit 1 for the cosmetology board;
23 Exhibit 2 will be the inspection report; and Exhibit 3
24 will be the rules and regulations.

25 (WHEREUPON, Board's Exhibits Nos. 1, 2, and 3 were

1 received in evidence.)

2 MS. GEE: I have nothing further for this witness.

3 HEARING OFFICER JONES: Thank you, Ms. Gee.

4 Mr. Collins, do you have any questions you would
5 like to ask Ms. Jackson concerning her inspection or
6 visits?

7 MR. COLLINS: No. No. No, ma'am.

8 HEARING OFFICER JONES: Okay. Ms. Gee, call your
9 next witness -- or, well, hold on just a minute.

10 Does the board have any questions they would like
11 to ask of Ms. Jackson before we move on?

12 MS. COLLINS-BURROUGH: Is just the -- yes. I
13 would.

14 Is just the establishment license expired or the
15 practitioner or both?

16 THE WITNESS: No. Just the establishment license.

17 MS. COLLINS-BURROUGH: So the practitioner's was
18 current?

19 THE WITNESS: Yes.

20 MS. COLLINS-BURROUGH: Were they current with each
21 inspection?

22 THE WITNESS: Yes.

23 MS. COLLINS-BURROUGH: Okay.

24 HEARING OFFICER JONES: Any further questions from
25 the board for Ms. Jackson?

1 Okay. Ms. Gee, now you may call your next
2 witness.

3 MS. GEE: If I could, I would like to go ahead and
4 let Mr. Collins proceed, and I may follow up with some
5 questions for him.

6 HEARING OFFICER JONES: Okay. Very well then.

7 Mr. Collins, this is your opportunity to talk to
8 the board and tell them -- explain to them your story,
9 answer any questions that they may have and produce any
10 evidence that you would like entered for their
11 consideration before they make a decision.

12 WHEREUPON,

13 TIM COLLINS,
14 having been called for examination, and having been first duly
15 sworn by the undersigned notary public, was examined and
16 testified, as follows:

17 DIRECT TESTIMONY

18 THE WITNESS: Okay. First off, I'm not here to --
19 to -- I'm trying to get this straight here this
20 morning.

21 My mom handicapped me. She known to pay for my
22 license, because she was doing hair before she
23 deceased. During, I think, 2005 that she deceased, it
24 was a big blow to me.

25 In 2006, my father deceased after then. If you

1 guys go back and check, I have come up here and wrote a
2 check to -- about two years ago to bring me current.
3 My check did not clear because I didn't know the State
4 had a levy on my checking account. So, during that --
5 about 30 days later they came and picked me up and
6 taken me to Sherwood to pay for that check.

7 I -- I had thought that when I paid the check,
8 that you guys got your money that I paid for it,
9 because I think it were 300-and-some dollars. So, I
10 thought it would bring me up current.

11 So last year, I didn't get my license last year at
12 all for my shop. I think you remember that,
13 Ms. Jackson.

14 MS. JACKSON: Uh-huh.

15 THE WITNESS: And I thought that when I paid the
16 check at Sherwood, that cleared my account and brought
17 me up with this money here to the board.

18 HEARING OFFICER JONES: Do you have any evidence
19 you would like to present to the board?

20 THE WITNESS: No. I don't. No. I don't.

21 HEARING OFFICER JONES: Okay. Okay. Well, I'm
22 going to give the board a chance to ask you some
23 questions, in case they have any questions, to try to
24 help them clarify this.

25 Ms. Gee, do you want to go first?

1 Go right ahead.

2 MS. GEE: If that's okay.

3 HEARING OFFICER JONES: That's fine.

4 CROSS-EXAMINATION

5 BY MS. GEE:

6 Q Okay. Mr. Collins, it sounds like from your testimony that
7 you were -- you're aware that you didn't have a current
8 establishment license posted for 2006 or 2007?

9 A Well, I -- yes, ma'am. I had talked to Ms. Jackson when she
10 came in, and you guys don't take cash, so I wrote a check.

11 Q Uh-huh.

12 But you know that you're supposed to have a current license
13 posted. Right?

14 A There suppose to be one put up. Yes, ma'am.

15 Q Okay. And you know that you didn't have a current one up?

16 A At that time I didn't have one when Ms. Jackson came in the
17 door.

18 Q Okay. Do you have one now?

19 A No. I don't.

20 MS. GEE: Okay. Thank you.

21 Does the board have any questions?

22 HEARING OFFICER JONES: Ms. Turman, go ahead.

23 MS. TURMAN: When you picked up your nonsufficient
24 fund check, didn't it give you an indication of your --
25 your -- it did not pay?

1 THE WITNESS: No. No. The State did not put --
2 you don't know until your check start coming in, coming
3 back. So I went up there to Pine Bluff National Bank
4 and they said I had a levy put on my checking account.

5 MS. TURMAN: But you would assume --

6 THE WITNESS: The money was in the -- the money
7 was in the bank.

8 MS. TURMAN: When you had that levy, wouldn't you
9 assume that that -- the --

10 THE WITNESS: No, ma'am, you couldn't -- at that
11 time you couldn't go back how many checks that you had
12 put out, and I didn't know what date that they had put
13 the levy on my checking account.

14 MS. TURMAN: I would like -- isn't it your
15 responsibility to have license current, or is it
16 someone else's responsibility to have them?

17 THE WITNESS: Oh, no. No. No, ma'am. It's my
18 responsibility.

19 And me and my mom were real close, and I've been
20 doing it for 20-something years, and this just happened
21 the last couple of years, ma'am.

22 MS. TURMAN: Thank you.

23 THE WITNESS: Yes, ma'am.

24 HEARING OFFICER JONES: Further questions for the
25 board?

1 MS. COLLINS-BURROUGH: So, you don't have a
2 current license now?

3 THE WITNESS: Well, I came up the other day to get
4 them and they told me to come to the board.

5 MS. COLLINS-BURROUGH: Okay. So this was back in
6 May? So you've been operating your salon since May?

7 THE WITNESS: No, ma'am, I haven't had -- no one
8 right now is not working there.

9 MS. COLLINS-BURROUGH: So it's closed?

10 THE WITNESS: Right.

11 Well, I haven't had any -- I rent my chairs out
12 and I don't have anybody that is in my chairs at this
13 time.

14 MS. COLLINS-BURROUGH: Okay. I see what you're
15 saying.

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

18 If there are no further questions from the board,
19 Mr. Collins, do you have any witnesses you would like
20 to call?

21 THE WITNESS: No, ma'am. I don't.

22 HEARING OFFICER JONES: Okay. So, at this time,
23 Ms. Gee, would you like to present any witnesses in a
24 rebuttal?

25 MS. GEE: No, ma'am.

1 HEARING OFFICER JONES: Okay. Then I will let you
2 make your closing statement, Ms. Gee.

3 MS. GEE: Just briefly, I think the testimony here
4 today both by Mr. Collins himself and Ms. Jackson has
5 shown that he was operating his establishment without a
6 current license. He has testified that he thought his
7 license had been renewed after he paid his over due
8 check, but we would submit to you that he -- even if he
9 thought it had been renewed, he didn't have a copy of
10 the current license to post, and he certainly should
11 have been aware of that.

12 So, if you look at the Order and Notice of
13 Hearing, he has been -- there were four charges against
14 him. The testimony here today did not support Charge
15 No. 2, so I would like you to -- we would like to
16 withdraw Charge No. 2, please. So he's charged with
17 failure to renew his establishment license and failure
18 to insure all posted licenses are current. I ask you
19 to make findings separately on the allegations and
20 charges against Mr. Collins.

21 Thank you.

22 HEARING OFFICER JONES: Mr. Collins?

23 MR. COLLINS: Yes.

24 HEARING OFFICER JONES: Anything you would like to
25 say to the board in closing before they close to

1 deliberate and make their decision?

2 MR. COLLINS: No.

3 HEARING OFFICER JONES: Okay. At this time the
4 record will be closed and complete except for the
5 board's recess for deliberations. After a decision has
6 been reached, we'll go back on the record and that
7 decision will be put into the record.

8 (WHEREUPON, the Commission retired to deliberate,
9 off the record, from 9:00 a.m. to 9:02 a.m., and
10 returned with the following motion.)

11 HEARING OFFICER JONES: At this time we'll go back
12 on the record.

13 Ms. Turman, please state your motion.

14 MS. TURMAN: Since this is habitual, I'm going to
15 make a motion finding the allegation to be true, that
16 we fine the respondent \$500, must be paid within 90
17 days.

18 MS. PICKERING: And I second that.

19 HEARING OFFICER JONES: We have a motion and a
20 second from Ms. Pickering. All those in favor of
21 fining the defendant \$500, to be paid within 90 days,
22 please raise your right hand.

23 (Hands raised.)

24 All those opposed?

25 (Hands raised.)

1 Okay. The motion passes. Please let the record
2 reflect that the board's decision was five to one in
3 favor of the motion, reduce that decision to writing,
4 and make service upon the parties. If the respondent
5 cares to appeal the decision, an appeal may be taken
6 under the Administrative Procedures Act, which is found
7 at 25-15-201, et seq., or any specific board provisions
8 which may provide for an appeal.

9 If there are no other questions or comments, this
10 hearing is concluded and the record is closed.

11 Thank you, Mr. Collins.

12 ---o---

13 ADMINISTRATIVE HEARING NO. 07-532

14 HEARING OFFICER JONES: At this time we're going
15 to move to -- I'll let everyone pull their paperwork.
16 We're going to go now to the Estillo's Beauty Salon,
17 which is 07-532. Just come forward, please. Yeah.
18 Come up here and have a seat. Let everybody get their
19 paperwork together for this and go from there.

20 Everybody has got the paperwork pulled, we'll
21 start at this time.

22 My name is Kendra Akin Jones and I'm the Hearing
23 Officer today in the matter of Beatriz Bonillo, Owner
24 of Estillo's Beauty Salon, Hearing No. 07-532, and that
25 is to be heard before the Arkansas State Board of

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

1 Cosmetology. Today is December 3, 2007, and we're
2 located in Conference Room C of the Main Street Mall.

3 If you need me to slow down or repeat anything,
4 just let me know, just so we -- I want to be sure we
5 get everybody covered.

6 Would the respondent please identify yourself for
7 the record.

8 MS. BONILLO: Beatriz Bonillo.

9 HEARING OFFICER JONES: Okay. And would the
10 interpreter, would you also, please, identify yourself?

11 INTERPRETER: Mariel Lanza, interpreter.

12 HEARING OFFICER JONES: Thank you.

13 And you do not have counsel with you today,
14 Ms. Bonillo?

15 MS. BONILLO: No.

16 HEARING OFFICER JONES: Okay. Did you receive a
17 copy of the Order and Notice of Hearing concerning
18 today's matter?

19 MS. BONILLO: Yes.

20 HEARING OFFICER JONES: All right. And would the
21 State's counsel please identify yourself for the
22 record.

23 MS. GEE: Assistant Attorney General Erika Gee.

24 HEARING OFFICER JONES: Thank you.

25 For the benefit of the respondent and anyone else

1 present today who may not have appeared before an
2 administrative hearing, I will explain that the board
3 will base its decision solely on the evidence presented
4 here today. This hearing is held under the
5 Administrative Procedures Act, which means that the
6 strict rules of evidence do not apply as they would in
7 a regular court of law. As Hearing Officer I have
8 certain latitudes -- I have certain latitudes to allow
9 evidence to be entered. And to assure the efficiency
10 of the proceeding, I may grant some objections and
11 caution the parties as necessary.

12 The board members know of this case only as it
13 appears in the Notice of Hearing. If there is anything
14 you have in your possession that you want presented to
15 them for their consideration please introduce it into
16 evidence.

17 All participants of the hearing should be aware
18 that these proceedings are subject to the Freedom of
19 Information Act, and as such the hearing will be open
20 to all members of the public who wish to attend.

21 Okay. If you're going to be a witness in this
22 case today, please raise your right hand and we'll have
23 the court reporter swear you in.

24 (WHEREUPON, the witnesses were sworn.)

25 HEARING OFFICER JONES: Okay. Ms. Gee,

1 preliminary matters that you would like to handle right
2 now?

3 MS. GEE: No.

4 HEARING OFFICER JONES: Okay. Any preliminary
5 matters?

6 MS. BONILLO: I just wanted to introduce my
7 partner.

8 HEARING OFFICER JONES: Okay.

9 MS. BONILLO: My partner is Maria Figueroa.

10 HEARING OFFICER JONES: Okay. At this time I'm
11 going to let Ms. Gee make an opening statement.

12 MS. GEE: Briefly, Ms. Bonillo is charged with
13 allowing an unlicensed person to perform cosmetological
14 services within her establishment and also with failure
15 to maintain clean furnishings. You'll hear testimony
16 from Inspector Horner about those allegations.

17 HEARING OFFICER JONES: Thank you, Ms. Gee.

18 Ms. Bonillo, anything in opening you would like to
19 say to the board?

20 MS. BONILLO: I don't have anybody without a
21 license. And I think they mistaken her daughter, she's
22 my -- my partner's daughter. And she thought she was
23 plucking her eyebrows, but she never did that.

24 HEARING OFFICER JONES: Okay. At this time I'm
25 going to let Ms. Gee call your first witness.

1 MS. GEE: I would like to call Inspector Horner,
2 please.

3 HEARING OFFICER JONES: Okay. Ms. Horner.
4 WHEREUPON,

5 ROSE HORNER,
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. GEE:

11 Q Would you please state your name and occupation for the
12 record?

13 A Rose Horner. I'm an inspector for the Arkansas Board of
14 Cosmetology.

15 Q And as an inspector, have you inspected Estillo's Beauty
16 Salon owned by Ms. Bonillo?

17 A Yes, ma'am.

18 Q And did you visit that salon on August 9, 2007?

19 A Yes, ma'am.

20 Q Okay. And when you visited, did you uncover any violations?

21 A Entering the salon, I saw a young girl tweezing a client --
22 or woman's eyebrows. And I talked to the owner and -- about it,
23 and she said it was the client's daughter. I told her that they
24 did not need to be doing this in the salon, that they should be
25 doing it at home.

1 Q And when you said you talked to the owner, did you talk to
2 Ms. Bonillo?

3 A Yes, ma'am.

4 Q Okay. And did she deny that the young girl was tweezing
5 eyebrows at that time?

6 A She did not deny it. She just said it was -- that this
7 young girl was the mother of the person she was working on. She
8 didn't say it was her -- I didn't know this lady worked there.
9 It was -- the lady was sitting in a styling chair and the young
10 girl was tweezing eyebrows.

11 Q Okay. And when you say "this lady," are you talking about
12 the woman that was introduced as Ms. Bonillo's partner?

13 A I believe so. Yes.

14 Q Okay. So, as far as you know, at the time of your
15 inspection, the girl was tweezing the eyebrows of one of the
16 establishment owners?

17 A I didn't know it was an owner.

18 Q Well --

19 A It was just someone sitting in the styling chair and --

20 Q Let me ask that in a different way.

21 A Okay.

22 Q The woman who has been identified by the respondent as one
23 of the owners, that's the woman who was being tweezed?

24 A Yes, ma'am.

25 Q Okay. And did you note any other health or safety

1 violations at the time of your visit?

2 A There was hair, one drawer had lots of hair, and I let them
3 know that they needed to take care of that and keep it clean.

4 MS. GEE: Okay. Thank you very much.

5 HEARING OFFICER JONES: Ms. Bonillo, do you have
6 any questions you would like to ask Ms. Horner?

7 MS. BONILLO: I think she misunderstood. I don't
8 think she understood when I said that the little girl
9 didn't work there.

10 HEARING OFFICER JONES: Okay. But do you have
11 questions for her? I'll give you a chance to -- to
12 have your say where you can just talk.

13 CROSS-EXAMINATION

14 BY MS. BONILLO:

15 Q Did you see that she was plucking her eyebrows?

16 A Yes.

17 Q But she wasn't plucking her eyebrows.

18 The girl is young. She's only 12 years old. You can even
19 ask her.

20 HEARING OFFICER JONES: But do you have any
21 questions?

22 MS. BONILLO: No.

23 HEARING OFFICER JONES: Okay. Does the board have
24 any questions they would like to ask Ms. Horner at this
25 time?

1 Go ahead, Ms. Burrough.

2 MS. COLLINS-BURROUGH: How long has this salon
3 been licensed or in operation? Do you know?

4 THE WITNESS: I'm not sure. A year and a half,
5 maybe. Probably a year and a half.

6 HEARING OFFICER JONES: Further questions from the
7 board?

8 Ms. Ward?

9 MS. WARD: You said you saw her tweezing the
10 eyebrows? You saw her with the tweezers in her hand?

11 THE WITNESS: Yes, ma'am.

12 MS. WARD: Okay. That's --

13 HEARING OFFICER JONES: Further questions from the
14 board?

15 MS. CAVER-BLADE: Have you had any prior
16 violations in the past?

17 HEARING OFFICER JONES: These are questions for
18 Ms. Horner.

19 MS. CAVER-BLADE: Oh, I'm sorry.

20 HEARING OFFICER JONES: That's okay.

21 THE WITNESS: I don't have that in front me. I
22 don't think so.

23 HEARING OFFICER JONES: Ms. Burrough?

24 MS. COLLINS-BURROUGH: Was this an initial
25 inspection or have you been there before?

1 THE WITNESS: I've been there before.

2 MS. COLLINS-BURROUGH: On routine?

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

4 Whenever I'm in that area, I --

5 HEARING OFFICER JONES: Everybody kind of, please,
6 have to speak up. I notice the court reporter is kind
7 of having to strain a little bit, so let's be sure and
8 keep this as loud as possible for her.

9 If there are no further questions from the board,
10 Ms. Gee, call your next witness.

11 MS. GEE: I would actually like to briefly follow
12 up with Ms. Horner, if I could, to introduce the
13 board's exhibits.

14 HEARING OFFICER JONES: That's fine. Go right
15 ahead.

16 MS. GEE: If there is no objection from
17 Ms. Bonillo, I would like to introduce the board's
18 rules and cosmetology law as Exhibit 1; the Order and
19 Notice of Hearing as Board's Exhibit 2; and the
20 inspection report summary as Exhibit 3.

21 You should have copies of these.

22 Yes.

23 HEARING OFFICER JONES: If there are no objections
24 from Ms. Bonillo, we will introduce those as
25 Exhibit 1 --

1 MS. BONILLO: No.

2 HEARING OFFICER JONES: -- to be the cosmetology
3 rules and law; Exhibit 2 to be the Order and Notice of
4 Hearing; Exhibit 3 will be the inspection report.

5 (WHEREUPON, Board's Exhibits Nos. 1, 2, and 3 were
6 received in evidence.)

7 MS. GEE: I have no further witnesses.

8 HEARING OFFICER JONES: Okay. Ms. Bonillo, at
9 this time you can talk to the board or you can call a
10 witness, but this is your time to tell the board what
11 you need them to know prior to them making their
12 decision.

13 So, would you like to call a witness at this time?

14 MS. BONILLO: Maria.

15 HEARING OFFICER JONES: Please come forward to the
16 table. Just pull up a chair.

17 COURT REPORTER: I did not swear her in. I need
18 to swear her in.

19 HEARING OFFICER JONES: Okay.

20 COURT REPORTER: I need to swear you in, ma'am.

21 MS. WITTUM: She was sworn in.

22 COURT REPORTER: Oh, she was? I only saw two.

23 MS. GEE: No, she was sworn.

24 COURT REPORTER: Okay. Thank you.

25 WHEREUPON,

1 Q What was she doing to you?

2 A She -- she was rubbing because it was red.

3 MS. BONILLO: That's all.

4 THE WITNESS: There was no wax or anything. I
5 don't know why she said that she was plucking my
6 eyebrows.

7 HEARING OFFICER JONES: Okay. Do you have any
8 further questions that you would like to ask Maria?

9 MS. BONILLO: No.

10 HEARING OFFICER JONES: Okay. Ms. Gee, you may
11 ask Maria questions.

12 CROSS-EXAMINATION

13 BY MS. GEE:

14 Q Did your daughter have tweezers in her hand when the
15 inspector came in?

16 A No. We just had gotten there from home.

17 Q Okay. Did she have anything else in her hand?

18 A No. I don't remember if she had any -- I don't remember.

19 MS. GEE: Okay. Nothing further.

20 HEARING OFFICER JONES: Would the board like to
21 ask questions?

22 Ms. Burrough, go right ahead.

23 MS. COLLINS-BURROUGH: You say she's your partner.
24 Is she licensed as well? Does she own the shop?

25 HEARING OFFICER JONES: These are just questions

1 for Maria right now. We'll get to questions for
2 Ms. Bonillo.

3 So if you want to ask Ms. -- or ask Maria if she
4 has a license, that's fine.

5 THE WITNESS: Yes. Yes.

6 MS. COLLINS-BURROUGH: Does she own some of the
7 shop as well?

8 THE WITNESS: Yes.

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

11 Ms. Turman?

12 MS. TURMAN: You said you had just gotten there,
13 but you said that she was rubbing your eyebrow because
14 somebody had just done -- been tweezing the eyebrow?

15 THE WITNESS: Yes. It hasn't been long that we
16 got there from home.

17 MS. TURMAN: But had the tweezing already
18 occurred?

19 THE WITNESS: Yes.

20 MS. BONILLO: It was a couple of minutes before
21 that.

22 MS. TURMAN: And she's stating to this board that
23 the young lady did not have any tweezers in her hand
24 nor had she tweezed any of the eyebrow?

25 THE WITNESS: No.

1 MS. TURMAN: Thank you.

2 HEARING OFFICER JONES: Ms. Ward?

3 MS. WARD: The inspector stated that she saw her
4 with tweezers in her hand. What did she have in her
5 hands if it wasn't tweezers?

6 THE WITNESS: I don't know. Maybe she had cotton.
7 She's my girl, I don't know. She's always taking care
8 of me.

9 MS. WARD: Well, if you have a metal tweezer in
10 her hand, it's very distinguishable between cotton and
11 a tweezers, it's not the same. That would be hard to
12 make that kind of mistake.

13 MS. BONILLO: If she had it, she couldn't have
14 used it. I did her eyebrows with wax.

15 HEARING OFFICER JONES: Further questions for
16 Maria?

17 Ms. Turman?

18 MS. TURMAN: You're still stating that she had
19 just gotten there a couple of minutes earlier but you
20 had time to wax the eyebrows and all that?

21 HEARING OFFICER JONES: Now, Ms. Bonillo --

22 MS. BONILLO: Yes. You do -- you do eyebrows in
23 one minute or two.

24 HEARING OFFICER JONES: Ms. Burrough, go right
25 ahead.

1 MS. COLLINS-BURROUGH: How long has she been
2 licensed?

3 INTERPRETER: Who is she?

4 MS. COLLINS-BURROUGH: Maria.

5 HEARING OFFICER JONES: These questions are
6 strictly for Maria.

7 THE WITNESS: A year and eight months.

8 HEARING OFFICER JONES: Further questions from the
9 board for Maria?

10 If there are no further questions -- Ms. Gee, do
11 you have any follow-up questions you would like to ask?

12 MS. GEE: No.

13 HEARING OFFICER JONES: Okay. Thank you, Maria.
14 You may step down.

15 Ms. Bonillo, do you have any other witnesses you
16 would like to call?

17 MS. BONILLO: Can I call Andrea?

18 HEARING OFFICER JONES: That's fine.

19 COURT REPORTER: Was she sworn in?

20 HEARING OFFICER JONES: I don't believe so.

21 COURT REPORTER: I need to swear her in, please.

22 WHEREUPON,

23 ANDREA SOSA,
24 having been called for examination, and having been first duly
25 sworn by the undersigned notary public, was examined and

1 testified, as follows:

2 HEARING OFFICER JONES: Please be sure when you
3 answer to speak aloud, don't nod your head, so we can
4 get it on the record.

5 And please state your name for the record.

6 THE WITNESS: Andrea Sosa.

7 HEARING OFFICER JONES: And do you speak English
8 well enough or do you need the interpreter?

9 THE WITNESS: Yes. I speak English.

10 HEARING OFFICER JONES: Okay. And speak up so we
11 can all hear you and so the court reporter can get it
12 on the record. Okay?

13 THE WITNESS: Okay.

14 HEARING OFFICER JONES: Ms. Bonillo, you may ask
15 Andrea any question that you have.

16 DIRECT EXAMINATION

17 BY MS. BONILLO:

18 Q Did you pluck your mom's eyebrows?

19 A No.

20 HEARING OFFICER JONES: Please be sure to say no
21 when you shake your head. Okay?

22 THE WITNESS: Yes.

23 BY MS. BONILLO:

24 Q Did you have the -- did you have -- did you have the
25 tweezers in your hand?

1 A No. No.

2 Q No? You don't remember?

3 A (Shaking head from side to side.)

4 HEARING OFFICER JONES: Verbal answers, please.

5 THE WITNESS: No. I don't remember.

6 INTERPRETER: Did you hear that?

7 I don't know if you guys can hear.

8 HEARING OFFICER JONES: Can you all hear the
9 responses?

10 MS. COLLINS-BURROUGH: She said she didn't
11 remember.

12 MS. BONILLO: That's all.

13 HEARING OFFICER JONES: Ms. Gee, questions for
14 Andrea?

15 MS. GEE: No.

16 HEARING OFFICER JONES: Okay. Does the board have
17 any questions they would like to ask?

18 MS. COLLINS-BURROUGH: No.

19 HEARING OFFICER JONES: Ms. Turman?

20 MS. TURMAN: Can you please tell me what you had
21 in your hand when the inspector come in? When she come
22 in, what did you have in your hand?

23 THE WITNESS: I don't remember what I had in my
24 hand but I -- I was rubbing (inaudible).

25 COURT REPORTER: I can't hear you. Speak up,

1 please.

2 THE WITNESS: I was just rubbing my mom because
3 she had just plucked her eyebrow.

4 HEARING OFFICER JONES: Did everybody catch that?

5 MS. COLLINS-BURROUGH: Yeah.

6 MS. WARD: Yeah.

7 MS. TURMAN: I didn't.

8 HEARING OFFICER JONES: Would the interpreter care
9 to -- can you repeat what she said just so everybody
10 can hear it?

11 THE WITNESS: I don't remember what I had in my
12 hand. I didn't do anything, I was just rubbing.

13 MS. TURMAN: Thank you.

14 HEARING OFFICER JONES: Thank you very much.

15 Does the board have any further questions for this
16 witness?

17 If there are none, Andrea, thank you very much.
18 You can sit down.

19 Ms. Bonillo, this is your chance to say anything
20 you want to the board, and then Ms. Gee and the board
21 will be able to ask you questions afterwards to make
22 sure that they get all the information they need.

23 WHEREUPON,

24 BEATRIZ BONILLO,

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

1 sworn by the undersigned notary public, was examined and
2 testified, as follows:

3 DIRECT TESTIMONY

4 THE WITNESS: Okay. I don't have anybody working
5 at my salon without a license. And that the girl
6 didn't do anything. And -- and if anything was not
7 clean enough, I'm working on it.

8 Thank you.

9 HEARING OFFICER JONES: Anything else you would
10 like to say?

11 Do you have any evidence, any paper, anything that
12 you would like to produce?

13 THE WITNESS: No.

14 HEARING OFFICER JONES: Okay. Just want to make
15 sure.

16 Ms. Gee, questions for Ms. Bonillo?

17 MS. GEE: Yes.

18 CROSS-EXAMINATION

19 BY MS. GEE:

20 Q Does -- was there hair in the drawers when the inspector
21 visited?

22 A Maybe in my drawer because I was the only one working.

23 Q So there was?

24 A I think some.

25 Q Okay. So, are you sure that your -- Ms. Figueroa's daughter

1 was not tweezing anyone's eyebrows?

2 A Yes. Nobody.

3 MS. GEE: Okay. I have nothing else.

4 HEARING OFFICER JONES: Does the board have any
5 questions they would like to ask Ms. Bonillo at this
6 time?

7 Ms. Burrough?

8 MS. COLLINS-BURROUGH: How many people do you
9 employ in your salon?

10 THE WITNESS: It's three of us working there.

11 MS. COLLINS-BURROUGH: Are they usually there at
12 the same time or do they stagger their days and hours?

13 THE WITNESS: We have different schedules.

14 MS. COLLINS-BURROUGH: Okay. What all kinds of
15 things do you do in your salon? What services?

16 THE WITNESS: Eyebrows and hair. That's all. And
17 haircuts.

18 MS. COLLINS-BURROUGH: Color? Manicure?

19 THE WITNESS: Yes.

20 MS. COLLINS-BURROUGH: Bleach?

21 THE WITNESS: No. No manicure and no pedicure.

22 MS. COLLINS-BURROUGH: Okay.

23 HEARING OFFICER JONES: Further questions from the
24 board?

25 If there are no further questions, Ms. Gee, I'll

1 let you make your closing -- or, Ms. Bonillo, do you
2 have any other witnesses?

3 MS. BONILLO: No.

4 HEARING OFFICER JONES: Okay.

5 MS. BONILLO: I have this paperwork that says that
6 Maria is my partner. I don't know if you need these.

7 HEARING OFFICER JONES: I don't believe they are
8 necessary.

9 MS. BONILLO: Okay.

10 HEARING OFFICER JONES: Okay. Ms. Gee, I'll let
11 you make your closing statement.

12 MS. GEE: Again I'll direct the board to the Order
13 and Notice of Hearing. Ms. Bonillo was charged with
14 allowing an unlicensed person to operate in the salon
15 and also failure to maintain clean furnishings. I
16 believe the testimony here today, she's admitted to the
17 failure to maintain clean furnishings.

18 Regarding allowing an unlicensed person, I heard
19 Ms. Horner testify that she saw the girl with tweezers
20 in her hand. The respondent has denied that. I think
21 she is also testifying that even if it did happen, the
22 person she was tweezing was an owner, I think this is
23 the argument she's trying to make.

24 It's up to you to determine what you believe to be
25 the truth in this case. If you find it to be true,

1 please make motions separately on the allegations and
2 the charges.

3 Thank you.

4 MS. CAVER-BLADE: Is there any discussion at this
5 time --

6 HEARING OFFICER JONES: Hold on just a moment.

7 Ms. Bonillo, closing statement? Anything you want
8 to say to the board before they deliberate?

9 MS. BONILLO: The only thing that I have to say is
10 that I don't have anybody working without a license.
11 And that she -- she hasn't touched any -- anything.

12 She doesn't even want to come to the salon because
13 she's afraid.

14 HEARING OFFICER JONES: Okay. At this time we
15 will close the record and make it complete, except for
16 the board's recess for deliberations. Once a decision
17 has been reached, we'll go back on the record for that
18 decision.

19 (WHEREUPON, the Commission retired to deliberate,
20 off the record, from 9:30 a.m. to 9:33 a.m., and
21 returned with the following motion.)

22 HEARING OFFICER JONES: At this time we'll go back
23 on the record.

24 Ms. Turman make your motion.

25 MS. TURMAN: At this time I move that the finding

1 be true, that we did find --

2 HEARING OFFICER JONES: Wait a minute. Ms. Gee
3 asked that we clarify the motion and do separate
4 charges on each.

5 MS. TURMAN: That's what I'm going to do.

6 HEARING OFFICER JONES: Just making sure we're all
7 on the same page.

8 MS. TURMAN: Okay. Finding the allegations to be
9 true, I make a motion we fine the respondent \$200 and
10 to be payable within 90 days.

11 MS. COLLINS-BURROUGH: On which motion?

12 MS. TURMAN: On the unlicensed person.

13 HEARING OFFICER JONES: Okay. There is a motion
14 for a \$200 fine to be paid within --

15 MS. TURMAN: Ninety days.

16 HEARING OFFICER JONES: -- ninety days for the
17 offense of an unlicensed person practicing in their
18 salon. Do we have a second?

19 MS. COLLINS-BURROUGH: I second it.

20 HEARING OFFICER JONES: We have a second. All
21 those in favor, please raise your hand.

22 (Hands raised.)

23 All those opposed?

24 (Hands raised.)

25 MS. COLLINS-BURROUGH: You can't vote.

1 MS. CAVER-BLADE: I can't vote?

2 Darn.

3 HEARING OFFICER JONES: I believe that the vote
4 was four to two on that.

5 With that the motion does pass.

6 Is there a motion as to the second charge?

7 MS. TURMAN: I make a motion.

8 HEARING OFFICER JONES: Ms. Turman, go right
9 ahead.

10 MS. TURMAN: Finding the allegation to be true,
11 that we have -- we fine the respondent \$25.

12 MS. GEE: How much?

13 I didn't hear that.

14 HEARING OFFICER JONES: Twenty-five.

15 MS. TURMAN: Okay. Payable within 90 days.

16 HEARING OFFICER JONES: Okay. We have a motion
17 for Allegation No. 2, which is the cleanliness issue,
18 \$25 to be paid within 90 days.

19 Is there a second?

20 MS. COLLINS-BURROUGH: I second.

21 HEARING OFFICER JONES: Ms. Burrough has a second.

22 All those in favor, please raise your right hand.

23 (Hands raised.)

24 HEARING OFFICER JONES: All those opposed?

25 Okay. Motion passes.

1 Would you please state your name for the court
2 reporter?

3 No. No. We're just doing names right now.

4 NGAU VAN TU: Okay. Hanh Bui.

5 MS. BUI: Hanh Thi Bui.

6 HEARING OFFICER JONES: Okay.

7 NGAU VAN TU: Kim Trinh.

8 MS. TRINH: Kim Anh Thi Trinh.

9 HEARING OFFICER JONES: Okay.

10 NGAU VAN TU: They the owner.

11 HEARING OFFICER JONES: Okay. Did the court
12 reporter catch --

13 COURT REPORTER: Yes.

14 NGAU VAN TU: She the owner.

15 HEARING OFFICER JONES: I think the court reporter
16 has got it. Thanks.

17 And you are, sir?

18 NGAU VAN TU: I am brother and she my sister.

19 HEARING OFFICER JONES: Okay. Okay. That's your
20 sister. Very good.

21 Did you receive a copy of the Order and Notice of
22 Hearing?

23 NGAU VAN TU: Yes.

24 MS. BUI: Yes.

25 HEARING OFFICER JONES: Okay. State's counsel,

1 please identify yourself for the record.

2 MS. GEE: Assistant Attorney General Erika Gee.

3 HEARING OFFICER JONES: Thank you.

4 As I've said before, those present have heard it
5 already, but it's an administrative hearing. The board
6 will base its decision solely on the evidence presented
7 here today. This hearing is being held under the
8 Administrative Procedures Act, which means that the
9 strict rules of evidence do not apply and that as the
10 Hearing Officer I have certain latitudes to allow
11 evidence to be entered. And to insure the efficiency
12 of the proceeding, I may grant some objections and
13 caution parties as necessary.

14 The board members know of this case only as it
15 appears in the Notice of Hearing. Anything that you
16 want them to consider you must give them today, you
17 must tell them or present to them. And all
18 participants to the hearing should be aware that the
19 proceedings are subject to the Freedom of Information
20 Act.

21 If you're going to be a witness and testify today
22 in this hearing, please raise your right hand and we'll
23 have the court reporter swear you in.

24 (WHEREUPON, the witnesses were sworn.)

25 HEARING OFFICER JONES: Okay. Ms. Gee.

1 MS. GEE: Before we begin, I would like to clarify
2 on the record that you're acting as an interpreter
3 for --

4 NGAU VAN TU: Yes.

5 MS. GEE: -- the other ladies here today?

6 NGAU VAN TU: Yes.

7 HEARING OFFICER JONES: Thank you.

8 MS. GEE: Thank you.

9 Opening statement?

10 HEARING OFFICER JONES: Yes. Go right ahead with
11 your opening statement.

12 MS. GEE: The respondent here today is an owner
13 and operator of a nail salon in Bella Vista. She's
14 charged with allowing an unlicensed person to perform
15 pedicures in her establishment.

16 HEARING OFFICER JONES: Okay. Opening statement,
17 Ms. Nguyen?

18 NGAU VAN TU: She told me on last April a friend
19 her and he's working and he come over for, you know,
20 that day and then inspector come in and they have no
21 license.

22 MS. GEE: Okay.

23 HEARING OFFICER JONES: Hold on one moment,
24 please. Come forward.

25 NGAU VAN TU: Me?

1 HEARING OFFICER JONES: No. This lady is trying
2 to tell me something.

3 It's the wrong one up here, is what she's trying
4 to tell us.

5 MS. GEE: Do you own Hannah's Nails?

6 MS. NGUYEN: Yes.

7 MS. GEE: Okay.

8 HEARING OFFICER JONES: We're going to scrap this
9 one and start over. Yeah. Sorry about that.

10 This is still 534, we're just going to try it
11 again with a different respondent.

12 What time is it? We need a break.

13 Okay. We're going to start this again.

14 ADMINISTRATIVE HEARING NO. 07-534

15 My name is Kendra Akin Jones. I'm the Hearing
16 Officer today in the matter of Hanh Nguyen, Hannah's
17 Nails. Okay. 07-534, to be heard before the Arkansas
18 State Board of Cosmetology. Today is December 3, 2007,
19 and we're located in the conference room of the Main
20 Street Mall.

21 Would the respondent please identify yourself for
22 the record?

23 What's your name?

24 MS. NGUYEN: My name Hanh Nguyen.

25 HEARING OFFICER JONES: Okay. Thank you,

1 Ms. Nguyen.

2 And you received a copy of the Order and Notice of
3 Hearing for today?

4 MS. NGUYEN: Yes.

5 HEARING OFFICER JONES: Okay. State's counsel?

6 MS. GEE: Assistant Attorney General Erika Gee.

7 HEARING OFFICER JONES: Okay. For the
8 respondent's benefit, this is an administrative
9 hearing. The board knows only of it as it is presented
10 in the Notice of Hearing and their decision will be
11 based solely upon the information presented to them
12 today.

13 This hearing is being held under the
14 Administrative Procedures Act, which means that the
15 strict rules of evidence do not apply. And as Hearing
16 Officer I have certain latitude to allow evidence to be
17 entered. And to insure the efficiency of the
18 proceedings, I may grant some objections and caution
19 parties as necessary.

20 The board members, like I said, know only of this
21 case as it is in the Notice of Hearing. Anything you
22 want to be considered needs to be presented today. All
23 participants of the hearing should be aware that these
24 proceedings are subject to the Freedom of Information
25 Act.

1 Okay. If you're going to be a witness in this
2 matter, please raise your right hand and we'll have the
3 court reporter swear you in.

4 (WHEREUPON, the witnesses were sworn.).

5 HEARING OFFICER JONES: Okay. Ms. Gee?

6 MS. GEE: Well, this is a case where Ms. Nguyen is
7 accused of allowing an unlicensed person to perform
8 pedicures in her establishment.

9 HEARING OFFICER JONES: Okay. Thank you.

10 Ms. Nguyen, anything you would like to say in
11 opening to the board?

12 MS. NGUYEN: Yes. I would like to say that I
13 usually work for myself, a small shop. And I just
14 moved into a bigger one. I couldn't -- I don't have
15 nobody working with me yet. So one day when my friend,
16 his name Tam Tran, he come to visit me, and he see my
17 shop is full of customers, so he try to help me some,
18 but not a whole day. So while he help me a little bit
19 and his -- his phone ring and he go out to answer the
20 phone. He didn't know Ms. Horner, I'm sorry, Ms. Rose
21 Horner came in. And I came out to find him but he not
22 there and then when -- when I call him, and he say his
23 wife call him, emergency, so he had to go home.

24 So he -- he don't know Ms. Rose came in to check
25 his license. So he's just came to visit me so he

1 the salon, a young man was doing a pedicure on a client, and --
2 and when I introduced myself, he left. He left the salon.

3 Q Okay. Did you introduce yourself to this young man?

4 A As I enter a salon, I always introduce myself.

5 Q Okay. In addition to the young man, was there anyone else
6 working there?

7 A Hanh was there.

8 Q Okay. And you're talking about the respondent here today?

9 A Yes. Uh-huh.

10 Q Okay. And so just the two of them were there performing
11 pedicures?

12 A I believe -- I know he was working on a pedicure.

13 Q Okay. Some kind of nail service?

14 A Yes.

15 Q All right. And so, did you get to speak to the man
16 yourself?

17 A I asked -- I believe I asked for photo ID and he left. Left
18 the salon.

19 Q Okay. Did you ask Ms. Nguyen if the man was licensed by
20 this board?

21 A Let's see.

22 Okay. She told me his name was Tam Tran and he worked in
23 Bentonville.

24 MS. NGUYEN: No.

25 THE WITNESS: Pardon?

1 MS. NGUYEN: I'm sorry.

2 THE WITNESS: Then I asked her why he left the
3 salon if he had a license.

4 Her first -- first comment was that he did not
5 have a license, and then she told me he was Tam Tran
6 and that he worked in Bentonville.

7 BY MS. GEE:

8 Q Okay. So, he first told you that he was not licensed?

9 A She told me.

10 Q I'm sorry. She first told you he was not licensed?

11 A Uh-huh.

12 Q And then she said that he was Tam Tran from Bentonville and
13 he was licensed?

14 A Yes.

15 Q Okay. Was there any license posted for anyone other than
16 Ms. Nguyen?

17 A No.

18 Q Was there any photo identification produced to identify this
19 man as Tam Tran?

20 A No.

21 Q Do you know, sitting here today, whether Tam Tran from
22 Bentonville is licensed by this board?

23 A I did look in my computer and there is a Tam Tran, but --

24 Q But you don't know if that is him?

25 A (Shaking head from side to side.)

- 1 Q Okay. Did you talk to the client who was receiving the
2 pedicure from the young man?
- 3 A Yes. I did.
- 4 Q And did she identify him as the person that was providing
5 the pedicure?
- 6 A Yes, ma'am.
- 7 Q Okay. And were there any other violations you observed on
8 that visit?
- 9 A The floor at the manicure tables needed to be cleaned.
- 10 Q Okay. And can you tell us how long this establishment has
11 been licensed by this board?
- 12 A I'm not sure.
13 February 2005.
- 14 Q And you testified earlier that this was a relocation. So it
15 was initially licensed somewhere else?
- 16 A Yes.
- 17 Q And was the inspection where you discovered this person
18 working, was that a relocation inspection?
- 19 A Yes, ma'am.
- 20 Q Okay. And have you ever received any complaints about this
21 salon either in its current location or in its previous location?
- 22 A I had a complaint sent to me from the office at the old
23 location, that there were unlicensed people working there.
- 24 Q Okay. On previous visits and inspections to the salon, have
25 you ever found an unlicensed person working there?

1 A I did not find anyone.

2 Q Are you aware whether this salon has had any other
3 violations against it?

4 A Right offhand, I cannot think of any.

5 MS. GEE: Okay. Thank you very much.

6 Oh, I would like to introduce the board's
7 exhibits, please, if I might.

8 HEARING OFFICER JONES: Okay. Go right ahead.

9 MS. GEE: Number 1 would be the rules and law;
10 Exhibit No. 2 would be the Order and Notice of Hearing;
11 and No. 3 would be the inspection report.

12 HEARING OFFICER JONES: Ms. Nguyen, do you have
13 any objection to that?

14 MS. GEE: You have these. Right?

15 MS. NGUYEN: Yes.

16 HEARING OFFICER JONES: Okay. We'll introduce as
17 Exhibit 1 the rules and law; Exhibit 2, the hearing --
18 the Notice of Hearing and Order; and Exhibit 3, the
19 inspection report.

20 (WHEREUPON, Board's Exhibits Nos. 1, 2, and 3 were
21 received in evidence.)

22 HEARING OFFICER JONES: Go ahead, Ms. Gee.

23 MS. GEE: I have nothing further.

24 Thank you.

25 HEARING OFFICER JONES: Ms. Nguyen, do you have

1 any questions you would like to ask Ms. Horner?

2 MS. NGUYEN: Yes. I don't know what to ask, but I
3 think my friend, when she -- when he help me, he didn't
4 know that Ms. -- he didn't pay attention that Ms. Rose
5 Horner, that inspector came in, but I think that he --

6 HEARING OFFICER JONES: But do you have any
7 questions for Ms. Horner?

8 MS. NGUYEN: No.

9 HEARING OFFICER JONES: I'll give you a chance to
10 have your say. You'll get to tell everything. Okay?

11 MS. NGUYEN: Okay.

12 HEARING OFFICER JONES: Does the board have any
13 questions they would like to ask Ms. Horner?

14 MS. SMITH: I do.

15 When he came in -- was he on the phone when you
16 came in?

17 THE WITNESS: No. He was working on a client. He
18 was doing a pedicure.

19 MS. SMITH: I notice she had said his phone rang
20 and he left out. So I was just wondering, was he on
21 the phone then?

22 THE WITNESS: He was working on a client.

23 HEARING OFFICER JONES: Any further questions from
24 the board?

25 If there are no further questions, Ms. Horner,

1 end of the day good. Because, you know, while we are
2 planning to color nail, they collected a lot of dust,
3 so be hard to prevent it no dust under the cloth. So
4 that's all.

5 HEARING OFFICER JONES: Okay. Ms. Gee, do you
6 have any questions you would like to ask Ms. Nguyen?

7 MS. GEE: I do.

8 CROSS-EXAMINATION

9 BY MS. GEE:

10 Q I think you were testifying earlier that the man that was
11 working in the salon when Ms. Horner came in, he just came to
12 visit you?

13 A Yes.

14 Q He wasn't an employee?

15 A No. He wasn't an employee.

16 Q And are you saying that he started working at your salon
17 because you were so busy?

18 A No. Just only -- only two hours, a full hour. Because he
19 stop by to visit me, not -- not -- not work there the whole time.

20 Q And you say he's licensed?

21 A Yeah.

22 Q What kind of license does he have?

23 A It's a manicurist license.

24 Q An Arkansas manicurist license?

25 A Yeah.

- 1 Q How long has he been licensed?
- 2 A I am not sure. Just few years or so.
- 3 Q How do you know he's licensed?
- 4 A Because he -- he live by -- he used to work with me at my
5 nail in Rogers, and he -- he -- he my neighbor. He lived around
6 my area.
- 7 Q Okay.
- 8 A Yes.
- 9 Q Have you ever had him work with you before in your salon?
- 10 A No.
- 11 Q Have you ever had him work with you since this time? Since
12 the visit?
- 13 A No.
- 14 Q No?
- 15 A No.
- 16 Q Have you ever let anyone else work in your salon?
- 17 A No.
- 18 Q Besides you?
- 19 A Just me.
- 20 Q Just you?
- 21 A Yeah.
- 22 Q So this was the only time that this has ever happened?
- 23 A Yeah.
- 24 Q Okay. Do you know that you are not supposed to let someone
25 work in your salon without a license being posted?

1 A I only -- I don't know. When he came -- I thought he had
2 the license so he can work to help me live, it not whole time.
3 So I don't know he suppose to post his license there. That's
4 all.

5 Q You didn't know he was supposed to post it?

6 A Yeah. Because he -- I thought he just help me a couple
7 hours or little bit, so I don't know that necessary to post it
8 there. License there.

9 Q Did you pay him for working at your salon?

10 A Yes. Because when he work he -- I have to pay him few
11 dollars, but that's all --

12 Q So you paid him for the customers he worked on?

13 A Yeah. He worked on only like -- I don't -- most of my
14 ladies, they have appointment so I don't have to -- a lot of
15 extra customer. So when he come to in to see me, look like I
16 have only the one or two walk-in customer, so...

17 Q Okay. Why did he leave when the inspector came in?

18 A He's -- after that I call him and I say why you leave
19 when -- when Ms. Rose, you know, Horner come in to inspect. He
20 say, I don't know she came. And my -- my phone ring and I come
21 out to answer the phone. And my wife say -- call me from home
22 from, my daughter sick so I have go to home. And because his --
23 his wife working at a salon so she cannot leave the salon to go
24 home and take care of the daughter.

25 Q So are you saying that when the inspector came in, he just

1 left because his phone rang in the middle of performing a
2 pedicure and didn't come back? That's what you're saying?

3 A Yeah. He didn't come back for the whole time.

4 MS. GEE: Okay. I have nothing further.

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

7 Go ahead, Ms. Burrough.

8 MS. COLLINS-BURROUGH: So when he left your client
9 sitting in your pedicure chair, did you have to finish
10 her?

11 THE WITNESS: Yeah.

12 MS. COLLINS-BURROUGH: Or what happened?

13 THE WITNESS: Yeah.

14 MS. COLLINS-BURROUGH: Did she have to wait a long
15 time?

16 THE WITNESS: Not long. I just paint her toes,
17 that's all.

18 MS. COLLINS-BURROUGH: And he had done everything
19 else?

20 THE WITNESS: Yeah.

21 MS. COLLINS-BURROUGH: And had he done any more
22 that morning?

23 THE WITNESS: No. Maybe one or two. That's all.

24 MS. COLLINS-BURROUGH: Okay.

25 HEARING OFFICER JONES: Further questions from the

1 board?

2 Ms. Turman?

3 MS. TURMAN: You say that you schedule your
4 appointments, but you said that you didn't have time to
5 clean up between appointments. If you're scheduling --
6 scheduling your appointments, couldn't you schedule
7 those in a time frame so that you can clean up after
8 each customer? Each client?

9 THE WITNESS: I schedule -- oh, sorry.

10 I schedule -- most of the time I schedule like an
11 hour or 45 minute for each person, but sometime I kind
12 of busy. They want to come in like every 30 minute,
13 some -- and some time have one or walk in. Not very
14 often, but sometime I have one walk in. So, I start
15 like that, I stand out and --

16 MS. TURMAN: But don't you think -- do you think
17 when you walk in and my --

18 THE WITNESS: I'm not my --

19 MS. TURMAN: I'm sorry. I didn't mean to
20 interrupt you.

21 THE WITNESS: I'm sorry.

22 MS. TURMAN: But when you go to one of your
23 cubicles where you do your manicure, when you have the
24 dust and everything all over, don't you -- isn't that
25 an unsanitary condition?

1 THE WITNESS: No. Usually I try to keep it clean,
2 but not -- I don't think -- it's just little bit of
3 dust, but not a lot dust. So I think that -- I know
4 it's difficult do that dirty, that's not sanitary.

5 MS. TURMAN: Uh-huh.

6 THE WITNESS: But I don't think that's my shop
7 very dirty. I mean, try to -- I try to keep it very
8 clean. I have everything sanitized. I have a -- I
9 keep everything clean, you know.

10 MS. TURMAN: Thank you.

11 HEARING OFFICER JONES: Ms. Ward?

12 MS. WARD: She testified that your floors were
13 dirty and your tables were dirty. So when you get
14 clients in, you work on them on the tables without them
15 being cleaned?

16 How many tables do you have?

17 THE WITNESS: I have like four table.

18 MS. WARD: So, you leave them set all day and you
19 only do four clients?

20 THE WITNESS: No, I work only -- I work only two
21 table.

22 MS. WARD: Okay. So, you only do two clients ail
23 day, if you leave them dirty, you don't have time to
24 clean them.

25 THE WITNESS: Not two people all day, but one to

1 another. One done to another. So...

2 MS. WARD: Okay. And when you --

3 THE WITNESS: I try to clean after they -- I done
4 the customer, but while I -- I not done the customer
5 yet, Ms. Rose came in, so...

6 MS. WARD: Okay. When Tran, I guess his name is,
7 that was working on the pedicure, is it normal practice
8 for somebody to walk off and just leave them? That's
9 very inconsiderate to the client as well as to you.
10 Why, you know, he should have -- if he had a phone
11 call, he answered the phone, come in and let you know
12 that I'm not going to do this client, I have to go, had
13 rather than just not showing up back. That's a pretty
14 good indication that he did know who the inspector was,
15 because otherwise he would have let you know about not
16 being able to complete that client rather than just
17 leaving them sit.

18 THE WITNESS: Because I hear he have to go answer
19 the phone first. He didn't know he have to left.

20 MS. WARD: Yeah. But when he found out he didn't
21 come back and tell you, I have to leave?

22 THE WITNESS: I call him and then he told me he
23 have to leave.

24 MS. WARD: Okay.

25 HEARING OFFICER JONES: Further questions?

1 Okay. Ms. Gee, closing statement?

2 MS. GEE: I actually would like to recall

3 Ms. Horner very briefly.

4 HEARING OFFICER JONES: Okay.

5 MS. GEE: If I can.

6 WHEREUPON,

7 ROSE HORNER,

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

11 REDIRECT EXAMINATION

12 BY MS. GEE:

13 Q Ms. Horner, when you visited Hannah's Nail Salon, did you
14 find that the floors were dirty around the tables or the floor
15 and the tables?

16 A The floor at the manicure area.

17 Q Okay. So just the floor?

18 A Yes.

19 MS. GEE: Okay. That's all.

20 HEARING OFFICER JONES: Ms. Nguyen, do you have
21 any follow-up questions you would like to ask
22 Ms. Horner?

23 MS. NGUYEN: No.

24 HEARING OFFICER JONES: Okay. Does the board have
25 any questions they would like to ask Ms. Horner, since

1 she's been recalled?

2 MS. TURMAN: I would like to ask Ms. Wittum
3 something if I could in the future.

4 HEARING OFFICER JONES: Okay. Ms. Burchett?

5 MS. BURCHETT: Ms. Horner, do you recall what time
6 of day it was? Or maybe -- I may be --

7 THE WITNESS: No, I don't. It was in the
8 afternoon. It was in the afternoon sometime, but other
9 than that, I don't recall.

10 MS. BURCHETT: Did it appear that she possibly had
11 done several clients that got the floor very dirty
12 or --

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

14 MS. BURCHETT: It just looked like it was
15 noticeable enough that it was not clean?

16 THE WITNESS: It was nail dust and nail clippings.

17 MS. BURCHETT: Was she working on a client at the
18 time? A nail client?

19 THE WITNESS: I don't think it was at the manicure
20 area, I think they were both at the pedicure area.

21 MS. BURCHETT: Okay. Thank you.

22 HEARING OFFICER JONES: Further questions from the
23 board?

24 Okay. Ms. Gee, now you may proceed with your
25 closing.

1 MS. GEE: Thank you.

2 As I mentioned in opening, Ms. Nguyen is being
3 charged with allowing an unlicensed person to perform
4 services in her salon. She's testified that he is
5 licensed. If you believe that he was licensed, then we
6 would amend that charge to state that she should not
7 allow someone to work in her salon without a license
8 being posted. If he was not licensed, then the charge
9 that he should not have been licensed -- I mean he
10 should not have been working in the salon at all. We
11 would like to submit that.

12 And we would again ask that you make separate
13 findings on the allegations and charges.

14 Thank you.

15 HEARING OFFICER JONES: Ms. Nguyen, anything else
16 you would like to state to the board in a closing
17 before they make their decision?

18 MS. NGUYEN: One thing that's on my friend, I told
19 Ms. Rose, I might have told the previous also, my
20 friend he lived in Bentonville, he not work in
21 Bentonville.

22 HEARING OFFICER JONES: Okay. If there is nothing
23 further at this time, the record will be closed and
24 complete except for the board's recess for
25 deliberation, and once a decision has been reached we

1 will go back on the record.

2 (WHEREUPON, the Commission retired to deliberate,
3 off the record, from 10:04 a.m. to 10:05 a.m., and
4 returned with the following motion.)

5 HEARING OFFICER JONES: If we're ready for a
6 motion, we'll go back on the record for the motion of
7 the board.

8 MS. PICKERING: I make a motion that since I
9 believe that the allegations are true about the
10 assessment of this young man who was in her shop doing
11 a pedicure, we all know that there is a lot -- there is
12 several things that you have to do to prepare for a
13 pedicure. It would not be hard at all to spot someone
14 that's had -- that's having a pedicure. So, I make the
15 motion that we fine \$250 for that being true, that
16 she -- he was giving a pedicure at that time. And then
17 the motion for -- I would like --

18 HEARING OFFICER JONES: Let's do one at a time,
19 Ms. Pickering.

20 MS. GEE: I would like to ask a clarification
21 question before you vote.

22 HEARING OFFICER JONES: Ms. Gee?

23 MS. GEE: Is your motion that he was performing a
24 pedicure as not being licensed, or performing a
25 pedicure without a current license being posted?

1 MS. PICKERING: Current license being posted.

2 MS. GEE: A current license being posted.

3 HEARING OFFICER JONES: Okay. So the motion we
4 have was that this gentleman was working without a
5 current license being posted, and you are recommending
6 a fine of \$250?

7 MS. PICKERING: (Nodding head up and down.)

8 HEARING OFFICER JONES: Okay. Do we have a
9 second?

10 MS. TURMAN: Second.

11 HEARING OFFICER JONES: Second from Ms. Turman.

12 All those in favor, please raise your hand.

13 (Hands raised.)

14 Okay. And that one passes unanimously, six to
15 zero.

16 Okay. Ms. Pickering for a second motion.

17 MS. PICKERING: Okay. I would like to make a
18 motion that the respondent be fined \$25 for not
19 maintaining a clean environment, clean shop.

20 HEARING OFFICER JONES: Do we have a second?

21 Ms. Turman.

22 All those in favor, please raise your hand.

23 (Hands raised.)

24 Motion passes, six zero.

25 At this time let the record reflect that the

1 decision of the board is unanimous, and reduce that
2 decision to writing and attempt service upon all
3 parties. If the respondent cares to appeal the
4 decision of the board, an appeal may be taken under the
5 Administrative Procedures Act, found at Arkansas Code
6 Annotated 25-15-201, et seq., or any specific
7 provisions of the laws of this board.

8 If there are no other questions or comments
9 concerning this hearing, the record will be closed at
10 this time.

11 Thank you.

12 MS. CAVER-BLADE: At this time I would like --
13 let's take a break.

14 (WHEREUPON, a break was held from 10:10 a.m. to
15 10:25 a.m.)

16 HEARING OFFICER JONES: Okay. We're going to go
17 to California Nails, just so you will know.

18 We're going to California Nails next, which is
19 07-533. 07-533.

20 MS. WITTUM: Board members, if you will look at
21 your agenda, on the back side of the first copy of your
22 agenda, your hearing orders are in line with that
23 agenda listing.

24 MS. TURMAN: Mine were, but I just messed them up.

25 MS. McCUIEN: And the order should correspond with

1 the hearing order.

2 ADMINISTRATIVE HEARING NO. 07-533

3 HEARING OFFICER JONES: Okay. My name is Kendra
4 Akin Jones and I'm the Hearing Officer today in the
5 matter of Tri Minh Le, owner and operator of California
6 Nails, Hearing No. 07-533, to be heard before the
7 Arkansas State Board of Cosmetology. Today is
8 December 3, 2007, and we are located in Conference Room
9 C of the Main Street Mall.

10 Would the respondent please identify himself for
11 the record?

12 MR. ACHORN: Tell them your name.

13 MR. LE: My name is Tri Le. T-R-I, L-E.

14 HEARING OFFICER JONES: Thank you, Mr. Le.

15 And would the respondent's counsel please identify
16 himself for the record?

17 MR. ACHORN: My name is Brian Achorn.

18 HEARING OFFICER JONES: Thank you, Mr. Achorn.

19 Mr. Lee, you received a copy of the Order and
20 Notice of Hearing concerning today's matter?

21 MR. ACHORN: Yes, we did.

22 HEARING OFFICER JONES: And State's counsel?

23 MS. GEE: Assistant Attorney General Erika Gee.

24 HEARING OFFICER JONES: Thank you, Ms. Gee.

25 For the respondent's benefit as well as the

1 benefit of anyone present today who may not have
2 appeared in an administrative procedure, let me explain
3 that the board will make its decision solely on the
4 evidence presented here today. This hearing is being
5 held under the Administrative Procedures Act, which
6 means that the strict rules of evidence that would be
7 applied in a regular court of law do not apply, and as
8 hearing officer I have certain latitude to allow
9 evidence to be entered. For example, statements,
10 photocopies of documents may all be introduced.

11 To insure the efficiency of the proceedings, I may
12 grant some objections or caution the parties as the
13 hearings proceed.

14 The board members know of this case as it appears
15 and is set forth in the Notice of Hearing. If there is
16 anything that you would like to have submitted for the
17 board to consider which has not previously been
18 submitted, you must offer it into evidence today or it
19 will not be considered by the board for their decision.

20 All participants to the hearing should be aware
21 that these proceedings are subject to the Freedom of
22 Information Act, including the deliberations of the
23 board.

24 If you are going to be a witness in this matter,
25 please raise your right hand and we'll have the court

1 reporter swear you in.

2 (WHEREUPON, the witnesses were sworn.).

3 HEARING OFFICER JONES: Thank you.

4 Any preliminary matters, Ms. Gee?

5 MS. GEE: No.

6 HEARING OFFICER JONES: Preliminary matters,

7 Mr. Achorn?

8 MR. ACHORN: No, ma'am.

9 HEARING OFFICER JONES: At this time, Ms. Gee,
10 your opening statement.

11 MS. GEE: Board, you have here today an owner and
12 operator of a nail salon in Pine Bluff. He is charged
13 with allowing four unknown persons to work in his
14 establishment without current licenses.

15 Inspector Jackson will testify about what she
16 observed when she visited the salon.

17 It is also alleged that there were a number of
18 health and safety violations, and we will go through
19 those also with Ms. Jackson.

20 Before we proceed any further, I would like to
21 amend the Order and Notice of Hearing regarding the
22 respondent's disciplinary history. If you will look on
23 Page 2, all of these previous violations were when the
24 establishment was owned by somebody else. They were
25 not the man that's here today, and none of these things

1 should be considered when you listen to the evidence
2 presented here today, so I apologize for that mistake
3 and you can cross those out.

4 And I have nothing further.

5 Thank you.

6 HEARING OFFICER JONES: Ms. Gee, just to clarify,
7 that was No. 4 on Page 2?

8 MS. GEE: No. 4.

9 HEARING OFFICER JONES: Okay. Mr. Achorn, you may
10 make an opening statement at this time.

11 MR. ACHORN: That's -- I think you might have
12 misunderstood. That's incorrect.

13 MS. GEE: Oh, is it?

14 MR. ACHORN: Yeah. He was here in April of '05.
15 That was Mr. Le.

16 MS. GEE: Okay.

17 MR. ACHORN: Everything else did not pertain to
18 him.

19 MS. GEE: Okay. Well, let me amend that, then.

20 On 4(f) on Page 2, Mr. Le did have a penalty of
21 \$250 for allowing an unlicensed person to work in the
22 establishment, and I'm sure Mr. Achorn will correct me
23 if that's not correct.

24 This allegation about the attempted bribe was
25 found to be untrue at the hearing and should not be

1 considered by you.

2 MR. ACHORN: That is correct.

3 HEARING OFFICER JONES: Okay.

4 MR. ACHORN: We had a hearing on that issue and at
5 the conclusion of that hearing, the board found that
6 allegation to be untrue.

7 HEARING OFFICER JONES: Okay. So, just to make
8 sure we're all clear on this, on Page 2, No. 4, A
9 through E is being eliminated by the state, F is
10 remaining except for the bribe, which was proved to be
11 untrue. Correct?

12 MS. GEE: Correct.

13 MR. ACHORN: Yes, ma'am.

14 HEARING OFFICER JONES: Okay. Then go right ahead
15 with your opening statement at this time.

16 MR. ACHORN: I would like to speak to the
17 remaining allegation in Paragraph 4(f). What had
18 happened at that, so the board will be aware of the
19 history, he was attempting to sell the property. And a
20 person who was licensed in Oklahoma had come to be
21 there to observe the functioning of the store and
22 everything else. And they did have a license in the
23 state of Oklahoma, they had failed to file properly for
24 their reciprocity permit. I believe, under the
25 regulations of this board, it's what is referred to as

1 a reciprocal agreement, as long as they are licensed,
2 had to take a test and a practical exam, I think would
3 be the proper term. And they didn't -- they had done
4 that in Oklahoma, but they did not get their
5 reciprocity certificate from the Arkansas Board of
6 Cosmetology.

7 And that, as for everything else, I think we'll
8 let the evidence present itself.

9 Thank you, Ms. Jones.

10 HEARING OFFICER JONES: You're quite welcome.

11 Ms. Gee, call your first witness.

12 MS. GEE: I would like to call Pat Jackson,
13 please.

14 HEARING OFFICER JONES: Ms. Jackson?

15 THE WITNESS: Yes.

16 WHEREUPON,

17 PAT JACKSON,

18 having been called for examination, and having been first duly
19 sworn by the undersigned notary public, was examined and
20 testified, as follows:

21 DIRECT EXAMINATION

22 BY MS. GEE:

23 Q Please state your name and occupation for the record.

24 A I'm Pat Jackson, inspector for the Arkansas State Board of
25 Cosmetology.

1 Q Okay. Have you had -- made any visits to a nail salon
2 called California Nails in Pine Bluff?

3 A Yes. I have.

4 Q And when was the most recent occasion?

5 A The most recent was August 30 of 2007 this year.

6 Q And on that visit, did you find any violations?

7 A Yes. I did.

8 Q Okay. I would like to go through those one by one, if we
9 could.

10 What was the first violation you found on your inspection
11 visit?

12 A My -- on -- on my inspection sheet, these are not in the
13 order of my -- my first violation. My first violations were
14 licensing.

15 Q Okay.

16 A So do you want me to talk here to --

17 Q Well, what I would like to do, since we're going to refer to
18 the inspection sheet --

19 A Okay.

20 MS. GEE: -- I would like to go ahead and
21 introduce the board's exhibit, so we can identify what
22 we're talking about.

23 If there is no objection by Mr. Achorn, I would
24 like to introduce the law and rules as Exhibit 1; the
25 Order and Notice of Hearing, as amended, as Exhibit 2;

1 and the inspection report summary as Exhibit 3.

2 HEARING OFFICER JONES: Mr. Achorn, do you have
3 any objection to those being introduced as exhibits?

4 Mr. Achorn?

5 MR. ACHORN: No. No, ma'am.

6 I'm sorry.

7 HEARING OFFICER JONES: All right. Since there is
8 no objection, we will have Exhibit 1 as the rules and
9 laws of the cosmetology board; Exhibit 2 will be the
10 Order and Notice of Hearing, as amended; and Exhibit 3
11 will be the inspection report.

12 (WHEREUPON, Board's Exhibits Nos. 1, 2 and 3 were
13 received in evidence.)

14 HEARING OFFICER JONES: You may proceed. Ms. Gee.

15 BY MS. GEE:

16 Q Okay. You were referring to the inspection report summary,
17 which has been identified as Exhibit 3. And you can go in
18 whatever order you would like to go in.

19 A Okay. I did find several health and safety violations.

20 Q Okay. And what were those?

21 A On all of the stations I went to, and I apologize, I did not
22 write the number of stations down, there are several stations at
23 this particular salon, there were used files and buffers in every
24 station or on the electric drills, there were buffers left on the
25 drills. In the -- I'm sorry?

1 Q And were those used buffers on the drills?

2 A Yes. They were.

3 Q Okay.

4 A Manicure implements in the manicure station drawers also
5 contained used files. So if those implements were said to be
6 cleaned, if they were in an area with a used or soiled
7 instrument, then that makes everything in there soiled. So that
8 was a -- that was that violation.

9 The manicure tables were covered in dust. The way we
10 determine that, visually, also with a hand swipe on the manicure
11 tables, and you could physically feel the nail dust.

12 Soiled towels were left laying in the floor, some were on
13 manicure tables. The floor was dirty with nail dust and had
14 clippings.

15 There were no labeled containers for soiled and dirty
16 implements.

17 And I also addressed this earlier. Electric drills also had
18 used files on them.

19 Q Okay. And were there any other health and safety violations
20 that you noted?

21 A Yes. Because I asked about the pedicure chairs, how they
22 were sanitized. And one of the employees went and got a bottle
23 that said Top Job on it. I looked at it, it was not an EPA
24 registered disinfectant, and I asked if that was all they used
25 and they said yes.

1 Q And that was an employee of the salon?

2 A Yes.

3 Q Okay. And all of these violations that you've just gone
4 through, these are things that you personally observed at your
5 visit?

6 A Absolutely.

7 Q Okay. And did you find any other violations on that visit?

8 A The other violations were unlicensed individuals were
9 working.

10 Q Okay. And could you please tell us what you observed with
11 regard to unlicensed individuals working?

12 A When I entered there were three female individuals doing
13 nails. Two had nail clients, one had a pedicure client. There
14 was one male individual that had a nail client.

15 Q Okay. And when you entered the salon, did you speak to
16 these people that were performing the nail services at that time?

17 A The male client I did.

18 Q You did?

19 And do you recall what the conversation was you had with
20 that male?

21 A Yes. I asked him for his license.

22 Q And what did he respond?

23 A He did not.

24 Q He did not respond at all?

25 A He left.

1 Q Okay. You asked him for his license and he left the
2 establishment?

3 A Yes.

4 Q Okay. So did you speak to any of the three female
5 individuals that were doing nails when you entered the salon?

6 A I do not recall if I asked. Normally, but I don't recall
7 this, normally I ask which one of these is your license, but I am
8 sorry, I don't recall if I did ask that question.

9 Q Okay.

10 A Pointing to the three that were licensed down here.

11 Q Okay. Did all four of the persons that you testified were
12 performing services, did all four of those persons continue
13 working when you entered the salon?

14 A No.

15 Two of the female employees quit their clients and left the
16 salon. The male individual also left.

17 Q And that was after you asked him for his license?

18 A Correct.

19 Q Okay. So only one of those four stayed after you entered
20 the salon?

21 A Correct.

22 Q Did you identify yourself as an inspector?

23 A Absolutely.

24 Q Okay. Were there any other people performing services at
25 the time of your inspection, other than those four?

1 A I do not believe so.

2 Mr. Le was not there at the time, but he came during -- very
3 shortly --

4 Q Okay. So when you --

5 A -- during my inspection.

6 Q -- when you first entered he wasn't there?

7 A No.

8 Q But he came in before you left?

9 A Yes.

10 Q Okay. And did you speak to Mr. Le?

11 A Yes. I did.

12 Q Okay. Did you ask Mr. Le where those four individuals'
13 licenses were?

14 Or let me put it this way, what was the conversation you had
15 with Mr. Le?

16 A I asked Mr. Le who the male individual was that had left,
17 and he told me that there was no one that left, that I did not
18 see anyone.

19 And I said, "There was a man sitting right here working on
20 this lady's nails." And he said, "You don't -- you didn't see
21 anyone." And I said, "Are you telling me there was no one here
22 working on this lady's nails?" And he said, "No. You did not
23 see anyone."

24 Q Okay. What licenses were posted at that salon?

25 A I had three, three licenses posted: Tri Minh Le, Liz Tran,

- 1 and Thu Huong Nguyen.
- 2 Q Okay. And were any of the people working when you entered
3 the salon, that salon, were those the license -- did those
4 licenses belong to any one of those four people?
- 5 A You know, I'm not sure that I determined that.
- 6 Q Okay. Well, you have testified that three of them left and
7 you --
- 8 A Absolutely.
- 9 Q Okay. The remaining person, did you determine whether or
10 not she was licensed?
- 11 A I'm sorry. I -- I normally ask which one of these belong --
12 which one of these licenses belongs to each individual, but I --
13 I did not write that down, so I'm -- I'm not sure.
- 14 Q Okay.
- 15 A The normal procedure of mine to say, will you show me which
16 one of these license are yours, but like I said, I don't have
17 that on my -- on my inspection sheet, so I'm not sure if I asked
18 that or not.
- 19 Q Okay. Do you recall whether the remaining woman in the
20 salon, whether you asked her for her ID when you called --
- 21 A No.
- 22 Q Okay. You didn't ask her?
- 23 A I did not.
- 24 Q Okay. Have you made other visits to this salon before this
25 visit in August?

1 A Yes. I have.

2 MS. GEE: Thank you. I have nothing further.

3 HEARING OFFICER JONES: Thank you, Ms. Gee.

4 Mr. Achorn, questions for Ms. Jackson?

5 MR. ACHORN: Yes, ma'am.

6 Thank you, Ms. Jones.

7 CROSS-EXAMINATION

8 BY MR. ACHORN:

9 Q Ms. Jackson, what time did you get there?

10 A I don't have it written down.

11 Q Could it have been around 8:30 p.m.?

12 A It could possibly have been, yes, or later.

13 Q What time does that -- what time does California Nails
14 close?

15 A I don't have any idea. The door was open and they had
16 clients.

17 Q This facility is located in the Pines Mall. Is it not?

18 A Yes.

19 Q If I was to tell you that the Pines Mall closed at nine and
20 all businesses located there in it closed at nine, would you have
21 any reason to dispute that?

22 A I suppose not.

23 Q Okay. What was your demeanor towards Mrs. Le -- Mr. Le?

24 Excuse me.

25 Describe your demeanor towards him.

- 1 A I don't know what you mean by demeanor.
- 2 I --
- 3 Q Well --
- 4 A -- act as professional as I possibly can. When someone
- 5 tells me that you're not sitting there and I'm sitting there
- 6 looking at you, I probably speak in the same tone that I'm
- 7 speaking right now.
- 8 Q And you're sure that's what he told you?
- 9 A I'm absolutely sure.
- 10 Q Okay. Do you have any pictures of any of these conditions
- 11 that you described for the board?
- 12 A No. I don't.
- 13 Q You didn't take any pictures of any of this --
- 14 A No.
- 15 Q -- alleged unsanitary conditions?
- 16 A I don't think I did.
- 17 Q Okay. But you would agree with me that pictures would help
- 18 give a better picture to the board?
- 19 A Sure. Absolutely.
- 20 Q But you either took them and failed to bring them or you
- 21 failed to bring them?
- 22 A I've got my phone and I will be glad to go through it, and
- 23 I'm not sure if I did or not. I do occasionally take pictures of
- 24 violations.
- 25 Q Okay. But that's not a standard procedure for you?

- 1 A No.
- 2 Q Okay. This employee that you say you spoke with, was she
3 oriental or Vietnamese?
- 4 A Are you talking about the --
- 5 Q The one that spoke to you about Top Job.
- 6 A Yes.
- 7 Q She is?
- 8 I'm going to -- did you -- did you visit the back of the
9 store --
- 10 A Yes.
- 11 Q -- while you were there?
- 12 So, while you were there, you did notice a sterilizer?
- 13 A I --
- 14 MS. GEE: Can I see what you're talking about?
- 15 MR. ACHORN: Yeah. Sorry, Ms. Gee.
- 16 THE WITNESS: They --
- 17 BY MR. ACHORN:
- 18 Q You did notice a sterilizer?
- 19 A That's pretty standard equipment for nail salons.
- 20 Q Okay. So it was there?
- 21 A I don't know.
- 22 Q When you travelled to the back, you don't recall whether or
23 not you --
- 24 A I do not recall that.
- 25 Q I'm going to hand you another photograph and ask you what's

1 depicted in that photograph?

2 A Looks like Barbicide, Clorox, Top Job.

3 Q Okay. And did you make any effort to determine whether or
4 not those products were located there?

5 A I did not see those products. No, I did not make an effort.
6 I asked the young lady, "What do you sanitize your pedicure chair
7 bowls with?" And she brought out Top Job.

8 Q Okay.

9 A And I said, "Do you have anything else or" -- "this is what
10 we use." I looked on the label. It did not have an EPA
11 registered number.

12 Q And do you know what her ability to speak English is?

13 A No. I don't.

14 Q Okay. Do you have any idea as to whether or not she
15 understood your question?

16 A I think she did when I said, "What do you sanitize with" and
17 she went and got the product. I think she understood it.

18 Q Okay. But you're not sure?

19 A Well, she didn't bring me a jar of peanut butter.

20 Q Okay. Mr. Le has a hard time speaking English, doesn't he?

21 A Not with me.

22 Q Okay. Mr. Le didn't offer to call these people that left
23 the store right around closing time to come back so you could ask
24 them about their license? He didn't offer to do that?

25 A No. Mr. Le --

- 1 Q Just yes or no, ma'am.
- 2 A No.
- 3 Q Did he offer to do that?
- 4 A No.
- 5 Q And the one lady that remained behind, I believe it's your
6 testimony that you made no effort to determine her identity?
- 7 A At this time I -- no.
- 8 Q You made no effort to view her driver's license?
- 9 A No.
- 10 Q And you made no effort to determine, then, as to whether or
11 not she was a licensed cosmetologist or had the appropriate
12 license required for her to perform the services you've alleged
13 she was performing at the store? You've made no effort to
14 determine that?
- 15 A I don't -- I don't think so.
- 16 Q Okay. So, you would agree with me, then, that at best you
17 could allege that instead of four individuals, there were three
18 individuals performing services that --
- 19 A No.
- 20 Q -- were without a license?
- 21 A No. I do not --
- 22 Q You do not agree with that?
- 23 A No. I do not.
- 24 Q Why is that?
- 25 A Like I said, it's my standard procedure to ask which one of

1 these license belong to who. It could have been that this person
2 told me that one of these license was hers, is the reason I
3 wasn't concerned about an identification. I may have -- this
4 person may have been there before, I may have recognized her as
5 being there, licensed and ID'ed before. I really don't know.

6 Q Okay. But you charged him with four individuals. Correct?

7 A No. I didn't.

8 Q And one of the four -- one of the four individuals -- one of
9 the four individuals that you've testified about is someone that
10 you're now telling the board you may have recognized as having
11 had a license prior to that day?

12 A No. I'm not saying that.

13 Q You just don't know. You can't tell us whether or not the
14 one lady that remained behind had a license or not. Can you?

15 A Not at this time. No, I can't.

16 Q The male individual you say was performing services, what
17 ethnicity was he?

18 A Asian.

19 Q Do you have any idea about his ability to speak or not speak
20 English and understand the English language?

21 A No. I don't.

22 Q So you can't tell this board that beyond a preponderance of
23 the evidence that he even understood your questions. Can you?

24 A I think I could.

25 Q Well, I believe you testified that you asked him a question

1 and he did not respond. Is that your testimony?

2 A Well, because he jumped up and ran out is --

3 Q Jumped up and -- now you're telling the board --

4 A He went out. He went out of the salon. He stopped doing
5 his client and he left the salon without answering any questions.

6 Q Okay. So back to my original question, Mrs. Jackson. Can
7 you tell this board beyond a preponderance of the evidence that
8 you know he understood the English language?

9 A No. I don't -- I don't know whether he understood or not.

10 Q And you do not recall traveling to the back of the store and
11 seeing a sterilizing machine or not?

12 A I did go to the back to check the restroom. I'm sorry, I
13 did not notice the sterilizer.

14 Q Okay. And you do not recall any of these other cleaning
15 products being there?

16 A No. I don't.

17 Q Did you look for them?

18 A Normal procedure. Yes.

19 Q Well, I'm not interested in your normal procedure,
20 Ms. Jackson. I'm asking you very specifically if you made any
21 effort to determine what other sanitizing substances or chemicals
22 were there?

23 A No. I did not.

24 Q Okay. After Mr. Le arrived, shortly after your arrival, did
25 you ask him to show you any other sanitizing chemicals or

- 1 anything of that nature?
- 2 A No, sir.
- 3 Q And he is the owner/operator?
- 4 A Yes, sir.
- 5 Q And he's the one that you've dealt with before in the past?
- 6 A Yes.
- 7 Q Yet you did not ask him any questions about sanitizing any
8 of the equipment, sterilizer or any other chemicals he had there
9 that he used to sanitize the work stations. Is that correct?
- 10 A That's correct.
- 11 Q You asked one specific question of an Asian female about
12 sanitizing one particular piece of equipment. Is that correct?
- 13 A Correct.
- 14 Q You were also the inspector that levied the allegation of
15 bribery against Mr. Le. Are you not?
- 16 A Yes. I am.
- 17 Q Now, you're sure Mr. Le didn't offer to have those three
18 individuals that left come back?
- 19 A I am sure.
- 20 MR. ACHORN: Nothing further.
- 21 HEARING OFFICER JONES: Thank you, Mr. Achorn.
- 22 Does the board have any questions they would like
23 to ask Ms. Jackson?
- 24 MS. CAVER-BLADE: I have a question.
- 25 You did observe like used files and used -- on

1 electric drills and --

2 MS. GEE: I can't hear. Can you speak up?

3 MS. CAVER-BLADE: I'm sorry.

4 Did you observe used files in violation around the
5 tables and --

6 THE WITNESS: Yes. I did.

7 MS. CAVER-BLADE: Okay.

8 HEARING OFFICER JONES: Ms. Turman?

9 MS. TURMAN: Ms. Jackson, were there dirty towels
10 on the floor?

11 THE WITNESS: On the floor and on the manicure
12 station.

13 MS. TURMAN: Ms. Jackson, are you testifying to us
14 that this individual actually got up and left the
15 building?

16 THE WITNESS: Left the salon area --

17 MS. TURMAN: Yes.

18 THE WITNESS: It's in a mall.

19 MS. TURMAN: Yes.

20 THE WITNESS: He left that area. Yes.

21 MS. TURMAN: And he didn't -- as far as you know,
22 he did not come back?

23 THE WITNESS: No. Not to my knowledge.

24 MS. TURMAN: Was the owner there when you arrived?

25 THE WITNESS: No, ma'am.

1 MS. TURMAN: Thank you.

2 HEARING OFFICER JONES: Further questions from the
3 board?

4 Ms. Burchett?

5 MS. BURCHETT: Can you tell me how many tables are
6 in this salon?

7 THE WITNESS: Right offhand, I cannot.

8 MS. BURCHETT: That's okay.

9 Were all the tables that were there, did you --
10 did you see each table unsanitary?

11 THE WITNESS: I -- for the tables that were there,
12 I went to each table to determine if there were -- were
13 dirty implements, used files, used electrical drills,
14 dirty tables.

15 MS. BURCHETT: Was -- did you find that at every
16 table?

17 THE WITNESS: Yes. I did.

18 MS. BURCHETT: Okay.

19 HEARING OFFICER JONES: Further questions from the
20 board?

21 Ms. Ward?

22 MS. WARD: When you talked to Mr. Le and you had
23 told him about these allegations, did he offer to tell
24 you or say that they have other sanitary products that
25 they use? Because on here it says that you -- the

1 product called Top Job. He didn't say -- offer to say,
2 we've got other -- no, we use other sanitary products?

3 THE WITNESS: No.

4 MS. WARD: He made no offer to tell you that they
5 had other things?

6 THE WITNESS: No, ma'am.

7 HEARING OFFICER JONES: Ms. Turman?

8 MS. TURMAN: Did Mr. Le see the copy?

9 THE WITNESS: Yes, ma'am.

10 MS. TURMAN: And he did notice that you had
11 mentioned Top Job without any other --

12 THE WITNESS: He read all of it and he would not
13 sign it.

14 MS. TURMAN: So he refused to sign the inspector's
15 report?

16 THE WITNESS: Refused to sign the inspector's
17 report.

18 MS. TURMAN: Did anyone in the salon tell you --
19 did you expect a time arrival -- when he was supposed
20 to be back in the shop? Did they tell you he's gone,
21 he should be back momentarily, or anything at this
22 point?

23 THE WITNESS: No, ma'am.

24 MS. TURMAN: So you did not know the owner was
25 coming back so you could ask him these questions

1 personally?

2 THE WITNESS: No.

3 MS. TURMAN: Thank you.

4 HEARING OFFICER JONES: Ms. Burrough?

5 MS. COLLINS-BURROUGH: At this -- when you entered
6 the salon, did you just kind of go to each station or
7 did you just scan or how is that -- how is that
8 happening?

9 THE WITNESS: Physically I went to each station,
10 pulled out the drawers, looked up under the little
11 cubby holes for the used files, looked at all the nail
12 drills, swiped the tabled, every station.

13 MS. COLLINS-BURROUGH: Were there products on the
14 tables?

15 THE WITNESS: Yes.

16 MS. COLLINS-BURROUGH: Like professional products?

17 THE WITNESS: Professional, like nail color?

18 MS. COLLINS-BURROUGH: Yes.

19 THE WITNESS: Yes.

20 MS. COLLINS-BURROUGH: And among those products
21 and a set up, you didn't see any products to, like,
22 sanitize their hands as they came in just to begin a
23 service or --

24 THE WITNESS: No. The usual hand sanitizer, I did
25 not see. Now, they normally do keep implement

1 sanitizers there.

2 MS. COLLINS-BURROUGH: What did it appear to be?

3 THE WITNESS: Either Less Touch or -- usually
4 that's a yellowish color.

5 MS. COLLINS-BURROUGH: Did it appear to be fresh?

6 THE WITNESS: Oh, yes.

7 MS. COLLINS-BURROUGH: Either -- was there
8 implements emersed in the product?

9 THE WITNESS: I -- I'm sorry. I don't recall
10 that.

11 MS. COLLINS-BURROUGH: Okay.

12 HEARING OFFICER JONES: Further questions?

13 Ms. Smith?

14 MS. SMITH: Ms. Jackson, when you were doing the
15 inspection, who was there with you? Was someone --

16 THE WITNESS: No.

17 MS. SMITH: No one was working with you?

18 THE WITNESS: No. We do our inspections alone, as
19 a rule.

20 MS. SMITH: Do they stop working when you are
21 doing an inspection, or do they keep going with other
22 business they are doing as you --

23 THE WITNESS: They keep going or they leave.

24 HEARING OFFICER JONES: Further questions from the
25 board?

1 Ms. Burchett?

2 MS. BURCHETT: Can you explain to me, under B, the
3 summary of violations under the inspection report
4 summary, under licensure, that statement that's written
5 there?

6 THE WITNESS: Mr. -- Mr. Le wrote that. And he
7 said that the man that was there worked at Wal-Mart.
8 If I -- I may not read this correctly. He may have to,
9 have to read it. But he said you can see him and his
10 license if you want to.

11 MS. BURCHETT: Thank you.

12 MS. COLLINS-BURROUGH: What's in parenthesis
13 there? His home or his -- what?

14 THE WITNESS: I -- I don't know if that's his name
15 or -- I don't know.

16 MS. COLLINS-BURROUGH: Okay. Who would know?

17 THE WITNESS: Mr. Le.

18 MR. LE: I would know.

19 HEARING OFFICER JONES: You'll have to address
20 that question later.

21 MS. COLLINS-BURROUGH: Okay. Okay.

22 HEARING OFFICER JONES: Further questions from the
23 board?

24 If there are no further questions, Ms. Gee?

25 MS. GEE: I have a few --

1 HEARING OFFICER JONES: Redirect or --

2 MS. GEE: I have a few follow ups.

3 Thank you.

4 REDIRECT EXAMINATION

5 BY MS. GEE:

6 Q Mr. Achorn, when he was asking you questions, was suggesting
7 that this salon had a sterilizing machine in the back of the
8 salon. Isn't that right?

9 A Correct.

10 Q Okay. Would this sterilizing machine be used to sterilize
11 used files?

12 A Used files, unless they have stamped on them by the
13 manufacturer "disinfectable" cannot not be reused, and their
14 files do not have that stamp on there.

15 Q So, no, they can't?

16 A Their buffers or files, so, no, they cannot be reused. They
17 need to be disposed of.

18 Q Okay. So, you could not sterilize the used files and
19 buffers in this machine. Is that correct?

20 A Correct.

21 Q Okay. Can you sterilize soiled towels in this machine?

22 A I don't think so.

23 Q How about clean up dirty floor nail dust, nail clippings?

24 A No.

25 Q Okay. Could -- would this machine have anything to do with

- 1 the fact that dirty implements were stored with clean ones?
- 2 A No.
- 3 Q Okay. How about used files on the electric drills, would it
4 help with that?
- 5 A No. Those have to be disposed of, too.
- 6 Q Okay. Let's go over again the situation, you spoke to an
7 employee of that salon and you said, show me how you clean the
8 pedicure bowls. Is that right?
- 9 A No. I said, "What do you clean your pedicure bowls with?"
- 10 Q Okay. What do you clean your pedicure bowls with?
11 And she went and came back with something called Top Job?
- 12 A Top Job.
- 13 Q So she didn't take you back and show you a whole selection
14 of solutions that they might use?
- 15 A No.
- 16 And I am very specific, when someone brings out a product, I
17 look for the EPA number and I ask them specifically, is this what
18 you clean your pedicure chair bowls with? And that was what she
19 specifically said they clean them with.
- 20 Q She brought the Top Job?
- 21 A Top Job.
- 22 Q Did she say, "I don't understand you"?
- 23 A No.
- 24 Q Did she act confused?
- 25 A No. No.

1 Q She went and got the Top Job and brought it back?

2 A Absolutely.

3 Q Okay. Is there any exception under Arkansas law for people
4 who might not speak English that well that don't have to be
5 licensed?

6 A Not to my knowledge.

7 Q So does whether or not someone speaks English very fluently,
8 what does that have to do with the requirement that they have to
9 be licensed?

10 A I understand we give the test in several languages, and that
11 doesn't -- that's -- you still have to know the rules and
12 regulations.

13 Q Does that affect the requirement to have a current license
14 posted in the salon?

15 A No.

16 Q Okay. And I think you said earlier, but did Mr. Le, when he
17 was speaking to you after he arrived at the salon, did he offer
18 to show licenses to you for those four people that were working?

19 A No.

20 Q Did he offer to get those people back in there to speak with
21 you?

22 A No.

23 But there is -- excuse me.

24 MR. ACHORN: I got it for you.

25 THE WITNESS: There is one -- one lady that has

1 been with him for a long time and even before -- I
2 believe before he even took it over, and -- that I
3 recognized.

4 BY MS. GEE:

5 Q Out of the four people that were there?

6 A Uh-huh.

7 Q Is she the one that stayed?

8 A No. She was not.

9 Q Okay. And, again, you said that there were three licenses
10 posted in that salon?

11 A Yes.

12 Q Three practitioner licenses?

13 A Yes.

14 MS. GEE: Okay. Thank you.

15 HEARING OFFICER JONES: Finished, Ms. Gee?

16 MS. GEE: I'm finished.

17 HEARING OFFICER JONES: Okay.

18 MR. ACHORN: No, ma'am.

19 HEARING OFFICER JONES: At this time, Ms. Gee, you
20 can call your next witness.

21 Thank you, Ms. Jackson.

22 MS. GEE: I have nothing further.

23 HEARING OFFICER JONES: Okay. Mr. Achorn, you may
24 call your first witness.

25 MR. ACHORN: I call Lorene Campbell.

1 HEARING OFFICER JONES: Okay. Ms. Campbell, come
2 sit down here. Were you sworn in with the witnesses
3 earlier?

4 THE WITNESS: Yes.

5 HEARING OFFICER JONES: Okay. You may proceed.

6 MR. ACHORN: Thank you.

7 WHEREUPON,

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

12 DIRECT EXAMINATION

13 BY MR. ACHORN:

14 Q Would you please tell the board who you are?

15 A Lorene Campbell.

16 Q Ms. Campbell, how do you know Mr. Le?

17 A As a client.

18 Q You're his facility's client?

19 A Yes.

20 Q How often do you have services performed there?

21 A Pedicures, like on a regular basis, like every two months or
22 quarter or something of that nature.

23 Q Okay. Were you present in his store on August 30, 2007?

24 A Yes.

25 Q Did Ms. Jackson come on that date?

- 1 A Yes.
- 2 Q Do you recognize her as the person having come there?
- 3 A Yes.
- 4 Q About what time did she get there?
- 5 A It was close to 8:30.
- 6 Q Okay. Were you receiving services at that time?
- 7 A Yes.
- 8 Q What did the person that you were receiving services from do
9 when do Ms. Jackson got there, or immediately prior to
10 Ms. Jackson showing up?
- 11 A Well, there was -- she left.
- 12 Q Okay. Do you know why she left?
- 13 A I was told she left because she -- there was a restaurant
14 that was near closing time, that she needed to go back to the
15 restaurant to clean up.
- 16 Q Okay. And was that your understanding of the reason she
17 left?
- 18 A Yes.
- 19 Q Please describe Mrs. Jackson's demeanor -- or were you there
20 for the most part during the inspection?
- 21 A Yes.
- 22 Q Please describe Mrs. Jackson's demeanor towards Mr. Le. How
23 did she act towards him?
- 24 A Well, there seemed to be a confrontation. It wasn't
25 pleasant. It was, you know, kind of -- it was a rude situation.

1 I don't know how inspections, you know, go, but it was a rude
2 situation.

3 Q Who was acting rude?

4 A Well, she was unresponsive to him, to Mr. Le when he wanted
5 to have -- to show licenses or have somebody come back.

6 Q Did he offer to Inspector Jackson to have these people that
7 left, did he offer to her that he would call them back so she
8 could see their license?

9 A Yes.

10 Q And what was their response to that offer?

11 A I don't remember a response, her response.

12 Q As in she didn't give a response?

13 A No.

14 Q Tell the -- tell the board about the sanitation conditions
15 of the -- of California Nails. Did you find it -- and
16 recognizing that you're not a licensed inspector.

17 A No.

18 Q But was there dirty towels and dirty soiled towels
19 everywhere?

20 A I didn't -- I didn't observe it being an unsanitary
21 environment. I'm a CT technologist in the medical field, and we
22 have to -- and I make sure that when I go some place, I don't
23 want to go to a dirty place, and I want to know what they
24 sanitize with, you know, when I'm getting a service done.

25 And I know that I had seen several bottles that were, like

1 the Barbisol, they were disinfectants that were used for
2 sanitizing. They were big bottles in the corner.

3 Q And you observed that on your -- on your experience there on
4 August 30, 2007?

5 A Yes.

6 Q Is there anything else you would like to tell the board?

7 A No.

8 Q Tell the board briefly what you do. You're a what?

9 A I'm a CT technologist.

10 Q What does that mean?

11 A It's a radiological technologist. We do x-rays, we do CTs,
12 you know, and because of that we're aware of like JACO
13 regulations and how we have to sanitize. And I'm aware of, you
14 know, how everything is supposed to be sanitized in between
15 clients and patients and everything. But I have observed that,
16 that's something I observe. If I go anywhere, I want to know
17 what they sanitize with, if they are sanitized.

18 Q And did you find it to be sanitized or in a sanitary
19 condition there --

20 A Yes.

21 Q -- on August 30th?

22 A Yes. I had them show me the bottles. The big bottles were
23 in the corner and there was a sanitizer. I guess that's what
24 they use with like an ultraviolet light with some implements
25 inside of the sanitizer.

1 Q Was the place covered in nail clippings or dust or anything
2 like that?

3 A Now that I didn't notice.

4 Q Okay. But it was close to quitting time?

5 A Yes. It was.

6 Q Did the person that was working on you, in your opinion, did
7 they leave as a result of Ms. Jackson showing up?

8 A No. That's not what I perceived.

9 Q Okay. What about the other people that left, did -- did
10 they appear to leave as a result of Ms. Jackson getting there?

11 A No. I don't think so.

12 Q And then again, Mr. Le offered to show her where they were
13 or to have them come right back?

14 A Yes. To have them to, yeah, show some license.

15 Q And she summarily ignored that offer?

16 A Uh-huh.

17 Q About how long was she there?

18 A Oh, it wasn't long. And I'm not sure now. You know, not in
19 excess of like ten or maybe 15 minutes.

20 Q Okay. She was there ten or 15 minutes?

21 A Yes. Something like that.

22 Q Not more than 15?

23 A No. I don't think so.

24 Q And it was at that point, then, 8:45 or later. Is that
25 correct?

1 A Yes. It was close to closing time.

2 Q Did she appear to be in a hurry?

3 A Not sure.

4 Q Okay. But she did summarily ignore him when he offered to
5 have those people come back?

6 A Yes.

7 Q It's your understanding they were just right around the
8 corner at the Chinese restaurant in the mall. Is that correct?

9 A Yes.

10 MR. ACHORN: Nothing further.

11 HEARING OFFICER JONES: Thank you, Mr. Achorn.

12 Ms. Gee, any questions for this witness?

13 MS. GEE: Yes.

14 HEARING OFFICER JONES: Go right ahead.

15 MS. GEE: I have a few.

16 CROSS-EXAMINATION

17 BY MS. GEE:

18 Q Did you say that people left right before Ms. Jackson came
19 in or right after?

20 A Like I wasn't aware, I know that they were coming and going,
21 because Le had left out and come back. Somebody else had come
22 in, so it may have been both. But I don't remember it just like
23 her coming in and then a group of people just walking out.

24 Q How many people left?

25 A I remember the one that was working on me, she left.

- 1 Q Who else?
- 2 A It -- it may have been another person. It wasn't like I
- 3 was -- the pedicure is on this side and, you know, the nails were
- 4 over here. Maybe one other person, I'm not sure.
- 5 Q How many people were working when you came in to get a
- 6 pedicure?
- 7 A Maybe four.
- 8 Q Maybe four?
- 9 A Uh-huh.
- 10 Q And you're saying only two of those left?
- 11 A Yeah. I think so.
- 12 Q Could it have been three?
- 13 A It could have been.
- 14 Q Could it have been four?
- 15 A There was somebody left. No.
- 16 Q You're sure?
- 17 A Yeah. I think so.
- 18 Q You think? Okay.
- 19 A Yes.
- 20 Q Are you sure it wasn't three?
- 21 A It might have been. It might have been three.
- 22 Q You don't really remember?
- 23 A Huh-uh.
- 24 Q Okay. So the woman who was working on you left?
- 25 A Uh-huh.

- 1 Q When Ms. Jackson came in?
- 2 A Uh-huh.
- 3 MR. ACHORN: You have to say yes or no for the
- 4 court reporter.
- 5 THE WITNESS: Yes. Uh-huh.
- 6 BY MS. GEE:
- 7 Q And did she say anything to you when she left?
- 8 A She said something to like one of her co-workers or -- or
- 9 something. She left and --
- 10 Q What did she say to her co-worker?
- 11 A I'm not sure. I don't even know if it was in English --
- 12 Q Okay.
- 13 A -- that she said.
- 14 Q Were -- so were you finished with your pedicure when she
- 15 left?
- 16 A No. I wasn't finished.
- 17 Q So she just got up and left and left you sitting there?
- 18 A Yeah. She said something to one of them. You know, it was
- 19 like a given thing. I knew it wasn't just her abandoning me.
- 20 You know she said something and then she left.
- 21 Q And then they told you she went to go get some food?
- 22 A No. Le had told me that she went back to the restaurant
- 23 that she worked at, it was close to closing time and they had to
- 24 clean up.
- 25 Q So she --

- 1 A So he would finish me up.
- 2 Q So she was working at a nail salon and a restaurant at the
3 same time? Is that what you're saying?
- 4 A She worked at a restaurant, I was told, around the corner
5 and it was clean up time.
- 6 Q And Mr. Le told you that?
- 7 A Uh-huh.
- 8 Q After he came back?
- 9 A Uh-huh.
- 10 Q You didn't think that was a little weird?
- 11 A No. I mean --
- 12 Q You didn't?
- 13 A Not given the fact that, if you've been in several times,
14 that people are in and out of the place, I mean that worked in
15 the mall. So, no, it wasn't to me.
- 16 Q How long have you been going to this salon?
- 17 A Probably since before he had -- I know at least four or five
18 years.
- 19 Q Okay. And are you and Mr. Le friends?
- 20 A No.
- 21 Q So, but you came here today from Pine Bluff for him?
- 22 A No. I live here now.
- 23 Q You live in Little Rock?
- 24 A Uh-huh. Uh-huh.
- 25 Q But you still came here today for him?

- 1 A Uh-huh.
- 2 Q Did you take time off work?
- 3 A No, I didn't have to. He had asked me. I told him -- about
- 4 his situation. And I said if I didn't have to work, that I would
- 5 come in.
- 6 Q Okay. And you were testifying about your medical training
- 7 and that the JACO standards of sanitation and stuff?
- 8 A Uh-huh.
- 9 Q Are JACO standards of sanitation applicable to nail salons?
- 10 A I'm not sure. I'm not sure.
- 11 Q Do you have --
- 12 A I know OSHA is and we have to apply to OSHA.
- 13 Q Do you know what standards of sanitation --
- 14 A No, I don't.
- 15 Q -- are applicable to nail salons?
- 16 A No. I don't.
- 17 Q Okay. Do you have any idea what kind of solutions that are
- 18 supposed to be used?
- 19 A The only thing I have observed at all places are the
- 20 Barbisol.
- 21 Q No, let me ask you, do actually know what they are supposed
- 22 to use?
- 23 I'm not asking what you observed.
- 24 A No. No.
- 25 Q Okay. So are you actually in the position, more

1 knowledgeable than any other customer off the street about what
2 is sanitary or unsanitary according to the Board of Cosmetology's
3 health and safety rules in a nail salon?

4 A No. No.

5 MS. GEE: Thank you.

6 I don't have any other.

7 HEARING OFFICER JONES: Does the board have any
8 questions?

9 MS. TURMAN: I have several.

10 HEARING OFFICER JONES: Go right ahead.

11 MS. TURMAN: Okay. Emphasis was placed that she
12 went there at 8:30. Can you tell me if the doors were
13 open at 8:30 when she walked in there to inspect?

14 THE WITNESS: Yes. The doors stay open.

15 MS. TURMAN: Okay. Also you stated that someone
16 told you that she had gone. You didn't actually hear
17 her say that she was going to another job, she simply
18 left you. Is that correct?

19 THE WITNESS: Uh-huh. Uh-huh.

20 MS. TURMAN: She didn't say another word to you,
21 she left you and Mr. Le told you what she was doing?

22 THE WITNESS: Yes.

23 MS. TURMAN: And you still don't think that's odd?

24 THE WITNESS: I had been in there before. I've
25 gone in there, so --

1 MS. TURMAN: Well, it --

2 THE WITNESS: -- it wasn't odd to me.

3 MS. TURMAN: Sorry. Didn't mean to interrupt you.

4 Regardless if you've been there before, don't you
5 think that is still a little odd, the minute the
6 inspector walked in, all of a sudden this person had
7 somewhere else to go?

8 THE WITNESS: Yeah. It probably would have, but
9 initially I didn't know she was an inspector.

10 MS. TURMAN: Were there dirty towels on the floor?

11 THE WITNESS: I remember seeing some towels. I
12 don't know if they were dirty towels or not. I do
13 remember seeing some towels.

14 MS. TURMAN: Did you ask them what they cleaned
15 their bowls with or what did -- would -- were there Top
16 Job -- could you identify a bottle of Top Job sitting
17 there?

18 If somebody would have asked you if you -- what
19 they clean -- if you had gone in and asked what they
20 clean with -- did you ask that?

21 THE WITNESS: No. Not at this time.

22 MS. TURMAN: Okay. So much emphasis has been put
23 on the language barrier. I would like to know, Mr. Le
24 looks like he can write pretty good in English. It's
25 been listed that he has perhaps a language barrier

1 also.

2 THE WITNESS: Uh-huh.

3 MS. TURMAN: How do they converse with you if you
4 speak English and they only speak their language?

5 THE WITNESS: Really not much two-way conversation
6 at all. You know, with the -- you know, he's not the
7 only one that does me, but with some there is not a lot
8 of two-way conversation.

9 MS. TURMAN: So you're telling me -- do you point
10 and things are what they need to do, or how do you
11 converse with them what you want to have done that day?

12 THE WITNESS: Now, to be honest, I think they
13 understand or some -- pedicure or manicure, my color
14 that I want, or, you know, things like that. Like I
15 select a color, but there is no conversation.

16 MS. TURMAN: All the time they are working, they
17 are doing pedicure, manicure, or whatever they are
18 doing, whatever kind of -- whatever they are doing,
19 services they are performing on you, there isn't any
20 conversation?

21 THE WITNESS: Now, Le, I understand him well, but
22 not with everybody. No, there is not --

23 MS. TURMAN: So, he doesn't have a language
24 barrier?

25 Are you stating Mr. Le does not have a language

1 barrier?

2 THE WITNESS: It might have been limited. I mean,
3 there is some --

4 MS. TURMAN: He writes pretty well.

5 THE WITNESS: I mean, I'm not an authority on what
6 his limitations are with his language, but I'm just
7 saying I understand most of what he says. That's not
8 true of the other people that work in his salon, but I
9 don't have any problems with the service that they
10 give.

11 MS. TURMAN: Thank you.

12 HEARING OFFICER JONES: Further questions from the
13 board?

14 Ms. Ward?

15 MS. WARD: You stated that you saw the Barbicide
16 and all the cleaning solutions and the -- the
17 sanitation thing. How were you able to see those? Or
18 is it out in the --

19 THE WITNESS: It's over in the corner at the back
20 by the sterilizer and the pedicure chairs, the ends are
21 right in there, too, so --

22 MS. WARD: Okay. Were you sitting to where you
23 could observe everything that's going on in the whole
24 salon?

25 THE WITNESS: It's kind of a long place. You can

1 observe most of it. Uh-huh.

2 MS. WARD: Okay. You also stated that you didn't
3 find it odd that a -- somebody doing a service on you
4 would up and walk out and leave you not being finished.
5 That seems like a very odd thing for anybody to do.
6 You don't walk off and leave your client, and for more
7 than one person to just up and leave their client, that
8 doesn't seem like it's a normal procedure, because
9 people don't do that. And is that something you
10 observed happening before when you was in there, people
11 walking off and leave their clients and not coming
12 back? Is that something they have done to you before?

13 THE WITNESS: No. I don't think -- I don't
14 remember. I don't think so.

15 MS. WARD: And you didn't find it odd that they
16 would all of a sudden do that?

17 THE WITNESS: It was not a fact of me even
18 thinking that they weren't going to come back. That
19 wasn't in my thinking, that they would leave and not
20 come back.

21 MS. WARD: Yeah. But when they didn't come back,
22 you didn't find that odd? And that happened to more
23 than one client?

24 THE WITNESS: I don't, because Le came back. But
25 if I had been some place and, yeah, somebody walked off

1 and didn't come back, definitely, yeah. Yeah. That is
2 somewhat odd.

3 HEARING OFFICER JONES: Further questions from the
4 board?

5 Ms. Smith?

6 MS. SMITH: The question that was asked about the
7 sanitizer. Do you know what type of sanitizer that
8 they were using?

9 THE WITNESS: Yeah. I remembered at the time -- I
10 remembered the Barbisol, or something like that. There
11 were like about three or four other bottles. I think I
12 even remember bleach. But I remember like four
13 bottles, but I remember specifically, I remember the
14 Barbisol, there were big jugs of that.

15 MS. SMITH: Were they at -- you said they were in
16 the corner. Were they on the station or were they just
17 in a certain area?

18 THE WITNESS: No. They were in a certain area.

19 MS. SMITH: A certain area --

20 THE WITNESS: Uh-huh.

21 MS. SMITH: -- where they stored?

22 I was going to ask you the question again, because
23 I find that strange that someone just got up and left.
24 Who finished your pedicure?

25 THE WITNESS: Le finished my pedicure.

1 MS. SMITH: And you've been going there for five
2 years and you don't consider him as a friend?

3 THE WITNESS: No. Huh-uh.

4 HEARING OFFICER JONES: Ms. Turman?

5 MS. TURMAN: I -- I'm sorry I keep -- did -- could
6 you really determine that that was Barbicide in those
7 bottles, or you know for sure?

8 THE WITNESS: No. No, they -- no, I just noticed
9 the label. That's all. They were in the containers.

10 MS. TURMAN: Have you ever -- I'm sorry. Didn't
11 mean to interrupt you. I'm very sorry.

12 Have you ever observed anyone else getting up and
13 walking out, anywhere anyone? I mean we're talking
14 about all these, the manicurists doing it. Have you
15 ever observed that before, anybody getting up and
16 walking out? Has it ever occurred or happened to you
17 before or any other client that you're aware of when
18 you were in that shop?

19 THE WITNESS: No.

20 MS. TURMAN: You said you're normally --

21 THE WITNESS: No.

22 MS. TURMAN: Thank you very much.

23 HEARING OFFICER JONES: Further questions from the
24 board?

25 Ms. Ward?

1 MS. WARD: One thing bothered -- you said that you
2 asked them what they used to sanitize with, and you
3 were always aware of it because you asked them what
4 they used?

5 THE WITNESS: Uh-huh.

6 MS. WARD: When did you do that?

7 THE WITNESS: This was when I first started going
8 there.

9 MS. WARD: Okay. Did you ever observe anybody
10 sanitizing when they were cleaning up after a client in
11 all this length of time?

12 THE WITNESS: Yes. Well, it was something that I
13 would insist on, but --

14 MS. WARD: Yeah. But you never observed them
15 cleaning out the tubs after they finished doing a
16 pedicure or cleaning the implements or cleaning up
17 after themselves?

18 THE WITNESS: Cleaning the pedicures. Yes.

19 MS. WARD: The bowls?

20 THE WITNESS: The bowls. Yeah.

21 MS. WARD: What did you observe them doing?

22 THE WITNESS: Well, just using the sanitizer and
23 cleaning them. If you showed me what you used and I
24 saw you do something else and you didn't clean it
25 behind them, I wouldn't trust you to still do mine. So

1 I observed them cleaning the bowls.

2 MS. WARD: Yeah. But what did you observe them
3 using to clean the bowls, is what I'm asking. Did you
4 see what they were using to clean the bowls with?

5 THE WITNESS: No. No. I don't remember doing
6 that.

7 HEARING OFFICER JONES: Further questions?

8 If there are no further questions from the board,
9 Mr. Achorn?

10 REDIRECT EXAMINATION

11 BY MR. ACHORN:

12 Q Was there any doubt in your mind that Mr. Le offered to
13 bring these other three people back, four people back?

14 A No. No doubt at all.

15 Q And what was Inspector Jackson's response to that?

16 A I didn't hear her respond.

17 Q So would it just be -- would it be safe to say that she
18 summarily ignored him when he made that offer?

19 MS. GEE: Objection.

20 MR. ACHORN: I'll withdraw it and ask it a
21 different way.

22 BY MR. ACHORN:

23 Q Would it be safe to say that she had no response to his
24 offer?

25 A Correct.

1 MR. ACHORN: Nothing further.

2 HEARING OFFICER JONES: Thank you, Mr. Achorn.

3 Would you like any questions on recross?

4 MS. GEE: Just -- just a couple.

5 RECCROSS EXAMINATION

6 BY MS. GEE:

7 Q Did you hear what she said or did -- or what happened when
8 he -- when he supposedly offered to bring his people back in to
9 talk to Ms. Jackson? Did you hear what she said?

10 A No. I didn't. I didn't hear a response.

11 Q Okay. You didn't hear a response or you didn't hear the
12 response?

13 A I didn't hear a response.

14 Q So do you know whether she responded or not?

15 A No. She didn't.

16 Q You were sitting right there listening, paying close
17 attention to everything that was said?

18 A No. But it was like in a room like this, so it would be --
19 we all heard, it was a room about the size of this, so it wasn't
20 like there was any whispering.

21 Q Okay. Right. But you heard everything that was said
22 between the two of them?

23 A Uh-huh.

24 Q And you heard that she responded -- did not respond at all?

25 A Uh-huh.

1 Q You're positive?

2 A Yes. Uh-huh.

3 Q Did you look at all the licenses that were posted in this
4 establishment?

5 A No.

6 Q Have you ever looked at any of them?

7 A No.

8 Q Do you have any idea who is licensed or not licensed?

9 A No.

10 HEARING OFFICER JONES: Okay. Mr. Achorn, call
11 your next witness.

12 MR. ACHORN: Call Mr. Le.

13 HEARING OFFICER JONES: Thank you.

14 Mr. Le.

15 WHEREUPON,

16 TRI MINH LE,

17 having been called for examination, and having been first duly
18 sworn by the undersigned notary public, was examined and
19 testified, as follows:

20 DIRECT EXAMINATION

21 BY MR. ACHORN:

22 Q Mr. Le, you understand why we're here?

23 A Yes.

24 Q Tell the board about sanitary -- how you sanitize, how your
25 employees sanitize?

1 A We sanitize, you know like put them in after you -- you can
2 spray on it or after you do a sterilize liquid, and after you
3 done that, you have to put, I put in machine, on, and implement
4 you put in machine, the sterilize right here, you put in there.
5 And every time you do a manicure, all the time when you work, you
6 have two unit to do manicure or pedicure. After you done one,
7 you put in there, and the other one you take out. You put your
8 clean you have to put in there at least ten minutes. That's the
9 regular machine that I do.

10 And if you clean about pedicure, you have to clean that
11 floor up and towel. We have total six or -- pedicure chair. But
12 after you done for one customer, wait five minute, put the Clorox
13 and the soap in there, soap them, I believe five minute, because
14 we have rotate, to -- rotate the chair and the customer does,
15 next. Next customer, you put in here and you have to wait like
16 five minute or you have to, you know, if you want another
17 customer or another person put there. That normal as how to do
18 on it.

19 Q Let's -- let's talk about August 30th. Was what's depicted
20 in this photograph present at your store?

21 A I -- I have all the --

22 Q Just yes or no. Was this --

23 A Yes.

24 MR. ACHORN: Okay. I would move to have this --

25 BY MR. ACHORN:

1 Q This photograph was taken at some point after August 30th.

2 Is that correct?

3 A Yeah.

4 Q It was taken after you found out we have to come up here
5 today?

6 A Yes. That's true.

7 Q Okay. But does this accurately depict what was in your
8 store on August the 30th?

9 A Yeah.

10 MR. ACHORN: Okay. And I don't know, do I need
11 stickers or do I just need to write on it?

12 MS. GEE: Just -- do you have copies or do you
13 just have these?

14 MR. ACHORN: No. Do you have stickers?

15 COURT REPORTER: Yes.

16 HEARING OFFICER JONES: Ms. Gee, do you have any
17 objection?

18 MS. GEE: No objection.

19 MR. ACHORN: I would move to have this introduced
20 as, I guess, Respondent's Exhibit No. 1.

21 HEARING OFFICER JONES: The photo will be entered
22 as Exhibit No. 1.

23 MR. ACHORN: Okay.

24 (WHEREUPON, Respondent's Exhibit No. 1 was
25 received in evidence.)

1 MS. WARD: Can we see them?

2 MR. ACHORN: Yes, ma'am. I'm going to do a few of
3 them at one time and then pass them around, if that's
4 all right.

5 MS. GEE: Okay. That's fine.

6 MR. ACHORN: I'll move to have this photograph
7 admitted as Respondent's Exhibit No. 2.

8 HEARING OFFICER JONES: No objection, Ms. Gee?

9 MS. GEE: No objection.

10 HEARING OFFICER JONES: And what is -- for the
11 board's clarification, what is depicted in Exhibit
12 No. 2?

13 MR. ACHORN: The picture of the sterilizing
14 machine.

15 HEARING OFFICER JONES: Okay. Thank you.

16 (WHEREUPON, Respondent's Exhibit No. 2 was
17 received in evidence.)

18 MR. ACHORN: And I'm going to mark this as
19 Respondent's Exhibit No. 3, and it shows a farther back
20 view of everything that's shown in one and two,
21 essentially.

22 HEARING OFFICER JONES: And, Ms. Gee, you have no
23 objection to either of these either?

24 MS. GEE: No.

25 HEARING OFFICER JONES: Okay. Those will be

1 admitted as such.

2 (WHEREUPON, Respondent's Exhibit No. 3 was
3 received in evidence.)

4 MR. ACHORN: I'll just let you --

5 MS. GEE: Do you want me to pass them around?

6 MR. ACHORN: Yes. If you could pass them around
7 to the board.

8 BY MR. ACHORN:

9 Q Did Mrs. -- or did Inspector Jackson show up on August 30,
10 2007?

11 A Yeah.

12 Q Tell us what took place. Tell the board from your
13 perspective what happened.

14 A The day she came?

15 Q Yes, the day she came. What time did she get there?

16 A Okay. She come, she -- she got there about around like
17 8:30. I know that because I work like about five, or around
18 about five minutes. When I come back, before that, I call them.
19 I say, jump in there because I have customer. And jump in there
20 and took -- open pedicure and do for person for me, I will go
21 there. And I have around five minute. And when I come back
22 there and they left, I know them, because they go back, you know,
23 like, okay, they go back to whatever -- you know, restaurant.

24 Q Okay. Who are you speaking of?

25 Who -- who, when you say they go back to restaurant, who are

1 you speaking of?

2 A The -- the worker right there.

3 MR. ACHORN: Let me -- if I can have a little
4 leeway.

5 BY MR. ACHORN:

6 Q There were three females working in your -- your business or
7 your facility on August -- around 8:30 on August 30, 2007. Is
8 that right?

9 A Yeah.

10 Q Did they have other employment or did their family own
11 another business?

12 A Oh. Oh. They own business, the restaurant.

13 Q What restaurant do they own?

14 A The Chinese food in the mall.

15 Q Okay. Are they also licensed manicurists, pedicurists,
16 things of that nature?

17 A Yes. Yes, sir.

18 Q Do we have -- is this a copy of their licenses?

19 A I have a copy them license because when they go there, I am
20 on time because I know you have a license, they say they have a
21 license. Okay, just go there and help me right there. You don't
22 have license, I cannot keep them in my shop. And then they go
23 back there and because they went there, help me hold a customer
24 right there, I be over there and one --

25 Q Let me stop you there.

1 Is this, what I've marked as Respondent's Exhibit No. 4, is
2 this a copy of the license for the people that were working in
3 your store on that day?

4 A Yes.

5 MR. ACHORN: Okay. I would move to have this,
6 it's a three-page document, photocopies of licenses, I
7 would move it be admitted as Respondent's Exhibit 4.

8 MS. GEE: No objection.

9 HEARING OFFICER JONES: The licenses will be
10 admitted, it's a three-page -- four-page document?

11 MR. ACHORN: Yes, ma'am.

12 HEARING OFFICER JONES: It will be received.

13 (WHEREUPON, Respondent's Exhibit No. 4 was
14 received in evidence.)

15 MR. ACHORN: May I proceed?

16 HEARING OFFICER JONES: Yes. Go ahead.

17 BY MR. ACHORN:

18 Q Had they worked for you in the past on different days?

19 A Yes.

20 Q What time do they normally leave?

21 A 8:30.

22 Q Why?

23 A Because they have to go back there, they go there, they go
24 back there and clean the restaurant. I know because we are
25 friend, and then when they go back 8:30, they have to clean up

1 restaurant.

2 Q Okay. And were they licensed? They were licensed?

3 A Yes. They were.

4 Q Their license were not posted in your store. Were they?

5 A They not -- they have --

6 Q Just -- Mr. Le, yes or no? Were their licenses posted in
7 your store, sir?

8 A No.

9 Q Why?

10 Please tell the board why they were not.

11 A They have -- they keep them in their pocket, because the
12 license have -- it's one page. They allow for you to keep in
13 your pocket. So I understand, you go there but they have -- you
14 have to keep them, if they woman, you have to keep them in your
15 purse, like you keep license in there and that's what I know. I
16 say okay you keep that, that's okay, because they not work there
17 all the time for me because they don't. And I say that's okay
18 right there, just go there right there. I didn't tell them but I
19 know they have their license in their pocket.

20 Q Okay. And did you and Inspector Jackson discuss whether or
21 not those three individuals had a license?

22 A I talk to her.

23 Q Talked to who? Inspector Jackson?

24 A To inspector -- yeah. I told her when I read the report, I
25 said, "Ma'am, you cannot do this, ma'am." I told her "let me

1 call them." And she -- she tell me that -- she tell me like
2 this. I said, "Ma'am, you cannot do this. This is my job." And
3 I told her, "Let me call them. Hold on few minutes because they
4 next door." And she said, "I got to go." That's only she told
5 me, and she walk out. So I got no idea and I really upset, too.
6 I said, "Ma'am, you cannot do this."

7 Q You were -- you were upset during this?

8 A I very upset that time when she try to do me, like last
9 time. And I just told her, "Ma'am, you cannot do this." I
10 believe she listen to me tell her, "Ma'am, you cannot do this.
11 No, no way. You cannot do this."

12 Q Tell us about the sanitary conditions of your store. Do you
13 and your other employees, people working there for you, do they
14 clean the tables, clean the bowls, things of that nature?

15 A Yeah. The way how they clean, and they clean --

16 Q Just yes or no. Do they clean up?

17 A Yes.

18 Q On the date that Mrs. -- excuse me, Inspector Jackson came
19 to your store, or came to your establishment, were there dirty
20 towels everywhere?

21 A No. Not -- don't do that. Dirty towel. The picture had
22 the basket right there. You can see the basket. The basket, and
23 I remember, inspector, she the one to remind me you have to have
24 a basket, about two years ago. Every time she keep the towel and
25 I have a basket, she make say, yes, I had basket with a plastic

1 bag. Before I just put basket, but she the one told me you have
2 plastic bag, too, and I have that, too. The towel, every towel,
3 after we clean, we do a pedicure with a mess, after the towel,
4 okay, you do the pedicure, that's it.

5 Q Was your store nasty?

6 Was it dirty?

7 A I don't think so.

8 Q Okay. Was it close to quitting time?

9 A Yes. Because now after I have to close. The door, we have
10 the door in front. You cannot close. You cannot close half or
11 whatever before 8:30, you be get fired, kicked out from the mall.
12 So we close exactly the time, nine o'clock or 9:05, whatever.
13 That the time we supposed to close.

14 Q Did -- tell us about the male -- male person performing
15 cosmetology services in your store. What is his name?

16 A Oh, his name is Chi.

17 The reason write down right there, because I told her,
18 ma'am, don't do this. I call them right away. Because I told
19 her to, meantime me upset, he work for Regal Nails in Wal-Mart.
20 But meantime, like I'm upset, I just say he work for Wal-Mart, I
21 didn't say Regal Nails.

22 His license legal. If you will look at every quarter in the
23 Regal Nails, you know, in Wal-Mart, you see his name in there.

24 Q Is he kind of moonlighting with you, making a little extra
25 money?

1 A Yes. Like over there, you know, like we -- we friend, we
2 know, we talk together and he just, he go there, yes, I -- he
3 did.

4 Q But he's licensed?

5 A He got license.

6 Q Why did he leave either shortly before or at the time that
7 Inspector Jackson showed up?

8 A He wasn't there. I call him, too, but he cannot help me.
9 So he went there, he soap up, he soap the people up, he get a
10 bowl, yeah. And I told, when we call on the phone, you know, I
11 called him, he said, okay. I cannot have it. He just put the
12 bowl right there and he left.

13 Q He wasn't working on someone at the time he left, or did
14 he --

15 A No. No. No. No.

16 Q He was just there in your store?

17 A He took there, he shopping. That -- that time he shopping.

18 Q Do you feel like you have an easy time or hard time
19 communicating with Inspector Jackson?

20 A Sometime -- sometime, either when she write out -- I -- I'm
21 not really know exactly when she write out report right there. I
22 not really understand exactly, but I take a look at the, like
23 dirty, or you say, okay, the Top Job or some kind like that. And
24 I understand that, when she write down like that, I know
25 something happen to me. So that's why I tell her no. I telling

1 her, ma'am, don't, don't do this.

2 Yes, they top -- sometime I clean the sink, you know, the
3 sink, and that's it, I have to clean it. But not supposed to
4 clean like pedicure or sink or sanitize like clean up for the
5 people, no. That detergent no more. I bought it, I keep that
6 for, you know, clean the sink or for things like that and you do
7 that. I don't think I violate in that. Because if you saw that,
8 she -- she don't ask me nothing. She didn't ask me nothing. She
9 just want when somebody started.

10 Q Did you try to explain to her some of the allegations that
11 she had written down in the inspection form?

12 A I did.

13 Q And what was her response?

14 A She not -- she not answer me. She say some label. She say,
15 "I saw no label." I say, "Okay. Can you show me?" She don't
16 answer me. She doesn't answer me. And I don't know what to do.

17 So when I read all this, she says reason all someone left,
18 and I told her to, "Hold on, ma'am, let me call them, because
19 they -- because they next door." And she just told me, "I got to
20 go."

21 And I hurry, I write out that, too. I write out, because
22 this man, he get license, ma'am. She said, "No, no, no, don't
23 touch that." I say, "No, ma'am, I no write nothing, let me write
24 out, because I want to say something." I want to say it, so I
25 have to write it out right there. I don't have much conversation

1 with her.

2 I got to go. That's all I hear from her.

3 MR. ACHORN: Nothing further.

4 HEARING OFFICER JONES: Ms. Gee?

5 CROSS-EXAMINATION

6 BY MS. GEE:

7 Q Hello.

8 A Yes.

9 Q All right. Do you know the cosmetology laws and rules?

10 A I know some. I not have all of them.

11 Q You only know some of them?

12 A Yeah. I think so.

13 Q Okay. You know you're responsible to know what they are?

14 A Yes.

15 Q Especially as an owner of an establishment, you're
16 responsible for that?

17 A Yes, ma'am.

18 Q You understand that?

19 And I think you testified earlier that the Arkansas law says
20 that you can keep licenses in your pocket?

21 A Yeah. I see that, the license, the -- the bottom they say
22 in a pocket, that, I saw you can keep them there.

23 Q Okay.

24 A Like he work here, even work my store, and you keep that in
25 the pocket, I can go like you know like another shop if I have

- 1 to, I can go work over there. That's what I thought.
- 2 Q Okay. So, you don't know that the law actually requires you
3 to display a license in a conspicuous place?
- 4 You're saying you don't know that?
- 5 A No. No. No. I know that. We have to post the license.
- 6 Q Right.
- 7 A And you post the license if I go over there. That I
8 thought. I can go not a shop, I work for extra money, I can
9 keep, you know, I tore them out, I keep in my pocket. That I,
10 for my understanding. That for my understanding, I thought that.
- 11 Q So you're saying that you thought that sometimes you have to
12 post licenses and sometimes you don't? Is that what you're
13 saying?
- 14 A No. No. No. The license. No, the license. If you work,
15 you have to post right there. And any time you work right there
16 half day or you go another store, you work for extra money, go if
17 I be over here slow, you go do another shop and you have to keep
18 your, keep them, that, the pocket, you can keep them in your
19 pocket. That I thought you can keep that.
- 20 Q That's still working, isn't it?
- 21 A I thought that's legal, when I --
- 22 Q That's still working, isn't it?
- 23 A I think.
- 24 Q Yeah.
- 25 Okay. You gave the board some copies of three different

1 licenses for manicurists?

2 A Yeah.

3 Q Who are these people?

4 A Yeah, they are.

5 Q Who are they?

6 A They do work for this Chinese restaurant. They own
7 business.

8 Q What proof do you have that those licenses belong to the
9 people who were working in your salon?

10 A I have two right there: One for --

11 Q How do we know that that's who was in your salon? Were
12 those licenses posted anywhere?

13 A I call them because she don't want to --

14 Q Were they posted anywhere?

15 A No. They not post.

16 Q Were they provided to Ms. Jackson at the time of her
17 inspection?

18 A No.

19 Q Where did you get those licenses?

20 A The license, ah, the license after I received the letter
21 from her, she get --

22 Q You got them after that?

23 A Yeah. I know they have license.

24 Q After you knew you were going to have to come here today?

25 A Yeah. I have license -- I know they have license.

- 1 Q Why aren't those people here today to testify for you?
- 2 A Oh, because they work there. They have their own business.
- 3 Q Okay. You said they worked for you before?
- 4 A They have several time.
- 5 Q Okay. But you never --
- 6 A Like one time or two time or I mean a week.
- 7 They not really work for me.
- 8 Q But they had worked for you before?
- 9 A They had license and they try to come. Every time that they
- 10 try to come work there, I welcome, I say, okay, come here.
- 11 Q Okay. Were there towels on the floor anywhere in your salon
- 12 when Ms. Jackson visited?
- 13 A No, ma'am.
- 14 Q Never anywhere --
- 15 A No.
- 16 Q -- on the floor?
- 17 Were there any towels on the manicure tables?
- 18 A The towel manicure?
- 19 No.
- 20 Q Okay. Was there any nail dust on the floor or on the
- 21 tables?
- 22 A I -- I cannot do, I cannot say that. Because a nail, if I
- 23 got a nail on the floor --
- 24 Q So maybe there was?
- 25 A There may be somewhere. I -- that she inspect. But when

- 1 they ask her, you know, and she don't give me answer. That's it.
- 2 I ask her where the label. She said where a label. The --
- 3 I even, I ask her --
- 4 Q She said what?
- 5 A The label.
- 6 Q The label?
- 7 MR. ACHORN: Yeah. She said the --
- 8 THE WITNESS: The label.
- 9 BY MS. GEE:
- 10 Q Oh, for the disinfectant?
- 11 A Yeah. I ask her and she don't answer me.
- 12 I said, ma'am. Okay. I call them over here. They work
- 13 right there, I call them over here. Next door.
- 14 Q Okay. We've already gone over that.
- 15 What -- what do you use to disinfect your manicure bowls? I
- 16 mean pedicure bowls?
- 17 Sorry. What do you use?
- 18 A You can use rinse out or alcohol before you use.
- 19 Q What do you use?
- 20 A The water. The manicure, right?
- 21 Q No. I'm sorry.
- 22 The pedicure bowls, what do you disinfect them with?
- 23 A You -- you can do it with a Clorox, Clorox and shop cleaner.
- 24 Q Is that what you do?
- 25 A Yeah.

1 Q Every time?

2 A Yeah. Every time you have to clean them, just took soap and
3 then clean them out.

4 Q And that's what your employees use?

5 A Yes.

6 Q How do you know?

7 A They suppose to do that. They have, they have to do because
8 they been trained.

9 Q These people who work in the restaurant and don't work for
10 you, you train them?

11 A They respect more they learn from here.

12 Q Right.

13 A They work there and I tell them that's how what you clean.
14 And when you soap up, we have to soap up with the Barbicide.
15 That's what you soap up with, Barbicide.

16 Q So do you make sure that's what they do?

17 A Yes, ma'am.

18 Q Okay. Do you have containers for your used and clean
19 implements at all in your stations?

20 A No. We keep one only in machine.

21 Q So you keep --

22 MR. ACHORN: I'm not sure he understood your
23 question.

24 THE WITNESS: The table, we have like the bottle
25 right here with the Barbicide here, you do, you can go

1 and do right there and take it back to the sterilize
2 machine.

3 BY MS. GEE:

4 Q Do you have a container with clean implements at each
5 station?

6 A Yes.

7 Q Do you have a container for the used instruments at each
8 station?

9 For the dirty ones?

10 Do you have --

11 A The dirty one?

12 Q Do you have a container for dirty ones?

13 A Yeah. We have a bath like file or the buffer or a little
14 bath or the trash right there, we do throw over there.

15 Q Okay.

16 A As far as patient, you have to have whatever, like dirty,
17 you can throw in there.

18 MS. GEE: Okay. Thank you.

19 I have nothing else.

20 HEARING OFFICER JONES: Ms. Turman, questions from
21 the board?

22 Go right ahead.

23 MS. TURMAN: Mr. Le?

24 THE WITNESS: Yes, ma'am.

25 MS. TURMAN: Do you have any problem understanding

1 me?

2 THE WITNESS: I don't. I try.

3 MS. TURMAN: Okay. If you understand me, do you
4 think perhaps you can understand Ms. Jackson?

5 THE WITNESS: Yes.

6 MS. TURMAN: Okay. You said that what
7 Mrs. Jackson -- Ms. Jackson was doing when -- and so
8 much emphasis has been put on the store, the time, your
9 attorney and with you, on what time the store was still
10 open at 8:30. If it was open, why couldn't Ms. Jackson
11 do her inspection?

12 THE WITNESS: What you asking there?

13 MS. TURMAN: Your attorney and you have put so
14 much emphasis on the store being closed at eight -- you
15 know, her -- her inspection was going to occur at 8:30.

16 THE WITNESS: Yes.

17 MS. TURMAN: What was -- what was the difficulty?
18 What was -- because your store was open.

19 THE WITNESS: Yes.

20 MS. TURMAN: Could you possibly -- you weren't
21 there. Is that correct?

22 THE WITNESS: Correct.

23 MS. TURMAN: So really and truly, how do you know
24 what Ms. Jackson did when you got there, when you
25 weren't there?

1 THE WITNESS: Okay. I come back about five
2 minutes.

3 MS. TURMAN: Okay.

4 THE WITNESS: She already make the report. I
5 welcome to answer anything.

6 MS. TURMAN: You said that you were only gone five
7 minutes but she had had ample time to do all this?

8 THE WITNESS: About five, ten minutes. I can't
9 tell you exactly time. I'm not sure about that.

10 MS. TURMAN: Okay.

11 THE WITNESS: But when I come back, I welcome to
12 her answer her, I welcome to, you know. I'm happy to
13 do what she want to know, and I kept wait -- I just ask
14 her what I saw in the report.

15 MS. TURMAN: But you're saying that the license
16 were not posted. Is that correct?

17 THE WITNESS: That's correct.

18 MS. TURMAN: Okay. And you are telling me and
19 this board that there was not one dirty towel anywhere?
20 Is that correct?

21 THE WITNESS: That's correct.

22 MS. TURMAN: How did you know when you weren't
23 there all the time that Mrs. Jackson was there?

24 THE WITNESS: I don't know. Because I wasn't back
25 there, I don't see.

1 MS. TURMAN: Then how can you tell this board --

2 THE WITNESS: That's why I tried to talk to her.

3 MS. TURMAN: But wait. I'm asking you, how can
4 you tell this board there was not one dirty towel when
5 you were gone some of the time Ms. Jackson was there?

6 THE WITNESS: Because I have a basket for the
7 towel.

8 MS. TURMAN: Doesn't matter about the basket.
9 Mr. Le, I'm asking you, how can you tell this board
10 there wasn't any dirty towels --

11 THE WITNESS: Okay.

12 MS. TURMAN: -- when you weren't there?

13 THE WITNESS: Only one thing I can tell you, the
14 people, they have been trained with the towel, when
15 you're done --

16 MS. TURMAN: Mr. Le, I didn't ask you. I asked
17 you if you can tell me that there wasn't one dirty
18 towel when you were not there?

19 THE WITNESS: One dirty towel?

20 MS. TURMAN: Or not one. You said there wasn't
21 any dirty towels. Can you tell me -- I don't care, I
22 mean, I'm sorry, I don't mean it like that. And I'm
23 sorry if they've been trained or not, but I have a
24 group of staff that I've trained them, but let me
25 assure you, when I walk away, I'm sure they're doing

1 things I'm not aware of. Sometimes I have a hundred
2 member staff, so I know. So you're telling me, not one
3 dirty towel was on that floor? And Ms. Jackson had it
4 written in her report there were dirty towels, you're
5 telling me not one dirty towel was on that floor?

6 THE WITNESS: Because that time nobody finished
7 yet.

8 MS. TURMAN: I beg your pardon?

9 THE WITNESS: Because that time nobody finished
10 yet.

11 MS. TURMAN: But you're saying there were dirty
12 towels?

13 THE WITNESS: She saw. Well, I don't see a dirty
14 towel. Because the customer not finished yet, and how
15 come a dirty towel.

16 MS. TURMAN: But you -- dirty towels shouldn't be
17 on the floor anyway. Isn't that correct?

18 THE WITNESS: No.

19 MS. TURMAN: But you're telling me, he's saying
20 yes or no, I just want a yes or no, please, if there
21 has been a dirty towel on that floor?

22 THE WITNESS: No.

23 HEARING OFFICER JONES: Further questions from the
24 board?

25 Ms. Smith?

1 MS. SMITH: While doing a pedicure, where do you
2 place your towels, you know, while you're doing it?
3 Because I'm a manicurist as well. When you're doing a
4 pedicure, where do you put the towel when you're doing
5 the --

6 THE WITNESS: The towel, when you're done the
7 towel, the towel we have -- we tried, we have the
8 basket with it, the plastic bag right there, when you
9 done, after you rub them and everything you're done,
10 you throw them in there.

11 MS. SMITH: How many towels do you use for the
12 pedicure?

13 THE WITNESS: We use one towel.

14 MS. SMITH: One towel?

15 THE WITNESS: Yeah.

16 MS. SMITH: For the whole the pedicure?

17 THE WITNESS: Yeah. The pedicure, you do right
18 here pedicure, after you clean, before you polish, you
19 have a towel you throw away and you have a flip flop
20 put in. That's it.

21 MS. SMITH: Okay. So the container that you put
22 the towels, the soiled towels in, do you have one or
23 two? How many do you have in the whole establishment?

24 THE WITNESS: Just one.

25 MS. SMITH: Just one?

1 THE WITNESS: Right there, a big basket right
2 there with a plastic bag.

3 MS. SMITH: So your salon, is it oval? Does it go
4 this way or this way?

5 THE WITNESS: It's like that.

6 MS. SMITH: So it's long?

7 THE WITNESS: Yes. But it's narrow about.

8 MS. SMITH: So, you just have one for the whole
9 salon?

10 THE WITNESS: Yeah.

11 MS. SMITH: And on the license here, you're saying
12 that they keep the card, the smaller, the lower portion
13 is what you're talking about, that they keep that in
14 their pockets?

15 THE WITNESS: Yes.

16 MS. SMITH: The workers?

17 THE WITNESS: When they come, yeah.

18 MS. SMITH: But, see, I received those same
19 license, but when I receive mine I tear the bottom part
20 off, but I see on yours they are attached on the copy.
21 If you have a copy of this, then how can they have a
22 copy of the card if it's still attached?

23 Do you see what I'm saying?

24 THE WITNESS: Yeah. I understand that.

25 MS. SMITH: So do they keep the whole license in

1 their -- the whole sheet? Do they keep that in their
2 pocket or is it just the bottom half?

3 THE WITNESS: They can keep that. Or when they
4 went there --

5 MR. ACHORN: No. No. She's asking you what they
6 do. Not what they can do. Tell her what these people
7 do, if you know. Tell her what they do.

8 MS. SMITH: Thank you.

9 MR. ACHORN: Sorry.

10 MS. SMITH: That's fine.

11 HEARING OFFICER JONES: That's fine.

12 MS. SMITH: See what I'm saying?

13 THE WITNESS: The license.

14 MS. SMITH: Uh-huh.

15 THE WITNESS: The license, they can keep the --
16 okay, you're asking me why one piece and two piece
17 left, right?

18 MS. SMITH: On these two, you're saying that these
19 are the employees that you have working in your salon.
20 Is that correct?

21 THE WITNESS: Yeah.

22 MS. SMITH: Okay. Well, see, this part right
23 here, it has a serration right there where you can tear
24 this off.

25 THE WITNESS: Yeah.

1 MS. SMITH: And you can actually take this with
2 you so you have something in their pocket. I'm asking
3 you, are they keeping the whole license with them or
4 are they --

5 THE WITNESS: Okay. Okay. That license, okay,
6 like I told her before, for me, understand, like you
7 can keep that, the little piece down there in the
8 pocket.

9 MS. SMITH: Right.

10 THE WITNESS: I'm sure they have license and I --
11 I just tell them -- but I didn't post right there on
12 the -- yes, I know that.

13 MS. SMITH: Uh-huh.

14 THE WITNESS: They, I think you know the story,
15 and they keep in a pocket. I -- because they not work
16 there all time.

17 MR. ACHORN: I know the answer, if it's helpful.
18 I don't want to --

19 HEARING OFFICER JONES: I -- if the board has no
20 objections to his attorney trying to clarify his
21 answer, I'm okay with it if you all are.

22 So, please, Mr. Achorn, if you could try to
23 clarify it.

24 MR. ACHORN: Okay. They don't have full-time
25 other employment in a -- in a manicure salon.

1 MS. SMITH: Okay.

2 MR. ACHORN: They -- they are right around the
3 corner from Mr. Le, and they are kind of independent
4 contract, I guess is what. They carry it off. They
5 work sporadically in his establishment, and they carry
6 it in their pocket.

7 MS. SMITH: So if they go to other places, they
8 make sure they have this?

9 MR. ACHORN: And I don't know if they go to other
10 places or not. I'm not saying I know that. But their
11 primary employment is their family restaurant, I do
12 know that for a fact, is their family restaurant. I
13 won't say right around the corner. It's not right
14 around the corner. It's kind of down the breezeway in
15 the mall.

16 It's 100, 150, I won't say yards, but it's -- I
17 mean, it's not right around the corner but it's not
18 far, either. It's a minute walk.

19 HEARING OFFICER JONES: Thank you, Mr. Achorn.

20 MR. ACHORN: Sorry. And I'm not trying to testify
21 for him, but I don't think he understands still what
22 you're asking.

23 HEARING OFFICER JONES: For clarity sake, we can
24 allow that, because I was a little confused myself.

25 Ms. Ward?

1 MS. WARD: Okay. As a business owner, owning a
2 salon, you know that they are supposed to have their
3 license posted. If they don't have another employment,
4 why can't they keep it there, and if they work two
5 different places, as far as salons go, they can get a
6 duplicate so it can be posted. Why didn't you require
7 them to post it? Because that's a requirement.

8 THE WITNESS: I know that.

9 MS. WARD: Uh-huh.

10 THE WITNESS: They -- they not there all the time.
11 They don't --

12 MS. WARD: It doesn't matter if they are there all
13 the time or part time. You are still supposed to have
14 it posted to work in the salon. That's the law.

15 THE WITNESS: Okay, ma'am.

16 MS. WARD: Also, because you've got a basket there
17 to put the dirty towels in, doesn't mean they are
18 putting them in there. The same way you have a broom
19 to sweep things up, doesn't mean they are sweeping it
20 up. They might leave it lay. You may provide it, but
21 if you weren't there when she went in to inspect, that
22 doesn't mean that they were picked up. How can you be
23 sure that there were no towels on the ground and
24 everything was cleaned up?

25 THE WITNESS: Like I told you last, nobody done

1 get pedicure end. The customer still there. They
2 didn't end, how come the towel on the floor. If they
3 done --

4 MS. WARD: That would be while you were working on
5 them you would have them there, but when they leave,
6 and if she observed towels laying around, she put --
7 were they just around where they were working? Were
8 they laying around other places or on top of manicure
9 tables? How many clients did you have when she came
10 in? Do you know? You weren't there.

11 Do you know if there were towels laying where they
12 were not working? See?

13 THE WITNESS: I wasn't there, ma'am. I had four.
14 I had four customers. I take over everything. I am
15 the one that in charge that clean out. That's it.

16 HEARING OFFICER JONES: Further questions?

17 Ms. Burrough?

18 MS. COLLINS-BURROUGH: How long have you owned the
19 salon?

20 THE WITNESS: Two thousand -- on July 2004.

21 MS. COLLINS-BURROUGH: So roughly three years?

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

23 2004. Yes.

24 MS. COLLINS-BURROUGH: Did you work there under
25 the previous owner, as well?

1 THE WITNESS: Yes, ma'am. I had no choice.

2 MS. COLLINS-BURROUGH: You what?

3 MR. ACHORN: Yes, ma'am. He had no choice.

4 MS. COLLINS-BURROUGH: Okay.

5 MR. ACHORN: Purchase arrangements.

6 MS. COLLINS-BURROUGH: Okay.

7 HEARING OFFICER JONES: Ms. Turman?

8 THE WITNESS: Ma'am?

9 MS. TURMAN: May I ask you something?

10 Is it normal procedure for your employees, you
11 allow your employees, and actually they are your
12 employees, to get up and leave a client right in the
13 middle of a procedure?

14 THE WITNESS: For me that's normal. You just take
15 all the customer right there, keep them in a pedicure
16 chair, prepare everything, soak their feet, I take
17 over. That's normal. We rotate or I can do pedicure
18 and I work another person, I could finish and meantime
19 I can go there, because we normally we have two people,
20 no, three people work there only. If sometime we have
21 like more over customer, you can take time and figure
22 out how to do. Yes, ma'am.

23 MS. TURMAN: The pictures, were those taken
24 after -- after the inspection of the -- of the
25 cleaning --

1 THE WITNESS: After inspection. That to --

2 MS. TURMAN: The day of the inspection?

3 THE WITNESS: After. After. Because I come here,
4 because -- old machine, that old machine. That not new
5 one.

6 MS. TURMAN: Thank you.

7 HEARING OFFICER JONES: Further questions from the
8 board?

9 Ms. Burchett?

10 MS. BURCHETT: Can you tell me how many manicure
11 tables you have in your salon, please?

12 THE WITNESS: We have three for three employee
13 only.

14 But when I took over the nail salon right there,
15 they have total like three, four, five, six, seven.
16 But we don't have people work there, because that, that
17 long time --

18 MR. ACHORN: Just tell her how many total manicure
19 tables you have.

20 THE WITNESS: I have three. Three.

21 MR. ACHORN: Not that you use, Mr. Le, but that
22 are present there in the store. How many --

23 THE WITNESS: Three. Three, ma'am.

24 MR. ACHORN: I still don't think he is
25 understanding.

1 HEARING OFFICER JONES: Mr. Le --

2 MS. BURCHETT: You only have three tables,
3 manicure tables in your salon?

4 THE WITNESS: But we're only working for three.

5 MS. BURCHETT: How many tables are there --

6 THE WITNESS: Oh, in my shop?

7 MS. BURCHETT: -- for the inspector to see when
8 she walks in?

9 THE WITNESS: In my shop?

10 HEARING OFFICER JONES: Yes. In your shop.

11 MS. BURCHETT: Yes.

12 THE WITNESS: In my shop, I have six. Yeah, I
13 have six table.

14 MS. BURCHETT: Six?

15 THE WITNESS: Six. Yes, ma'am.

16 MS. BURCHETT: Thank you.

17 HEARING OFFICER JONES: Further questions?

18 Ms. Smith?

19 MS. SMITH: Oh, after you -- this -- is this the
20 sanitizer? The picture that we have, that's the
21 sanitizer. Is that correct?

22 THE WITNESS: Yeah.

23 MS. SMITH: Okay. After -- what's your procedure,
24 after you sanitize your implements, where do you put
25 them?

1 THE WITNESS: Put them in machine.

2 MS. SMITH: Okay. After you take them out of the
3 machine, though, where do you put them? Say they are
4 dirty, you wash them and you put them in the sanitizer,
5 the machine, where do you --

6 THE WITNESS: Keep in there, in the machine.

7 MS. SMITH: So they stay in the machine until you
8 start on another client?

9 THE WITNESS: You have to keep in there.

10 MS. SMITH: So what if there are still some in
11 there and you have another set you need to put in
12 there, what do you do with the other ones?

13 THE WITNESS: Okay. Well, first one, we have two
14 set.

15 MS. SMITH: You have two?

16 THE WITNESS: Yeah. Everybody have two set.

17 MS. SMITH: Okay.

18 THE WITNESS: You have to have two set, that's
19 just -- that normal, you have to have that.

20 MS. SMITH: Okay.

21 THE WITNESS: And after you done one, and another
22 one, you pick that other set out. But that you have
23 to.

24 MS. SMITH: Okay. It was saying here they were in
25 the drawer, so I was wondering if there is a place that

1 you actually put them when they are not in use, other
2 than in a drawer?

3 THE WITNESS: No. No. There is one, we may have
4 two of them, we keeping one.

5 MS. SMITH: So when you are using one and one is
6 in the sanitizer, then let's say another employee --

7 THE WITNESS: Oh, yeah.

8 MS. SMITH: Where do you put them, is what I'm
9 asking?

10 THE WITNESS: Okay. When we have two keep in
11 there, when you have customer come, let me tell you
12 what I do.

13 MS. SMITH: Okay.

14 THE WITNESS: We take one to do for customer.

15 MS. SMITH: Okay.

16 THE WITNESS: After she done.

17 MS. SMITH: Uh-huh.

18 THE WITNESS: If you have another one --

19 MS. SMITH: Okay.

20 THE WITNESS: -- that's one, you check them that
21 station, they have the bottles, you dip in there and
22 you put back in the machine and take another one and
23 take them out. That's what we do.

24 MS. SMITH: Okay.

25 HEARING OFFICER JONES: Further questions?

1 If there are no further questions from the board,
2 Mr. Achorn?

3 MR. ACHORN: I have nothing further.

4 HEARING OFFICER JONES: Do you have any further
5 witnesses?

6 MR. ACHORN: No, ma'am.

7 HEARING OFFICER JONES: Okay. At this time we'll
8 move to closing statements.

9 Ms. Gee?

10 MS. GEE: You've heard testimony today that the
11 persons who were performing pedicures when Ms. Jackson
12 visited were actually licensed. He's provided you with
13 copies of licenses. If you believe that those persons
14 that were working were licensed properly but it just
15 was not posted, the proper charge for that instead of
16 what is set out in number, Charge No. 1, it would be
17 failure to post current licenses for each person
18 working, as opposed to allowing unlicensed persons to
19 work.

20 I would ask you to please, when you determine what
21 your decision will be, since there has been a number of
22 allegations and charges here, if you could please make
23 clear what it is that you find to be true and which
24 charges you find to be true, that would be -- make it
25 better for all of us.

1 Thank you.

2 HEARING OFFICER JONES: Mr. Achorn, closing?

3 MR. ACHORN: Yes, ma'am. Thank you, Ms. Jones.

4 You know, I was here with Mr. Le back when -- the
5 last time we were here, and I had asked the board to
6 consider trying to find someone or giving the inspector
7 some type of training on the language barrier. And I
8 submit to each of you it is significant and it does
9 exist, and I think you've seen it here today to some
10 degree.

11 And then I want to point out that there is no
12 excuse for an inspector not trying to answer an
13 establishment owner's questions, especially when he is
14 there not interfering with the inspection, but he is
15 offering to assist with the inspection. And you've
16 heard independent testimony of that here today.

17 Well, you've heard Mrs. Campbell clearly tell you
18 that Mr. Le offered to have those people come back, he
19 could walk right around the corner and get them. And I
20 will classify it as he was summarily ignored. And
21 Ms. Campbell told you she heard everything, she was
22 sitting there, and there was no response.

23 And it was almost closing time. As a matter of
24 fact, it was probably pushing nine o'clock, and I
25 think -- and I don't mean to insult anyone or make

1 derogatory statements, I'm trying to make a factual
2 assessment here. I think Inspector Jackson wanted to
3 go home. She spent a total of ten to 15 minutes there
4 and came up with all of this. Now, ten to 15 minutes
5 is not a sufficient time to inspect a store as large as
6 Mr. Le's, in my opinion.

7 And then to not answer the man's questions, to not
8 spend the time necessary maybe to help him understand
9 what it is he's doing wrong, just to file a report and
10 have him brought up here, that's not what I view an
11 inspector's job as. I would submit to the board or
12 hope that this board thought along the same lines as me
13 on that issue.

14 Now, we also have an independent witness,
15 Mrs. Campbell, who is trained in the medical field, who
16 cannot tell you she's aware of the specific standards
17 or specific procedures used to sanitize things, but
18 she's told you what her profession is and what she does
19 in the training that she's had. And I ask any of you
20 if you can honestly tell us here today that we are to
21 believe that the medical standards for her profession
22 are any less stringent than the board places -- the
23 cosmetology board or the rules and regulations
24 committee places on establishment owners. And she's
25 told you it was not unsanitary. That she wouldn't have

1 been there having that type of service performed on her
2 if it was unsanitary.

3 And then I'm going to ask you, where are the
4 pictures? Maybe Inspector Jackson should have spent
5 more than ten or 15 minutes, she could have spent 20 or
6 25 minutes, and she could have taken some pictures. Or
7 she could have spent some time with Mr. Le trying to
8 help him understand what it is he wasn't doing
9 incorrectly. Because, in my experience with him, he
10 tends to try to please. He tends to try to understand.
11 But to have his questions and concerns summarily
12 ignored because someone wants to get home is not
13 acceptable, and I would hope the board would feel that
14 way as well.

15 At best, he's guilty of having people work there
16 without posting their license.

17 There has been no proof beyond a preponderance of
18 an evidence -- beyond a preponderance of the evidence
19 otherwise about sanitary conditions or anything
20 otherwise. There has been nothing dispositive of that
21 issue presented to the board, except two people, one of
22 them that was trained in all of those things here to
23 testify about that. And you have an inspector that
24 only spent -- and I do stress that, and I do think it's
25 important that she got there at 8:30 and it was almost

1 closing time. I think that's very dispositive of this
2 issue.

3 Then we also have the history here. We also have
4 the history where she accused him of bribery, and that
5 wasn't founded. I mean, this is not a first-time
6 experience. At best, by his own admission, he's
7 responsible for not allowing two people -- and I stress
8 two, because I think that's also dispositive of her
9 attitude towards this inspection. One of the people
10 she alleged was performing services without a license
11 remained in the store. She didn't ask her any
12 questions, she didn't ask anything about a license, she
13 didn't do anything like that. And by the time it got
14 to Mr. Le, she was gone. She didn't perform her
15 inspection, I would think, up to you all's standards,
16 if she didn't even make any effort to make that
17 determination.

18 I leave it with you all. Thank you for your time
19 and your patience.

20 HEARING OFFICER JONES: Thank you, Mr. Achorn.

21 At this time the record will be closed and
22 complete, except for the board's recess for
23 deliberations and decision. Once the board is ready to
24 make a motion, we will go back on the record. And
25 until then, I will hand it over to the chair.

1 Although I will say one thing further before I do,
2 when we do go back on the record, we will go through
3 this charge one by one, and if you would, come up with
4 a motion for each charge. And we will take them in
5 order, just to be sure that we are clear on each of
6 them, since there are eight.

7 Thank you.

8 (WHEREUPON, the Commission retired to deliberate,
9 off the record, from 12:02 p.m. to 12:24 p.m., and
10 returned with the following motion.)

11 HEARING OFFICER JONES: At this time we'll go back
12 on the record and work through the motions for the
13 charges, starting with the first charge.

14 Do we have a motion on the first charge?

15 MS. TURMAN: I make the motion then.

16 HEARING OFFICER JONES: Ms. Turman.

17 MS. TURMAN: Finding the allegation to be true, I
18 make a motion that we fine the respondent \$500 because
19 of a history of hiring nonlicensed persons.

20 HEARING OFFICER JONES: So the motion is for
21 Charge 1, a finding that the hiring of unlicensed
22 persons, since this is the second offense, a fine of
23 \$500?

24 MS. TURMAN: Uh-huh.

25 HEARING OFFICER JONES: Okay. Do we have a

1 second?

2 MS. SMITH: Second.

3 HEARING OFFICER JONES: Second, Ms. Smith.

4 All those in favor of the motion for Charge 1,
5 please raise your hand.

6 (Hands raised.)

7 All those opposed?

8 (Hands raised.)

9 All those abstaining?

10 (Hands raised.)

11 Four in favor, one opposed, one abstention. The
12 motion passes. The fine will be \$500.

13 Moving on to Charge No. 2.

14 MS. BURCHETT: Madam President?

15 HEARING OFFICER JONES: Yes. Go ahead,
16 Ms. Burchett.

17 MS. BURCHETT: I move that we, finding the
18 allegations true for Items 2, 3, 4, 5, 6, 7, and 8, I
19 move that to order the respondent to pay a fine in the
20 amount of \$425, payable within 30 days of receipt of
21 the board's order. Failure to pay the fine as ordered
22 will result in a suspension of the respondent's
23 establishment license beginning 30 days from the
24 receipt of the order and continuing for a period of 90
25 days from the date the respondent relinquishes his

1 license to the board.

2 HEARING OFFICER JONES: Wait a minute. I'm going
3 to let Ms. Gee address this real quick.

4 MS. GEE: If I could jump in real quick. Could
5 you at the back of that motion add in, just say that
6 for Charge 2 the fine is --

7 HEARING OFFICER JONES: Break it down.

8 MS. GEE: -- Charge 3 it's \$25, that you already
9 went through before?

10 MS. BURCHETT: Okay. For Charge 2, the penalty
11 will be \$25; Charge 3 the penalty would be \$25; Charge
12 4, the penalty would be \$150; Charge 5, the penalty
13 would be \$75; Charge 6 the penalty would be \$25; and
14 Charge 7, the penalty would be \$75.

15 HEARING OFFICER JONES: Eight?

16 MS. BURCHETT: Oh, I'm sorry. Charge 8 the
17 penalty would be \$50.

18 MS. GEE: Okay.

19 HEARING OFFICER JONES: Okay. So, for the
20 motion --

21 MR. ACHORN: I don't know if I could ask anything
22 or not.

23 I mean, why can he not have 90 days instead of 30
24 like everybody else?

25 HEARING OFFICER JONES: That -- that is up to the

1 board at this point.

2 MR. ACHORN: I understand, but, I mean, I'm
3 just --

4 HEARING OFFICER JONES: I'll let them consider
5 your comment, though.

6 MR. ACHORN: Okay. That's \$925.

7 HEARING OFFICER JONES: Okay. And the board may
8 want to consider that because -- just because.

9 Okay. So, we do have a motion on the table, that
10 motion has not been seconded at this point, it can be
11 amended or seconded, whichever the board prefers.

12 MS. COLLINS-BURROUGH: I second it.

13 HEARING OFFICER JONES: You second the motion for
14 Charges 2 through 8 for a total of \$425, the specific
15 increments as read by Ms. Burchett, payable within 30
16 days was how the motion was originally stated. And
17 there is a second.

18 All those in favor, please raise your right hand.

19 (Hands raised.)

20 Okay. Let's do this again, please raise your hand
21 high if you're going to vote, just so I can get an
22 accurate count.

23 All those in favor, please, raise your hand.

24 (Hands raised.)

25 Okay. Four in favor. All those opposed?

1 MS. TURMAN: I have to do something here, I don't
2 know how to do it, because I'm the one that offered the
3 90 days before, so I feel like I have to vote for an
4 amendment of 90 days.

5 MS. CAVER-BLADE: I'm not sure how to do it.

6 MS. TURMAN: I don't know how to do it.

7 HEARING OFFICER JONES: I will be happy to take a
8 revote at this time, but unless the vote -- unless it
9 is voted down, or if you choose to amend it at this
10 point, we'll throw the rules out the door and go ahead.

11 MS. BURCHETT: May I amend my motion?

12 HEARING OFFICER JONES: Yes, Ms. Burchett, you may
13 amend your motion.

14 MS. BURCHETT: And strike the word 30 days and
15 make it 90 days.

16 HEARING OFFICER JONES: Okay. So the motion is
17 now for Charges 2 through 8, a total of \$425, to be
18 payable in 90 days, specific totals for each charge as
19 read by Ms. Burchett earlier.

20 All those -- do we have a second for the motion?

21 MS. TURMAN: Second.

22 HEARING OFFICER JONES: Second Ms. Turman.

23 Okay. All those in favor, please raise your right
24 hand.

25 (Hands raised.)

1 Okay. Five for. All those opposed?

2 (Hands raised.)

3 One. Okay. Motion passes, five to one.

4 Let the record reflect the decision of the board
5 and reduce that decision to writing, and make service
6 upon all the parties.

7 If the respondent --

8 MR. ACHORN: Could you --

9 HEARING OFFICER JONES: -- cares to take an appeal
10 of the decision, appeal may be taking under the
11 Administrative Procedures Act 25-15-201, et seq., or
12 any specific provisions of the board.

13 Yes, Mr. Achorn.

14 MR. ACHORN: Did the motion regarding Charge 1
15 have a specific time frame?

16 HEARING OFFICER JONES: It was 90 days.

17 MR. ACHORN: It was 90 days on that?

18 HEARING OFFICER JONES: Correct. I believe that
19 was Mrs. Turman's original motion. Yes.

20 MR. ACHORN: I have provided the court reporter a
21 card, and I will be happy to receive a copy of it on
22 behalf of Mr. Le, service of the order.

23 HEARING OFFICER JONES: Okay. Service will be
24 made upon Mr. Achorn, Mr. Le's attorney.

25 If there are no other questions or comments

1 concerning this hearing, then we will close the record.

2 Thank you. Thank you, Mr. Achorn.

3 Nice to meet you.

4 MS. CAVER-BLADE: We're going to break for an hour
5 for lunch, so we'll be back at 1:30.

6 (WHEREUPON, a lunch break was held.)

7 MS. CAVER-BLADE: I just want to call to order the
8 State Board of Cosmetology meeting.

9 So, at this time I'll turn it back over to
10 Ms. Jones.

11 ADMINISTRATIVE HEARING NO. 07-418

12 HEARING OFFICER JONES: The next hearing we're
13 going to have is 07-418, A Woman's Glory, Tonya
14 Domineck. 07-418.

15 Ready, Ms. Gee?

16 MS. GEE: Yes.

17 HEARING OFFICER JONES: Good afternoon. My name
18 is Kendra Akin Jones. I'm the hearing officer today in
19 the matter of Tonya Domineck, which is Hearing
20 No. 07-418. The d/b/a is A Woman's Glory. She's the
21 owner and operator. It's December 3, 2007, we're at
22 the Main Street Mall.

23 Would the respondent please identify themselves
24 for the record.

25 MS. DOMINECK: Tonya Domineck.

1 HEARING OFFICER JONES: Okay. And you don't have
2 counsel with you today?

3 MS. DOMINECK: No.

4 HEARING OFFICER JONES: Okay. You received a copy
5 of the Order and Notice of Hearing concerning this
6 matter?

7 MS. DOMINECK: Yes, I did.

8 HEARING OFFICER JONES: Okay. State's counsel,
9 identify yourself for the record, please.

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

11 HEARING OFFICER JONES: Okay. Thank you.

12 On the respondent's -- for the respondent's
13 benefit, and the benefit of anyone else, this is an
14 administrative hearing. The board will base its
15 decision solely on evidence presented here today. This
16 hearing is being held under the Administrative
17 Procedures Act, which means the strict rules of
18 evidence do not apply. I have certain latitude and
19 will work to ensure the efficiency of the proceeding.

20 The board members know of this case only as it
21 appears and is set forth in the Notice of Hearing. If
22 you have anything that you would like them to consider
23 before making their decision, it needs to be presented
24 as evidence here today.

25 All participants should be aware that these

1 proceedings are subject to the Freedom of Information
2 Act.

3 If you're going to be a witness in this matter,
4 please raise your hand so the court reporter can swear
5 you in.

6 (WHEREUPON, the witnesses were sworn.)

7 HEARING OFFICER JONES: Thank you.

8 Ms. Gee, opening?

9 MS. GEE: The respondent here today is charged
10 with running an establishment and practicing in the
11 establishment without current licenses.

12 That's all I have.

13 HEARING OFFICER JONES: Okay. Ms. Domineck, is
14 there anything you would like to say in opening?

15 MS. DOMINECK: (Shaking head from side to side.)

16 HEARING OFFICER JONES: Okay. Ms. Gee, you may
17 call your first witness.

18 MS. GEE: I would like to call Pat Jackson,
19 please.

20 WHEREUPON,

21 PAT JACKSON,

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

- 1 BY MS. GEE:
- 2 Q Ms. Jackson, could you state your name and occupation for
3 the record?
- 4 A Pat Jackson, Inspector for the Arkansas State Board of
5 Cosmetology.
- 6 Q Did you have an occasion to visit an establishment called A
7 Woman's Glory located in Warren?
- 8 A Yes. I did.
- 9 Q Okay. And when did you visit that establishment?
- 10 A May 4 of 2007, this year.
- 11 Q Okay. And when you visited, did you observe any violations?
- 12 A Yes. I did.
- 13 Q And could you tell the board what those were, please?
- 14 A I had two practitioners that had current license and one
15 Tonya Kinnard Domineck that had an '05 license posted.
- 16 Q And just to be clear, Tonya Kinnard Domineck is the
17 respondent here today?
- 18 A Yes.
- 19 Q Okay. And you said that was an '05 license?
- 20 A Yes.
- 21 Q Okay. And are you aware whether Ms. Domineck has renewed
22 that license since your visit?
- 23 A Looks like she may have renewed for the calendar year 2006.
- 24 Q Okay.
- 25 A Which expired and has not renewed as of October of this

1 year.

2 Q Okay. So, she has not renewed her '07?

3 A Correct.

4 Q Okay. And what -- were all the other licenses that were
5 posted at the establishment during your visit, were they all --
6 all the rest of them current?

7 A Yes. Yes, they were.

8 MS. GEE: Thank you.

9 I have nothing further.

10 HEARING OFFICER JONES: Ms. Domineck, do you have
11 any questions you would like to ask Ms. Jackson?

12 MS. DOMINECK: (Shaking head from side to side.)

13 HEARING OFFICER JONES: Okay. Please verbalize
14 your answers.

15 MS. DOMINECK: No.

16 HEARING OFFICER JONES: Thank you.

17 Does the board have any questions they would like
18 to ask Ms. Jackson at this time?

19 MS. COLLINS-BURROUGH: Yes.

20 HEARING OFFICER JONES: Go ahead, Ms. Burrough.

21 MS. COLLINS-BURROUGH: She had an establishment
22 license that was current?

23 THE WITNESS: Yes.

24 MS. COLLINS-BURROUGH: So, she owns the
25 establishment?

1 THE WITNESS: Yes.

2 MS. COLLINS-BURROUGH: So the establishment
3 license was current, practitioner was not at the time
4 of your visit?

5 THE WITNESS: Correct.

6 MS. COLLINS-BURROUGH: Okay.

7 HEARING OFFICER JONES: Any further questions from
8 the board?

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

10 MS. GEE: I would like to backtrack just briefly,
11 if I could. I failed to introduce exhibits.

12 HEARING OFFICER JONES: Okay.

13 MS. GEE: Board's Exhibit No. 1 would be the law
14 and rules; No. 2 will be the Order and Notice of
15 Hearing; No. 3 would be the inspection report, if the
16 respondent has no objection.

17 MS. DOMINECK: Huh?

18 HEARING OFFICER JONES: Do you have any objection
19 to those being introduced as exhibits to this hearing?

20 MS. DOMINECK: No.

21 MS. GEE: Thank you.

22 HEARING OFFICER JONES: They will be so admitted.

23 (WHEREUPON, Board's Exhibits Nos. 1, 2, and 3 were
24 received in evidence.)

25 HEARING OFFICER JONES: Okay. Ms. Gee?

1 MS. GEE: I have nothing further.

2 HEARING OFFICER JONES: Ms. Domineck, now is your
3 time to tell the board whatever you want them to hear,
4 to call any witnesses, and Ms. Gee, to ask any
5 questions.

6 WHEREUPON,

7 TONYA KINNARD DOMINECK,
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 TESTIMONY

12 THE WITNESS: Okay. She did come in on May 4 and
13 I did not have my license. At the time I had got on
14 the Internet to do my establishment license and to do
15 my practitioner license. I was waiting -- I told her
16 that I was waiting because I hadn't heard anything from
17 my practitioner license at the time. It was like that
18 was my first week back to work because I hadn't been
19 working. My mother passed and we buried her April the
20 28th, so I bounced back and went to work and that's the
21 week that she came, and I was waiting on my license at
22 the time. But in the process of waiting on my license
23 is not an excuse but this is an explanation for how it
24 happened like it did. I was for -- she told me to make
25 sure I check on them and I get them. But then my

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1 mother worked for me, so I couldn't continue to work.

2 As far as the rules and the regulations, I did not
3 know all the rules and the regulations. I had never
4 seen one of these books. That's me, that's my fault,
5 I'm agreeing. But I had never seen one of these books
6 so I didn't know other than what I learned in school.
7 And then when I get the newsletter and the new rules
8 and stuff, I read those, so I wasn't aware.

9 I thought that when you don't get your license by
10 January 31st, then the penalty was the 12-dollar
11 penalty. I wasn't aware that, and I was thinking that
12 since I'm not really practicing, that I could get it
13 before it lapsed over three years, because that's what
14 I was taught. That you have three years, if you don't
15 renew them in three years, then you lose them, you have
16 to go back to school. So that's what I was thinking.
17 I didn't know that I had to do it. I knew it would be
18 a penalty of the \$12, but I didn't realize that I had
19 to do it. And I was under a lot of stress so I didn't
20 even think about it and I wasn't working.

21 And just Wednesday is when I received the letter
22 and the two notices from the post office that it had
23 even been sent certified, because I hadn't been in the
24 salon.

25 I don't know if you've been back since May the

1 4th.

2 MS. JACKSON: No, I haven't.

3 THE WITNESS: But I hadn't been in the salon, so I
4 didn't know that I had to. I wasn't aware that I had
5 to, and so that's why I did this.

6 I knew I was going to do it before it lapsed, but
7 I wasn't aware that I had to do it or, you know,
8 penalized by so many days, and I wasn't aware of it.

9 HEARING OFFICER JONES: Ms. Gee, do you have any
10 questions you would like to ask Ms. Domineck?

11 MS. GEE: I may have some after the board.

12 HEARING OFFICER JONES: Okay. Does the board have
13 any questions for Ms. Domineck that they would like to
14 ask her?

15 Ms. Ward?

16 MS. WARD: You said you have not been working at
17 all since January?

18 THE WITNESS: No. I haven't really been working.
19 Not like open for business, no.

20 MS. WARD: So the salon has been closed all year?

21 THE WITNESS: No. The salon has not been closed.
22 There is another worker that was in the salon that's
23 working.

24 MS. WARD: But you have not worked?

25 THE WITNESS: I have worked. I hadn't really like

1 worked as in a steady clientele. My family, I have
2 done my family and I have done some of my regular
3 customers.

4 MS. WARD: Okay.

5 THE WITNESS: But not on a steady basis.

6 MS. WARD: Okay. You --

7 THE WITNESS: But I have worked.

8 MS. WARD: But you did know that you, if you are
9 going to work at all, you needed your license?

10 THE WITNESS: I needed my license. Yes. Yes.

11 MS. WARD: So, you've been working without a
12 license, then?

13 THE WITNESS: Right.

14 MS. WARD: Without it renewed?

15 THE WITNESS: Right.

16 MS. WARD: Okay.

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

19 If there are no further questions, Ms. Gee, do you
20 have any questions?

21 MS. GEE: No. I don't.

22 HEARING OFFICER JONES: Okay. Well, then, we will
23 move -- or do you have any witnesses you would like to
24 call --

25 MS. DOMINECK: No.

1 HEARING OFFICER JONES: -- or anything else?

2 Okay. Ms. Gee, you may make your closing
3 argument.

4 MS. GEE: We waive closing.

5 HEARING OFFICER JONES: Ms. Domineck, is there
6 anything else you would like to tell the board before
7 they deliberate to make a decision?

8 MS. DOMINECK: Yes. I want to say that as far as
9 me not knowing about these rules and regulations, and
10 even sitting here listening to this, when I came here
11 today, this is my first time ever being at a meeting,
12 and I didn't know it was so complex. And, you know,
13 I'm just in awe sitting here, you know, listening to
14 everything that's going on. And I know about a lot of
15 the rules, but it's kind of like the only other license
16 I've ever had is my driver's license. And the way that
17 works, you read the book, you study, you take the test,
18 and then you have to go by the rules that's in the
19 book. In this case I was never told, I didn't know it
20 was a whole handbook. I mean, I've just sit here and
21 read it and I'm like, a lot of this I've learned in
22 school, but I wasn't taught, that this is something
23 that my school failed to teach me, that it was extra or
24 something, you know, it's like you got to go by the
25 book, the rules and the regulations by the book. And

1 then when I receive the newsletters, I read them, so
2 that's how I find out different.

3 HEARING OFFICER JONES: Okay. Thank you.

4 At this time, the record will be closed and made
5 complete, except for the board's recess for
6 deliberations. Once a decision has been reached, we
7 will go back on the record.

8 (WHEREUPON, the Commission retired to deliberate,
9 off the record, from 1:44 p.m. to 1:48 p.m., and
10 returned with the following motion.)

11 HEARING OFFICER JONES: At this time we'll go back
12 on the record for the decision.

13 Ms. Turman, your motion.

14 MS. TURMAN: I would like to make a motion that
15 the allegations being proved, we impose a fine of \$301;
16 and I guess I'm going to have to go to the 90 days,
17 since I started this morning.

18 HEARING OFFICER JONES: The motion is for \$301
19 penalty for the license violation, with 90 days to pay.
20 Is there a second?

21 MS. PICKERING: Second it.

22 HEARING OFFICER JONES: Second, Ms. Pickering.

23 All those in favor, please raise your hand.

24 (Hands raised.)

25 Let the record reflect the decision of the board

1 is unanimous, reduce that to writing and make service
2 upon all the parties. If the respondent cares to
3 appeal the decision, an appeal can be taken under the
4 Administrative Procedures Act found at Arkansas Code
5 Annotated 25-15-201, or any specific provision of this
6 board.

7 If there are no other questions or comments, this
8 hearing is concluded and the record is closed.

9 Thank you, Ms. Domineck.

10 MS. DOMINECK: Thank you.

11 HEARING OFFICER JONES: You're done.

12 It's \$300 -- \$301.

13 MS. DOMINECK: Okay. By when?

14 HEARING OFFICER JONES: 90 days.

15 Did you all work out Beautiful Nails at lunch?

16 MS. WITTUM: Beautiful Nails provided proof that
17 the person that was cited here was not the correct
18 person, so that case has been dismissed.

19 HEARING OFFICER JONES: Okay. Just wanted to make
20 sure.

21 Next case is Modern Images, 07-500. Melissa
22 Welch.

23 MS. GEE: Melissa Welch.

24 HEARING OFFICER JONES: Melissa Welch. Yes.
25 Apparently they were here earlier.

1 Try again later.

2 Perfect Nails, they paid. Is that correct?

3 MS. WITTUM: Yes.

4 ADMINISTRATIVE HEARING NO. 07-540

5 HEARING OFFICER JONES: Okay. Pro-Way Hair
6 School, Frank Sullivan, 07-540 is the next one I have
7 on my list.

8 Mr. Sullivan, have a seat. We'll give everybody a
9 minute to pull the documentation. It's 07-540.

10 MS. GEE: Mr. Sullivan, I was just going to give
11 you a copy of these. These are what we might produce
12 as exhibits, as well as testimony.

13 MR. SULLIVAN: Are these mine?

14 MS. GEE: Yes.

15 MR. SULLIVAN: A little late.

16 MS. GEE: We just made copies.

17 Would you like some time to look at them?

18 MR. SULLIVAN: That's okay.

19 MS. GEE: You're welcome to have it.

20 MR. SULLIVAN: That's okay.

21 MS. TURMAN: Do you have an inspection form for
22 that?

23 MS. WITTUM: We've got copies.

24 HEARING OFFICER JONES: If everybody is ready to
25 proceed, my name is Kendra Akin Jones, and I'm the

1 Hearing Officer today in the matter of Frank Sullivan,
2 owner of Pro-Way Hair School, 07-540, to be heard
3 before the Arkansas State Board of Cosmetology.

4 Today is December 3, 2007. We are located in
5 Conference Room C of the Main Street Mall.

6 Would the respondent please identify yourself for
7 the record?

8 MR. SULLIVAN: Frank Sullivan.

9 HEARING OFFICER JONES: Thank you, sir.

10 And do you have counsel with you today,
11 Mr. Sullivan?

12 MR. SULLIVAN: No.

13 HEARING OFFICER JONES: Okay. And you received a
14 copy of the Order and Notice of Hearing concerning
15 today's matter?

16 MR. SULLIVAN: Yes.

17 HEARING OFFICER JONES: Okay. State's counsel,
18 please identify yourself for the record.

19 MS. GEE: Assistant Attorney General Erika Gee.

20 HEARING OFFICER JONES: Thank you.

21 For the respondent's benefit, this hearing is held
22 under the Administrative Procedures Act, which means
23 the strict rules of evidence do not apply and I have
24 some leniency and latitude as the Hearing Officer for
25 introduction of evidence. And to insure the efficiency

1 of the proceedings, I may grant some objections and
2 caution parties as necessary.

3 The board will base its decision today solely
4 based upon the evidence presented here. The board
5 members know of this case only as it appears in the
6 Notice of Hearing. If there is anything that you would
7 like to have the board consider, you must present that
8 as evidence here today.

9 And all participants of this hearing should be
10 aware that these proceedings are subject to the Freedom
11 of Information Act, including the deliberations of the
12 board.

13 If you're going to be a witness in this hearing
14 today, please raise your right hand we'll have the
15 court reporter swear you in at this time.

16 (WHEREUPON, the witnesses were sworn.)

17 HEARING OFFICER JONES: Thank you.

18 Ms. Gee, opening statement?

19 MS. GEE: The hearing today before the board is
20 Mr. Sullivan is the owner of a cosmetology school
21 located in West Memphis. There are a number of
22 allegations against Mr. Sullivan, and we will present
23 testimony and go through those individually for the
24 board.

25 But there are some allegations of irregularities

1 with student records and with the facilities, and also
2 with the instruction that was being provided to the
3 students. And we will go through those in more detail
4 in just a moment.

5 HEARING OFFICER JONES: Mr. Sullivan, is there
6 anything in opening you would like to say to the board?

7 MR. SULLIVAN: No, ma'am.

8 HEARING OFFICER JONES: Okay. Ms. Gee, you can
9 call your first witness.

10 MS. GEE: I would like to call -- I would like to
11 call Sheila Caudle, please.

12 HEARING OFFICER JONES: Ms. Caudle.

13 WHEREUPON,

14 SHEILA CAUDLE,
15 having been called for examination, and having been first duly
16 sworn by the undersigned notary public, was examined and
17 testified, as follows:

18 DIRECT EXAMINATION

19 BY MS. GEE:

20 Q Would you state your name and occupation for the record?

21 A Sheila Caudle, Inspector, State Board of Cosmetology.

22 Q Okay. And in your position as an inspector, have you had
23 occasion to visit Pro-Way Hair School in West Memphis?

24 A Yes, ma'am.

25 Q And is that school owned by Mr. Sullivan?

1 A Yes, ma'am.

2 Q Okay. When was your most recent visit to this school?

3 A August the 9th --

4 Q Okay.

5 A -- was the most recent.

6 Q Okay. And in that visit in August, did you find any

7 violations at the school?

8 A Yes. Several.

9 Q Okay. Let's go through them individually, make sure that

10 the board understands.

11 A Do you want me to go to the visit on August the 1st or --

12 Q Yes. Let's start there.

13 A Start with August the 1st?

14 Okay. On August 1st me and another inspector went to the

15 school, and on that visit we found that the air conditioner was

16 not working properly, it was very warm in the school.

17 The school lacked proper supplies for client services, and

18 students were required to use their own supplies for client

19 services. And that was through talking to students and looking

20 at the dispensary of the supply cabinet.

21 Water was cloudy in the water fountain. And there was no

22 student files. When we asked for the student files on Livinia

23 Simpson it was not available to view. Connie Tate was not

24 registered with the board but was attending school. Most of the

25 files that we received and reviewed did not contain any activity

1 sheets; and there were no recent days on the ones we did have an
2 activity sheet on. The latest dates on those activity sheets we
3 looked at was July of '06. Roll call records were not kept for
4 July '07 morning class. The last theory outlined posted for the
5 students was June 2007. Student instructor Sheronda Brown was
6 teaching theory class unsupervised, which means she is enrolled
7 as an instructor trainee and she was the only one in the theory
8 classroom teaching theory class. And roll books were not being
9 kept.

10 Q Okay. Let's go back through some of the allegations
11 regarding student records.

12 A Okay.

13 Q And if you will -- we have some notes that were made by
14 you --

15 A Uh-huh.

16 Q -- near or at the time of your visit to the school. Is that
17 correct?

18 A Correct.

19 Q Okay. And these notes have been provided to Mr. Sullivan.
20 But can you briefly go through the contents of these notes and
21 tell the board about the allegations that they address?

22 A Well, we pulled folders on eight students there, and we
23 interviewed five students while we were there. There was no
24 folders in the school for Livinia Simpson. We were told that
25 Mr. Sullivan had that one with him. Connie Tate was not

1 permitted, yet she was there. No activity sheets on any of these
2 students that we pulled. Activity sheets that were available had
3 no dates. On most all of them, the latest dates were July 2006.
4 No roll call records kept for July '07 for the a.m. students.
5 Last theory outline was for June '07. In Connie Tate's folder is
6 her student training permit request form with her ten-dollar fee
7 attached to it, had never been mailed to the office.

8 When I asked Ms. Williams where Ms. Tate's permit was, she
9 said that they had not sent it to the office yet to get her
10 permitted. When we went into the school, Ms. Williams told us
11 that she had just found out that Friday, 8/3/07, would be her
12 last day at the school. Ms. Williams said that Mr. Sullivan had
13 sold the school to Terry Burgess. I asked her if the paperwork
14 had been filled out with the state board office. She said she
15 didn't know.

16 While we were interviewing students, Ms. Williams brought me
17 the phone and it was Mr. Sullivan, he would like to talk to me.
18 When I got on the phone with Mr. Sullivan, he told me that Friday
19 would be Mrs. Williams' last day at the school. I told him that
20 she had already told me that, and that I understood that he had
21 sold the school. Mr. Sullivan then told me that was a ploy, if I
22 knew what he meant. And I asked him was it to get rid of
23 Mrs. Williams, and he said yes, and that he was not selling the
24 school.

25 When we went back to the school on 8/2/07, no one there

1 until around 8:30 a.m. Around 9:00 a.m. students and student
2 instructor went into classroom. Student instructor Sheronda
3 Brown had been teaching theory class to those students
4 unsupervised. Roll books were not being kept.

5 Q Okay. Let me go back a little bit.

6 Ms. Williams was the instructor in charge of the school at
7 the time of your visit?

8 A She was.

9 Q Okay. And when you visited on the 2nd, on August 2nd, you
10 observed Sheronda Brown who was a student instructor?

11 A Yes, ma'am.

12 Q Teaching theory?

13 A Yes, ma'am.

14 Q There was no other instructor otherwise?

15 A No, ma'am.

16 Q And you told me a little bit about Connie Tate, a student
17 who was not enrolled. You have some notes regarding Connie Tate,
18 is that correct?

19 A Yes, ma'am.

20 Q Can you tell us what -- what day her appointments indicated
21 that she was at the school and what day her student permit was
22 sent to the board?

23 A I don't know when it was sent. Her MAT date was 8/9/07,
24 August 9, '07. She had appointments -- the first appointment
25 that appeared on the appointment book was July 17, '07, and she

1 done a wash and dry.

2 Q Okay. So, she had at least a few weeks --

3 A She had several in the month of July --

4 Q Before the --

5 A -- before she was actually enrolled with our office.

6 MS. GEE: Okay. I would like to at this point
7 introduce some exhibits. If we could introduce the
8 Order and Notice of Hearing as Board's Exhibit 1; the
9 cosmetology law and rules as Board's Exhibit 2; the
10 summary of the August 1st and August 2nd visits as
11 Board's Exhibit 3; and the summary of the information
12 on Connie Tate as Board's Exhibit 4.

13 HEARING OFFICER JONES: Mr. Sullivan, do you have
14 any objections to the exhibits just listed off?

15 MR. SULLIVAN: (Shaking head from side to side.)

16 HEARING OFFICER JONES: Then they will be so
17 admitted as Ms. Gee requested.

18 (WHEREUPON, Board's Exhibits Nos. 1, 2, 3, and 4
19 were received in evidence.)

20 HEARING OFFICER JONES: Okay.

21 MS. GEE: Please provide numbered copies to the
22 court reporter.

23 Thanks.

24 BY MS. GEE:

25 Q Okay. Then after the August 1st and 2nd visits that you

1 testified about, did you visit the school again after that?

2 A I did.

3 Q And when was that?

4 A August the 9th.

5 Q And on your August 9th visit, what did you focus on?

6 A I focused on student records.

7 Q Okay. Did you find any violations with regard to the
8 student records?

9 A Several.

10 Q Okay. Could you summarize those for us, please?

11 A There was a -- I'll just break it down and then I'll go by
12 student by student, if that's how you want it.

13 I had 166 incidents on the appointment book that failed to
14 document which student provided the services, 63 incidents on the
15 appointment book where services were performed by an instructor
16 rather than a student. And the student issues were Connie Tate
17 was --

18 Q Can I stop you right there --

19 A Yes.

20 Q -- before we get too far afield?

21 A Yes.

22 Q Those -- those two violations, well, actually more than two,
23 but what you just testified to, 166 instances where the
24 appointment book failed to document which student provided the
25 services, and when you performed that audit on August 9th, you

1 made notes about what dates those were. Is that correct?

2 A Yes, ma'am.

3 Q And is this -- is this the notes that you made?

4 A This is. This is my notes.

5 MS. GEE: I would like to introduce this as
6 Board's Exhibit 5, please. This is the notes about the
7 dates where students were not identified on the
8 appointment book.

9 HEARING OFFICER JONES: Mr. Sullivan, any
10 objection?

11 MR. SULLIVAN: (Shaking head from side to side.)

12 HEARING OFFICER JONES: That will be Exhibit 5 for
13 the board.

14 (WHEREUPON, Board's Exhibit No. 5 was received in
15 evidence.)

16 BY MS. GEE:

17 Q Okay. And similarly you made notes about instances where
18 services were performed by an instructor instead of a student?

19 A Yes, ma'am.

20 MS. GEE: Okay. I would like to submit that as
21 Board's Exhibit 6, please.

22 HEARING OFFICER JONES: Mr. Sullivan, any
23 objection?

24 MR. SULLIVAN: (Shaking head from side to side.)

25 HEARING OFFICER JONES: That will be Exhibit 6 for

1 the board.

2 (WHEREUPON, Board's Exhibit No. 6 was received in
3 evidence.)

4 BY MS. GEE:

5 Q Okay. And, please, let's talk about issues involving the
6 particular students that you began to talk about.

7 A Connie Tate was not registered with the board until
8 August 9, 2007, but the appointment book indicates that she
9 performed 20 services between July 17th and the 30th of 2007.

10 Q And is it correct that the notes that you made about Connie
11 Tate that have previously been admitted as Exhibit 4 also have
12 information about those appointments?

13 A Yes, ma'am.

14 Q That she performed prior to her permit date?

15 A Yes, ma'am.

16 Q Okay. Please go on.

17 A Willie Bowser was not registered with the board until
18 July 1, 2006, but the appointment book indicated that he
19 performed four services between June the 20th and the 30th of
20 2006.

21 Q And do you have notes from Willie Bowser's student file?

22 A I do.

23 Q And the appointment book?

24 A Yes, ma'am.

25 MS. GEE: I would like to submit those, please, as

1 Board's Exhibit 7.

2 HEARING OFFICER JONES: Any objection?

3 MR. SULLIVAN: (Shaking head from side to side.)

4 HEARING OFFICER JONES: With no objection, those
5 will be admitted as Exhibit 7.

6 (WHEREUPON, Board's Exhibit No. 7 was received in
7 evidence.)

8 BY MS. GEE:

9 Q Okay.

10 A Kimberly Walton had performed eight services on the clinic
11 floor before she had earned 150 hours. She also attended school
12 for more than eight hours on at least one occasion in one day.

13 Q And do you have notes regarding Kimberly Walton?

14 A Yes, ma'am.

15 MS. GEE: I would like to admit those as Board's
16 Exhibit 8, please.

17 HEARING OFFICER JONES: Any objection.

18 MR. SULLIVAN: (Shaking head from side to side.)

19 HEARING OFFICER JONES: Without objection, those
20 will be admitted as Exhibit 8 for the board.

21 (WHEREUPON, Board's Exhibit No. 8 was received in
22 evidence.)

23 BY MS. GEE:

24 Q Okay.

25 A Constance Williams had performed two services on the clinic

1 floor before she had earned 150 hours.

2 Q Okay. And do you have notes regarding Ms. Williams?

3 A Yes, ma'am.

4 MS. GEE: Okay I would like those to be admitted
5 as Board's Exhibit 9, please.

6 HEARING OFFICER JONES: Any objection,
7 Mr. Sullivan?

8 MR. SULLIVAN: (Shaking head from side to side.)

9 HEARING OFFICER JONES: If there is no objection,
10 Exhibit 9 is admitted by the board.

11 (WHEREUPON, Board's Exhibit No. 9 was received in
12 evidence.)

13 THE WITNESS: Gabrielle Cummings performed
14 approximately six services prior to her earning 150
15 hours.

16 BY MS. GEE:

17 Q And do you have notes related to Gabrielle Cummings'
18 services before earning 150 hours?

19 A Yes. I do.

20 HEARING OFFICER JONES: Mr. Sullivan, any
21 objection?

22 MR. SULLIVAN: No, ma'am.

23 HEARING OFFICER JONES: Exhibit 10?

24 MS. GEE: I would like to submit those as Board's
25 Exhibit 10.

1 HEARING OFFICER JONES: That's fine.

2 (WHEREUPON, Board's Exhibit No. 10 was received in
3 evidence.)

4 THE WITNESS: I had three students that were left
5 out of that stack that there were no violations for.

6 BY MS. GEE:

7 Q Did you ever speak to Mr. Sullivan during any of these
8 visits?

9 A Yes. I did.

10 Q Did you discuss with him the violations that you had
11 observed?

12 A Yes, ma'am.

13 Q All right. What was his response to that?

14 A He said he was working on it. He was in the process of
15 getting a new instructor into the school and that he was working
16 on getting everything fixed.

17 Q So did he acknowledge that those violations had occurred?

18 A As far as acknowledge it, he didn't say, yes, they had. He
19 just said that he was working on the problems there, so...

20 Q Okay. To your knowledge, has Mr. Sullivan and Pro-Way
21 School been disciplined by this board on previous occasions?

22 A Yes, ma'am.

23 Q Could you summarize for the board, please, what discipline
24 they have been subjected to?

25 A Poor recordkeeping of student records, lack of proper

1 supervision of students during theory and clinic hours, students
2 left under the supervision of an unlicensed instructor, and
3 equipment infractions such as broken mirrors and storing of
4 styling chairs, dryer chairs, and folding table on the school
5 premises.

6 Q Okay. And based on those violations that you've just
7 listed, what discipline was proposed?

8 A He was put on probation.

9 Q Okay. And is he -- is that school still on probation or is
10 it over?

11 A I think it ended in May of '07.

12 MS. GEE: I have nothing further.

13 HEARING OFFICER JONES: Mr. Sullivan, do you have
14 any questions for Ms. Caudle?

15 MR. SULLIVAN: I sure do.

16 HEARING OFFICER JONES: Go right ahead.

17 CROSS-EXAMINATION

18 BY MR. SULLIVAN:

19 Q First of all, I was fined \$1,000, in addition. I paid that
20 and I got off the probation, so let's clear that up.

21 No. 2, all of this was preceded by an anonymous phone call
22 to the state board. Is that correct?

23 A I was sent there on a --

24 Q Anonymous?

25 A -- anonymous complaint requesting the inspector visit the

1 school.

2 Q Do you know Anonymous?

3 A Do I know Anonymous?

4 No, I don't.

5 Do you?

6 Q Yes. I do.

7 MR. SULLIVAN: Could I ask Ms. Wittum?

8 HEARING OFFICER JONES: Not right now.

9 MR. SULLIVAN: Okay.

10 HEARING OFFICER JONES: Just Ms. Caudle right now.

11 BY MR. SULLIVAN:

12 Q Okay. But you are aware that you got an anonymous call?

13 A I was sent by my office on an anonymous letter.

14 Q All right. May I ask how long you've been an inspector?

15 A Almost 15 years.

16 Q In your 15 years, have you ever been sent on an anonymous

17 complaint? Anonymous?

18 A Many, many times.

19 Q But you never knew whether they were students or --

20 A No, sir.

21 Q Would you say that the population of Arkansas is 2 million?

22 A I wouldn't have a clue as to that, Mr. Sullivan.

23 Q But you would say at least that?

24 A I wouldn't have a clue.

25 Q All right. Let's narrow it down.

1 Would you say there's 30,000 people in West Memphis,
2 somewhere give or take five?

3 A Probably.

4 Q Is it possible that anybody could have called and said that
5 all this malarkey is taking place, and you go in based on
6 somebody that you have absolutely no idea that that person is a
7 legitimate complaint?

8 A Now state that to me again. Let me understand what you're
9 asking.

10 Q Could you go in knowing that this anonymous, Ms. Anonymous
11 or Mr. Anonymous had a legitimate complaint against Pro-Way Hair
12 School and you go in and question my students. You've not listed
13 one student that you questioned the day that you were in. You
14 came in in the morning. You have no earthly idea whether the air
15 conditioning was working or not; you don't know how many air
16 conditioners had been in the building. You did not go to the
17 water fountain. Did you bring Ms. Wittum back muddy water? You
18 say there was muddy water. I don't think so.

19 Ms. Williams had cancer of the brain. She was buried today.
20 She had some erratic behavior.

21 I told Ms. Caudle in order to make the transition soften for
22 her -- I did not know until the day before Thanksgiving that she
23 was sick. I told her that I had to get rid of Ms. Williams, I
24 fixed it up where she could draw on her unemployment, but she was
25 making some erratic behavior. And I did not know she was sick,

1 but that's basically why some of this stuff happened.

2 Bottom line is this: I deny all charges --

3 HEARING OFFICER JONES: Okay. Wait. I'm going to
4 stop you right now. I'm going to give you a chance to
5 have your whole say.

6 Do you have any more questions for this witness?

7 MR. SULLIVAN: No.

8 HEARING OFFICER JONES: Okay. And I'm going to
9 give you plenty of time to say whatever you want.

10 Does the board have any questions they would like
11 to ask Ms. Caudle?

12 If there are none, Ms. Gee, you can call your next
13 witness.

14 MS. GEE: I have nothing further.

15 HEARING OFFICER JONES: Okay. Mr. Sullivan, you
16 can tell the board everything you want them to know
17 right now, and then I'm going to give Ms. Gee and the
18 board an opportunity to ask you some questions. Okay?

19 MR. SULLIVAN: Okay. Sure.

20 WHEREUPON,

21 FRANK SULLIVAN,

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 TESTIMONY

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

1 THE WITNESS: Well, number one, when we called the
2 state board as school owners, we get the run around. I
3 mean not -- not this board, but Ms. Wittum's office.

4 I have sent in on numerous occasions one or two
5 students in particular, you can research in July of
6 '06, Ms. Debbie Brown committed suicide. I sent her
7 report, her certificate of completion in. She stayed
8 on. Next month I drew a line through it, deceased.
9 She stayed on it. I sent in three certificates of --
10 of completions on her, and about nine months later they
11 take her off.

12 We call the board, call the office, oh,
13 Mr. Sullivan, we're -- we're running behind, we're so
14 far behind. So and so has been out on maternity leave
15 and we can't get caught up, but if you will just bear
16 with us.

17 But more than ten students I've sent in
18 certificates of completion for at least two times and
19 sometimes three times. Now this is what we're facing
20 as school owners. But, oh, no. No. We can't -- this
21 girl got more than eight hours one day, so I'm getting
22 lambasted.

23 I get these charges, a copy of these charges
24 handed to me about five minutes ago. Typical.
25 Absolutely typical of what we put up with.

1 A But I had no documentation backing it up.

2 Q But let me ask you the question. You received that.

3 Correct?

4 A Yes.

5 Q Okay. So when you say you just got it five minutes before
6 the hearing, what you're talking about is the notes that were
7 introduced as exhibits?

8 A That's correct. A copy --

9 Q And you did not object to those being introduced. Is that
10 correct?

11 A That's correct.

12 Q Okay. Thank you very much.

13 Let me ask you, what is your role at Pro-Way School? What
14 do you do?

15 A What do I do?

16 Q What do you do?

17 Do you work there or are you simply the owner?

18 A No. I work with enrollment contracts. I do the financial
19 aid. I'm there basically as a general rule three to four hours,
20 at least four days out of the week. I clean up. I do the
21 maintenance. And just -- just an added thing is I had an
22 inspector in there Friday inspecting.

23 Q Okay. So, you are not an instructor?

24 A No.

25 Q Okay. So, you depended on Ms. Williams to act as your

1 instructor --

2 A Entirely.

3 Q -- at this time?

4 A At this time.

5 Q Okay. And --

6 A And she had, unbeknownst to me, she died a week ago this

7 past Sunday with cancer of the brain. I knew she had some

8 erratic behavior, but I -- it just --

9 Q How long was she having erratic behavior?

10 A Well, I --

11 Q When did you first notice it?

12 A Probably in June.

13 Q Okay.

14 A July.

15 Q So it was at least several months before the visit that you

16 were aware that she had been behaving erratically. Is that

17 right?

18 A Originally last June or July, I started, number one, I told

19 her just to soften the blow that I was going to sell the school.

20 In reality I was going to close the school.

21 Q Right.

22 A And that is my intent right now. And I told her not to

23 enroll any more students. And when she continued to enroll

24 students, then she caught me in a situation where I did not want

25 to disappoint those students.

1 Now, a couple of students I have not charged them one penny,
2 because I know that they are going to have to go to another
3 school.

4 Q So you're intending to close the school?

5 A Yes.

6 Q When do you intend to close it?

7 A I would like to keep it open until January 31st, but I could
8 close it tomorrow.

9 Q Okay. Let me ask you some specific questions about some of
10 the testimony from Ms. Caudle.

11 Was your air conditioner in working order at the time of her
12 visit?

13 A Yes.

14 Q So it wasn't warm at all in there?

15 A She came in about nine o'clock in the morning.

16 Q Okay.

17 A Now, wait. Wait. Wait.

18 If there is 25 female students in a room, 12 of them is too
19 hot, 12 of them is too cold.

20 Q What temperature do you keep your school?

21 Let's just ask it that way.

22 A Probably 78, somewhere in that range. But when the dryers
23 are on, I imagine it heats up.

24 Q Okay. And was your water fountain in working order?

25 A Absolutely.

1 It's a -- it's a -- one that -- one that I take the
2 five-gallon bottle of water and put it all in there. I know it's
3 in working order, I know it's cleaned, because I cleaned it
4 personally.

5 Q I'm sorry. What were you saying about the five-gallon
6 bottle?

7 A It's a five-gallon bottle we put in this, on top of the
8 water cooler and --

9 Q Oh, okay.

10 A And I know it's clean, because I absolutely clean it myself.
11 I do all the janitorial work.

12 Q Okay. Who was responsible for maintaining student records?

13 A Ms. Williams.

14 Q Okay. So do you have any knowledge one way or another about
15 the state of your student records?

16 A Up until that time, she had -- she had supposedly got
17 commendations. She had never been written up before.

18 Q Do you have any knowledge sitting here today whether or not
19 these allegations that Ms. Caudle has testified to about the
20 irregularities and errors in your student records, whether those
21 are true or not?

22 A I would say that to my knowledge they are not true.

23 Q Have you looked?

24 A Well, I just --

25 Q Have you looked at your records --

1 A Yeah.

2 Q -- and compared them to the allegations?

3 A Uh-huh.

4 Q You have?

5 A Yeah.

6 Q And is that some of the documents you're not introducing
7 here today?

8 A I've got my documents right here, and I'm not going to
9 introduce any documents to this hearing. Because when Ms. Jones
10 said that she had the right to decide this or that, that
11 automatically precludes me from introducing anything to be shot
12 down, because I've never --

13 Q I'm --

14 A I've never known anybody to leave here not guilty.

15 Q Okay. Well, let me -- let me tell you something --

16 A So I'm not going to introduce them.

17 Q Okay. You can do whatever you want, of course. But I just
18 want to tell you, Ms. Jones is not the one who makes the
19 decisions here today.

20 A Exactly.

21 Q So if that affects your decision at all, it's the board that
22 makes the decision.

23 A Yes, ma'am.

24 Q And if you have documents you believe the board should see,
25 then I would encourage you to introduce them.

1 A No. I'm not going to introduce them.

2 Q Okay. So, you are saying that Ms. Williams was in charge of
3 the records and you didn't have anything to do with them, but
4 you've gone back and looked at them since that time and you've
5 confirmed that every single thing Ms. Caudle found in your
6 records was wrong. Is that what you're telling the board?

7 A I will at the proper time and the proper setting --

8 Q No. No. No. I want you to answer the question.

9 A Yes.

10 Q If you have documents --

11 A Yes.

12 Q You're saying they are all wrong?

13 A Yes.

14 They are not wrong.

15 Q They are not wrong?

16 A They are not wrong.

17 Q The records are not wrong?

18 A That's correct.

19 Q Okay. So Ms. Caudle's allegations are all wrong?

20 A Yes.

21 Q Every single one?

22 A Yes.

23 MS. GEE: Okay. I don't have anything further.

24 HEARING OFFICER JONES: Does the board have any
25 questions they would like to ask Mr. Sullivan at this

1 point?

2 Ms. Turman, go right ahead.

3 MS. TURMAN: Was Ms. Williams responsible for --
4 in 2005 and in May and in November when you were put on
5 probation for -- for the same violation?

6 THE WITNESS: No. I -- she might have come to a
7 hearing. I can't remember.

8 But I paid my fine and I served the full year.

9 MS. TURMAN: I know, but you were still -- you
10 were still on -- you were still on probation. You
11 know, you still had the --

12 THE WITNESS: No, I wasn't on probation.

13 MS. TURMAN: No. I'm sorry.

14 You were -- you were fined, I believe, for the
15 same violations. That's what I'm saying.

16 THE WITNESS: I don't know that. That's -- that's
17 history.

18 I served my two years, I paid my fine on time. So
19 why are we discussing that at this meeting?

20 MS. TURMAN: Well, I just want to know -- I just
21 want to know if that same individual was responsible
22 for the recordkeeping at that time?

23 THE WITNESS: I'm not saying that Ms. Williams had
24 anything to do with any violations or anything. I'm
25 saying the records are in the proper order, as much as

1 the state board's, Ms. Wittum's records are in order.

2 Half the stuff that we get could be and could not
3 be right.

4 MS. TURMAN: Well, is it true, sir, that there
5 were children allowed to be --

6 THE WITNESS: Absolutely not. Absolutely not.

7 MS. TURMAN: So you're saying that there was not
8 any children allowed in the school at all?

9 THE WITNESS: Ms. Caudle talked to the anonymous
10 complainant. I know who the anonymous complainant is.
11 She's a 24-karat flake, in my estimation. That's my
12 opinion, and I think if she went to a psychiatrist, he
13 would back me up. She did not like the way that I was
14 running the school, and she came down hard on
15 Ms. Williams, and there is a possibility that she has
16 faxed Ms. Wittum's office right now an allegation of
17 Ms. McCoy, who is the instructor right now. I don't
18 know if she has. She said she was.

19 She told -- she was the chief complainant in all
20 of this, simply because she wanted to run the school.
21 She is not going to run the school. She is no longer
22 enrolled. She did not pay me one penny. She never
23 used one thing of hers. It's bogus.

24 HEARING OFFICER JONES: Further questions from the
25 board?

1 Go ahead, Ms. Burrough.

2 MS. COLLINS-BURROUGH: How long did Ms. Williams
3 work for you at this school?

4 THE WITNESS: I believe about two or 2 1/2 years,
5 or somewhere in that range.

6 I don't know. I didn't keep track.

7 HEARING OFFICER JONES: Further questions?

8 Ms. Smith?

9 MS. SMITH: Mr. Sullivan, you said that you worked
10 in the finance and you did the financial things --

11 THE WITNESS: I did the financial aid. Yes.

12 MS. SMITH: -- and the maintenance.

13 So how could you say that supplies weren't used
14 and you were only there --

15 THE WITNESS: I buy the supplies.

16 MS. SMITH: You buy them?

17 THE WITNESS: I go to Sally's every week, every
18 day, if need be. They pull me out a list of what we
19 need.

20 I'll tell you categorically, I have another school
21 in Atlanta, categorically, I've been in the business 18
22 years, a student has never, ever, ever been required to
23 use their own supplies. That is a nonissue. I have a
24 whole room of supplies locked -- under lock and key. I
25 have a cabinet that's got supplies in it, and I have

1 another room that we take out what we think we're going
2 to use for that day. Categorically, no student of mine
3 in the 18 years I've been in the business has ever used
4 one ounce of any of their supplies unless they chose
5 because they liked it. Not on my accord. Never, ever.

6 HEARING OFFICER JONES: Further questions from the
7 board?

8 If there are no further questions from the board,
9 Mr. Sullivan, I'm going to give you the opportunity, do
10 you want to call any witnesses at this time?

11 MR. SULLIVAN: (Shaking head from side to side.)

12 HEARING OFFICER JONES: Okay. If you have nothing
13 further, we'll move to closing arguments.

14 Ms. Gee, closing argument?

15 MS. GEE: Well, you have evidence before you from
16 Ms. Caudle who visited the school, who made notes about
17 the student records, who observed personally conditions
18 at the school, and you've heard her testify to that
19 today. There are specific allegations relating to all
20 of those things that Ms. Caudle observed on behalf of
21 the board, including the conditions at the school and
22 the condition of the student records.

23 Mr. Sullivan says he categorically denies all of
24 these allegations, but has not presented any evidence,
25 apparently chooses not to. So, we would ask that you

1 would make findings on all of the allegations and all
2 of the charges, please.

3 Thank you.

4 HEARING OFFICER JONES: Mr. Sullivan, this is your
5 opportunity to tell the board anything else you wish to
6 have them hear prior to them deliberating to make a
7 decision.

8 MR. SULLIVAN: No. I've -- I respect the board
9 and I'm not going to stay for deliberations. They can
10 forward their findings to me at my school.

11 I'll thank you.

12 HEARING OFFICER JONES: That will be done. Thank
13 you, Mr. Sullivan.

14 At this time the record will be closed and
15 complete, except for the board's recess for
16 deliberations. And once a decision has been made, we
17 will go back on the record.

18 Thank you.

19 (WHEREUPON, the Commission retired to deliberate,
20 off the record, from 2:28 p.m. to 2:35 p.m., and
21 returned with the following motion.)

22 HEARING OFFICER JONES: You can ask your question.
23 I'll let Ms. Caudle answer it.

24 WHEREUPON,

25 SHEILA CAUDLE,

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

1 having been recalled for examination, and having been previously
2 duly sworn by the undersigned notary public, was examined and
3 testified, as follows:

4 MS. BURCHETT: Okay. I just want to know, for
5 instance, the Charge No. 1, supplies were used by
6 students on the public, they had to provide their own
7 supplies. Did you interview students to find this out?

8 THE WITNESS: Ms. Green, Ms. Lester now, was also
9 with me on this inspection. This one was the first one
10 we went on and it was due to the anonymous complaint.
11 And she did interview students at this inspection, and
12 she checked all of the physical facility as far as the
13 water fountain and everything while I was going through
14 records. But students were interviewed. She -- she
15 did interview students.

16 MS. BURCHETT: Okay. The reason I'm asking is --

17 HEARING OFFICER JONES: Wait hold on just a
18 second.

19 Thank you, Ms. Caudle, for answering that. We're
20 going to be back off the record for you to deliberate
21 and then we'll go back on the record.

22 (WHEREUPON, the Commission retired to deliberate,
23 off the record, from 2:36 p.m. to 2:37 p.m., and
24 returned with the following motion.)

25 HEARING OFFICER JONES: If the board is ready with

1 a decision, we'll go back on the record.

2 Is there a motion pertaining to the charges?

3 Ms. Turman?

4 MS. TURMAN: I would like to make a motion finding
5 the allegations to be true. And with his history,
6 students not being educated, I make a motion we close
7 the school.

8 HEARING OFFICER JONES: And that is in relation to
9 all charges or --

10 MS. TURMAN: Yes.

11 HEARING OFFICER JONES: To clarify, there is a
12 motion based upon all the Charges 1 through 9, and the
13 history relating, that the school be closed.

14 MS. GEE: Wait. We need a finding on the
15 allegations. We can't just cut straight to the
16 charges.

17 HEARING OFFICER JONES: Okay.

18 MS. TURMAN: Okay. I'll rephrase it.

19 HEARING OFFICER JONES: Ms. Turman, I'll let you
20 rephrase that.

21 MS. TURMAN: Okay. Finding the allegations to be
22 true, then I need to go with all the allegations, just
23 say they are true, because I don't know how --

24 MS. GEE: Well, if your motion is that every
25 single thing in the allegations is true, then, yes, I

1 think that's enough.

2 MS. TURMAN: Okay. Finding all the allegations to
3 be true, I make a motion that we close the school.

4 Can I do that like that?

5 HEARING OFFICER JONES: I don't believe Ms. Gee
6 can address your question at this time.

7 MS. GEE: What we'll need is, whether you do it in
8 one motion or several motions is to -- a finding on the
9 allegations, a finding on the charges, and what your
10 recommended penalty is.

11 MS. TURMAN: Okay. All right. Here, we'll try it
12 again.

13 Finding the allegations to be true, I make a
14 motion that we close the school.

15 MS. GEE: Okay. And I think your -- you're
16 meaning to say they are -- also the charges --

17 MS. TURMAN: Yes. Allegations and the charges to
18 be true.

19 HEARING OFFICER JONES: Okay. There is a motion
20 on the table, and I'm going to try to clarify this or
21 restate it. Finding the allegations to be true and the
22 Charges 1 through 8 supported, the decision of the
23 board will be to close the school. Is that your
24 motion?

25 MS. TURMAN: Yes.

1 HEARING OFFICER JONES: Okay. Is there a second
2 for that motion?

3 MS. PICKERING: I second.

4 HEARING OFFICER JONES: A second by Ms. Pickering.
5 All those in favor of the motion, please raise
6 your hand.

7 (Hands raised.)

8 MS. WARD: You can't vote.

9 MS. GEE: She can vote.

10 HEARING OFFICER JONES: No. You can't vote.

11 MS. GEE: It's licensed --

12 MS. WARD: But as a school, you can't, I thought.

13 MS. WITTUM: She's not an owner.

14 MS. WARD: She's not an owner?

15 Okay. I'm sorry.

16 HEARING OFFICER JONES: Okay. Raise your hand in
17 support of the motion.

18 (Hands raised.)

19 So, we have four in favor of the motion.

20 Those against, please, raise your hand.

21 For opposed?

22 (Hands raised.)

23 Any abstentions?

24 Ms. Ward, are you abstaining?

25 MS. WARD: I am a school owner. I can't vote.

1 MS. COLLINS-BURROUGH: So you're abstaining.

2 MS. WARD: Yeah.

3 HEARING OFFICER JONES: We have four in favor of
4 the motion, one against, one abstention. With that the
5 motion does carry. Let the record reflect the decision
6 of the board. Please reduce this to writing and make
7 service upon Mr. Sullivan and the school. And in that,
8 let the respondent know that if he cares to appeal the
9 decision, an appeal may be taken under the
10 Administrative Procedures Act, found at Arkansas Code
11 Annotated 25-15-201, et seq., or any specific
12 provisions of this board.

13 If there are no other questions or comments, this
14 hearing is concluded and the record is closed.

15 MS. CAVER-BLADE: Okay. We're going to take a 15
16 minute recess, break.

17 (WHEREUPON, a break was held from 2:40 p.m. to
18 2:58 p.m.)

19 MS. CAVER-BLADE: I would like to call this
20 meeting back to order.

21 HEARING OFFICER JONES: At this time we're going
22 to continue the hearings.

23 ADMINISTRATIVE HEARING NO. 07-500

24 Modern Images. 07-500, Melissa Welch as the
25 owner. 07-500.

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

1 Give you all a second to pull that paperwork.
2 07-500.

3 Okay. My name is Kendra Akin Jones. I'm the
4 Hearing Officer today in the matter of Melissa Welch,
5 owner of Modern Images, Hearing No. 07-500, which is to
6 be heard before the Arkansas State Board of
7 Cosmetology. Today is December 3, 2007. We're located
8 at the Conference Room C of the Main Street Mall.

9 Would the respondent please identify yourself for
10 the record.

11 MS. WELCH: Melissa Welch.

12 HEARING OFFICER JONES: Okay. Thank you.

13 You don't have counsel here with you today?

14 MS. WELCH: (Shaking head from side to side.)

15 HEARING OFFICER JONES: Please verbalize your
16 answer so we can be sure --

17 MS. WELCH: No.

18 HEARING OFFICER JONES: Okay. Thank you.

19 And you received a copy of the Order and Notice of
20 Hearing for today's matter?

21 MS. WELCH: Yes.

22 HEARING OFFICER JONES: State's counsel, please
23 identify yourself.

24 MS. GEE: Assistant Attorney General Erika Gee.

25 HEARING OFFICER JONES: Thank you.

1 As I've explained, this is an administrative
2 hearing. The board's decision will be based solely
3 upon the evidence presented here today. This hearing
4 is being held under the Administrative Procedures Act,
5 which means that the strict rules of evidence are not
6 applied as they would be in a regular court of law,
7 which as Hearing Officer I have some latitudes as to
8 allow evidence to be entered. And to insure the
9 efficiency of the proceedings, I may grant some
10 objections or caution parties as necessary.

11 The board members know of this case only as it is
12 set forth in the notice of hearing, and if you have
13 anything that you would like for them to consider for
14 their deliberations, you must offer it into evidence
15 today or it will not be considered in this proceeding.
16 And hearings are subject to the Freedom of Information
17 Act.

18 If you're going to be a witness today, please
19 raise your right hand and we'll have the court reporter
20 swear you in.

21 (WHEREUPON, the witnesses were sworn.)

22 HEARING OFFICER JONES: Okay. Thank you.

23 Ms. Gee, opening statement?

24 MS. GEE: Ms. Welch here today is the owner and
25 operator of Modern Images, an establishment located in

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1 Monticello. She is here on allegations of some health
2 and safety violations, including having a dog in the
3 salon.

4 HEARING OFFICER JONES: Ms. Welch, would you like
5 to say anything in opening to the board?

6 MS. WELCH: I'm not real sure.

7 I definitely am guilty, but one of the charges,
8 January the 10th of 2007, I did not own -- I'm sorry,
9 not January 10th. The August 23rd, 2005, I did not
10 actually own the salon and did not work there, so
11 that's hopefully one off my record that I wasn't guilty
12 of.

13 HEARING OFFICER JONES: Okay. Anything else in
14 opening?

15 MS. WELCH: No.

16 HEARING OFFICER JONES: Okay. I would ask that
17 everyone shut their cell phones off, if you haven't
18 done so already.

19 Okay. Ms. Gee, you can call your first witness.

20 MS. GEE: I would like to call Ms. Jackson,
21 please.

22 HEARING OFFICER JONES: Ms. Jackson.

23 WHEREUPON,

24 PAT JACKSON,

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

1 sworn by the undersigned notary public, was examined and
2 testified, as follows:

3 DIRECT EXAMINATION

4 BY MS. GEE:

5 Q Would you state your name and occupation for the record?

6 A Pat Jackson, Inspector for the Arkansas State Board of
7 Cosmetology.

8 MS. GEE: Okay. I would like to go ahead and
9 introduce the board's exhibits. First will be the
10 cosmetology laws and rules as Exhibit 1; Exhibit 2 will
11 be the Order and Notice of Hearing served upon
12 Ms. Welch; Exhibit 3 would be the inspection summary
13 report from Ms. Jackson's visit.

14 HEARING OFFICER JONES: Ms. Welch, do you have any
15 objection to any of those?

16 MS. WELCH: (Shaking head from side to side.)

17 HEARING OFFICER JONES: Okay. Then those will be
18 admitted as such.

19 (WHEREUPON, Board's Exhibits Nos. 1, 2, and 3 were
20 received in evidence.)

21 MS. GEE: Thank you.

22 BY MS. GEE:

23 Q Ms. Jackson, have you performed an inspection on an
24 establishment called Modern Images in Monticello?

25 A Yes. I did.

- 1 Q And when was your most recent visit to the establishment?
- 2 A It was August 8, 2007, this year.
- 3 Q Okay. And at that visit, did you find any violations?
- 4 A Yes. I did.
- 5 Q Would you outline those to the board, please?
- 6 A When I went in, there was a dog in the salon; hair that had
7 been cut was just swept up in a corner; there was no cover on the
8 dirty towel hamper; the Barbicide was filthy. And when I use
9 that word, I mean it's cruddy, and being used for storage, which
10 means that the combs were being left in there more than ten
11 minutes. Used wax sticks were left on and in the wax machine,
12 and used and dirty brushes laying in the drawer with clean
13 utensils.
- 14 Q Okay. And at the time of your visit, was there anybody
15 working there?
- 16 A Yes.
- 17 Q And could you identify who that was?
- 18 A Yes. That was Ms. Welch.
- 19 Q Ms. Welch?
- 20 A Uh-huh. Yes.
- 21 Q And have you visited the salon on occasions prior to that?
- 22 A Yes. I did.
- 23 Q Okay. Has she -- she being Ms. Welch, has she ever allowed
24 a dog in her salon on previous occasions?
- 25 A I believe on the July 27th inspection, Ms. Horner, I believe

- 1 was there, and Ms. Welch had just come back from vacation, and
2 she had her dog in there with her then.
- 3 Q And that was July 27, 2007?
- 4 A Yes.
- 5 Q Okay. And are you aware of there being a dog in the salon
6 on previous occasions, whether or not Ms. Welch was there?
- 7 A Not from my inspection; but, yes, I am.
- 8 Q Okay. Whose dog was it?
- 9 A Ms. Welch's.
- 10 Q It's Ms. Welch's personal dog?
- 11 A Uh-huh.
- 12 Q As far as you know, is this dog that was in the salon, was
13 it any kind of service animal for anyone?
- 14 A I -- no. I think it was just her personal pet.
- 15 Q Just a pet?
- 16 A Yes.
- 17 Q What kind of dog is it?
- 18 A Cute.
- 19 I don't know. I don't know. I really -- I don't know.
- 20 Q Okay.
- 21 A Sorry.
- 22 Q Did you speak to Ms. Welch about your findings on this
23 inspection?
- 24 A Uh-huh. I did.
- 25 Q And did she have any response to what you had found?

1 A Well, we did discuss the dog, I think, in length, and she
2 said she was pretty sure she knew she wasn't supposed to have the
3 dog in there.

4 Q Okay. And did you discuss any of the other findings?

5 A I believe we did.

6 Q Okay. And did she have any response to those that you
7 recall?

8 A I'm sorry, I don't recall what -- she did have, but I
9 don't -- I did not write that down, so I'm sorry, I don't
10 remember.

11 MS. GEE: Okay. That's fine.

12 I have nothing further.

13 Thank you.

14 HEARING OFFICER JONES: Ms. Welch, would you like
15 to ask Ms. Jackson any questions?

16 MS. WELCH: Ms. Jackson personally?

17 HEARING OFFICER JONES: Yes.

18 MS. WELCH: I don't think so.

19 HEARING OFFICER JONES: Okay.

20 MS. WELCH: I mean, I can recall some of the
21 conversations or anything you want.

22 MS. POWELL: Okay. You can tell that.

23 MS. WELCH: But I don't have any questions for
24 Ms. Jackson now. No.

25 HEARING OFFICER JONES: All right. Does the board

1 have any questions for Ms. Jackson?

2 All right. Ms. Gee, you may call your next
3 witness.

4 MS. GEE: I would like to call Melissa Welch,
5 please.

6 I'll just ask you some questions.

7 WHEREUPON,

8 MELISSA WELCH,

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

12 DIRECT EXAMINATION

13 BY MS. GEE:

14 Q What kind of dog is it?

15 A It's a Chinese Cricket. She's a hairless.

16 MS. GEE: Can you hear?

17 COURT REPORTER: (Nodding head up and down.)

18 BY MS. GEE:

19 Q Okay. I'm just asking if she can hear you.

20 And this is your personal dog?

21 A Yes.

22 Q And do you routinely have the dog in the salon with you?

23 A Yes and no, to be completely honest. I was written up in
24 January for her, which, you know, you've probably heard tons of
25 excuses today already.

1 So I started sending her to day care and they let her
2 sunburn, and so she was kind of back and forth. I was taking her
3 to my sister's, which home schools four girls, so that was an
4 inconvenience. So she's been there some, off and on, yes, but
5 it's not every day, every time I'm there. And I know I'm not
6 supposed to have her, and of course, once I got pushed to the
7 limit on it, she's been, you know, permanently at home. I have
8 corrected that and she's not been in the salon since.

9 Q Okay. So since this August inspection --

10 A Yes.

11 Q -- and you have not taken her back?

12 A Yes.

13 Q Not one time?

14 A And in the July inspection, I had been on vacation and I had
15 come in and I had her in my lap and was just visiting with my
16 co-worker, which is actually a good friend as well. So, yeah.
17 But, yes. Yes, ma'am.

18 A lot of days that I do -- was taking her was days that were
19 going to be long days and I couldn't go home and take her out,
20 you know, that kind of thing, but...

21 Q But you do understand you're not supposed to have her here?

22 A Yeah. Apparently, or I wouldn't be here, so yes.

23 Q Okay. Let me ask you about some of these other allegations.

24 A Okay.

25 Q Ms. Jackson found that there was cut hair in a pile up

1 against the wall?

2 A (Nodding head up and down.)

3 Q That there was no cover on the dirty towel hamper, that the
4 Barbicide was dirty, there was used wax sticks left on, and there
5 were dirty brushes in a drawer with clean ones. Are those all
6 true?

7 A Yes.

8 I'm not sure that I -- I'm not sure about the dirty brushes,
9 I don't recall that. But, yes, it was a very busy day, which
10 when she came through, a lot of times you go one to the other and
11 a lot of times when you get through with one you clean it up or
12 while the hair is color processing, you clean it up. But yes, I
13 would say there was. Yes.

14 MS. GEE: Okay. I have nothing further.

15 HEARING OFFICER JONES: Okay. Would you like to
16 ask Ms. Welch any questions at this time or let her
17 make a statement and then ask questions?

18 Do you have any further witnesses, Ms. Gee?

19 MS. GEE: I do not.

20 HEARING OFFICER JONES: Okay. Ms. Welch, we'll
21 allow you to tell the board anything you want them to
22 hear, call any witnesses you may have, and then I'll
23 give the board a chance and Ms. Gee a chance to ask you
24 any questions to clarify things prior to their
25 decision.

1 WHEREUPON,

2 MELISSA WELCH,

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

4 sworn by the undersigned notary public, was examined and

5 testified, as follows:

6 DIRECT TESTIMONY

7 THE WITNESS: I guess, I have not had the dog back
8 in the salon since. I have tried to, you know, fix all
9 of my violations and done my best to do what I needed
10 to do. I would have kind of preferred that, you know,
11 you come back so that could be remedied. Some of the
12 things I didn't even realize were violations. Little
13 habits, you know, my dirty towel, when I'm done with
14 it, I just always put it on my station. You know, I'm
15 not in the habit of putting it to a dirty towel bin,
16 but I'm working on those things.

17 But I did bring my co-worker for moral support, as
18 much as that she can vouch that the dog has not been
19 back in the salon.

20 So, I guess that would be all.

21 HEARING OFFICER JONES: Does the board have any
22 questions for Ms. Welch?

23 Okay. Ms. Gee, do you have any further questions
24 you would like to ask?

25 MS. GEE: I do not.

1 HEARING OFFICER JONES: Ms. Welch, would you like
2 to call your co-worker as a witness?

3 MS. WELCH: I can.

4 HEARING OFFICER JONES: It's up to you.

5 MS. WELCH: That's all right.

6 HEARING OFFICER JONES: If not, then we will move
7 to closing arguments.

8 MS. WELCH: Probably doesn't matter.

9 HEARING OFFICER JONES: Go ahead, Ms. Gee.

10 MS. GEE: I'll waive.

11 HEARING OFFICER JONES: Ms. Welch, anything you
12 want to say in closing prior to the board making their
13 decision?

14 MS. WELCH: Please don't close my salon.

15 HEARING OFFICER JONES: Okay. If there is nothing
16 further at this time, the record will be closed and
17 made complete, except for the board's recess for
18 deliberations and a decision, at which time we will go
19 back on the record.

20 (WHEREUPON, the Commission retired to deliberate,
21 off the record, from 3:10 p.m. to 3:15 p.m., and
22 returned with the following motion.)

23 HEARING OFFICER JONES: Okay. We'll go back on
24 the record at this time for a motion.

25 Do we have a motion?

1 MS. BURCHETT: Sure.

2 HEARING OFFICER JONES: Ms. Burchett.

3 MS. BURCHETT: Finding the allegations being true,
4 under Charges 1 for dirty floors -- how do you want me
5 to do this, so I won't have to do it three times? Can
6 I do it this way, just name them?

7 HEARING OFFICER JONES: Uh-huh. That's fine.

8 MS. BURCHETT: Finding the allegations being true,
9 under the Charges No. 1 for dirty floors, \$25, I
10 recommend a 25-dollar fine; No. 2, animal in the salon,
11 this being the third offense, a fine of \$225; Charge
12 No. 3, failure to properly discard used towels in a
13 closed receptacle, I recommend \$25; Charge No. 4,
14 failure to properly dispose of implements that cannot
15 be disinfected, I recommend \$25; Charge No. 5, the
16 Barbicide solution was dirty, I recommend a charge of
17 \$25; No. 6, that dirty implements were stored with
18 clean implements, and this being the second offense, I
19 recommend a charge of \$50. And I move that to order
20 the respondent to pay the fine in the amount of
21 whatever that totals.

22 HEARING OFFICER JONES: 375, if I did my math
23 right.

24 MS. BURCHETT: I'm sorry. What is --

25 HEARING OFFICER JONES: 375. Yeah.

1 MS. BURCHETT: Of \$357, payable within, I'm going
2 to keep it the same today, I guess 90 days of receipt
3 of the board's order. Failure to pay the fine as
4 ordered will result in a suspension of the respondent's
5 cosmetology license beginning 30 days from the receipt
6 of the order and continuing for a period of 90 days
7 from the date that the respondent relinquishes her
8 license to the board.

9 HEARING OFFICER JONES: Okay. We have a motion.
10 Is there a second?

11 MS. TURMAN: I second it.

12 HEARING OFFICER JONES: Ms. Turman, second.

13 All those in favor, please raise your hand.

14 (Hands raised.)

15 All those opposed.

16 Let the record reflect the decision of the board
17 is unanimous. Please reduce that decision to writing
18 and make service upon the parties. If the respondent
19 cares to appeal the decision, an appeal may be taken
20 under the Administrative Procedures Act found at
21 Arkansas Code Annotated 25-15-201, et seq., or under
22 any specific provision of the laws pertaining to the
23 board.

24 If there are no other comments or questions, the
25 hearing is concluded and the record is closed.

1 Thank you, Ms. Welch.

2 ---o---

3 HEARING OFFICER JONES: Is there anybody else here
4 for a hearing?

5 Okay.

6 MS. GEE: Kathy has the list of people, the list
7 of people who were noticed up for a hearing and have
8 not paid.

9 MS. WITTUM: Yes. Amber has that right here.

10 MS. GEE: Amber has that list.

11 HEARING OFFICER JONES: If we could take a short
12 break off the record.

13 (WHEREUPON, a brief discussion was held off the
14 record.)

15 HEARING OFFICER JONES: Okay. Okay. At this time
16 we'll go back on the record.

17 My name is Kendra Akin Jones. I'm a Hearing
18 Officer today in the matters of the following: Cuttin'
19 Up, owner is Dawn Barkley, Hearing Order No. 07-420;
20 Fashion Nails, owner, Sandra Harlow, Order No. 07-416;
21 Kutting Up, Diane Barker, Owner, 07-368. Kutting Up,
22 Marlo Newton, 07-367; Studio 8, Amber Hendren, 07-436;
23 African Hair Braiding, Hawa Thiam, Owner, 07-538;
24 Classic Cuts Beauty Shop, Anskeha Nelson, 07-516; okay.

25 I take that back. 07-516 has paid their fine, it

1 appears. Sorry about that.

2 Charlotte's Hair Webb, Charlotte Spearman, Owner,
3 07-427; Classic Cuts Beauty Shop, Tanika Jones, 07-527;
4 Krystal's Beauty Salon, Mercedes Valdez, Owner, 07-423;
5 Nail Tech Salon, Duc Van Le, 07-521; Nail Tech, Liet
6 Van Le, 07-518; Professionail, Kim Chi T. Ngo, Owner,
7 07-529; Signature Nail Spa, Dai Do, Owner, 07-501;
8 Unique Touch, Denise Rhodes, 07-393; Unique Touch Marc
9 Oudin, Owner, 07-394.

10 These are all to be heard before the Arkansas
11 State Board of Cosmetology. Today is December 3, 2007.
12 We are located in Conference Room C of the Main Street
13 Mall. Please note for the record that none of the
14 respondents for the hearings just listed off are
15 present today. So at this time I'm going to let
16 state's counsel represent herself for the record.

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

18 HEARING OFFICER JONES: Okay. Explanation of the
19 proceedings is that this is held under the
20 Administrative Procedures Act. The board will base its
21 decision solely on the evidence presented here today.
22 And the board members know of this case only as it
23 appears and is set forth in the Notice of Hearing.
24 Anything to be considered needs to be presented into
25 evidence.

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1 This hearing is subject to the Freedom of
2 Information Act, including the deliberations.

3 And, Ms. Gee, I'm going to let you at this time,
4 if you want, to make a collective opening statement for
5 these, or if you would like to do them one by one, how
6 ever you wish.

7 We will do an opening statement starting with
8 Cuttin' Up, Dawn Barkley, 07-420.

9 MS. GEE: I would like to waive my opening and
10 save it for the closing. If I could.

11 HEARING OFFICER JONES: That will be fine. That
12 will be just fine. Thank you.

13 MS. TURMAN: May I make a comment?

14 HEARING OFFICER JONES: No.

15 MS. TURMAN: Well, we've got one that's got a
16 thousand-dollar outstanding fine already.

17 HEARING OFFICER JONES: Now is not the appropriate
18 time.

19 MS. TURMAN: Okay.

20 HEARING OFFICER JONES: Ms. Gee.

21 MS. GEE: Swear in the witness, please.

22 (WHEREUPON, the witnesses were sworn.)

23 MS. GEE: Thank you.

24 I would like to call Amber, please.

25 WHEREUPON,

1 that they have received it?

2 A No. Not on each respondent.

3 Q You have not on each respondent?

4 A No.

5 Q Okay. Can you tell us here now or will we need to take a
6 break in order to determine which ones you have received the card
7 back on?

8 A No, I can tell.

9 Q Okay. Can you tell us which ones you have received the card
10 for, please?

11 A Have? Okay.

12 Q Have.

13 A Cindy Nguyen of Beautiful Nails; Khoa Nguyen, sorry if
14 that's incorrect pronunciation, of Beautiful Nails; Beauty
15 Estetica Galilea; California Nails; Charlotte's Hair Webb;
16 Classic Cuts Beauty Shop; Anskeha Nelson from Classic Cuts;
17 Tanika Jones from Classic Cuts; David James Salon, both David
18 Langton and Mark Moffet; and Effective Touch, Sylvetta Ward;
19 Estillo's Beauty Salon, Beatriz Bonillo. She was here this
20 morning. Hannah's Nails; Krystal's Beauty Salon; Maribel's
21 Beauty Salon; Modern Images, Melissa Welch; Nail Tech Salon,
22 Peter Nguyen, the Owner; Nail Tech, Minh Trinh, Owner; Perfect
23 Nails; Perfect Nails again; Professionail; Signature Nail Spa;
24 Hang Thanh Do; and Signature Nail Spa, Dai Do; Sports Clips, I
25 received that one. Unique Touch, Denise Rhodes, actually. And

1 Marc Oudin, he obviously got the notice because I've spoken to
2 him, but it came back as undeliverable and it was re-sent
3 certified. But I've spoken to him since he's had the notice.

4 Dawn Barkley, Cuttin' Up; Kutting Up, with a K, Diane
5 Barker; Kutting Up with a K, Marlo Newton; Studio 8, Amber
6 Hendren; Her Styler, Shorn Sagron, excuse me; and Universal
7 Beauty Salon, Maribel Penn.

8 Q Okay. And all of --

9 A And Lucille -- I'm sorry.

10 Q Go ahead.

11 A And Lucille Coleman, Blytheville Academy; Frank Sullivan,
12 Pro-Way; Bridgett Jones, Blytheville; and Jody Banks at
13 Blytheville.

14 Q Okay. Now, all of those people that you just testified to,
15 you've gotten receipts for all of them that they got notice. Is
16 that right?

17 A That is correct.

18 Q Okay. And I know that some of the ones that you've just
19 gone through are people who appeared here today, and a few of
20 them were ones that paid prior to today.

21 A That is correct.

22 Q Okay. And to the extent that they don't fall into one of
23 those groups, all of those people were served notice of the
24 hearing here today and did not appear?

25 A That is correct.

1 Q Okay.

2 A I have one, two, three, four, five -- I have about six who
3 I'm not sure. They were sent the certified mail and then they
4 were sent re -- re-sent via regular mail, but I have not heard
5 any -- I haven't had the certified receipt returned to me. And
6 other than just assuming that they received the notice via
7 regular mail, I don't have any knowledge as to their status.

8 Q The ones you sent regular mail, how long has it been since
9 you sent it?

10 A November 20th, which was 15 days after we sent the original.

11 Q And none of those have been returned to you?

12 A No.

13 Q Okay. Did you send those to the addresses that were on
14 record with the board?

15 A Yes, ma'am.

16 And actually out of those six, one, two, three of them were
17 sent certified. So I sent three regular mail and three
18 certified, just because of what I felt was necessary under the
19 circumstances.

20 Q Okay. Let's leave those six aside.

21 A Okay.

22 MS. GEE: Let's just focus on the ones that we
23 know for sure got notice of their hearing, focus on
24 those.

25 I don't have any further questions for this

1 witness.

2 HEARING OFFICER JONES: Does the board have any
3 questions they would like to ask Amber at this point?

4 MS. TURMAN: I have a question, but I don't know
5 if it pertains to them or not. But I know this one
6 with African Hair Braiding on January 31, 2000, cited
7 for failing to have an establishment and a
8 practitioners license.

9 HEARING OFFICER JONES: Okay. Ms. -- I'm going to
10 hold you to questions right now.

11 MS. TURMAN: Okay.

12 HEARING OFFICER JONES: Now, during discussion and
13 comments, you can definitely bring that up.

14 MS. TURMAN: All right.

15 HEARING OFFICER JONES: Questions for Amber?
16 Okay.

17 MS. GEE: Can I go ahead?

18 HEARING OFFICER JONES: Go ahead, Ms. Gee.

19 MS. GEE: Okay. What I would like to ask the
20 board to do is, you've been provided with the Notice of
21 the Hearing for each one of these people, and the
22 allegations against them are contained in those notices
23 of hearing, as well with the proposed penalty for each
24 of those violations. As you've heard the testimony
25 today, all of them were served notice of the hearing

1 before the board today, served notice of the
2 allegations and charges against them, and chose not to
3 appear. They did not contact the board and ask for a
4 continuance, they chose not to appear.

5 So, I would ask that you would find the
6 allegations and charges to be proven for the notices of
7 hearing for these people, and that the proposed
8 penalties be imposed as they are proposed in the
9 notices of hearing.

10 If there is any questions that you have about a
11 particular one, we are prepared to present evidence on
12 those; otherwise we would ask that you adopt the
13 allegations, charges, and penalty as they are set
14 forth.

15 HEARING OFFICER JONES: Anything further, Ms. Gee?

16 MS. GEE: No.

17 HEARING OFFICER JONES: Okay. At this time we
18 will close the record and make it complete, except for
19 the board's recess for deliberations. Once a decision
20 has been reached, we will go back on the record. And
21 I'm going to turn it back over to you at this time.

22 (WHEREUPON, the Commission retired to deliberate,
23 off the record, from 3:32 p.m. to 3:39 p.m., and
24 returned with the following motion.)

25 HEARING OFFICER JONES: We'll go back on the

1 record at this time, starting with the first one,
2 Fashion Nails, Sandra Harlow, owner, Hearing No.
3 07-416, is there a motion?

4 MS. BURCHETT: Finding the allegations being true,
5 I recommend the penalty set forth in the order of
6 hearing.

7 HEARING OFFICER JONES: We have a motion. Is
8 there a second?

9 MS. WARD: Second.

10 HEARING OFFICER JONES: Second, Ms. Ward.

11 All those in favor, please raise your right hand.

12 (Hands raised.)

13 Let the record reflect that's a unanimous
14 decision.

15 Move on to Cuttin' Up, Dawn Barker, Owner, 07-368,
16 is there a motion?

17 MS. BURCHETT: Finding the allegations to be true,
18 I move to -- I forgot what --

19 MS. WITTUM: Assess the penalty in the hearing.

20 MS. BURCHETT: -- move to accept the penalty in
21 the order of hearing.

22 HEARING OFFICER JONES: Is there a second?

23 MS. PICKERING: Second.

24 HEARING OFFICER JONES: Second, Ms. Pickering.

25 All those in favor, please raise your hand.

1 (Hands raised.)

2 Okay. That motion passes six to zero,
3 and please make sure that all the votes are in the
4 record.

5 Kutting Up, Marlo Newton, 07-367, do we have a
6 motion?

7 MS. BURCHETT: Finding the allegations to be true,
8 I move to order the respondent to pay according to the
9 Order and Notice of Hearing.

10 HEARING OFFICER JONES: Thank you, Ms. Burchett.

11 Do we have a second?

12 Ms. Ward.

13 All those in favor, please raise your hand.

14 (Hands raised.)

15 Thank you. Please note for the record that the
16 vote was six to nothing, unanimous.

17 Charlotte's Hair Webb, Charlotte Spearman, Owner
18 07-427.

19 MS. BURCHETT: Finding the allegations to be true,
20 I move to order the respondent to pay according to
21 Order and Notice of Hearing.

22 MS. WARD: Second.

23 HEARING OFFICER JONES: We have a motion and a
24 second.

25 All those in favor, please raise your hand.

1 (Hands raised.)

2 Let the record reflect the decision of the board
3 is unanimous.

4 Moving along. Krystal's Beauty Salon, Mercedes
5 Valdez, Owner, 07-423. 07-423.

6 MS. BURCHETT: Finding the allegations being true,
7 I recommend the -- I move that we --

8 HEARING OFFICER JONES: Assess the penalty --

9 MS. BURCHETT: -- accept the recommended penalty
10 according to the Order and Notice of Hearing.

11 MS. WARD: Second.

12 HEARING OFFICER JONES: We have a motion and a
13 second.

14 All those in favor, please raise your hand.

15 (Hands raised.)

16 Let the record reflect the decision of the board
17 is unanimous.

18 Nail Tech, Liet Van Le, 07-518. 07-518.

19 MS. BURCHETT: Finding the allegations to be true,
20 I move to accept the penalty in the Order and Notice of
21 Hearing.

22 HEARING OFFICER JONES: Do we have a second?

23 MS. WARD: Second.

24 HEARING OFFICER JONES: Second, Ms. Ward.

25 All those in favor, please raise your hand.

1 (Hands raised.)

2 Please let the record reflect it was a unanimous
3 decision of the board.

4 Professional Nail, 07-529. 07-529.

5 MS. BURCHETT: Finding the allegations being true,
6 I move to accept the penalty set forward in the Order
7 and Notice of Hearing.

8 HEARING OFFICER JONES: We have a motion. And --

9 MS. COLLINS-BURROUGH: Second.

10 HEARING OFFICER JONES: Second.

11 All those in favor, please raise your hand.

12 (Hands raised.)

13 Let the record reflect the decision of the board
14 is unanimous.

15 Signature Nail Spa, Dai Do, Owner, 07-501.

16 07-501.

17 MS. BURCHETT: Finding the allegations being true,
18 I move to accept the penalty set forth in the Order and
19 Notice of Hearing.

20 HEARING OFFICER JONES: We have a motion and a
21 second by Ms. Ward.

22 All those in favor, please raise your right hand.

23 (Hands raised.)

24 Please let the record reflect the decision of the
25 board was unanimous.

1 Unique touch, Denise Rhodes, 07-393. 07-393.

2 MS. BURCHETT: Finding the allegations being true,
3 I move to accept the penalties set forth in the Order
4 and Notice of Hearing.

5 HEARING OFFICER JONES: We have a motion.

6 MS. COLLINS-BURROUGH: Second.

7 HEARING OFFICER JONES: And a second by
8 Ms. Burrough. All those in favor, please raise your
9 hand.

10 (Hands raised.)

11 Please let the record reflect it was a unanimous
12 decision of the board.

13 Please reduce all these decisions to writing and
14 notify all parties involved that an appeal of this
15 decision may be taken under the Administrative
16 Procedures Act, found at Arkansas Code Annotated
17 25-15-201, et seq., or any specific provisions of laws
18 pertaining to this board.

19 If there are no other questions or comments, this
20 hearing is concluded and the record will be closed.

21 Thank you.

22 Thank you.

23 Anything else from me before I leave?

24 MS. GEE: You just need to do the consent
25 agreements.

1 MS. WITTUM: Yes, we have those.

2 Want to just read them?

3 MS. GEE: Sure.

4 MS. WITTUM: The -- I have here some consents that
5 were sent out to people who had penalties. They agreed
6 to pay the penalty and sign an agreement not contesting
7 their charges.

8 Am I saying that correctly?

9 MS. GEE: Uh-huh.

10 MS. WITTUM: So I'll read these, and if you accept
11 their payment, then their consent will be final.

12 Dawn Barkley, 07-420; David Langton, 07-525; Peter
13 Nguyen, 07-522; Amber Hendren, 07-436. They appeared
14 on the agenda today. The people who did not have
15 hearing notices are Carrie Keith, practitioner at
16 Personal Hair Designers, 50-dollar penalty; Lindsey
17 Knight, a practitioner at Personal Hair Designers, a
18 50-dollar penalty; Melissa Thompson, Owner of Personal
19 Hair Designers, 302-dollar penalty; Rocky's Place,
20 Roxanne Evans, Owner, a penalty of \$60. Salon PH,
21 Martin Pruett, practitioner, 50-dollar penalty; Stacy
22 McIntosh, Salon PH, practitioner, 50-dollar penalty;
23 South Main Beauty Salon, Georgia Skindler, Owner, a
24 389-dollar penalty; Talk of the Town Salon, Regina
25 Wilkerson, Owner, 191-dollar penalty.

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1 And if you accept these payments, then these
2 penalties will be taken care of.

3 MS. PICKERING: I so move.

4 MS. TURMAN: I second.

5 MS. CAVER-BLADE: All those in favor, raise your
6 right hand.

7 (Hands raised.)

8 Against?

9 It's unanimous.

10 MS. GEE: Okay.

11 MS. WITTUM: I think we're done with the hearings.
12 We won't get into the committees. We still have
13 business to do.

14 MS. CAVER-BLADE: Okay. Next I guess we're going
15 to hear from Barbara Ward, the treasurer's report.

16 MS. WARD: We had 146.73 in our dues, and then we
17 collected \$70 today and brought it up to 216.73.

18 MS. CAVER-BLADE: Okay. Then do I make a motion
19 to accept the --

20 MS. WITTUM: Ask for the motion.

21 MS. CAVER-BLADE: Thank you.

22 At this time I would like to ask for a motion for
23 the approval of the September 17th meeting minutes.

24 MS. BURCHETT: So moved.

25 MS. PICKERING: Second.

1 MS. CAVER-BLADE: All those in favor, raise your
2 right hand.

3 (Hands raised.)

4 Against?

5 Okay. And at this time I would like to turn the
6 meeting over to Kathy Wittum.

7 MS. WITTUM: Okay. I'll try and go through the
8 director updates pretty quickly, because I know
9 everybody is starting to get tired.

10 The staff changes, I've received more than 60 job
11 applications for the front desk vacancy. I'm in the
12 process of going through those to determine who will
13 qualify for an interview and then we will do those
14 interviews and hopefully be able to find someone soon
15 who will be able to come on board there.

16 Amber McCuien, our administrative assistant II,
17 she graduates from law school this month and she has
18 informed me that her last day is going to be in
19 January. The definite date we're still identifying,
20 we're going to have to look at her leave balances and
21 see when she will actually be heading out. But we
22 certainly wish her the very best. This will probably
23 be her last board meeting that you all will see her at.

24 (Applause.)

25 The newsletter should be completed, I got the last

1 piece of information that I needed today to get it in,
2 and it's going to -- I'll get that plugged in so that
3 we can start mass copying the newsletter and get it out
4 to Alwin so it can be disbursed to the licensees.

5 The newsletter focuses on the renewals. As you
6 know, there is a lot of changes with the renewals. The
7 licensees will be informed that they can provide to us
8 a two by two passport photo and a check or money order
9 for \$24, which will cover the two-year period that they
10 can renew their license for. Since the fees have not
11 been finalized and we don't know exactly what the new
12 fees are going to be for renewals, we felt like this
13 was the best way to start getting us into getting those
14 renewals done.

15 We have just a couple of other things that have to
16 be done to the Identocard equipment to have it ready
17 for us to actually throw together a license and get it
18 done. We will probably -- we hope, at least, is that
19 we can get those pieces taken care of this week, use
20 our inspectors as guinea pigs, since some of them are
21 going to be in the office this week, make sure that
22 it's pulling everything that we need it to pull on a
23 license, and as soon as we know that that's the case,
24 then we'll be ready to open up the doors and have
25 people come in and actually get their license renewed.

1 We are also including in the newsletter an
2 encouragement for people to go ahead and get their
3 license renewed. We are letting them know that the
4 board is looking at increasing the fees, so a delay in
5 taking care of their renewal could result in a higher
6 cost for their -- their renewal fee.

7 We -- we did identify approximately 2,800 records
8 in the data base that did not have dates of birth or
9 social security numbers in them. Those people were
10 sent out a notice letting them know that we did need to
11 have that information. We have to have the date of
12 birth, obviously, for the renewal process.

13 The social securities, in case you're not aware of
14 it, but there is a law on the books that requires all
15 of the licensing boards to provide a list of their
16 licensees to the Office of Child Support Enforcement
17 that they use in the course of doing their business to
18 collect child support. So, every quarter we are
19 required to give them a list of our licensees, complete
20 with the social security numbers. So we saw this as an
21 opportunity to try to clean up those records, as well.

22 Now, some of what I have found since those notices
23 went out is that many -- or at least some of the people
24 I've heard back from, that they were either deceased,
25 family members have contacted us to let us know that

1 they are deceased, or they have no intentions of ever
2 using their license again and they really didn't want
3 to be on any kind of a mail list for the board at all.
4 So it may be that a lot of these that we'll find will
5 fall into one of those categories, and we'll update the
6 record accordingly to try to clean up the data base.

7 The ACCESS data base development is going through
8 well. Our last day to use GL Suite that we are
9 currently in will be Friday, December 28. GL Suite has
10 agreed to provide an updated fresh copy of our data no
11 later than Thursday, January 3. That data will be used
12 by the ACCESS programmer to make the last changes that
13 will be necessary to bring that ACCESS data base up and
14 going, so I expect the following week we should be into
15 the ACCESS data base with hopefully little to no
16 problems.

17 The transition into this data base will affect two
18 things that need to be pointed out. Online renewals,
19 INA, who takes care of our website, I met with them and
20 our ACCESS programmer last week, and they informed us
21 that they would probably not be able to be as quick in
22 making the transition to the online renewal programming
23 that the ACCESS data base is doing. So there will be a
24 delay in the online -- in the ability to renew online.
25 We are going to include information in the newsletter

1 to let people know that there will be a temporary delay
2 with online renewals. We certainly don't want to lose
3 the people who renew online, so we're going to
4 hopefully be able to work things out with INA to get it
5 up and going as quickly as possible.

6 One of the things that they still have not been
7 able to tell me for sure is if they are going to be
8 able to include the ability for a person to upload
9 their picture at the time that they do the online
10 renewal. If they can't do that, then anyone who renews
11 online would actually have two stages to go through.
12 They could do the online renewal, but the renewal will
13 not be finalized until they send in a photo.

14 There is also going to be two --

15 MS. CAVER-BLADE: I'm sorry. She has a question.

16 MS. TRAYLOR: Kathy, if you hold more than one
17 license, is one picture all you have to have?

18 MS. WITTUM: Yes, it is. That's part of the
19 program or the design work that we're working on with
20 the Identocard, but we are going to just do one license
21 for anyone who holds multiple licenses, the license
22 itself will list out all of the different credentials
23 or disciplines or whatever, how ever you want to call
24 it.

25 MS. TRAYLOR: But none of those licenses have gone

1 up in fees right now?

2 MS. WITTUM: Not right now. Not right now.

3 Now, this is actually what we do -- the fee
4 committee does need to talk about, because right now
5 you are talking to charge individually for those
6 different licenses, but since we're going to have one
7 card that we'll be able to fit them all on, we may want
8 to rethink that.

9 The reporting of the monthly student hours will be
10 delayed. The schools are required to report the
11 November hours by the 10th of December. This will be
12 the last time that they will be able to do it online
13 until we get the INA programming taken care of, so that
14 it's communicating with the ACCESS data base. INA was
15 not able to tell me exactly what month they would be
16 able to have that up and going, but we don't expect it
17 to be too much of a delay, so I'm hoping within
18 probably two to three months they will have that up and
19 going. In the meantime, we'll go back to the paper
20 copies that you all were receiving previously, and the
21 staff will have to enter those manually. The schools
22 will be informed of that. I will be sending out an
23 e-mail to them this week, just to let them know that
24 that's going to be the case.

25 The Legislative Joint Auditing Committee, I

1 received a letter from this committee requesting
2 information about the cosmetology board. This
3 information will aid them in a survey that they are
4 conducting on all boards and commissions in Arkansas.
5 The purpose of the survey is to determine whether or
6 not they should consolidate all of the boards and
7 commissions in this state. Sounds to be similar to
8 what Texas just did in their state with all of their
9 licensing programs. I'll be providing that. I think
10 the deadline to provide that information is later this
11 month, and I don't know how long their survey or their
12 committee is going to be meeting, but I'll update you
13 as I hear back from them.

14 MS. COLLINS-BURROUGH: What kind of information do
15 they want to know?

16 MS. WITTUM: Everything. All kinds of things.
17 And I can -- once I get it all done, I'll be happy to
18 give you all a copy of it. It's a brief description of
19 the board's regulatory authority and functions; a
20 detail on how the board members are selected; fees; the
21 number of licensees; information on whether we lease or
22 own our building; what the salaries are for everyone;
23 the grade levels for all of the different positions,
24 all of that kind of stuff.

25 The Professional Credential Services, we were

1 hearing about complaints concerning the practical exam
2 over the last two to three months. As you know they
3 started doing the practical exams in September. There
4 were some people who commented to me about the
5 different complaints, even though the process was to
6 actually go and direct the complaints to PCS. I
7 received an e-mail from Linda Lee on November 13th,
8 basically accusing me of not caring about the students
9 because what they are suffering during the practical
10 exams. And she did not receive the information well
11 when I directed her to PCS but rather informed me that
12 since I'm solely responsible for the practical
13 logistics and the havoc that it's creating, that I
14 should do something about it. For that reason, I -- I
15 did send a letter to PCS, and I've got copies of that
16 letter.

17 I had those laying right here.

18 MS. GEE: Did I take them?

19 MS. WITTUM: I don't know. I thought they were
20 just laying right here.

21 They could be stuck over here in some of this
22 stuff.

23 Okay. Well, I do have copies that I will give to
24 you guys. I'll read you the letter that I sent to PCS
25 on November the 14th. I addressed it to Andrea

1 Bledsoe, who is the vice president and COO of PCS.

2 I said, "As you know, Professional Credential
3 Services has been administering the practical
4 examinations for the Arkansas State Board of
5 Cosmetology since September 2007. We understand the
6 change to outsource this responsibility is new to the
7 board, as well as the cosmetology schools and students,
8 thus we appreciate the fact that it will take time for
9 everyone involved to adapt to a different testing
10 method in Arkansas.

11 "Pursuant to the contract between the board and
12 PCS and Schedule 1.16, PCS is responsible for response
13 to oral and written complaints regarding the practical
14 examination or any process for which PCS is
15 responsible. During the last three months there have
16 been complaints made to the board by school owners and
17 instructors concerning allegations of overcrowding,
18 unsafe conditions, i.e. the use of extension cords at
19 manicure tables, and disruptions during an instructor
20 examination.

21 "The issue involving the use of manicure tables
22 has been resolved and the tables will not be available
23 for future use. However, on behalf of the board, I
24 would appreciate your response to the other complaints
25 mentioned above and the resolution for each.

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1 "If PCS has received a complaint directly from a
2 school or student, please include that information as
3 well. We look forward to the continued services of PCS
4 in examining candidates in cosmetology and their
5 related branches."

6 On November -- or actually this was e-mailed to me
7 Friday. It's dated November 21st, it's in response to
8 that letter. Andrea writes that, "In response to the
9 letter of November 14, 2007, regarding complaints
10 received by the board office with respect to practical
11 administrations conducted by PCS since September 2007,
12 PCS offers the following response: No. 1,
13 overcrowding. Due to a torrential downpour of rain on
14 the morning of the examination on October 15, 2007,
15 several candidates called PCS and were rescheduled to
16 test the following month. Due to the fact that the
17 October 15th examination was one of the first to be
18 administered by PCS, a rare exception was made to allow
19 these few candidates to reschedule free of charge.
20 However three candidates were permitted to reschedule
21 for the afternoon session in an attempt to provide the
22 very best in customer service.

23 "During the 12:30 cosmetology examination, the
24 room was admittedly extremely full. The solution, in
25 an effort to create an environment that is less

1 overcrowded, PCS will always limit the number of
2 candidates allowed to test in one room.

3 "No. 2, unsafe conditions, the use of extension
4 cords and manicure tables. PCS has administered the
5 cosmetology examination in two different areas of the
6 state board office. Since cosmetology candidates use
7 hot irons, there is a need for each candidate to plug
8 their iron into an electrical outlet. This requires we
9 use extension cords in some of the examination rooms
10 because of electrical outlet is not available at each
11 work station.

12 "Solution one, in an effort to create an
13 environment without the need for extension cords, PCS
14 will use only the area of the exam room that is
15 equipped with an electrical outlet in each station.
16 Therefore each candidate will be accommodated with
17 their own dedicated outlet. The only time extension
18 cords will be used for future cosmetology examinations
19 is during the rare occasions where an additional room
20 is needed due to unusually large amounts of cosmetology
21 candidates.

22 "Solution two, in an effort to create an
23 environment without the need for extension cords the
24 Arkansas State Board can grant approval for PCS to
25 administer this portion of the exam with a cold iron as

1 it's done in other states. Note, as mentioned in your
2 letter, the issue of manicure tables has been resolved.

3 "No. 3, disruptions during an examination. No
4 unusual incidents have been reported concerning exam
5 disruptions. Our PCS chief examiner in Little Rock has
6 informed our office that she is not aware of any
7 disruptions that have occurred during any of the
8 examinations. Solution, the chief examiner was
9 reminded of the importance of maintaining an
10 environment where minimal interruptions should occur.

11 "Thank you for bringing these issues to our
12 attention here at PCS. Our staff seeks to provide
13 Arkansas with the very best in test administration
14 services. Please do not hesitate to contact me should
15 you need additional clarification or information with
16 respect to these matters.

17 "Sincerely, Andrea Bledsoe."

18 If you need additional information about these,
19 PCS did inform me that they would be willing to come
20 here and talk personally to the board and address any
21 issues in person. They also will await to hear what
22 your response is on solution two as it relates to the
23 extension cords and changing the hot iron requirement
24 to a cold iron requirement.

25 Do you have any questions or do you want to

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1 address that solution?

2 MS. BURCHETT: I have a comment.

3 You can't -- you can't grade if they have creases
4 in the -- in the curl if they -- if the iron is cold,
5 that you set it on rollers, you take it and you act
6 like you're curling the hair, and I don't feel like
7 that's -- you know, I don't feel like we ought to --

8 MS. COLLINS-BURROUGH: That's not demonstrating
9 anything.

10 MS. BURCHETT: Right. It wouldn't be worth doing
11 it if you did it with a cold iron, so that's my
12 opinion.

13 MS. WITTUM: Okay. Do you all want to make a --
14 take a vote on that or --

15 MS. BURCHETT: It's already in place to use the
16 hot iron.

17 MS. WITTUM: Okay.

18 MS. BURCHETT: I mean unless someone wants it to
19 be different.

20 MS. WITTUM: Are you satisfied with their
21 solutions to the issues, or do you want me to ask them
22 to be here available to talk directly to you?

23 MS. COLLINS-BURROUGH: I would like for them to
24 appear.

25 MS. WITTUM: Okay. Okay. Is there anything else

1 on those?

2 Do you all have any more questions of me?

3 The reciprocity errors that are on the agenda.

4 MS. WARD: Kathy?

5 MS. WITTUM: What -- does anybody have any
6 questions? Comments?

7 MS. JONES: I have a question. Since they are --
8 Carla Jones.

9 I just want to know if they are going to reduce
10 the number of candidates because of the extension cords
11 and all of this trying to make it safer, are they going
12 to increase the days of -- give us more than one day a
13 month that they are going to test? Because there is
14 going to be more than what's going to be able to fit in
15 there one day wanting to test.

16 MS. WITTUM: What they said in their letter is
17 that they are going to just use the stations up in the
18 exam facility where each cosmetology candidate would
19 have their own individual outlet. The use of the
20 extension cords was done in here in this room when they
21 tried to bring in more than what that area would
22 accommodate. What they said in their letter is that
23 they would not use this room for cosmetology exams
24 unless the unusually large number of cosmetology
25 candidates called them to do that. And if, I'm sure if

1 that were to be the case, they would structure this
2 room differently so that they -- they were able to
3 handle the use of the extension cords better. They are
4 not intending to increase the number of days. They
5 only do one day a month in all the other states, and
6 they, as far as I have been told by them, they have no
7 intention of increasing the number of days here in
8 Arkansas.

9 MS. JONES: Well, when they started it they told
10 us that they were going to test as many candidates as
11 were available -- that were available to take the test.
12 So, in other words, what they led us to believe in the
13 beginning was if they had 150 needing to take the test,
14 that they would stay as long as they needed to to get
15 that 150, excuse me, tested on that one day. So now
16 they are going back saying they are not going to do
17 that?

18 MS. WITTUM: No. They haven't said that they
19 won't stay and test all the candidates in that one day.
20 And they will stay as long as they need to for that one
21 day a month that they test. They have never said that
22 they would not stay and test everyone.

23 Yes?

24 MS. STRAWN: Chris Strawn.

25 I actually called NIC and I asked them about that,

1 because my student instructor -- I had a teacher on the
2 reciprocity thing. I've had two people that it
3 directly impacted at my Fort Smith school trying to
4 come from Oklahoma here to work. And Mary -- Carol
5 Medina sent her paperwork in and was issued an Arkansas
6 instructor license through Oklahoma and all that. And
7 then my second instructor, Mary Ann Benecourt, came and
8 we tried to do the same thing, you know, get her a
9 license. Well, she received notice from Kathy stating
10 that she couldn't have a license, she was going to have
11 to go and take the practical exam because the law had
12 been changed and all of this stuff. So my question
13 was, well, why could this teacher get it and this one
14 did not.

15 Anyway, Mary Ann did go to board. And when she
16 was taking her instructor exam, there was a knock on
17 the door and so her exam was interrupted. And for you
18 girls that have taken the instructor's exam, you are --
19 it's frightening, it's very intimidating. You know,
20 you've got to keep your concentration going. It's a
21 big deal. And they actually pulled one of the
22 examiners out.

23 So then a little bit later, she can't remember why
24 they did it again, but they knocked on the door again.
25 So, while this girl was taking her instructor exam, she

1 had two interruptions. And I've -- I'm kind of
2 distressed that that woman said that she wasn't aware
3 of that because I told them personally.

4 The other thing is I talked to Kirby, I called NIC
5 and talked to Kirby, and he told me that it was you
6 all's decision, the board's decision to test one day.
7 That the NIC did exactly what you guys told them to do.
8 And I personally don't recall you guys voting on that.
9 If you did, I would really -- please direct me and show
10 me because I've looked over the minutes and I don't
11 recall you doing that.

12 MS. WITTUM: That --

13 MS. STRAWN: But that's just -- you know, and
14 we're kind of in the point and -- you know, these
15 students, their testing is so -- it's their livelihood.
16 I don't think they ought to have to wait. I don't
17 think they ought to be treated like cattle. You know,
18 I don't think they ought to be pushed -- and you guys
19 that are licensed, you know what it was like. You
20 know, it's frightening to these students. And I just
21 wish -- you know, I hope you guys will hear us, and we
22 really are having some problems with it. It can
23 probably be rectified, but right now it's kind of --
24 it's kind of -- it's kind of hard. Well it's real
25 hard.

1 MS. WITTUM: The -- the one day a month was what
2 PCS said from the very beginning they would offer. And
3 the fact that we chose to go with it, PCS, and PCS was
4 the only vendor that even bid in Arkansas, maybe that
5 was where Kirby was coming from.

6 MS. STRAWN: Well, I'm also under the
7 understanding that the other vendor, I think there is
8 maybe one more vendor that does that, I'm not sure
9 about that.

10 MS. WITTUM: Uh-huh.

11 MS. STRAWN: But I was also told that they were
12 basically told that they couldn't charge any more than
13 they were -- than -- they couldn't charge what needed
14 to be charged and they didn't even put a bid in because
15 of that. And we are charging more.

16 MS. WITTUM: I personally spoke with Ms. Roupe
17 with GL Roupe, and asked her if she wanted to bid to
18 the board. I told -- she asked me what the board was
19 charging at that time and I told her that.

20 MS. STRAWN: Uh-huh.

21 MS. WITTUM: But no, nothing was ever said about
22 the price that they could or could not charge.

23 MS. STRAWN: Well, okay.

24 MS. TURMAN: Kathy, can I make a comment? Is
25 nobody really wanted the board to do the testing. I

1 mean, you know this is -- that was number one
2 complaint, they didn't want the school owners, they
3 didn't want -- and then we try to go a different route
4 to satisfy, and I think it's going to take a few times
5 to get it all settled and taken care of.

6 Now, she has responded that they are going to try
7 to -- to get this corrected. And once again, I'm
8 really concerned about the consumer. I'm concerned
9 about the students.

10 MS. LEE: You need to be because it's not working.
11 This girl will tell you exactly what happened to her.
12 It's not fair to the students. They are having to wait
13 four or five months.

14 MS. TURMAN: So what are you going to do when
15 they --

16 MS. STRAWN: May I say one more thing? And I hope
17 this is on the record. You know, I keep hearing from
18 some board members, especially Kathy, that this has
19 been the number one complaint, number one complaint, we
20 didn't want the board members. I have never had a
21 problem with the board members testing my students.
22 Never. I completely think you guys know what you're
23 doing, you're licensed. I have never had that problem.
24 I've scoured, that's why I wanted the legislative
25 committee meetings, it's not there.

1 You know, if you've got -- if you've gotten verbal
2 complaints, maybe you have, but as far as written
3 documentation, you know, we have to document, document,
4 document, it's just not there. It's not there. I've
5 looked at the records. I've looked at the minutes and
6 I don't -- and, please, if I'm wrong show me because
7 I'm -- it's aggravating to me, because I've never, ever
8 had a problem. Barbara, I wouldn't care if you graded
9 my students. I wouldn't. Susan, Scottie, you guys, I
10 would never, I would not have a problem with that. And
11 it had -- I just don't see it in the minutes.

12 And, you know, we have to have documentation. I
13 don't understand why, you know, it can be said that
14 this has been the resounding complaint, but I don't see
15 it. I really haven't seen it.

16 And I'm not trying to be mean. I -- you know,
17 I --

18 MS. TURMAN: Nor am I, you know. I understand.

19 MS. STRAWN: I know. Okay. But my deal is it's
20 about the student.

21 MS. TURMAN: Yes.

22 MS. STRAWN: And I think, you know, like going to
23 a cold iron, I mean that's not even -- that -- you
24 know, safety and sanitation, it's about burning
25 people's hair off, it's about burning their skin, you

1 know, and it just seems like we're getting further and
2 further away from what I personally love. This is my
3 passion. You know, we're kind of slim -- you know,
4 we're cutting it down and cutting it down and cutting
5 it down. And, I don't know, I'm sorry, I just --

6 MS. COLLINS-BURROUGH: Where did that come from
7 about the board not wanting --

8 MS. GEE: It's in the law change.

9 MS. COLLINS-BURROUGH: Yeah. I know, but who made
10 the suggestion it change?

11 MS. STRAWN: It's in the law change.

12 MS. LEE: Who made the suggestion about the law
13 change?

14 MS. WITTUM: I was always told by the legislators
15 who kept wanting to talk to me about it that this was
16 the number one complaint. This is what the industry
17 wanted.

18 MS. LEE: I have not.

19 MS. STRAWN: But like I said, we do want change.
20 I don't think it has anything to do with our board,
21 because I've always had complete respect for the Board
22 of Cosmetology and still do, you know. I -- I don't
23 think -- I've never had a problem with that, and that
24 is the truth.

25 MS. TURMAN: Honestly that's the way I felt about

1 it when we went before the legislative group and they
2 was telling us how incompetent we were and all this
3 stuff, that's where I was gathering this --

4 MS. COLLINS-BURROUGH: Where did they get that?
5 From exam numbers or what?

6 I mean where did they get that?

7 MS. STRAWN: No. It's not about exams. It's
8 never been about exams. I completely -- you guys are
9 professionals, you know. I mean, we've got a nail
10 tech, we've got this person -- you all are just --

11 JESSICA SMITH: Well, I have a question.

12 COURT REPORTER: Could you identify yourself?

13 JESSICA SMITH: My name is Jessica Smith.

14 And I have a question because everyone keeps
15 talking about the worries of the consumer, and I am
16 a -- I was a student and I graduated October 25th, and
17 I called state -- it took them two weeks to get my
18 hours straightened out. I had a full printout from
19 Ms. Lee from every time that I clocked in and clocked
20 out since I had been there September 13, 2006. It took
21 them two weeks to call me back and let me know. I
22 didn't find out until the day of the deadline,
23 November 15, that I was even going to be able to take
24 the December boards. I didn't even find out. And they
25 told me, yes, your hours are on there. I don't -- she

1 told me two days before that that I had found out that
2 she would call me back, you know, on Friday and I never
3 got a phone call back. And then all she had to do was
4 calculate my hours. And she did work with me and she
5 was, you know, she was very nice and she worked with
6 me. But I didn't get my letter until that following
7 Monday and the deadline was on Thanksgiving day,
8 supposedly, to have had my money turned in for the
9 state board to take it on December 10th. I had no idea
10 there was a deadline to pay for it. In the past you
11 just turn in your paperwork by the deadline and you
12 took the test on the designated day. And they told me
13 I wouldn't be able to take my state boards until
14 January. That's almost four months since I've been out
15 of school. And, I mean, I'm going four months almost
16 before I can even take my boards where I haven't been
17 in school, I haven't had any theory, I haven't had any
18 tests, no time. I mean, I have time to practice, but I
19 was expecting to take my boards on December 10th, and I
20 don't -- I don't -- there is one day a month to take
21 it. And, I mean, I had been in school for a year and
22 working so hard and it's like I get to this point, I
23 mean I bawled my eyes out when they told me that I
24 wasn't going to be able to take it until January. And
25 I know of other students who have had the same problem.

1 And they just -- one -- I mean I know one girl, they
2 said they never even got her money to take the state
3 boards. So she couldn't -- couldn't take it until the
4 next month.

5 And it's all this that -- I know everything has
6 changed, but I asked them, I said is there anything I
7 can do to take my boards on December 10. Anything.
8 And they were just like, no, there is a deadline, it
9 was posted online. Well, not everybody has Internet
10 access, you know. And I've had a job waiting on me,
11 you know. I started cosmetology school right out of
12 high school. I've had a child. I've done everything,
13 struggled to try to get my career started and it's just
14 dragging and dragging and dragging and it's just -- it
15 makes everything so hard, and it shouldn't. I
16 understand that I missed a deadline, but I don't
17 understand why I'm -- two days, I was two days late, I
18 called on Wednesday and the deadline had been moved
19 from Thanksgiving day, I called the day before
20 Thanksgiving, they were closed for the holidays. I
21 called the day after Thanksgiving, they were closed for
22 the holidays. They were -- the deadline was Monday. I
23 mean that's really just not enough time. I mean I
24 had -- I -- I was assuming, and in the cosmetology
25 world, they wouldn't have been open on Monday. I mean

1 that's just me, I've grown up in a salon, cosmetology
2 stuff isn't open on Monday. So I had no idea, but
3 that's my fault. But when I called Wednesday, they
4 said it's too late and that's all they could tell me.

5 And I did, I talked to Kathy, and she said there
6 is nothing you can do, you missed the deadline I had
7 posted online. The schools, they all knew, they all,
8 you know, got the information that there was a
9 deadline. But I don't understand how everyone was
10 knowledgeable that there was deadline but everyone I
11 asked, that they didn't know that there was a deadline.

12 MS. TURMAN: Well, first of all, I would like to
13 apologize for that. But we were just trying to do
14 things right what we thought was better for the student
15 and for the schools when we took the route. And it
16 wasn't Kathy's decision to go with this, it was this
17 whole board, because we thought we were doing
18 something -- I mean we made the decision to go there.
19 But -- but I'm sorry that this happened to you, I
20 really am, because I am --

21 JESSICA SMITH: Well, and they sent me a letter
22 with all the phone numbers and there was not one -- not
23 one -- there was never a place on this letter that said
24 that there was a deadline, never, to pay for it.

25 I mean, I understand that there is a deadline to

1 get your paperwork in, okay, you know, I got my
2 paperwork in, November 15th, I should have been taking
3 the test on December 10th. I mean there is people that
4 graduate, you know, that barely made it, too, and they
5 are taking it on the 10th and I started school before
6 all of them and I'm waiting until January.

7 And then the -- the airport test. I mean my
8 friends said that there were dogs. I mean, I hear all
9 these students talking -- I mean this girl got in
10 trouble for her dog being in her salon. They have dogs
11 at the airport while they are sitting there trying to
12 take their examination for the written test.

13 Now, I know that like at Harding University or
14 anywhere like that, when they go to take their finals,
15 they are not sitting there taking an exam with dogs in
16 the room. I mean I just think that, you know, this is
17 our career, this is our life. I mean, I just think it
18 needs to be taken more seriously. I mean we may not be
19 going to do all this stuff and, I mean, people put
20 emphasis, oh, well they are just cosmetologists, but I
21 think it needs to be taken more seriously and it needs
22 to be more focused on.

23 I mean this has been my passion my entire life and
24 for -- to be taking exams where dogs can come in and
25 bark while you're taking it, that's just, that's crazy

1 to me. And I hope that there is no dogs in there when
2 I go to take my test because I'm ADD and I'm not going
3 to be able to take a test with a dog in the room.

4 MS. TURMAN: A dog?

5 I mean I don't understand where -- they bring
6 their dogs in to take the exam?

7 JESSICA SMITH: Yeah. My friend was telling me,
8 she said two girls, they went and took their written
9 exam last month and there were dogs in the room when
10 they were taking the written exam.

11 MS. WARD: I didn't know that.

12 MS. COLLINS-BURROUGH: Here? Upstairs?

13 JESSICA SMITH: At the North Little Rock airport.
14 And the walls were all falling in.

15 MS. COLLINS-BURROUGH: Oh, the Lasergrade.

16 MS. TURMAN: Lasergrade.

17 MS. COLLINS-BURROUGH: Okay. Okay.

18 JESSICA SMITH: Yeah. Because it's changed. The
19 Lasergrade.

20 MS. WITTUM: I'm making a note to get in touch
21 with Susanne Dailey with Lasergrade to ask her about
22 dogs in the facilities.

23 MS. TURMAN: I've got to tell you, I think I
24 understand that that should be corrected, but there is
25 a little bit of difference in -- they shouldn't be

1 there any time with dogs. But when you have a salon
2 and you have a dog in the salon, you have to protect
3 that public that's coming in.

4 JESSICA SMITH: Well, I understand that. I'm just
5 saying --

6 MS. COLLINS-BURROUGH: That's not the issue.
7 That's not the issue here.

8 MS. TURMAN: She's just saying --

9 JESSICA SMITH: I'm just saying that dogs are
10 nasty in a salon and they are nasty in the testing
11 area, too.

12 MS. TURMAN: You're right. They shouldn't be
13 there.

14 JESSICA SMITH: And they bark and are distracting
15 and that was the point.

16 MS. TURMAN: They should not be there.

17 JESSICA SMITH: And I don't think that two days of
18 a deadline just to have money in should, you know,
19 determine whether or not you can take your test. I
20 mean that's two months. I mean I have a whole more
21 month before I can take my test, and that's almost four
22 months since I've been out of school. I mean that's
23 just crazy.

24 MS. CAVER-BLADE: We'll take one more question and
25 then we need to move on.

1 IDA McLEAN: My name is Ida McLean. And one of my
2 main concerns about them coming down here and testing,
3 I'm sure that they can come across with some safety
4 precautions with the extension cords and stuff. One of
5 our students that came not too long ago, her name is
6 Chelsea Riddle, and she is six foot, six foot one, and
7 they are doing it on fold out tables, so I'm assuming
8 they are meaning these type of tables. I'm five six
9 and I've got on three inch heels, and that puts me at
10 five nine, and I would have trouble working on a
11 mannequin at this table, she's got another three or
12 four inches on me. That to me is uncomfortable and
13 unacceptable. You know, she spent the entire time bent
14 over with her back hurting because she couldn't get to
15 her mannequin to work. That doesn't seem reasonable to
16 me.

17 MS. STRAWN: It does -- it does seem like we're --
18 we are paying more and we're getting less. Less
19 respect, less quality. And it's -- they are just
20 paying more and getting less, is what's happening to
21 our students.

22 MS. WITTUM: Next on the agenda is reciprocity
23 errors. If you will remember, the law changed during
24 this last session requiring that anyone coming in from
25 another state has to take the Arkansas State law exams,

1 plus provide evidence that they have taken the national
2 written and practical exam at some point in their past.

3 I learned after Janie's departure from the office
4 that several people that she assisted in Shaunta's
5 absence were given incorrect information on which part
6 of the exam to take before they were issued a license.

7 I've identified 13 people who were given the wrong
8 information about exactly what part they had to take,
9 and we've since provided them with the correct
10 information. We've identified ten people who actually
11 received a license who only took the state law exam but
12 needed to take either the written, the practical, or
13 both.

14 The -- the -- once we identified these, Erika
15 prepared a letter that we sent to them giving them 60
16 days to bring their license into compliance with the
17 law or their license would be subject to revocation.
18 The most of these were required to take the practical
19 exam here in Arkansas. There are three that must also
20 take the written. Of those, five are scheduled to take
21 the practical this month; one is scheduled to take the
22 practical in January; and four have not scheduled to
23 take the exam in either month.

24 It's also important to note out that the
25 expiration date on the license that they were issued is

1 December 31, 2007.

2 Ashlee Wisdom, that is listed on -- at the end of
3 the agenda here petitioning to talk to the board, is
4 one of the people who was incorrectly issued a license
5 when she needed to take more of an examination than she
6 did. She is required to take both the cosmetology
7 practical and written. She left a voice message on my
8 voice mail this morning, or over the weekend, I got it
9 this morning, that she was not going to be able to be
10 here today, but she didn't give me any additional
11 information.

12 These -- these people, I have apologized to for
13 the mistake that Janie made. We've also, Gordon,
14 Shaunta, and Amber and I have contacted all of the
15 states and prepared a state by state grid to show
16 exactly what exams have to be taken depending on what
17 state a person is coming from, and that has been posted
18 on the website. We -- we also, each person in the
19 office has it posted at their desk so that they would
20 be able to give the correct information out in the
21 future when we are dealing with reciprocity questions.

22 Does anybody have any questions?

23 MS. COLLINS-BURROUGH: So if someone moves here,
24 say, from Alaska, let's just say, and they have been a
25 hairdresser up there, you know, 25 years, they come

1 here, they still have to take all three parts?

2 MS. WITTUM: If they have not taken a national
3 written and practical exam, they have to take that, and
4 then everyone will be taking the law exam.

5 MS. COLLINS-BURROUGH: Even though that national
6 exam hasn't been in existence that long?

7 MS. WITTUM: Uh-huh.

8 MS. COLLINS-BURROUGH: Well, where did that come
9 from?

10 MS. WITTUM: That was how the law got changed.

11 MS. COLLINS-BURROUGH: See, where did this come
12 from? I don't understand. Did they just, the
13 legislature just send you, this is what we're going to
14 do? I mean who drew this stuff up? You don't know?

15 MS. WITTUM: Well, I mean we did it collectively
16 from the legislative meetings. The reciprocity stuff,
17 I don't recall it ever being an issue with the
18 legislators. That was what we in the legislative
19 committee developed, and that's what passed. It
20 specifically says that each reciprocity applicant has
21 to have taken a national written and practical exam in
22 addition to taking the Arkansas State law.

23 MS. WARD: Didn't that have something to do with
24 the NIC, their transfer, had to be transferred from all
25 the states that had the NIC testing to be acceptable in

1 the other states, that's the reason we had to do that,
2 if I recall correctly, because it's part of what they
3 were saying that we had to do, as I -- am I
4 misunderstanding it?

5 MS. WITTUM: It wasn't a requirement to do it.

6 MS. WARD: Okay. But it would --

7 MS. WITTUM: It makes it easier in dealing with
8 other states who use NIC. And that's -- that's one of
9 the things that we have to look at, because not all
10 states use both the NIC written and practical, some use
11 just the written, like Oklahoma uses just the written
12 but they do a state prepared practical. So anyone
13 coming to Arkansas from Oklahoma has to take the
14 practical here in this state now, in addition to the
15 Arkansas law exam.

16 MS. WARD: But it made it easier from, let's say
17 like their moving from our state to another state that
18 is NIC, if we didn't require them, then they have to go
19 back and research if they ever took it, so it just made
20 it simpler for them to transfer to a state that was NIC
21 testing, and I think that was the basis for our
22 decision.

23 MS. WITTUM: The -- if --

24 MS. TRAYLOR: Kathy, active service people, I
25 thought they were excluded from this, having to take

1 the test?

2 MS. WITTUM: No. The law says that anyone coming
3 to Arkansas through reciprocity has to be able to show
4 that they have taken the national written and
5 practical.

6 MS. TRAYLOR: I thought it was if they were
7 active, you know, being moved in service, that they
8 were exempt from -- if they had had to take -- had a
9 test.

10 MS. WITTUM: Are you talking about people in the
11 military?

12 MS. TRAYLOR: Yes.

13 MS. GEE: That's a separate thing.

14 MS. TRAYLOR: Yes.

15 MS. WITTUM: There is no law, language in there
16 excluding --

17 MS. GEE: There is some on the renewals.

18 MS. WITTUM: Oh, on the renewals, but that doesn't
19 have anything to do with -- that language addresses
20 renewals but it doesn't address reciprocity.

21 MS. GEE: Just so you know, I have to leave at
22 five.

23 MS. CAVER-BLADE: Okay. I have to pick my kids
24 up.

25 MS. GEE: I do, too, so I just wanted to let you

1 know.

2 MS. WITTUM: If there is nothing else on
3 reciprocity --

4 MS. STRAWN: I -- I'm just surprised that, you
5 know, Mr. Sullivan sat right here and, you know, he was
6 told how -- what a bad job he was doing because he
7 wasn't watching what his staff member was doing, and
8 yet this has gone on on your watch. You know, these
9 people were erroneously given license, some had been
10 taken away from them, you know, right here in this
11 board room. Margaret's student was allowed to go to
12 board through a paperwork mistake through your office,
13 and basically you guys came up with take her to civil
14 court. You know, there is nothing we can do, we're not
15 going to yank a girl's license because we made a
16 mistake. And yet now, you know, why are you yanking
17 license now? You know. And why -- why can you just
18 say "I apologize" to these people and you just closed a
19 school down? You know, I don't understand that. I
20 think that's kind of like a double standard.

21 MS. WITTUM: The licenses -- the licenses have not
22 been yanked away from these people.

23 MS. STRAWN: I have a girl that works for me that
24 she was given 60 days. You know, you --

25 MS. WITTUM: She has 60 days --

1 MS. STRAWN: Okay. And then you would yank her if
2 she does not go to board --

3 MS. WITTUM: No. That language says she is
4 subject to revocation, which means that if she does not
5 bring her license into compliance with the law, she
6 will get a notice of order for her to appear before the
7 board and the board will address it.

8 MS. STRAWN: Well, I just feel like that we are
9 held to a standard that you are not held to. And I
10 know that you all think I'm being mean spirited, I know
11 that, but if you could see the paperwork, girls, you
12 would be amazed. You would be amazed at the paperwork
13 coming from her office.

14 And I know you all could probably just kill me
15 right now and I'm sorry for that.

16 MS. COLEMAN: Give it out.

17 MS. STRAWN: And I'm sorry for that, but I mean
18 today when you voted to close that man down, I -- you
19 know, I'm -- I can't believe it. And the paperwork.
20 And if -- did you all hear what he said? He said my --
21 you all's paperwork doesn't match my paperwork. You
22 know, the hours are so messed up it's ridiculous. You
23 know, every day we're expected to do something
24 different. You know. And the students are confused
25 and scared, and stay mad at us all the time, and some

1 of it is our fault but a lot of it is not. And we need
2 your help. We need your help. We need some
3 accountability here. We are held accountable. You all
4 know how accountable we're held, and we need some for
5 the -- for the office, and Kathy is the head of it.

6 MS. COLEMAN: Excuse me. I just want to know, we
7 have to answer to state board. Who does state board
8 have to answer to?

9 COURT REPORTER: Could you identify yourself?

10 MS. COLEMAN: Lucille Coleman.

11 COURT REPORTER: Thank you.

12 MS. WITTUM: The board is appointed by the
13 governor.

14 MS. COLEMAN: So you answer to the governor?
15 Nobody.

16 MS. WITTUM: We answer to the legislators.

17 MS. COLEMAN: Okay. What about when you all make
18 mistakes, are they all right? Do you have -- do you
19 all get a fine for it or do you, the one that make this
20 mistake, do they go back and correct it any type of way
21 or anything like that?

22 MS. WITTUM: No.

23 MS. COLEMAN: Like say for instance -- I guess you
24 answered my question.

25 MS. GEE: What are you asking me?

1 MS. WITTUM: I mean we don't get fined for it.

2 MS. COLEMAN: She said no.

3 MS. GEE: What's the question?

4 Are you asking a legal question?

5 MS. COLEMAN: Yes. Do you all get fined for the
6 mistakes that boards make?

7 MS. GEE: This board is a part of the government,
8 like every other department and agency and a part of
9 the state government. So it's just the same as every
10 other part of state government. And the answer -- they
11 answer to the legislature and the governor like every
12 other part of state government. Beyond that it's up to
13 the legislature and the government -- I mean and the
14 governor.

15 MS. STRAWN: But, Kathy, I thought -- I thought
16 you answered to the board.

17 MS. WITTUM: I do.

18 MS. STRAWN: Okay. That's what I'm asking from
19 you all. I wish -- you know, you don't have to do it
20 public, publicly if you don't want to, but I think you
21 need to ask some questions, because we've got some
22 problems, some big problems. And I know that it's been
23 thought that it's just these crazy lunatic school
24 owners, and we are kind of lunatic. We probably should
25 have thrown the towel in and, you know, ran for the

1 hills. But, you know, I love my students, I love what
2 I do. I'm third generation, got fourth working with
3 me. It's a big deal to me. And I've just seen more
4 chaos in the last two years for both -- and it's
5 something -- you all, we need your help. I'm telling
6 you, I'm asking, I'm begging you for my help. If you
7 need me to get down on my knees or whatever I'll do it,
8 because we've got to have some help. We need some
9 help.

10 MS. CAVER-BLADE: I have a comment. I would love
11 to go on, I have to leave at five and I know Erika
12 does, too.

13 I think if there are some problems out there, we
14 all are grown ups, we can work together, I would like
15 to hear from the outside public what's going on. I'm
16 new to this, I think we can work together and solve
17 anything. I need to know, all of us need to know, you
18 all need to kind of put it down in writing what's
19 wrong, what you think is wrong, let's work together and
20 kind of work together to get it fixed.

21 MS. TURMAN: I've just got to make this comment.
22 We thought we were doing what everybody wanted us to
23 do. I promise you we didn't --

24 MS. STRAWN: I believe that.

25 MS. TURMAN: I thought we were doing what

1 everybody wanted us to do.

2 And that school owner that we -- I don't think --
3 it wasn't a first time with him, and I don't want to
4 justify, I don't want to go back into that.

5 But we are trying to do -- I don't want to be
6 apologetic when I make -- when I do state what I think.
7 I am coming from my heart. When I say something to
8 someone out there, I am truly coming from my heart.

9 But I -- this -- we could not be anywhere without
10 the schools. I grant you that. But we need to all get
11 the air cleared and all start working together and see
12 what we can do to improve it for the general public,
13 for the schools, for the students, and for everybody
14 here. Because that's what we are for, we should be
15 working together to see if we can't accomplish
16 everything.

17 MS. LEE: You had made a comment about all the
18 money being wasted on him. Did you not hear him say he
19 didn't collect a penny from several of his students,
20 and no one ever bothered to check his pass or fail
21 rate, and you said they weren't being taught.

22 MS. TURMAN: How could they be if they are --

23 MS. LEE: Well, let's check his pass or fail rate.
24 Let's see.

25 MS. TURMAN: I just think it's important if he was

1 going to go ahead and close his school anyway, let the
2 students go somewhere else.

3 MS. STRAWN: Let him do it.

4 MS. LEE: Give him time to do it.

5 MS. WITTUM: You all have your handouts. You've
6 got the board dates for '08 that you can put on your
7 calendar.

8 MS. CAVER-BLADE: I think, okay, at this time one
9 more comment, and then we're going to close the
10 meeting.

11 MS. HOLLOWAY: Is there going to be any public
12 comments? Any comments from the public?

13 MS. McCUIEN: They have been here all morning
14 wanting to do a public comment.

15 MS. PERRY: Anetria Perry.

16 My comment is I have not been in school since June
17 the 26th, and yet I still cannot re-enroll into -- I
18 cannot enroll into another school because I'm still
19 enrolled at the school I was at. I don't know why I'm
20 still enrolled.

21 And then I got a call saying I can be
22 administratively dropped, but therefore I would lose
23 the hours that are uncertified for, when I do have a
24 letter from the director of the school that I -- all my
25 hours will be certified within ten days of me receiving

1 that, which was June the 28th, and they are still not
2 certified for.

3 I -- I just, I don't know, but I'm saying my --
4 I've done the complaint and the complaint I've just
5 asked for the 228 hours I need, but as far as I know
6 it's still pending.

7 MS. CAVER-BLADE: And where do you go to school or
8 where were you going to school?

9 MS. PERRY: Lee's School of Cosmetology.

10 MS. CAVER-BLADE: Okay. I'm real unfamiliar
11 with --

12 MS. WITTUM: Anetria Perry has filed a complaint,
13 it's one of the pending complaints in my office that
14 has not been resolved, and we have not received the
15 certificate of training form from Linda Lee. And then
16 according to Ms. Perry, the letter that she has, and I
17 believe she did provide us with a copy of it, did say
18 that her hours would be certified ten days after the
19 date of that letter, or the date that she received it.

20 MS. LEE: All she has to do is send a termination
21 letter and we can close her file and she refuses to do
22 that, because we have to go through return to Title IV
23 and everything, so if she would send a termination
24 letter, because she lives across the street and she can
25 do it with an airplane if she wanted to. If she

1 wanted --

2 MS. PERRY: But I don't see why I have to send a
3 letter of termination when she kicked me out.

4 MS. LEE: You have to terminate your contract.
5 The police escorted you off.

6 MS. PERRY: No, they did not show up. I
7 actually -- we actually had a big confrontation and I
8 walked down the street and I went home. Okay.

9 MS. CAVER-BLADE: I don't want an argument to
10 start in the audience.

11 MS. LEE: Just ask her to send a termination
12 letter, that's all she has to do.

13 MS. PERRY: But then if I write a termination
14 letter, won't my scholarship be canceled --

15 MS. CAVER-BLADE: I have no idea.

16 MS. LEE: It's a contractual matter. You have to
17 deal with the contract.

18 MS. CAVER-BLADE: So, are we done?

19 MS. GEE: You're the president.

20 MS. BURCHETT: Madam President, I move to adjourn.

21 MS. CAVER-BLADE: Okay. We're adjourned.

22 MS. HOLLOWAY: Can she -- since this is a part of
23 that same thing, can she tell her comment before you
24 adjourn?

25 MS. CAVER-BLADE: I'm sorry. Say that again.

1 MS. HOLLOWAY: This is the same date, Anetria and
2 this is Amanda, she got kicked out for supposedly
3 bringing Anetria to come get her stuff. So we've
4 turned in a letter. I haven't heard anything, she
5 can't get her hours certified, I need to know the
6 status of it, she can't get in school.

7 MS. WITTUM: They both have filed complaints.
8 Those complaints have not been resolved yet, and that
9 both of them are wanting to enroll in another school.
10 They need --

11 MS. LEE: Kathy, they can enroll in another
12 school.

13 MS. PERRY: No, they told us we can't.

14 MS. LEE: They cannot re-enroll in another school
15 without their hours.

16 MS. WITTUM: The other school needs to know how
17 many hours they have so they can do the contract.

18 MS. LEE: So they can enroll in another school if
19 their hours are not certified.

20 MS. WITTUM: Just adjourn. I can tell them.

21 (WHEREUPON, at 4:50 p.m., the above-entitled
22 proceedings were concluded.)

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25

1 CERTIFICATE

2

3 STATE OF ARKANSAS)

4 COUNTY OF PULASKI)

5

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 business meeting and
11 Administrative Hearings, held before the Arkansas State Board of
12 Cosmetology, December 3, 2007, were taken by me in Stenotype and
13 reduced to computer-generated typewritten form by me or under my
14 direction and supervision; and that the same is a true and
15 correct reflection of the proceeding that occurred, to the best
16 of my knowledge and ability.

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

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

1 original transcript or copies of the transcript before it is
2 certified and delivered to the custodial attorney, or that
3 requires me to provide any service not made available to all
4 parties to the action.

5 SIGNED AND SWORN this _____ day of
6 _____.

7

8

SUSAN B. WHITSON, CCR, #158

9

NOTARY PUBLIC IN AND FOR

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PULASKI COUNTY, ARKANSAS

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13 My Commission Expires: June 4, 2012.

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