

1           BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

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5                   ADMINISTRATIVE HEARINGS  
6                   AND  
7                   BOARD MEETING

8                   MONDAY, MARCH 16, 2009

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11           BE IT REMEMBERED that on Monday, the 16th day of March  
12 2009, before the Arkansas State Board of Cosmetology and its  
13 department staff, at 9:00 a.m. in the South Basement Conference  
14 Room of the Main Street Mall, located at 101 East Capitol Avenue,  
15 Little Rock, Pulaski County, Arkansas, business and  
16 administrative hearings came on for hearing as follows:

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19                   SUSAN B. WHITSON, CCR

                  Arkansas Supreme Court Certificate No. 158

20                   9810 Woodland Drive  
                    Mabelvale, Arkansas 72103  
21                   (501) 455-1170  
                    WhitsonCCR@aol.com

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

1 APPEARANCES:

2 Board Members:

3 SUSAN COLLINS-BURROUGH, President

CATHY CAVER

4 BARBARA WARD

ANN PHILYAW (not present)

5 SCOTTIE BURCHETT

ACIE FOREMAN

6 TRACY AKARD

NELLIE HOPPER

7 JOYCE SMITH

8 Staff Members Present:

9 SHEILA CAUDLE - Executive Director

MICHELLE RUDOLPH - Administrative Assistant

10

11 Board Inspectors Present:

12 ROSE HORNER

PAT BLAND JACKSON

13 LAVONNE LESTER

BRENDA MORGAN

14 VERA WOOD

15 ON BEHALF OF THE BOARD:

16 ERIKA GEE, ESQ.

Assistant Attorney General

17 323 Center Street, Suite 200

Little Rock, Arkansas 72201

18

19 HEARING OFFICER:

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

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1 ALSO PRESENT:

2 CHARLES MCGREW, ADH

3 DONNIE SMITH, ADH

4 RENEE MALLORY, ADH

5 RON STARK, ADH

6 CLIFF KEENE

7 BRENITA WILLIAMS KIDD

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9 COURT REPORTER:

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

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

2                   MS. COLLINS-BURROUGH: The meeting will come to  
3 order.

4                   Madam Secretary, will you take roll, please.

5                   Take roll.

6                   MS. CAUDLE: Ms. Ann called and she will not be  
7 here. They have had a death in the family, so they  
8 will not be here today.

9                   MS. COLLINS-BURROUGH: Mr. Foreman?

10                  MS. CAUDLE: I haven't heard anything from  
11 Mr. Foreman.

12                  Okay. Ms. Hopper, treasurer.

13                  MS. HOPPER: Hello.

14                  As of our last board meeting our total was 143.86,  
15 and then I had to buy coffee; so now we're down to  
16 136.53.

17                  MS. COLLINS-BURROUGH: What do you-all want to do  
18 about that? We were thinking, since that's basically  
19 just this body's money, do you want to just take what's

20 left and like buy lunch the next meeting since it will

21 be our last meeting or what?

22 What's you-all's thoughts?

23 MS. HOPPER: Doesn't make me any difference.

24 MS. WARD: I think that would be a good idea.

25 MS. COLLINS-BURROUGH: There is no point in taking

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1 up any money, you know, this meeting or next either, so  
2 just take it and buy lunch? Okay.

3 Okay. We need approval of the minutes for  
4 January.

5 So do we have a motion to accept the minutes for  
6 January?

7 MS. BURCHETT: So move.

8 MS. COLLINS-BURROUGH: We have a first. Do we  
9 have a second?

10 MS. WARD: Second.

11 MS. COLLINS-BURROUGH: Okay. All in favor, raise  
12 your right hand.

13 (Hands raised.)

14 MS. COLLINS-BURROUGH: Motion carried.

15 Okay. Sheila.

16 (Mr. Foreman joined the proceedings.)

17 MS. CAUDLE: Okay. We have our new inspector,  
18 Ms. Vera Wood. I am needing to get her rater trained  
19 in order to give the examination.

20 Ms. Norton put me in contact with Deborah Roope,  
21 and they have agreed to train her in Georgia free of  
22 charge, they will not charge this agency for the  
23 training. And there is hotel accommodations there for  
24 \$25 per night, which she will be there for two nights,  
25 because they have these hotel -- this hotel reserved

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1 the week of specifically for the training, which means  
2 that they gave them this much of a discount for \$25 a  
3 night. So basically all we will have to pay is her  
4 airfare, two nights in the motel, and her meals. And I  
5 need to know if the board wishes for me to do that or  
6 wait until we have our rater training in November.

7 If something happens to one of our examiners and  
8 they are out, then exams will have to be rescheduled at  
9 this point in time because we only have the four  
10 eligible to examine.

11 MS. HOPPER: I -- I agree. I make a motion to  
12 move to go ahead and do that.

13 MS. COLLINS-BURROUGH: Okay. We have a first. Do  
14 we have a second?

15 MS. SMITH: Second.

16 MS. COLLINS-BURROUGH: All in favor, raise your  
17 right hand.

18 (Hands raised.)

19 MS. COLLINS-BURROUGH: Motion carried.

20           Okay. Are they there training the Georgia board?

21           MS. CAUDLE: They are. They are.

22           Okay. Also for anyone who is wanting to go to the  
23 regional meeting, I need to give you these to fill out  
24 and, please, send them back in to me today before you  
25 leave.

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1 Who wants to attend the regional?

2 MS. COLLINS-BURROUGH: Today?

3 MS. CAUDLE: Yes, please.

4 MS. COLLINS-BURROUGH: I'm going to attend.

5 MS. WARD: I'm going.

6 MS. COLLINS-BURROUGH: Anybody else?

7 MS. WARD: I am.

8 MS. COLLINS-BURROUGH: Kathy?

9 MS. CAUDLE: This is in Branson.

10 Acie, are you going to attend?

11 MR. FOREMAN: Yes.

12 MS. COLLINS-BURROUGH: Joyce, Scottie, are you  
13 going?

14 MS. BURCHETT: (Nodding head up and down.)

15 I don't know what that means but I'm considering

16 it.

17 MS. HOPPER: No. Got a wedding. I can't go, I'm

18 booked, I got a wedding.

19 MS. CAUDLE: Oh, okay.

20           That's all the updates that I have, with the  
21           exception I would like to introduce the people from the  
22           health department. I have Mr. Charles McGrew, Donnie  
23           Smith, Renee Mallory, and Ron Stark. This is the  
24           department that we will be under at the health  
25           department. They came in this morning and met with the

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1 staff and just went over a few things with the staff.

2 I met with them last Friday and we went over a few  
3 things and I just wanted you guys to, if you have any  
4 questions or anything that you would like to ask them,  
5 put them on the spot.

6 MS. COLLINS-BURROUGH: Well, welcome to our little  
7 party here.

8 MS. MALLORY: Thank you.

9 MS. CAUDLE: Do you guys have anything you wish to  
10 say to the board?

11 MR. MCGREW: I wanted to say that we're really  
12 looking forward to getting to know in a lot more detail  
13 what you do. We're going to be -- I wanted to get  
14 information and feedback from you, you know, what you  
15 think works and what doesn't work. We also are going  
16 to be looking at taking recommendations for anyone who  
17 has an interest in the position of an advisory  
18 committee. That's something that we're going to want  
19 to move on relatively quickly. And the board of health

20 meets on a quarterly basis, so we'll need to, in the  
21 April meeting of the board, we'll need to be far enough  
22 along so that we can have the board take some action  
23 with appointments and so this will be seamless when we  
24 get to July 1 and the act will -- the fiduciary  
25 responsibility shifts.

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1           So any questions, input, anything that you would  
2           like to visit with us about, we would love to hear from  
3           you. Again, we're just -- you know, we want to do the  
4           best job we can so that -- I know that you-all have  
5           worked really hard and lots of folks out there that you  
6           are regulating and we are going to have to learn. So  
7           we're -- we're going to be in that process for a while.

8           The folks that are here, so you'll have just a  
9           little bit more information about -- about what they  
10          are going to be doing, Donnie Smith on the end here is  
11          the Director of the Center for Health Protection.

12          We're -- the department is divided into three major  
13          centers and then the public health laboratory, so  
14          Donnie has responsibility for one of the major centers  
15          in the department.

16          Renee Mallory is the Branch Chief for Health  
17          Facilities. Renee, in addition to being the person  
18          that will have direct responsibility for working with  
19          cosmetology, also regulates hospitals, home health, and

20 the ambulatory surgery centers and, you know, that  
21 whole shopping list of things that the department has  
22 regulatory responsibility for. So she's had lots and  
23 lots of experience with regulation, is very involved  
24 with programs that do extensive testing. This will not  
25 be new ground for her. Cosmetology certainly will but,

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1       you know, the general aspect of regulation and testing  
2       is something that she's done for a long time.

3             Ron Stark will be directly involved with staff.  
4       He's our Associate Director for Management and  
5       Operations for that center, and will be working with  
6       staff on kind of the business process, making sure that  
7       we have everything in place that we need. And we're  
8       going to have to, you know, have a little bit of  
9       transition here and be moving the operation under state  
10      government, and that's going to be -- it won't be  
11      problematic but it is different, so Ron will be working  
12      closely with staff to make sure that that is seamless.

13            And, again, we just want to listen and learn and  
14      look forward to -- very much to be working with you  
15      folks in the future.

16            MS. COLLINS-BURROUGH: Would you happen to have  
17      some business cards?

18            MR. MCGREW: I do. I think I've got --

19            MS. AKARD: I understand that we are anticipating

20 a physical move?

21 MR. MCGREW: We may. That's something that is  
22 undetermined at this point. We're going to just kind  
23 of look at what would work best.

24 One of the things we want to do is to support  
25 staff and in the process really well, and having folks

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1       that we're in close proximity to our legal staff, our  
2       financial staff, our HR staff will, you know, we think  
3       give better support, but that is a decision yet to be  
4       made. We are going to look at that.

5           MS. MALLORY: We will say that we just received a  
6       tour of the testing facility, and it will be very hard  
7       for us to replicate that any time soon, so --

8           MS. AKARD: Well, that was a concern because we do  
9       have our testing facility just readily available to our  
10      office and so --

11          MS. MALLORY: We get that, after taking the tour a  
12      while ago, so, yeah.

13          MS. AKARD: Good. Good.

14          MR. KEENE: I have a question.

15                From what you were saying it sounded as if you  
16      were interested in some of the existing board members  
17      being on this advisory committee. At least that's what  
18      it sounded to me, the way you had phrased it.

19                Also if -- I've been asked by several hairdressers

20 around Little Rock about this advisory committee and  
21 how they would go about getting on it or making  
22 application to it, and I've seen nothing yet as to what  
23 the criteria is going to be for their qualifications,  
24 who -- where they are going to be submitted to.

25 Can you elaborate some on that?

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1 MR. MCGREW: It will be -- the recommendations  
2 will be submitted to Renee Mallory. Again, she's going  
3 to be the person that, you know, will be the contact as  
4 we're working through this process. And we're trying  
5 to determine what we need to get out, that's part of  
6 the communication process that we're working on to make  
7 sure that everybody knows that kind of what time frames  
8 are for trying to take this to the board of health at  
9 their next quarterly meeting. That is going to be  
10 important because we need to --

11 MS. COLLINS-BURROUGH: What date is that meeting?  
12 April what?

13 MR. MCGREW: It is the --

14 MS. MALLORY: Fourth Thursday in April.

15 MR. MCGREW: -- fourth Thursday, you're right, so  
16 it will be around the 24th. I can't tell you off the  
17 top of my head the exact date, but --

18 MR. SMITH: 23rd.

19 MR. MCGREW: -- 23rd, 24th, but --

20 MS. COLLINS-BURROUGH: So you need all of your  
21 information by then?

22 MR. MCGREW: Right. We will need that so we can  
23 go ahead and get the board to affirm those appointments  
24 to the advisory committee. And we do want this to be  
25 seamless. We don't want to disrupt anything with all

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1 the hard work you folks have done, so it will be on  
2 that time frame.

3 But Renee will be the primary contact for anything  
4 that you need to have information about. She needs to  
5 get those recommendations, and we will be getting  
6 something out as we work through this a little bit  
7 more.

8 MR. KEENE: So what you're saying is you don't  
9 have the qualifications set up yet what someone has to  
10 have in order to be --

11 MS. CAUDLE: That's on the bill, Cliff. That's in  
12 the bill.

13 MS. MALLORY: Yeah. I think what you need to do  
14 is pull up the act. I mean, that's what people are  
15 going to need to do is pull up the act to get it right.

16 MS. CAUDLE: There is cosmetologist, aesthetician,  
17 and nail tech --

18 MR. KEENE: I've seen that.

19 MS. MALLORY: Basically that's all we can require.

20           The board itself will make the final decision on who is  
21           going to represent those areas.

22           MS. CAUDLE: Twenty-five years of age.

23           MR. MCGREW: But, you know, the reality is the  
24           staff recommendations is usually what the board uses  
25           for their approval, and so we will be working with

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1       trying to look at folks that, you know, in those  
2       categories that will be more qualified to recommend --

3           MR. KEENE: You're talking about the staff at the  
4       department of health, not the cosmetology board?

5           MR. MCGREW: Right. In working with our board of  
6       health, they rely on us in issues like this, where we  
7       can be affirming a recommendation and making  
8       appointments to an advisory committee or whatever it  
9       might be, they expect staff to make those  
10      recommendations to them and be able to give them, you  
11      know, good folks and they usually will concur with  
12      that. So we will be working on the staff side real  
13      hard to make sure they will be, based on what the act  
14      says, that we get those recommendations and have time  
15      to visit with the board a little bit about that.

16           MS. MALLORY: So probably -- probably the best  
17      thing to do would be to send a resumé to me. And it's  
18      Renee.Mallory@Arkansas.gov and then, you know --

19           MS. COLLINS-BURROUGH: Have you got a card as

20 well?

21 MS. MALLORY: I do. And they are -- they will be  
22 on the back table back here.

23 MR. SMITH: I'll put our cards back here.

24 MS. MALLORY: You know, what we're going to have  
25 to take into consideration probably with the resumé,

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1       since we don't know anybody, you know, whatever, but  
2       we'll just have to look at experience, what  
3       representation that person might be, and then different  
4       areas of the state, because we want different areas of  
5       the state represented. So there will probably be a  
6       little bit of criteria there when we give the  
7       recommended names to the board of health.

8           MS. COLLINS-BURROUGH: Thank you.

9           MS. HOPPER: I have a question.

10          I was under the impression that they had added two  
11       more positions to that, or is that just --

12          MR. MCGREW: There are. There are five, now five  
13       positions.

14          MR. SMITH: Seven.

15          MS. HOPPER: It would be seven.

16          MR. MCGREW: I mean seven positions, the five that  
17       were originally there and then two that were added.

18       You're right.

19          MS. HOPPER: Okay. All right. Thank you.

20 MS. COLLINS-BURROUGH: Any more questions?

21 No?

22 Thank you so much.

23 Let's take a 10 minute break.

24 (WHEREUPON, a break was held from 9:22 a.m. to

25 9:34 a.m.)

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1 MS. COLLINS-BURROUGH: We'll come back to order.

2 We're waiting on Erika.

3 MS. GEE: I'm coming.

4 MS. COLLINS-BURROUGH: There she is. Okay.

5 MS. GEE: Okay. Go ahead, Kendra.

6 ADMINISTRATIVE HEARING NO. 08-2012

7 PROFESSIONAIL SALON, KIM NGO

8 HEARING OFFICER JONES: Okay. My name is Kendra

9 Akin Jones and I'm the Hearing Officer today in the

10 matter before the Arkansas Cosmetology Board.

11 Today is March 16, 2009, and we're located in the

12 Conference Room of the Main Street Mall.

13 We are going to run through these a little quicker

14 this morning since we have no respondents that have

15 been present as to now.

16 And so we will get started with the first one

17 being 08-2012. 2012, which is Professionail Salon, Kim

18 Ngo, Owner.

19 Okay. Please let the record reflect that there is

20 no respondent present.

21 Ms. Gee, please represent or identify yourself for  
22 the record.

23 MS. GEE: Erika Gee, Assistant Attorney General  
24 for the board.

25 HEARING OFFICER JONES: Okay. And anyone who is

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1 going to be a witness in any of these today, please  
2 raise your right hand and I'll get the court reporter  
3 to swear you in.

4 (WHEREUPON, the witnesses were sworn.)

5 HEARING OFFICER JONES: Just a brief explanation  
6 of the proceedings for those present today. The board  
7 will -- sorry about that.

8 The board will explain or base its decision solely  
9 on the evidence presented here today. The hearing is  
10 being conducted under the Arkansas Administrative  
11 Procedures Act, which means that the strict rules of  
12 evidence do not apply. And as Hearing Officer I have  
13 certain latitude to allow evidence and statements into  
14 the record that would not typically be entered in a  
15 court of law. To insure the efficiency of the  
16 proceedings I can let them in as necessary. The board  
17 members of this case know -- the board members know of  
18 this case only as it appears and is set forth in the  
19 notice of hearing. Anything that they, if we had any

20 respondents, would like to submit or submissions from  
21 Ms. Gee need to be done today so they will be  
22 considered by the board.

23 All participants should also be aware that this  
24 hearing is subject to the Freedom of Information Act.

25 Okay, Ms. Gee, start with the first one, 08-2012.

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1 Call your first witness.

2 MS. GEE: I would like to call Sheila Caudle,  
3 please.

4 WHEREUPON,

5 SHEILA CAUDLE,

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 Ms. Caudle, would you state your name and occupation for the  
12 record?

13 A Sheila Caudle, Director of Cosmetology Board.

14 Q And in that position as Director of the Cosmetology Board,  
15 are you familiar with the records of the board?

16 A I am.

17 Q And were you -- did you cause a letter to be sent to  
18 Ms. Ngo, owner of Professionail, with regard to today's hearing?

19 A I did.

20 Q And do you have a copy of that letter before you?

21 A Yes. I do.

22 Q What's the date on that letter?

23 Let me ask that in a different way. Did you send that

24 letter certified?

25 A I did.

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1 Q Okay. And did you receive a receipt?

2 A I did.

3 Q And was that letter received by Ms. Ngo?

4 A Yes. It was.

5 Q And on what date was that received?

6 The date not signed?

7 A No.

8 Q Okay. When were these letters mailed out?

9 A These letters were mailed out --

10 Q Do you have an approximate date?

11 A These letters were mailed out in March -- I mean in

12 February, after the last board meeting.

13 Q Okay. Okay. So it has been more than six weeks --

14 A Yes.

15 Q -- since the letter was mailed?

16 A Absolutely.

17 MS. GEE: All right. Thank you.

18 I have nothing further.

19 I would like to call Rose Horner, please.

20 WHEREUPON,

21 ROSE HORNER,

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

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

1 BY MS. GEE:

2 Q Ms. Horner, could you state your name and occupation for the  
3 record, please?

4 A Rose Horner. I'm an inspector with the Board of  
5 Cosmetology.

6 Q Thank you.

7 And on September 30, 2008, did you visit a salon called  
8 Professionail?

9 A Yes. I did.

10 Q And on that visit, did you find any violations of the  
11 board's health and safety rules?

12 A That the chair bases in the nail salon were all dirty.

13 Q And did you issue a citation or, excuse me, an inspection  
14 sheet to the salon owner at that time?

15 A Uh-huh. Yes. I did.

16 MS. GEE: Thank you.

17 I have nothing further.

18 HEARING OFFICER JONES: Okay. Did the state have  
19 any closing remarks?

20 MS. GEE: No, ma'am.

21 HEARING OFFICER JONES: Do you want the board to  
22 make a decision on each of these or do you want to  
23 combine them?

24 MS. GEE: I don't know if we can do -- let's do  
25 each of them.

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1 HEARING OFFICER JONES: Okay. At this time we'll  
2 close this portion of the record until we start a new  
3 hearing. We will go back on the record for a decision  
4 concerning this hearing, which is 2012.

5 MS. COLLINS-BURROUGH: Can we let the board  
6 members ask any questions?

7 HEARING OFFICER JONES: Yes. Before we do that,  
8 we'll allow for the questions, the board members's  
9 questions, if you have any for the board or the  
10 inspectors.

11 MS. COLLINS-BURROUGH: Are there any questions?

12 I have a question. How many licensees work in  
13 that salon?

14 THE WITNESS: I had -- there were two licenses  
15 posted but it was a fairly large salon.

16 There were, you know, a lot of manicure tables  
17 and --

18 MS. COLLINS-BURROUGH: So about how many stations  
19 do you think?

20 THE WITNESS: Oh, stations?

21 MS. COLLINS-BURROUGH: How many chair bases?

22 THE WITNESS: I would say 15. Fifteen.

23 MS. COLLINS-BURROUGH: Okay. A lot.

24 MS. SMITH: I have a question for you.

25 So you're saying there is two licenses?

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1 THE WITNESS: Posted. Uh-huh.

2 MS. SMITH: Fifteen stations?

3 THE WITNESS: Uh-huh.

4 MS. SMITH: And each station has two chairs?

5 Because this says chair bases, so we're talking --

6 THE WITNESS: More than likely, you know. More  
7 than likely. Uh-huh.

8 That was September. I mean there were lots of  
9 pedicure, you know, the area chairs and manicure  
10 tables, there were quite a few. So I would say, you  
11 know, 15 at least.

12 MS. SMITH: Okay.

13 MS. HOPPER: Were these working hair -- I mean  
14 were the nail techs working?

15 THE WITNESS: There were two, two people.

16 MS. HOPPER: There were only two people there at  
17 that time working?

18 THE WITNESS: And two licenses posted.

19 I mean there could be 10 people working there, but

20 if they -- the license isn't there and they are not  
21 working, there were just the two people working.

22 MS. HOPPER: Okay.

23 MS. COLLINS-BURROUGH: That's not much for a big  
24 salon.

25 MS. AKARD: What were the violations that you --

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1 that they were written up for?

2 THE WITNESS: All the chair bases were -- were  
3 covered in nail dust.

4 MS. AKARD: And there were some other violations,  
5 too, were there not?

6 THE WITNESS: No. No. I think on that, I think  
7 that's all on that salon in Rogers.

8 MS. AKARD: Okay.

9 THE WITNESS: That's all that's marked.

10 MS. AKARD: Okay.

11 MS. COLLINS-BURROUGH: Any more questions?

12 MS. AKARD: Was the salon owner one of the people  
13 that were working that day?

14 THE WITNESS: I don't know. That was September.  
15 I don't -- you know, I don't know who the owner of this  
16 salon is.

17 MS. AKARD: Well, it says Kim, but evidently Kim  
18 was not one of the people that were there working?

19 THE WITNESS: Okay. I guess not.

20 HEARING OFFICER JONES: Further questions?

21 MS. SMITH: I do.

22 The owner, does she not have license posted?

23 Is she a manicurist as well?

24 THE WITNESS: I have no --

25 MS. SMITH: Okay.

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1 MS. CAUDLE: They do not have to have license  
2 posted if they are not working.

3 HEARING OFFICER JONES: Further questions?  
4 Go ahead.

5 MS. BURCHETT: Sheila, does this salon have a  
6 former record?

7 MS. CAUDLE: No. No. None that we could find.

8 COURT REPORTER: Susan, I can't hear you.

9 MS. COLLINS-BURROUGH: That's all right.

10 HEARING OFFICER JONES: Y'all are going to have to  
11 speak up and please verbalize answers.

12 Are there any further questions?

13 Go ahead, Mr. Foreman.

14 MR. FOREMAN: You did say nail dust?

15 THE WITNESS: Uh-huh. It was a nail salon.

16 MR. FOREMAN: Okay.

17 HEARING OFFICER JONES: Questions?

18 Further questions?

19 Okay. At this time we'll close this portion of

20 this record and allow the board to deliberate. Once a  
21 decision has been made, we'll go back on the record.

22 (WHEREUPON, the Board retired to deliberate, off  
23 the record, and returned with the following motion:)

24 HEARING OFFICER JONES: Okay. At this time we'll  
25 go back on the record for a decision in hearing

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

1 08-2012.

2 Is there a motion?

3 Tracy?

4 MS. AKARD: Finding the allegations true, I move  
5 to order the respondent to pay the fine in the amount  
6 of \$25, payable within 30 days of the receipt of the  
7 board's order. Failure to pay the fine as ordered will  
8 result in the suspension of the respondent's license  
9 beginning 30 days from receipt of the order and  
10 continuing for a period of 90 days from the date of the  
11 respondent's relinquishing his or her license to the  
12 board.

13 HEARING OFFICER JONES: Okay. Is there a second?

14 MS. SMITH: Second.

15 HEARING OFFICER JONES: We have a motion and  
16 a second.

17 All those in favor, please raise your hand.

18 (Hands raised.)

19 Let the record reflect that it's a unanimous vote

20 of the board. Please reduce this decision to writing  
21 and make service or attempt service upon all parties  
22 and inform the respondent that if they have the desire  
23 to appeal, that an appeal can be taken under the  
24 Administrative Procedures Act found at Arkansas Code  
25 Annotated 25-15-201, or any specific provision of the

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1 board.

2 Any further comments relating to this hearing?

3 MS. AKARD: I would like to make a motion that we  
4 serve notice for violation to the individuals operating  
5 in the salon on that date for a violation.

6 HEARING OFFICER JONES: Okay.

7 MS. BURCHETT: Second.

8 HEARING OFFICER JONES: There is a motion and  
9 a second.

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

11 (Hands raised.)

12 Please let the record reflect that the board's  
13 decision is to send notices of violation to the  
14 individuals who are listed on the inspection report as  
15 working that day, and this is the inspection report  
16 from September 30, '08, in Hearing No. 08-2012.

17 Anything further?

18 MS. BURCHETT: Which license? Would it be the  
19 establishment license?

20 HEARING OFFICER JONES: Not the establishment

21 owners.

22 MS. BURCHETT: I'm talking about this.

23 MS. COLLINS-BURROUGH: Would be the practitioner's

24 license, because they don't --

25 MS. BURCHETT: Their practitioner's but --

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1 MS. GEE: The establishment.

2 MS. BURCHETT: The first one was?

3 Because it wasn't stated in the motion.

4 HEARING OFFICER JONES: Yeah.

5 MS. BURCHETT: Then we'll take --

6 HEARING OFFICER JONES: That's fine.

7 Anything further on this hearing?

8 If not, we'll close the record for this hearing

9 and move on to the next one, which is going to be

10 08-2014.

11 Just go ahead, if you want to make your comment,

12 before we start your next hearing.

13 MS. COLLINS-BURROUGH: No, I'm scared. She scared

14 me, so I'm not making it. Go on.

15 ADMINISTRATIVE HEARING NO. 08-2014

16 NAIL TECH SALON, MINH TRINH

17 HEARING OFFICER JONES: Hearing No. 08-2014.

18 Ms. Gee, you can call your first witness for 2014.

19 MS. GEE: Sheila Caudle, please.

20 WHEREUPON,

21 SHEILA CAUDLE,

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 THE WITNESS: Sheila Caudle, Director for State

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1 Board of Cosmetology.

2 DIRECT EXAMINATION

3 BY MS. GEE:

4 Q Ms. Caudle, in your position as director, did you send Order  
5 and Notice of Hearing of today's hearing to Nail Tech Salon,  
6 Owner Minh Trinh?

7 A I did.

8 Q And did you send that certified mail?

9 A Yes. I did.

10 Q And did you receive a receipt back?

11 A Yes.

12 Q And was it signed by Minh Trinh?

13 A February 18, 2009.

14 MS. GEE: Thank you.

15 I would like to call Rose Horner, please.

16 HEARING OFFICER JONES: Go right ahead.

17 Ms. Horner.

18 WHEREUPON,

19 ROSE HORNER,

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

21 sworn by the undersigned notary public, was examined and

22 testified, as follows:

23 DIRECT EXAMINATION

24 BY MS. GEE:

25 Q Ms. Horner, did you -- sorry.

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1 What is your position with the board?

2 A Inspector.

3 Q Thank you.

4 And as inspector, did you visit the salon called Nail Tech

5 in Siloam Springs on September 11, 2008?

6 A Yes, ma'am.

7 Q And when you did, what did you discover in the salon?

8 A There were used files and buffers at six of the manicure

9 stations.

10 Q Okay. Was there anything else of note you discovered on

11 your inspection?

12 A Well, there were -- there was a station set up with hair

13 clippers and waxing and hair brushes, but I believe this -- I'm

14 not sure, this Evalyn Dang, maybe that was cosmo, but I don't

15 know that there was a practitioner license. I -- being

16 September, I don't really recall.

17 Q Okay.

18 A But evidently that was okay.

19 Q Was there anyone practicing there on your visit?

20 A Doing nails? Doing nails or anything?

21 Q Doing anything other than nails?

22 A No. No. No.

23 Q Okay. Thank you.

24 Okay. And according to the board's established policies,

25 what is the proposed penalty for the violations you discovered on

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1 your visit?

2 Do you have that information?

3 A Say that again?

4 Q The proposed penalty for the violation you discovered under

5 the board's policies?

6 A This says \$25.

7 MS. GEE: Thank you.

8 I have nothing further from Ms. Horner.

9 HEARING OFFICER JONES: Thank you.

10 Does the board members have any questions for

11 Ms. Horner or Ms. Caudle?

12 MS. AKARD: Looking on the notes, I'm not really

13 sure, it said something was not posted.

14 MS. SMITH: Uh-huh.

15 THE WITNESS: Cos -- the cosmetology, cosmo

16 license.

17 MS. AKARD: Somebody -- was this a -- was that a

18 nail and hair salon?

19 THE WITNESS: It was in -- in the corner was a

20 hair station. There was no one working and there was  
21 no license posted. There was the wax pot and the --  
22 there was -- I'm trying to think if there was a shampoo  
23 bowl. I don't remember a shampoo bowl. But there was  
24 no one there working, but this -- I think they called  
25 this Minh Trinh and that was the number they gave me

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1 for his license. But no one was working there doing  
2 hair or waxing.

3 MS. AKARD: Well, is -- was this place, this Nail  
4 Tech licensed, this place licensed to do hair and nail  
5 or was it just a nail salon?

6 THE WITNESS: It doesn't matter.

7 MR. FOREMAN: But cosmetology is licensed to do  
8 all works.

9 MS. AKARD: Yeah, but I was just thinking about  
10 the salon.

11 Okay. Well --

12 THE WITNESS: It being a manicure or being  
13 manicurists, when I saw the station I thought, okay,  
14 you know, this isn't right. And but no one was working  
15 and they did call, I think, I believe Minh Trinh is the  
16 owner.

17 MS. AKARD: Oh.

18 THE WITNESS: And he, I think, has a cosmo  
19 license.

20 MS. AKARD: We think?

21 MS. HOPPER: Was it posted?

22 THE WITNESS: No.

23 MS. AKARD: We don't know?

24 We don't know what that individual had?

25 THE WITNESS: I don't. This is just -- this is

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1 a -- they did call him and that's the number he gave me  
2 on his license.

3 MS. CAUDLE: When she puts a cosmo not posted down  
4 here, we don't check it because it's not marked up  
5 here. If she didn't find them there working, we can't  
6 do anything about it.

7 MS. AKARD: So there is nothing we can do about  
8 that?

9 THE WITNESS: But no one was working.

10 MS. CAUDLE: Right.

11 THE WITNESS: I mean he wasn't there for me, I  
12 feel, to mark because there wasn't a practitioner with  
13 a cosmo license.

14 MS. CAUDLE: Right.

15 THE WITNESS: It was just manicuring was in there.  
16 So if he wasn't working, I couldn't do anything.

17 MS. COLLINS-BURROUGH: Even though equipment is  
18 there. Right?

19 THE WITNESS: Right.

20 MS. COLLINS-BURROUGH: There was a hydraulic

21 chair?

22 THE WITNESS: There was a chair and the wax pot

23 and clippers and scissors, but --

24 MS. COLLINS-BURROUGH: No shampoo bowl that you

25 saw?

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1 THE WITNESS: I don't think so.

2 MS. COLLINS-BURROUGH: Any other equipment like  
3 curling irons?

4 THE WITNESS: There was curling irons.

5 MS. COLLINS-BURROUGH: Blow dryers?

6 THE WITNESS: Uh-huh.

7 MS. COLLINS-BURROUGH: Pressing irons?

8 THE WITNESS: Uh-huh. But no one was working at  
9 that station.

10 MS. WARD: Was the equipment at that station  
11 clean?

12 THE WITNESS: Uh-huh. Uh-huh.

13 MS. WARD: It was all clean?

14 THE WITNESS: Uh-huh.

15 HEARING OFFICER JONES: Further questions?

16 MR. FOREMAN: Would the inspector know whether a  
17 person have a license from this office when they go out  
18 in the field or what?

19 THE WITNESS: Do I know?

20 MR. FOREMAN: Yeah.

21 THE WITNESS: No. If that license isn't posted at

22 their station --

23 MR. FOREMAN: You don't --

24 THE WITNESS: Huh-uh.

25 And if they have a license with them, you know,

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1 I -- I don't know who works at that station. That  
2 license should be posted at their station for me to  
3 know who is there in that salon.

4 HEARING OFFICER JONES: Further questions?

5 MS. BURCHETT: And there were used files and  
6 buffers in --

7 THE WITNESS: Six of the manicure --

8 MS. BURCHETT: -- six different stations?

9 THE WITNESS: Uh-huh.

10 MS. BURCHETT: Well, in the past we've -- we have  
11 assessed fines for each individual station, not just a  
12 25-dollar fine for --

13 MS. COLLINS-BURROUGH: Overall.

14 MS. BURCHETT: -- for all six combined. So my  
15 recommendation would be a fine of \$150.

16 HEARING OFFICER JONES: Well, it -- further  
17 questions for the -- for Ms. Horner or Ms. Caudle?

18 MS. WARD: Do you have the names of the nail techs  
19 that were there or --

20 THE WITNESS: Well --

21 MS. WARD: Or how many -- do you know how many of  
22 them were working there at those stations?

23 THE WITNESS: I don't know if there was a back  
24 page or not.

25 MS. WARD: Okay. Okay.

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1           THE WITNESS: Evalyn -- Evalyn Dang, that's a  
2           license. Whether that's -- you know, I'm assuming it's  
3           manicure. That's -- I believe that's the only license  
4           that was posted. And then they made a phone call to, I  
5           believe, Minh Trinh was the owner.

6           MS. WARD: Okay.

7           MS. HOPPER: How many --

8           HEARING OFFICER JONES: Further questions?

9           Sorry. Sorry. Ms. Ward. Go right ahead.

10          MS. WARD: No. That's okay. I'm done.

11          HEARING OFFICER JONES: Nellie?

12          MS. HOPPER: How many nail techs were there that  
13          day?

14          THE WITNESS: I think just the one.

15          MS. HOPPER: Okay.

16          THE WITNESS: And it's a big salon.

17          MS. HOPPER: Okay. There again, there is nothing  
18          that can be done if they are not there working. I  
19          mean, you know, it's just kind of tied hands.

20 THE WITNESS: I mean, it just looks odd when you

21 go into a manicure --

22 MS. HOPPER: I understand.

23 THE WITNESS: -- you know, nail salon and there is

24 other things there that they are not supposed to be

25 doing, but no one was working.

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1 MS. HOPPER: Right.

2 HEARING OFFICER JONES: Any further questions?

3 If there are no further questions, Ms. Gee, is  
4 there anything you would like to say in closing?

5 MS. GEE: No. There is nothing I would like to  
6 say in closing, but I would like to introduce the  
7 letter and receipt as Exhibit 1 to this hearing,  
8 please.

9 HEARING OFFICER JONES: Okay. The letter and  
10 receipts will be introduced as Exhibit 1 to Hearing  
11 08-2014.

12 (WHEREUPON, Exhibit No. 1 (08-2014) was received  
13 in evidence.)

14 HEARING OFFICER JONES: If nothing further, we'll  
15 close this portion of the record and let the board make  
16 their decision. Once a decision has been reached,  
17 we'll go back on the record.

18 (WHEREUPON, the Board retired to deliberate, off  
19 the record, and returned with the following motion:)

20 HEARING OFFICER JONES: Okay. At this time we'll

21 go back on the record for Hearing 08-2014.

22 Has the board reached a decision?

23 Is there a motion?

24 MS. BURCHETT: Yes.

25 HEARING OFFICER JONES: Go ahead.

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1 MS. BURCHETT: Finding the allegations being true,  
2 I move to order the respondent to pay a fine in the  
3 amount of \$150, payable within 30 days of receipt of  
4 the board's order. Failure to pay the fine as ordered  
5 will result in a suspension of the respondent's  
6 establishment license beginning 30 days from the  
7 receipt of the order and continuing for a period of 90  
8 days from the time the respondent relinquishes his or  
9 her license to the board.

10 HEARING OFFICER JONES: Is there a second?

11 MS. HOPPER: I second.

12 HEARING OFFICER JONES: We have a motion and a  
13 second.

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

15 (Hands raised.)

16 Those opposed?

17 Okay. Please let the record reflect the decision

18 of the board was to support the motion, six to one.

19 Please reduce that to writing and make or attempt

20 service upon all parties. Inform the respondent that  
21 if they care to appeal the decision an appeal can be  
22 taken under the Administrative Procedures Act found at  
23 Arkansas Code Annotated 25-15-201.

24 Are there any other comments relating to this  
25 hearing?

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1 MS. BURCHETT: Does it need to be in the form of a  
2 motion?

3 HEARING OFFICER JONES: Doesn't matter if it's a  
4 motion or just a statement. I'm good either way.

5 MS. BURCHETT: I recommend that Evalyn Dang be  
6 sent an order of hearing for violation concerning this  
7 same order.

8 MS. GEE: Just to clarify, that would be one  
9 violation for Ms. Dang, not for all six work stations?

10 MS. BURCHETT: That would be my recommendation.

11 MS. GEE: I don't think we have any evidence that  
12 she was working at all six stations, unless you think  
13 you could testify to that, Ms. Horner.

14 MS. HORNER: I mean, there were used files and  
15 buffers at the -- you know, at the six. Somebody  
16 has -- had used the files and buffers.

17 MS. GEE: Right.

18 MS. HORNER: But I don't know that it was her.

19 MS. GEE: Okay. All right. So I think just one.

20 MS. BURCHETT: Yeah, that would be my

21 recommendation also.

22 MS. WARD: Yeah. It would be hard to prove she

23 was at all of them.

24 HEARING OFFICER JONES: Okay. So, to clarify just

25 for the record, there will be a notice and order of

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1 hearing sent to Evalyn Dang for one violation.

2 Any further comments or questions relating to

3 Hearing 2014?

4 If there are none, we'll close the record for this

5 hearing and move on to the next one, which is 08-2019.

6 ADMINISTRATIVE HEARING NO. 08-2019

7 TIP & TOE NAILS, PHU NGUYEN

8 HEARING OFFICER JONES: 08-2019, and this is Tip &

9 Toe Nails.

10 Ms. Gee, call your first witness.

11 MS. GEE: I would like to call Ms. Caudle, please.

12 WHEREUPON,

13 SHEILA CAUDLE,

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 THE WITNESS: Sheila Caudle, Director of the

18 Cosmetology Board.

19 DIRECT EXAMINATION

20 BY MS. GEE:

21 Q Ms. Caudle, in your position as director, did you issue an

22 Order and Notice of Hearing to Tip & Toe Nails?

23 A I did.

24 Q For the hearing today?

25 A I did.

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1 Q And did you receive a return receipt on the Order and Notice  
2 of Hearing?

3 A I did.

4 Q And was that stamped by the post office with the date of  
5 delivery?

6 A Yes. It was.

7 Q And what was that date?

8 A February 18, 2009.

9 Q And that was signed and returned to the board?

10 A Yes. It was.

11 Q Okay. And we will hear from the inspector in just a moment  
12 about the alleged violations by this salon; but can you tell the  
13 board what the proposed penalty for the alleged violations would  
14 be based on the board's existing policy?

15 A Fifty dollars.

16 MS. GEE: Thank you.

17 I would like to call Ms. Horner, please.

18 HEARING OFFICER JONES: Go right ahead.

19 WHEREUPON,

20 ROSE HORNER,

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

22 sworn by the undersigned notary public, was examined and

23 testified, as follows:

24 DIRECT EXAMINATION

25 BY MS. GEE:

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

1 Q Ms. Horner, could you state your occupation for the record?

2 A Inspector.

3 Q As the board's inspector did you visit a salon called Tip &

4 Toe Nails in October of 2008?

5 A Yes, ma'am.

6 Q And what date was that in October?

7 A The 10th.

8 Q Thank you.

9 And when you visited that salon, what did you discover?

10 A In -- in their drawers, I asked them if their nippers and

11 nail clippers were clean or dirty and they told me they were

12 clean, and there was all -- there was debris and nail dust and

13 nail clippings in those drawers. And they should be in -- they

14 need to be stored in clean, clean covered containers.

15 Q Okay. Were there any other violations that you discovered

16 on that inspection?

17 A No.

18 MS. GEE: Thank you.

19 I have nothing further, except to introduce the

20 letter, inspection sheet, and receipt as Exhibit 1 to  
21 this hearing.

22 HEARING OFFICER JONES: Those will be admitted as  
23 Exhibit 1 to Hearing 08-2019.

24 (WHEREUPON, Exhibit No. 1 (08-2019) was received  
25 in evidence.)

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1 HEARING OFFICER JONES: Does the board have any  
2 questions for Ms. Caudle or Ms. Horner?

3 MS. SMITH: How many stations in this salon?

4 THE WITNESS: Probably 10 or 12, and at least four  
5 pedicure spas.

6 MS. SMITH: Okay. So they had three manicurists  
7 working that day?

8 THE WITNESS: Uh-huh. Yes, ma'am.

9 MS. SMITH: And those were the three that were  
10 posted?

11 THE WITNESS: Yes, ma'am.

12 MS. SMITH: So it was just three there, those  
13 three had dirty files, or all the stations had dirty  
14 files?

15 THE WITNESS: The clippers, the nippers, and nail  
16 clippers that -- I asked them if they were clean or  
17 dirty and they told me that they were clean, but in the  
18 drawers were full of nail dust and nail clippings.

19 MS. SMITH: Okay.

20 THE WITNESS: And I told them that they were not  
21 sanitary.

22 MS. SMITH: Right.

23 THE WITNESS: And that if they were going to do  
24 that, that needed to be kept clean. Otherwise they  
25 needed to be put into a closed, covered, sanitized,

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1           disinfected container.

2           HEARING OFFICER JONES: Go ahead, Ms. Ward.

3           MS. WARD: Were all the stations -- did all the  
4           stations have the clippers and everything in them in  
5           drawers or just those three that were unsanitary?

6           THE WITNESS: I'm going to say those, those people  
7           that were -- that were working.

8           MS. WARD: Just theirs?

9           THE WITNESS: I would say just the three stations.

10          MS. WARD: Okay.

11          MS. COLLINS-BURROUGH: Did they have Barbicide  
12          visible?

13          THE WITNESS: Yes, ma'am.

14          MS. COLLINS-BURROUGH: But they didn't have  
15          anything in them, the jars?

16          THE WITNESS: Nippers and clippers, huh-uh.

17          MS. COLLINS-BURROUGH: They were just sitting  
18          there?

19          THE WITNESS: The jars were just --

20 MS. COLLINS-BURROUGH: Did the solution look

21 clean?

22 THE WITNESS: Uh-huh.

23 HEARING OFFICER JONES: Further questions from the

24 board?

25 If there are no further questions at this time

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1 we'll close this portion of the record and allow the  
2 board to deliberate. Once a decision has been reached  
3 we will go back on the record in 08-2019.

4 (WHEREUPON, the Board retired to deliberate, off  
5 the record, and returned with the following motion:)

6 HEARING OFFICER JONES: Okay. At this time we'll  
7 go back on the record for Hearing 08-2019.

8 Is there a motion?

9 MS. BURCHETT: I have one.

10 HEARING OFFICER JONES: Go right ahead.

11 MS. BURCHETT: Finding the allegations being true,  
12 I move to order the respondent to pay a fine in the  
13 amount of \$150, payable within 30 days of receipt of  
14 the board's order. Failure to pay the fine ordered  
15 will result in a suspension of the respondent's  
16 establishment license beginning 30 days from the  
17 receipt of the order and continuing for a period of 90  
18 days from the date respondent relinquishes his or her  
19 license to the board.

20 HEARING OFFICER JONES: Is there a second?

21 MS. AKARD: I second the motion.

22 HEARING OFFICER JONES: Motion and a second.

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

24 (Hands raised.)

25 Thank you.

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1           Please let the record reflect the board's decision  
2           is unanimous. Please reduce that decision to writing  
3           and make or attempt service upon all parties. Inform  
4           the respondent if they care to appeal the decision, an  
5           appeal can be taken under the Administrative Procedures  
6           Act found at Arkansas Code Annotated 25-15-201, et seq.

7           Are there any other comments or questions relating  
8           to Hearing 2019?

9           MS. BURCHETT: Do you want to do it?

10          HEARING OFFICER JONES: If there is nothing  
11          further --

12          MS. AKARD: I make a motion that we serve notice  
13          to the other three individuals that were working in the  
14          salon, that we serve notice of violation, 25-dollar  
15          fine -- 50-dollar fine.

16          MS. WARD: I second that.

17          HEARING OFFICER JONES: Okay. Please let the  
18          record reflect that the board would like to send  
19          notices of hearings out to the three individuals listed

20 on the inspection report from October 10, '08, in

21 regards to Hearing 2019.

22 Anything further?

23 If there is nothing further, close that portion of

24 the record and we'll move on to the next hearing.

25 We're going to go with 08-2040.

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1 ADMINISTRATIVE HEARING 08-2040

2 ENVY NAILS, SOC DANH

3 HEARING OFFICER JONES: 08-2040, this is Envy

4 Nails.

5 MS. GEE: I would like to call Sheila Caudle,

6 please.

7 HEARING OFFICER JONES: Go right ahead.

8 WHEREUPON,

9 SHEILA CAUDLE,

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

11 sworn by the undersigned notary public, was examined and

12 testified, as follows:

13 DIRECT EXAMINATION

14 BY MS. GEE:

15 Q Ms. Caudle, please state your occupation for the record.

16 A Director of Cosmetology Board.

17 Q And as director, did you serve notice or an order of today's

18 hearing on the owner of Envy Nails?

19 A Yes. I did.

20 MS. GEE: 08-2040.

21 HEARING OFFICER JONES: This is 2040.

22 MS. WARD: Take this off of here.

23 MR. FOREMAN: Yeah.

24 BY MS. GEE:

25 Q Did you receive a return receipt?

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1 A I did.

2 Q That that letter was received?

3 A Yes. I did.

4 Q And what was the date of delivery?

5 A February 25, 2009.

6 Q Okay. And the violations that have been charged on this  
7 salon, which we'll hear testimony about in a moment, what is the  
8 board's proposed penalty under their established policy for that  
9 violation?

10 A Fifty dollars.

11 MS. GEE: Thank you.

12 I would like to call Pat Jackson, please.

13 HEARING OFFICER JONES: Ms. Jackson.

14 WHEREUPON,

15 PAT JACKSON,

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

19 DIRECT EXAMINATION

20 BY MS. GEE:

21 Q Ms. Jackson, can you state your occupation, please?

22 A Inspector.

23 Q As inspector, did you visit a salon called Envy Nails on

24 November 20th --

25 A I did.

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1 Q -- 2008?

2 And could you tell the board, please, what you discovered  
3 upon visiting that salon?

4 A Upon entering that salon, one of the nail techs, Ms. Ho,  
5 began going through the manicure stations and throwing out the  
6 used files and buffers that were up underneath all of the -- all  
7 of the stations. But I did find used files and buffers left at  
8 the pedicure stations, and there were four of those. The  
9 pedicure bowls had residue left in them where they weren't  
10 properly cleaned. And I also found leftover skin and a credo  
11 blade at one of the pedicure stations.

12 Q I'm sorry, at one of the --

13 A At one of the pedicure stations.

14 Q Okay.

15 MR. FOREMAN: Excuse me. I don't have a copy of  
16 that.

17 MS. GEE: Okay.

18 HEARING OFFICER JONES: Here.

19 MS. GEE: There you go, sir.

20 MR. FOREMAN: I mean the sheet.

21 MS. GEE: Oh, the sheet?

22 MS. WARD: Here it is.

23 MR. FOREMAN: Yes. You're right.

24 BY MS. GEE:

25 Q Okay. So, Ms. Jackson, you've testified that there were

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1 four pedicure stations which had used files and buffers and all  
2 four bowls had residue and one of the stations had skin in the  
3 credo blade. Is that correct?

4 A That is correct.

5 Q Okay. Were there any other violations that you observed?

6 A No.

7 MS. GEE: I would like to introduce the inspection  
8 sheet, the letter, and the certified receipt as  
9 Exhibit 1, please.

10 I have nothing further.

11 HEARING OFFICER JONES: Those will be introduced  
12 as Exhibit 1 to Hearing 08-2040.

13 (WHEREUPON, Exhibit No. 1 (08-2040) was received  
14 in evidence.)

15 HEARING OFFICER JONES: Questions from the board?

16 MS. AKARD: When did it become legal for us to use  
17 the credo blade?

18 COURT REPORTER: I can't hear you.

19 MS. AKARD: When was it legal for us to use the

20 credo blade?

21 THE WITNESS: It has never been --

22 MS. CAUDLE: In the equipment section passed

23 the --

24 MS. AKARD: So when was that?

25 MS. COLLINS-BURROUGH: Before your time.

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1 MS. CAUDLE: They have always been able to use it.

2 MS. GEE: Last year.

3 MS. CAUDLE: There was nothing in the law to  
4 prevent them from using it. And then in Rule 11, it  
5 was put in Rule 11 that, to put in the rule, that they  
6 could use it, but there was nothing in the law to  
7 prevent them from using it.

8 MS. COLLINS-BURROUGH: There was a lot of  
9 discussion about that, Tracy, and I use them in my  
10 salon. They are a wonderful tool if you handle them  
11 and take care of them correctly. And there was some  
12 thought about doing away with that, but then that was  
13 changed. I mean they didn't end up doing away with it.

14 MS. AKARD: But we finally said that it was okay?

15 MS. COLLINS-BURROUGH: Uh-huh.

16 MS. CAUDLE: (Nodding head up and down.)

17 MS. COLLINS-BURROUGH: Pat, is this a hair salon  
18 as well?

19 THE WITNESS: No. No. Just --

20 MS. COLLINS-BURROUGH: Strictly a nail salon?

21 THE WITNESS: Strictly -- just strictly, yes.

22 MS. COLLINS-BURROUGH: So down here where you have

23 checked no, it says shampoo bowl cleaned after each

24 use --

25 THE WITNESS: I've put that in in reference to the

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1 pedicure bowl.

2 MS. COLLINS-BURROUGH: The pedicure bowls?

3 THE WITNESS: Uh-huh.

4 MS. COLLINS-BURROUGH: Okay. Did they have

5 Barbicide jars as well?

6 THE WITNESS: Yes.

7 MS. COLLINS-BURROUGH: Were they in use or could

8 you tell or --

9 THE WITNESS: You know, I -- I did not note that,

10 but it's been a rare occasion that I've ever seen one

11 of our nail salons not to have Barbicide, clean

12 Barbicide.

13 MS. COLLINS-BURROUGH: Okay.

14 HEARING OFFICER JONES: Further questions?

15 If there are no further questions from the board

16 we'll close this portion of the record, let the board

17 deliberate. Once a decision has been reached we'll go

18 back on the record and close up the Hearing 2040.

19 (WHEREUPON, the Board retired to deliberate, off

20 the record, and returned with the following motion:)

21 HEARING OFFICER JONES: Okay. At this time we  
22 will go back on the record for a decision of the board.

23 Is there a motion?

24 MS. BURCHETT: I have one.

25 HEARING OFFICER JONES: Go right ahead.

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1 MS. BURCHETT: Finding the allegations being true,  
2 I move to order the respondent to pay a fine in the  
3 amount of \$225, payable within 30 days of the receipt  
4 of the board's order. Failure to pay the fine as  
5 ordered will result in a suspension of the respondent's  
6 establishment license, beginning 30 days from the  
7 receipt of the order and continuing for a period of 90  
8 days from the date the respondent relinquishes his or  
9 her license to the board.

10 HEARING OFFICER JONES: Is there a second?

11 MS. WARD: I second it.

12 HEARING OFFICER JONES: Motion and a second.

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

14 (Hands raised.)

15 Let the record reflect the decision of the board  
16 is unanimous. Please reduce this decision to writing  
17 and make or attempt service upon all parties and inform  
18 the respondent that an appeal can be taken under the  
19 Administrative Procedures Act 25-15-201, et seq.

20 Any other questions or comments relating to

21 Hearing 2040?

22 If there are none, we will close this portion of  
23 the record pertaining to 2040 and move to 08-2027.

24 ADMINISTRATIVE HEARING NO. 80-2027

25 THE HAIR BOUTIQUE, DEANNA FREEZE

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1 HEARING OFFICER JONES: 2027, and this one is --

2 MS. GEE: Deanna Freeze.

3 HEARING OFFICER JONES: -- The Hair Boutique,

4 Deanna Freeze.

5 Ms. Gee?

6 MS. GEE: I would like to call Sheila Caudle,

7 please.

8 WHEREUPON,

9 SHEILA CAUDLE,

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

11 sworn by the undersigned notary public, was examined and

12 testified, as follows:

13 THE WITNESS: Sheila Caudle, Director, Cosmetology

14 Board.

15 DIRECT EXAMINATION

16 BY MS. GEE:

17 Q Did you send an Order and Notice of Hearing of today's

18 hearing to The Hair Boutique and its owner Deanna Freeze?

19 A Yes, I did.

20 Q And did Ms. Freeze receive that notice?

21 A Yes. She did. February 14, 2009.

22 Q Okay. And the violations that have been alleged against The

23 Hair Boutique, what is the board's established proposed penalty

24 for those violations?

25 A \$75.

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1 MS. GEE: Thank you.

2 I would like to call Pat Jackson, please.

3 WHEREUPON,

4 PAT JACKSON,

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

6 sworn by the undersigned notary public, was examined and

7 testified, as follows:

8 DIRECT EXAMINATION

9 BY MS. GEE:

10 Q Ms. Jackson, could you state your occupation, please?

11 A Inspector.

12 Q And as the board's inspector, did you visit a salon called

13 The Hair Boutique on October 9, 2008?

14 A Yes. I did.

15 Q And when you entered that salon, what did you find?

16 A I found used wax sticks were left on the hot wax machine. I

17 found that the shampoo bowl needed to be cleaned, and that it was

18 like hard, hard water deposits. And I know they came off because

19 I scraped them with a fingernail. And I found that there was no

20 liquid sanitizer mixed up. Disinfectant, I'm sorry. I wrote

21 sanitizer.

22 Q Okay. And who was working at that time? Do you know?

23 A Deanna Freeze.

24 Q And is she the owner of that salon?

25 A Yes. She is.

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1 Q Was she the only person working?

2 A Yes. That particular day, yes.

3 MS. GEE: Okay. I would like to introduce the  
4 inspection sheet, the letter, and the certified mail  
5 receipt as Exhibit 1.

6 And I have nothing further of Ms. Jackson.

7 HEARING OFFICER JONES: We will introduce as  
8 Exhibit 1 Hearing 08-2027.

9 (WHEREUPON, Exhibit No. 1 (08-2027) was received  
10 in evidence.)

11 HEARING OFFICER JONES: Okay. Does the board have  
12 any questions for Ms. Caudle or Ms. Jackson?

13 MS. COLLINS-BURROUGH: I do.

14 HEARING OFFICER JONES: Go right ahead.

15 MS. COLLINS-BURROUGH: How many stations are  
16 there, Pat?

17 THE WITNESS: Four.

18 MS. COLLINS-BURROUGH: Four?

19 Does anyone else work there or just that one lady?

20 THE WITNESS: She has had people there in the  
21 past. I think she was kind of going through a  
22 transition period of stylists had left her, she had had  
23 all of those stations filled at one time, but she was  
24 the only one there that particular day.

25 MS. COLLINS-BURROUGH: Thank you.

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

3 If there are no questions, we'll close this  
4 portion of the record and let the board deliberate.

5 Once a decision has been reached we will go back on the  
6 record for Hearing No. 2027.

7 (WHEREUPON, the Board retired to deliberate, off  
8 the record, and returned with the following motion:)

9 HEARING OFFICER JONES: Okay. At this time we'll  
10 go back on the record for a decision for Hearing  
11 No. 08-2027. Is there a motion?

12 MS. BURCHETT: I have one.

13 HEARING OFFICER JONES: Okay. Go right ahead.

14 MS. BURCHETT: Finding the allegations being true,  
15 I move to order the respondent to pay a fine in the  
16 amount of \$75, payable within 30 days of the receipt of  
17 the board's order. Failure to pay the fine as ordered  
18 will result in a suspension of the respondent's  
19 establishment license beginning 30 days from receipt of

20 the order and continuing for a period of 90 days from  
21 the date the respondent relinquishes his or her license  
22 to the board.

23 HEARING OFFICER JONES: We have a motion. Do we  
24 have a second?

25 MS. HOPPER: Second.

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1 HEARING OFFICER JONES: We have a motion and a  
2 second. All those in favor, please raise your hand.

3 (Hands raised.)

4 Let the record reflect the decision of the board  
5 is unanimous. Please reduce the decision to writing,  
6 make or attempt service upon all parties. Tell the  
7 respondent if they care to appeal the decision, it may  
8 be taken under the Administrative Procedures Act,  
9 Arkansas Code Annotated 25-15-201, et seq.

10 Any further questions or comments relating to this  
11 hearing?

12 COURT REPORTER: Who seconded that?

13 HEARING OFFICER JONES: Nellie Hopper.

14 COURT REPORTER: Thank you.

15 I'm sorry.

16 HEARING OFFICER JONES: Anything further?

17 If nothing further, we'll close the record in  
18 regards to Hearing 08-2027, and we'll move on to  
19 Hearing 08-2031.

20 ADMINISTRATIVE HEARING NO. 08-2031

21 GREAT NAILS

22 HEARING OFFICER JONES: 2031, and that is Great

23 Nails.

24 MS. GEE: I would like to call Sheila Caudle,

25 please.

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1 WHEREUPON,

2                   SHEILA CAUDLE,

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                   THE WITNESS: Sheila Caudle, Director, Cosmetology

7                   Board.

8                   DIRECT EXAMINATION

9 BY MS. GEE:

10 Q Did you serve Order and Notice of Hearing for today on Great

11 Nails?

12 A I did.

13 Q Was that via certified mail?

14 A Yes. It was.

15 Q Did you receive a return receipt from that mailing?

16 A Yes. On February 14, 2009.

17 Q It was received by the salon?

18 A Yes.

19 Q And the violations that have been alleged against Great

20 Nails, what is the board's established policy for the penalty,

21 proposed penalty?

22 A Well, it says \$50 on this sheet, but actually what is marked

23 here is a hundred dollars.

24 Q Okay. And we will hear some testimony about those

25 violations. Thanks.

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1 MS. GEE: Thank you.

2 I would like to call Pat Jackson.

3 HEARING OFFICER JONES: Go right ahead.

4 WHEREUPON,

5 PAT JACKSON,

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 Ms. Jackson, what is your position, please?

12 A Inspector.

13 Q And as board inspector, did you visit a salon called Great

14 Nails on October 1, 2008?

15 A Yes, ma'am.

16 Q And could you tell the board, please, what you discovered

17 when you visited that salon?

18 A I discovered there was no liquid sanitizer, there were many

19 used files and buffers at each manicure station and at a pedicure

20 station. And I did not write the number of those down so I

21 don't -- I don't recall how many there are. There were no

22 labeled containers for used instruments.

23 Q Okay. And who was working on the date of your inspection?

24 A Tam T. Nguyen.

25 Q Is that the only person?

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1 A Yes.

2 MS. GEE: All right. I would like to introduce  
3 the letter, the inspection report, and the receipt as  
4 Exhibit 1.

5 And I have nothing further.

6 HEARING OFFICER JONES: That will be admitted as  
7 Exhibit 1 in Hearing 08-2031.

8 (WHEREUPON, Exhibit No. 1 (08-2031) was received  
9 in evidence.)

10 HEARING OFFICER JONES: Any questions from the  
11 board?

12 MS. BURCHETT: Is Tam the owner?

13 MS. CAUDLE: We do not have a record of owner  
14 because of the GL Suite system does not show a record  
15 of owner, the Access system does not show record of  
16 owner. So I have asked the inspectors to send me  
17 owners' names on the ones that are not listed, so this  
18 was before I asked them before -- this inspection was  
19 before I asked for that information.

20 THE WITNESS: This salon also has been in  
21 transition over ownership several times, so I don't  
22 know if that was -- could have been -- I don't recall  
23 if he was the owner then.

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

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1 MS. COLLINS-BURROUGH: How many stations?

2 THE WITNESS: I didn't write that information  
3 down. I don't recall.

4 MS. WARD: There was only one permit?  
5 Only one license posted?

6 THE WITNESS: Uh-huh. Right.

7 MS. AKARD: Okay. So, in this particular case,  
8 then the fee is, since we don't know -- we don't know  
9 who the owner is?

10 MS. CAUDLE: Not until her next inspection when  
11 she collects that information, and that's because of  
12 the change in so many computer systems and distorted  
13 information.

14 MS. AKARD: Okay.

15 MS. CAUDLE: We have that on several shops.

16 MS. AKARD: Okay.

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

19 If there are no further questions, we'll close

20 this portion of the record for deliberations by the  
21 board. Once a decision has been reached, we will go on  
22 the record again to complete the record for Hearing  
23 2031.

24 (WHEREUPON, the Board retired to deliberate, off  
25 the record, and returned with the following motion:)

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1 HEARING OFFICER JONES: Let's go back on the  
2 record for a motion.

3 Go back on the record for Hearing 2031. Is there  
4 a motion?

5 MS. HOPPER: Motion.

6 Finding the allegations being true, I move to  
7 order the respondent to pay a fine in the amount of a  
8 hundred dollars, payable within 30 days of receipt of  
9 the board's order. Failure to pay the fine as ordered  
10 will result in the respondent's -- in suspension of the  
11 practitioner's license beginning 30 days from receipt  
12 of the order and continuing for a period of 90 days  
13 from the date the respondent relinquishes his or her  
14 license to the board.

15 HEARING OFFICER JONES: Okay. Let me clarify  
16 something. Ms. Hopper, you did say practitioner  
17 license. Shouldn't that be establishment in this case?

18 MS. HOPPER: Establishment.

19 HEARING OFFICER JONES: Okay. So the motion is

20 to -- for a hundred dollar fine on the establishment

21 license?

22 MS. HOPPER: (Nodding head up and down.)

23 HEARING OFFICER JONES: Okay. Is everybody clear

24 on the motion?

25 Is there a second?

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1 MS. WARD: Second.

2 HEARING OFFICER JONES: All those in favor, please  
3 raise your right hand.

4 (Hands raised.)

5 Let the record reflect the decision of the board  
6 is unanimous. Please reduce this decision to writing  
7 and make or attempt service upon all parties, and  
8 inform the respondent if they care to appeal the  
9 decision of the board, an appeal may be taken under the  
10 Administrative Procedures Act found at Arkansas Code  
11 Annotated 25-15-201, et seq.

12 Any other questions or comments concerning Hearing  
13 2031?

14 MS. HOPPER: I make a motion on the practitioner  
15 of --

16 MS. AKARD: I make a motion that we serve Tam  
17 Nguyen, practitioner, a violation, we serve him notice  
18 as well.

19 HEARING OFFICER JONES: Okay. Please let the

20 record reflect -- or is there a second, since she made

21 a motion?

22 Okay.

23 MS. AKARD: I would say in the same amount, a

24 hundred dollars.

25 HEARING OFFICER JONES: Okay. Please let the

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1 record reflect that the board would like to send an  
2 Order and Notice of Hearing to Tam Nguyen concerning  
3 the issues addressed in the Hearing No. 08-2031, from  
4 the inspection of October 1, 2008.

5 Anything further on this hearing?

6 MS. BURCHETT: Would there be a problem, Sheila,  
7 with you calling this person and asking if they own  
8 that salon?

9 MS. CAUDLE: (Shaking head from side to side.)

10 MS. BURCHETT: Or whoever?

11 MS. CAUDLE: When the inspectors go by they are  
12 collecting those names and I'm keying them into the new  
13 system as they inspect their territories.

14 MS. BURCHETT: Well, I understand. But in this  
15 case, I don't -- I don't think we should send this  
16 person the same notice if they are the owner --

17 MS. CAUDLE: Okay.

18 MS. BURCHETT: -- without at least calling and  
19 asking them if they are the owner of that salon at this

20 time.

21 MS. CAUDLE: Well, I agree.

22 MS. BURCHETT: I mean, I'll call them if that -- I

23 just -- I would think that somebody needs to call this

24 person and ask if they own that salon.

25 Is that an unreasonable request?

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1 MS. CAUDLE: No. But you just made a motion, so  
2 what am I to do if --

3 MS. COLLINS-BURROUGH: You need to finish the  
4 motion.

5 MS. CAUDLE: Right.

6 MS. BURCHETT: I haven't seen the vote but, I  
7 mean, I would be pretty embarrassed to send the same  
8 person two -- when a simple, you know, phone call might  
9 see if they are the owner.

10 HEARING OFFICER JONES: Board's decision. We have  
11 a motion.

12 MS. COLLINS-BURROUGH: Motion on the floor.

13 HEARING OFFICER JONES: Do you want to vote?

14 MS. BURCHETT: Do you agree?

15 HEARING OFFICER JONES: All of those in favor of  
16 sending a motion -- or sending an Order and Notice of  
17 Hearing to Tam Nguyen --

18 MS. COLLINS-BURROUGH: If there was no second --  
19 if there was not a second, it dies.

20 HEARING OFFICER JONES: There was a second.

21 MS. COLLINS-BURROUGH: Oh, there was?

22 COURT REPORTER: Who seconded it?

23 HEARING OFFICER JONES: There was a second.

24 Barbara or Nellie, one, I thought seconded it. Did

25 you-all not?

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1 MS. COLLINS-BURROUGH: No.

2 MS. HOPPER: Not on this one.

3 HEARING OFFICER JONES: Okay. Sorry. I thought  
4 Nellie seconded it.

5 MS. COLLINS-BURROUGH: For lack of a second,  
6 motion dies.

7 HEARING OFFICER JONES: Okay. You're not running  
8 the hearing.

9 MS. COLLINS-BURROUGH: Sorry. Sorry.

10 HEARING OFFICER JONES: Okay. Motion fails for  
11 lack of a second.

12 Any other comments or questions relating to this  
13 hearing?

14 If there is nothing further, the record will be  
15 closed for Hearing 2031, and we'll move on to 08-2056.

16 MS. GEE: Can we take a short break, Madam Hearing  
17 Officer?

18 HEARING OFFICER JONES: Yes. That's fine.

19 Ten minutes.

20 MS. COLLINS-BURROUGH: Okay. Ten minutes.

21 (WHEREUPON, a break was held.)

22 ADMINISTRATIVE HEARING NO. 08-2056

23 FAMILY HAIR CENTER, GLADYS MAXWELL

24 HEARING OFFICER JONES: Okay. 2056. We're going

25 back on the record, Hearing 2056, Family Hair Center.

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1 Erika, call your first.

2 MS. GEE: I would like to call Sheila Caudle,

3 please.

4 WHEREUPON,

5 SHEILA CAUDLE,

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 THE WITNESS: Sheila Caudle, Director State Board

10 of Cosmetology.

11 DIRECT EXAMINATION

12 BY MS. GEE:

13 Q As director of the State Board of Cosmetology, did you send

14 notice to the Family Hair Center to Gladys Maxwell of today's

15 hearing?

16 A Yes. I did.

17 Q And did Ms. Maxwell receive that notice, based on the

18 certified mail receipt?

19 A Stephanie Grimes in the salon signed for it on February 14,

20 2009.

21 Q Thank you.

22 For the proposed -- excuse me.

23 For the alleged violation, is there a proposed penalty

24 according to the board's policy?

25 A Yes. The proposed penalty is \$25.

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1 MS. GEE: Thank you.

2 I would like to call Rose Horner, please.

3 HEARING OFFICER JONES: Go right ahead.

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 Ms. Horner, what is your position, please?

12 A I'm an inspector.

13 Q And as an inspector, did you visit Family Hair Center on

14 October 28, 2008?

15 A Yes, ma'am.

16 Q And when you visited, did you find any violations?

17 A The salon license is not posted.

18 Q Okay. And is there in fact a current license issued to that

19 salon?

20 A That's -- that's why I marked it because I didn't know.

21 Q Okay. So --

22 A There was no license to put there.

23 Q So the only violation that you discovered then during that

24 inspection was there was not a salon license posted?

25 A Yes.

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1 MS. GEE: Thank you.

2 I would like to recall Ms. Caudle, if I could.

3 HEARING OFFICER JONES: Go right ahead.

4 WHEREUPON,

5 SHEILA CAUDLE,

6 having been recalled 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 Ms. Caudle, based on your knowledge of the board's records,

12 is there a current license issued to Family Hair Center?

13 A Yes. There is.

14 Q So they had in fact -- excuse me -- had a license, but it

15 just wasn't posted?

16 A That's correct.

17 MS. GEE: Thank you.

18 I would like to introduce the letter, inspection

19 sheet, and green card as Exhibit 1.

20 HEARING OFFICER JONES: Those will be admitted as

21 Exhibit 1 to Hearing 08-2056.

22 (WHEREUPON, Exhibit No. 1 (08-2056) was received

23 in evidence.)

24 HEARING OFFICER JONES: Are there any questions

25 from the board for Ms. Horner or Ms. Caudle?

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1 MS. COLLINS-BURROUGH: Who is the owner?

2 THE WITNESS: Gladys Maxwell.

3 MS. COLLINS-BURROUGH: Gladys Maxwell?

4 HEARING OFFICER JONES: Please be sure when you  
5 answer it is loud enough so the court reporter can hear  
6 you.

7 Other questions from the board?

8 MS. COLLINS-BURROUGH: How many stations did they  
9 have, Rose, do you remember?

10 MS. HORNER: (Shaking head from side to side.)

11 HEARING OFFICER JONES: Okay. Other questions?

12 If there are no other questions, we'll close the  
13 record at this time and let the board deliberate, after  
14 which time a decision has been made we will go back on  
15 the record.

16 Scottie, do you have a question before we go --  
17 well, wait just a second. We'll go back on the record  
18 for you to ask the question.

19 MS. BURCHETT: Never mind.

20 HEARING OFFICER JONES: Record closed. Y'all can  
21 deliberate.

22 (WHEREUPON, the Board retired to deliberate, off  
23 the record, and returned with the following motion:)

24 HEARING OFFICER JONES: Okay. At this time we'll  
25 go back on the record for the decision of the board.

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1 MS. BURCHETT: Okay. Finding the allegations  
2 being true, I move to order the respondent to pay a  
3 fine in the amount of \$25, payable within 30 days of  
4 receipt of the board's order. Failure to pay the fine  
5 as ordered will result in a suspension of the  
6 respondent's establishment license beginning 30 days  
7 from receipt of the order and continuing for a period  
8 of 90 days from the time the respondent relinquishes  
9 his or her license to the board.

10 HEARING OFFICER JONES: We have a motion. Is  
11 there a second?

12 MS. HOPPER: I second that.

13 HEARING OFFICER JONES: Motion and a second.

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

15 (Hands raised.)

16 Please let the record reflect the decision of the  
17 board is unanimous, reduce that decision to writing and  
18 make or attempt service upon all parties. Inform the  
19 respondent that they have a right of appeal under the

20 Administrative Procedures Act found at Arkansas Code

21 Annotated 25-15-201, et seq., if they so wish to take

22 an appeal,

23 Are there any other questions or comments

24 concerning Hearing 2056?

25 If there are none, at this time we'll close 2056

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1 and move on to 08-2079. Alma Hairdales.

2 ADMINISTRATIVE HEARING NO. 08-2079

3 ALMA HAIRDALES, DENISE WAGGONER

4 MS. GEE: I would like to call Sheila Caudle,

5 please.

6 HEARING OFFICER JONES: Go right ahead.

7 WHEREUPON,

8 SHEILA CAUDLE,

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 THE WITNESS: Sheila Caudle, Director of

13 Cosmetology Board.

14 DIRECT EXAMINATION

15 BY MS. GEE:

16 Q As Director of Cosmetology Board, did you send an Order and

17 Notice of today's hearing to Alma Hairdales's owner Denise

18 Waggoner?

19 A I did.

20 Q And did Ms. Waggoner receive notice of the hearing?

21 A Yes.

22 She signed the receipt on February 3, 2009 -- or

23 February 23, excuse me, 2009.

24 Q And did one of the board's inspectors visit Alma Hairdales

25 on behalf of the board?

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1 A Yes.

2 Rose Horner visited that salon February 8, 2008 -- or 10/8.

3 Q 2008?

4 A 2008.

5 I'm sorry.

6 Q Okay. And at that time she filled out an inspection report

7 on behalf of the board?

8 A Yes.

9 Q And was there any violations marked on that?

10 A All license posted are current, she's got a no marked; and

11 salon license posted, she's got 2007 license posted.

12 Q Okay. And based on your knowledge of the board's licensing

13 records, does Alma Hairdales have a current license?

14 A No. They do not.

15 Q When is their license expired?

16 A 12/31/2007.

17 Q So based on the board's established policy, what is the

18 proposed penalty for not having a license?

19 A \$434 at the time that the certified mail went out.

20 Q Could you please explain how that was calculated?

21 A Yes. It's a baseline of \$25, plus a dollar per day for  
22 every day that they haven't renewed that license up until the  
23 time that the certified letter went out.

24 Q So that would have been from January 1, 2008, through --

25 A To February the 21st, I believe, is when it went out.

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1 Q Okay. And that is the total of \$434?

2 A Correct.

3 MS. GEE: Okay. I would like to introduce the  
4 board's letter, Ms. Horner's inspection sheet, and the  
5 certified mail receipt, and also the copy of the  
6 board's licensing records on Alma Hairdales as  
7 Exhibit 1.

8 I have nothing further.

9 HEARING OFFICER JONES: Those will be admitted as  
10 Exhibit 1 for Hearing 08-2079.

11 (WHEREUPON, Exhibit No. 1 (08-2079) was received  
12 in evidence.)

13 HEARING OFFICER JONES: Ms. Gee, you have nothing  
14 further?

15 MS. GEE: No, ma'am.

16 HEARING OFFICER JONES: Okay. Does the board have  
17 any questions for Ms. Caudle?

18 MS. AKARD: Have they renewed their license?

19 THE WITNESS: No. Not to this point.

20 MS. AKARD: Are they --

21 MS. HOPPER: Are they still operating?

22 THE WITNESS: As far as I know.

23 MS. AKARD: So they haven't renewed at all in 2008

24 or in 2009?

25 THE WITNESS: Huh-uh. No, ma'am.

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1 MS. WARD: How -- how many --

2 HEARING OFFICER JONES: Just questions for

3 Ms. Caudle.

4 Did you call --

5 MS. WARD: How many stations are in there? Do you

6 know how big a salon it is?

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

8 MS. COLLINS-BURROUGH: What's this on the back?

9 What is that?

10 THE WITNESS: That's the license page.

11 MS. COLLINS-BURROUGH: I've never seen that

12 before.

13 THE WITNESS: That's from our computer system.

14 MS. COLLINS-BURROUGH: Okay.

15 HEARING OFFICER JONES: Further questions from the

16 board?

17 MS. AKARD: Yeah. We're talking about that the

18 salon license is not renewed. And are we talking about

19 both of these individuals?

20 MS. GEE: Just the salon.

21 THE WITNESS: Just the salon.

22 MS. AKARD: Just the salon?

23 Okay.

24 MS. COLLINS-BURROUGH: And Vanessa Dale is the

25 owner?

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1 COURT REPORTER: I can't hear you, Susan.

2 MS. COLLINS-BURROUGH: Vanessa Dale is the owner?

3 THE WITNESS: No.

4 MS. GEE: Denise Waggoner.

5 THE WITNESS: Denise Waggoner is the owner.

6 MS. AKARD: Okay. Does she have a current  
7 license?

8 THE WITNESS: Denise Waggoner is not a  
9 cosmetologist.

10 MS. AKARD: The individual that was working there,  
11 did they have a current license?

12 THE WITNESS: Yes. I believe.

13 MS. GEE: I don't know if they --

14 THE WITNESS: Yes. Yes.

15 MS. HOPPER: They are licensed?

16 THE WITNESS: Yes.

17 MS. BURCHETT: Our law states that they are to  
18 be --

19 MS. AKARD: But they are to be working in a

20 licensed salon?

21 MS. HOPPER: Uh-huh.

22 MS. BURCHETT: This order of hearing just refers

23 to the -- to Denise Waggoner.

24 MS. AKARD: Yes.

25 MS. BURCHETT: So my recommendation is she be --

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1 will this be recalculated when she comes in to pay, if  
2 she does? Or is this the amount that she would pay if  
3 she renewed her license?

4 THE WITNESS: That's the amount that was sent to  
5 her at the time that we sent that, and the fine or the  
6 amount that she paid is based upon what the board  
7 decides here today, at the time that she comes in.

8 MS. BURCHETT: Well, it would need to be  
9 calculated when she comes in, recalculated. Is that  
10 not correct?

11 MS. GEE: Well, you would have to find a specific  
12 amount today.

13 THE WITNESS: You have to find a specific amount  
14 today.

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

17 MS. HOPPER: Sheila, this is still an operating  
18 salon?

19 THE WITNESS: As far as I know.

20 MS. HOPPER: But we don't really know?

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

22 As far as I know. I talked to her on the phone a  
23 couple of weeks ago and as far as I know she is still  
24 operating a salon. She also owns a barber school in  
25 Fort Smith.

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1 MS. HOPPER: Oh.

2 COURT REPORTER: I can't hear you, Barbara.

3 HEARING OFFICER JONES: Yeah. Be sure and speak  
4 up because we're on the record and she has to hear your  
5 comments or the questions.

6 MS. WARD: I say if she owns a barber school and  
7 doesn't have the license renewed, she knows better.

8 HEARING OFFICER JONES: Further questions from the  
9 board for Ms. Caudle?

10 If there are no further questions, we'll close  
11 this portion of the record and we'll recess for  
12 deliberations. Once a decision of the board has been  
13 reached, we'll go back on the record for the completion  
14 of Hearing 2079.

15 (WHEREUPON, the Board retired to deliberate, off  
16 the record, and returned with the following motion:)

17 HEARING OFFICER JONES: Okay. At this time we'll  
18 go back on the record for a decision of the board.

19 Is there a motion?

20 Is there a motion?

21 MS. BURCHETT: Yeah. Yes.

22 HEARING OFFICER JONES: Go ahead.

23 MS. BURCHETT: If you need to change it, just do

24 so at the end.

25 Finding the allegations being true, I move to

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1 order the respondent to pay a fine in the amount of  
2 \$465, payable within 35 days of receipt of the board's  
3 order. Failure to pay the fine as ordered will result  
4 in a suspension of the respondent's establishment  
5 license, being -- beginning 30 days from the receipt of  
6 the order and continuing for a period of 90 days from  
7 the date the respondent relinquishes his or her license  
8 to the board.

9 MS. CAVER: I second that.

10 HEARING OFFICER JONES: There is a motion and a  
11 second.

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

13 (Hands raised.)

14 Please let the record reflect the decision of the  
15 board is unanimous. Reduce this decision to writing,  
16 make or attempt service upon all parties, and let the  
17 respondent know if they care to take an appeal of this  
18 decision, one is available under the Administrative  
19 Procedures Act found at Arkansas Code Annotated

20 25-15-201.

21 Are there any other questions or comments

22 concerning Hearing No. 2079?

23 MS. BURCHETT: I recommend order of service of

24 notice of hearing sent to Vanessa Dale and Heather Bull

25 for \$25 each for working in an unlicensed salon.

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1 HEARING OFFICER JONES: Okay. Your recommendation  
2 will be noted.

3 Any other questions or comments?

4 If there are none, we'll close the hearing -- we  
5 will close the record for Hearing 2079.

6 ADMINISTRATIVE HEARING NO. 08-2087

7 SHEAR ILLUSIONS, PAMELA CAUDLE

8 HEARING OFFICER JONES: At this time we'll move on  
9 to Hearing 08-2087. Shear Illusions, 2087.

10 Ms. Gee, you may proceed when you are ready.

11 MS. GEE: I would like to call Sheila Caudle,  
12 please.

13 HEARING OFFICER JONES: Go right ahead.

14 WHEREUPON,

15 SHEILA CAUDLE,

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

17 sworn by the undersigned notary public, was examined and

18 testified, as follows:

19 THE WITNESS: Sheila Caudle, Director of

20           Cosmetology Board.

21                           DIRECT EXAMINATION

22 BY MS. GEE:

23 Q   Did you send Order and Notice of Hearing to Pamela Caudle

24 and Shear Illusions of today's hearing?

25 A   I did.

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1 Q Did Ms. Caudle receive notice?

2 A Yes. She did.

3 Q And would you testify about what the receipt indicates?

4 A She signed it on February 20, 2009.

5 Q Okay. Thank you.

6 And did the board inspector visit Shear Illusions --

7 A Yes, she did.

8 Q -- on November 12?

9 A (Nodding head up and down.)

10 Q Do you have an inspection report that was filled out by

11 Ms. Lester?

12 A I do.

13 Q And does that indicate licensing violations?

14 A It does.

15 Q Could you please tell the board what those were?

16 A She's got no checked for salon license current and

17 practitioner's license current. She also has no checked for

18 salon license and permits posted and all posted license are

19 current.

20 Q Okay. And based on the board's licensing records -- are you

21 familiar with those?

22 A I am.

23 Q Could you testify, please, and let the board know what the

24 status of Ms. Caudle's practitioner license and the salon license

25 for Shear Illusions is?

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1 A Pamela Caudle's practitioner's license was last renewed  
2 12/31/2007. The license for Shear Illusions was last renewed  
3 12/31/2007. So she has not to this date renewed either license.

4 Q And when you say it was last renewed 12/31/07, did you  
5 mean --

6 A That's when they expired.

7 Q That's when they expired.

8 Okay. So neither the practitioner's license nor the salon  
9 license have been renewed since the 2007 licensing year?

10 A That's correct.

11 Q And they currently are not renewed?

12 A That's correct.

13 MS. GEE: I would like to introduce the board's  
14 records, the Order and Notice of Hearing, the  
15 inspection report, and the receipt as Exhibit 1,  
16 please.

17 HEARING OFFICER JONES: Those will be admitted as  
18 such for Hearing 08-2087.

19 (WHEREUPON, Exhibit No. 1 (08-2087) was received

20 in evidence.)

21 MS. GEE: And I have nothing further.

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

23 Are there any questions of the board for

24 Ms. Caudle?

25 MS. WARD: Do you know if the salon is in

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1 operation at this present time?

2 THE WITNESS: I'm not sure. Not until the  
3 inspector goes back by do we know that.

4 She was there in November 12, 2008.

5 MS. LESTER: I was there in November.

6 MS. AKARD: They were still there?

7 THE WITNESS: Yes.

8 MS. AKARD: Was it busy?

9 MS. LESTER: No.

10 HEARING OFFICER JONES: Wait. You-all can't ask  
11 questions of her. She was not called as a witness.

12 MS. GEE: Wait. Wait.

13 I would like to call Lavonne Lester, please, so  
14 the board can ask her some questions.

15 MS. COLLINS-BURROUGH: Thank you.

16 WHEREUPON,

17 LAVONNE LESTER,

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 MS. GEE: Go ahead.

22 Go ahead.

23 HEARING OFFICER JONES: Do you have any questions

24 for Ms. Lester?

25 MS. GEE: I don't have any questions for

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1 Ms. Lester.

2 HEARING OFFICER JONES: Okay. Does the board have  
3 any questions for Ms. Lester?

4 MS. AKARD: Was she busy?

5 THE WITNESS: She wasn't busy, but she was there.  
6 She was there.

7 MS. AKARD: And this was in November?

8 THE WITNESS: Uh-huh. Yes.

9 MS. WARD: How big is that salon?

10 THE WITNESS: Two operators.

11 MS. AKARD: Does she have any other --

12 THE WITNESS: There wasn't anyone else working for  
13 there then, but in the past she had more operators in  
14 there.

15 HEARING OFFICER JONES: Further questions for  
16 Ms. Lester or Ms. Caudle?

17 MS. COLLINS-BURROUGH: I do.

18 So her license expired on 2007?

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

20 MS. COLLINS-BURROUGH: How many times were you  
21 there in 2008, roughly?

22 THE WITNESS: I believe three times, but at two  
23 previous times she was closed. This particular day she  
24 was in there.

25 MS. COLLINS-BURROUGH: Did you look in the windows

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1 at the time she was closed and it appeared she was  
2 working?

3 THE WITNESS: Uh-huh.

4 The shop was all set up. Uh-huh.

5 MS. COLLINS-BURROUGH: Okay. Thank you.

6 HEARING OFFICER JONES: Further questions for  
7 either of these witnesses?

8 If the board has no further questions, we will  
9 close the record at this time and we will recess for  
10 deliberations. Once a decision of the board has been  
11 reached, we will go back on the record to conclude  
12 Hearing 2087.

13 (WHEREUPON, the Board retired to deliberate, off  
14 the record, and returned with the following motion:)

15 HEARING OFFICER JONES: Okay. Let's go back on  
16 the record for some further questions of the witnesses.

17 MS. GEE: I would like to recall Ms. Caudle, if I  
18 could, please.

19 HEARING OFFICER JONES: That's just fine.

20 WHEREUPON,

21 SHEILA CAUDLE,

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

23 sworn by the undersigned notary public, was examined and

24 testified, as follows:

25 DIRECT EXAMINATION

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1 BY MS. GEE:

2 Q Ms. Caudle, could you please testify how the proposed  
3 penalty was calculated for those violations?

4 A It was just calculated on the licensing issues of \$25 for  
5 the practitioner and \$25 for the salon, and it's the total is  
6 \$868.

7 MS. COLLINS-BURROUGH: Plus the days or what?

8 THE WITNESS: Plus the days.

9 MS. COLLINS-BURROUGH: Dollar a day?

10 BY MS. GEE:

11 Q Okay. When you -- okay. Let's back up.

12 You're saying for the licensing issues you're talking about  
13 the licenses not being renewed?

14 A Correct.

15 Q For the practitioner or for the salon?

16 A Both.

17 Q Okay. And how does the \$434 -- where does that number come  
18 from?

19 A The \$434 is for Pamela Caudle.

20 Q Uh-huh.

21 A It's a 25-dollar base fee plus the dollar per day. And then

22 you have another \$424 -- \$434 for Shear Illusions, 25-dollar base

23 fee, a dollar per day.

24 Q And that's -- the dollar per day is from January 1, 2008

25 until the day the letter was sent?

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1 A Correct.

2 Q So adding those two together, the proposed penalty was \$868?

3 A Correct.

4 MS. GEE: Okay.

5 HEARING OFFICER JONES: Are you finished, Ms. Gee?

6 MS. GEE: I am.

7 Sorry.

8 HEARING OFFICER JONES: Any questions from the

9 board?

10 MS. BURCHETT: Other than the license not being  
11 current, there were also expired license posted?

12 THE WITNESS: Correct.

13 MS. LESTER: Right.

14 MS. BURCHETT: Which would have been two more  
15 violations?

16 THE WITNESS: 25 dollars. Correct.

17 MS. AKARD: Which would have been \$50, an  
18 additional 50.

19 I would like to see her be in compliance. I know

20           it's hard for me to say I'm squawking about the money  
21           because I'm usually thinking we need to charge them  
22           more. But, boy, I would like to see her --

23           MS. BURCHETT: Well, we just need to be  
24           consistent --

25           MS. AKARD: Well --

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1 MS. BURCHETT: -- if it's a violation and the  
2 amount is stated, then that's what needs to happen. I  
3 mean I --

4 MS. AKARD: I know. I know. Yeah. You are  
5 exactly right.

6 MS. BURCHETT: So my recommendation would be the  
7 amount that's here plus \$50 to cover the other two  
8 violations.

9 HEARING OFFICER JONES: Okay. So are there any  
10 questions, because if you all are just going to talk  
11 about what you want to do, we'll need to go off the  
12 record.

13 MS. BURCHETT: Sorry.

14 I thought we were off again. I can't keep up.

15 HEARING OFFICER JONES: That's okay.

16 So questions? Any further questions?

17 MS. AKARD: No.

18 HEARING OFFICER JONES: Okay. At this time we'll  
19 close the record for deliberations.

20 (WHEREUPON, the Board retired to deliberate, off

21 the record, and returned with the following motion:)

22 HEARING OFFICER JONES: Okay. At this time we'll

23 go back on the record for a motion.

24 Is there a motion?

25 MS. BURCHETT: Yes.

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1 HEARING OFFICER JONES: Go right ahead.

2 MS. BURCHETT: Finding the allegations being true,  
3 I move to order the respondent to pay a fine in the  
4 amount of \$918, payable within 30 days of receipt of  
5 the board's order. A failure to pay the fine as  
6 ordered will result in a suspension of the respondent's  
7 establishment license beginning 30 days from receipt of  
8 the order and continuing for a period of 90 days from  
9 the date the respondent relinquishes his or her license  
10 to the board.

11 HEARING OFFICER JONES: Motion. Do we have  
12 a second?

13 MS. WARD: Second.

14 MS. BURCHETT: Do we have a little bit of  
15 discussion?

16 I need to ask you a question.

17 HEARING OFFICER JONES: Yeah. That's fine,  
18 especially on the motion.

19 MS. BURCHETT: Do I need to change that to say the

20 respondent's establishment and practitioner license,

21 because this involves both?

22 HEARING OFFICER JONES: Well, the thing is that

23 she doesn't have either one of those, so how are you

24 going to suspend them?

25 MS. BURCHETT: Well, they are expired but --

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1 MS. GEE: What?

2 HEARING OFFICER JONES: If she doesn't have --  
3 she's asking does it need to be both?

4 MS. BURCHETT: She has expired ones.

5 MS. GEE: Yes. Right.

6 HEARING OFFICER JONES: So do they need to suspend  
7 if it is expired?

8 MS. GEE: Yes.

9 Because she still has the right to renew. She  
10 still has something.

11 MS. BURCHETT: Okay. I would like to change my  
12 motion to state the respondent's establishment and  
13 practitioner license.

14 HEARING OFFICER JONES: So, to clarify, the motion  
15 will be for \$918, if it's not paid within 30 days, it  
16 will be a suspension of the establishment and  
17 practitioner's license?

18 MS. BURCHETT: Yes.

19 HEARING OFFICER JONES: Is everybody clear on the

20 motion?

21 BOARD MEMBERS: Yes.

22 HEARING OFFICER JONES: Second still stand?

23 MS. WARD: Yes.

24 HEARING OFFICER JONES: Okay. All those in favor,

25 please raise your right hand.

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1 (Hands raised.)

2 Thank you.

3 Let the record reflect the decision of the board  
4 is unanimous. Please reduce this decision to writing  
5 and make or attempt service upon all parties. Let the  
6 respondent know that if they care to appeal the  
7 decision, one can be taken under the Administrative  
8 Procedures Act found at Arkansas Code Annotated  
9 25-15-201, et seq.

10 Are there any other questions or comments relating  
11 to Hearing 2087?

12 If there are none, we'll close the record for  
13 Hearing 08-2087, and open a record for 08-2089, which  
14 is New B & D Beauty.

15 MS. GEE: Can we do 2101, please?

16 HEARING OFFICER JONES: Yes.

17 MS. GEE: While we have Ms. Lester.

18 HEARING OFFICER JONES: Change of plans. We're  
19 going to do 08-2101. 2101 I think is the last one in

20 the packet.

21 MS. GEE: Yes.

22 ADMINISTRATIVE HEARING NO. 08-2101

23 ANGEL DAVIS PENN

24 HEARING OFFICER JONES: This is Angel Davis Penn.

25 Go ahead, Ms. Gee, on 08-2101.

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1 MS. GEE: I would like to call Ms. Caudle, please.

2 WHEREUPON,

3 SHEILA CAUDLE,

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

5 sworn by the undersigned notary public, was examined and

6 testified, as follows:

7 THE WITNESS: Sheila Caudle, Director, Cosmetology

8 Board.

9 MS. GEE: It's the last one.

10 DIRECT EXAMINATION

11 BY MS. GEE:

12 Q Sorry, Ms. Caudle.

13 In your position as director, did you serve Order and Notice

14 of today's hearing on Angel Davis-Penn?

15 A I did.

16 Q And did Ms. Penn receive that notice?

17 A Yes.

18 Q And it --

19 A It was signed for on February 23, 2009.

20 Q Thank you.

21 And did the board's inspector, Ms. Lester, indicate that  
22 Ms. Angel Davis Penn was in violation of the board's rules?

23 A Yes.

24 Q What was that violation?

25 A Practitioner's license were not current at the time of her

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1 inspection, and all posted license were not current.

2 Q Okay. And that was on what date?

3 A September 12, 2008.

4 Q Okay. And based on the board's records, are you familiar

5 with the current status of Ms. Davis-Penn's license?

6 A I am.

7 Q What is that?

8 A Ms. Penn actually renewed that license on September the

9 16th, 2008.

10 Q So is she current at this time?

11 A She is current at the time.

12 Q And so when was the date of the inspection?

13 A September the 12th, 2008.

14 Q So four days later Ms. Penn renewed her license?

15 A Correct.

16 Q And paid --

17 A Paid \$150. A hundred dollars renewal fee and 50-dollar late

18 fee.

19 MS. GEE: Okay. Thank you.

20 I have nothing further for Ms. Penn -- I mean,

21 excuse me, Ms. Caudle, or Ms. Penn.

22 I would like to like to call Ms. Lester, please.

23 HEARING OFFICER JONES: Go right ahead.

24 WHEREUPON,

25 LAVONNE LESTER,

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1 having been called for examination, and having been first duly  
2 sworn by the undersigned notary public, was examined and  
3 testified, as follows:

4 DIRECT EXAMINATION

5 BY MS. GEE:

6 Q Ms. Lester, was everything else at the salon at the time of  
7 your visit in compliance?

8 A Yes.

9 And actually it was a new salon, and I had just gone there  
10 to approve it for a license.

11 Q Okay. And so were they working?

12 A Yes.

13 Q Oh, they were?

14 A And I believe I'm -- I remember talking with the owner about  
15 Charlene's license and that they weren't current, and the owner  
16 didn't even know that they weren't current. But I explained to  
17 her that she needed to not let her work if she wasn't going to  
18 have a current license, and --

19 Q And that was Ms. Hixon that you spoke with?

20 A Uh-huh.

21 And so, as you see, she renewed very quickly.

22 MS. GEE: I have nothing further, except to  
23 introduce my letter, receipts, the board's records, and  
24 the inspection report as Exhibit 1.

25 HEARING OFFICER JONES: Those will be admitted as

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1 Exhibit 1 to Hearing 08-2101.

2 (WHEREUPON, Exhibit No. 1 (08-2101) was received  
3 in evidence.)

4 HEARING OFFICER JONES: Are there any questions  
5 from the board for either of the witnesses?

6 Questions from the board for Ms. Lester or  
7 Ms. Caudle, either one?

8 MS. BURCHETT: Did you say they were current salon  
9 license posted?

10 THE WITNESS: It was a new salon. She didn't even  
11 have her license yet.

12 MS. BURCHETT: Oh, okay.

13 THE WITNESS: I was taking her license to her.

14 MS. BURCHETT: Okay.

15 HEARING OFFICER JONES: Further questions?

16 If there are no further questions.

17 MS. AKARD: But this -- this -- but Angel was  
18 working in this new salon and she was the one that did  
19 not have --

20 THE WITNESS: Angel is the one that did not have a  
21 current license.

22 MS. AKARD: And the salon was -- was letting her  
23 work there without --

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

25 She wasn't aware that they weren't current. The

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1 owner was not aware that Angel's license were not  
2 current.

3 MS. HOPPER: And she didn't check?

4 MS. BURCHETT: So the fine is based on what?

5 MS. CAUDLE: The fine was based on Angel's last  
6 expiration date was 12/31/2007, up until her renewal  
7 date, plus the base of 25. Her fine is \$430.

8 MS. GEE: No.

9 MS. CAUDLE: 259. I'm sorry.

10 I've got a typo on my sheet.

11 No, I don't. I'm on the wrong line.

12 259, it was her fine.

13 MS. COLLINS-BURROUGH: Still asking questions?

14 HEARING OFFICER JONES: Okay. Further questions?

15 MS. COLLINS-BURROUGH: I do. I have a question.

16 Lavonne, the license was posted, correct?

17 Her license was posted, and that salon owner

18 says --

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

20 MS. COLLINS-BURROUGH: -- she did not realize it  
21 was expired even though it was hanging there?

22 THE WITNESS: Uh-huh.

23 MS. COLLINS-BURROUGH: Okay.

24 THE WITNESS: But that's not unusual.

25 MS. COLLINS-BURROUGH: Yeah.

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1 Thank you.

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

4 MS. BURCHETT: Sorry.

5 But Angel -- Angel renewed and that would have  
6 been her -- her penalty?

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

8 MS. BURCHETT: Right?

9 MS. CAUDLE: Right.

10 MS. BURCHETT: Oh, this says Angel.

11 MS. CAUDLE: Yes, ma'am.

12 MS. BURCHETT: Okay. I was -- but she renewed?

13 MS. CAUDLE: Yes, ma'am.

14 MS. BURCHETT: So did she not pay her penalty?

15 MS. CAUDLE: She renewed four days after the  
16 inspection, which we had no way to know that there was  
17 a penalty until we get the inspection report.

18 MS. BURCHETT: Oh.

19 MS. CAVER: But she did pay the 50-dollar late

20 fee?

21 MS. CAUDLE: Yes. She did.

22 MS. SMITH: But she wasn't --

23 MS. BURCHETT: So would we take \$50 from this

24 recommended fine?

25 MS. CAUDLE: She owed the 50-dollar late fee for

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1 renewing late, just as if you were --

2 MS. BURCHETT: Right. But she has paid that?

3 MS. CAUDLE: Yes. She paid --

4 MS. BURCHETT: She paid that?

5 MS. CAUDLE: She renewed her license and paid her

6 late fee.

7 She still owes, according to our records for the

8 days that she was expired, \$259.

9 MS. SMITH: But she wouldn't have known she was

10 late if she hadn't been down there?

11 MS. AKARD: She would have kept working.

12 MS. SMITH: I mean that's what I'm saying, so I

13 mean --

14 MS. BURCHETT: Okay. So this one is for Angel's

15 penalty. And then we would need to recommend that the

16 owner have a 25-dollar fine --

17 MS. CAUDLE: Uh-huh.

18 MS. BURCHETT: -- for allowing expired license on

19 the wall?

20 MS. CAUDLE: Yes, ma'am.

21 MS. BURCHETT: Okay. I think we're --

22 HEARING OFFICER JONES: Any further questions?

23 Close the record for deliberations.

24 (WHEREUPON, the Board retired to deliberate, off

25 the record, and returned with the following motion:)

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1 HEARING OFFICER JONES: Okay. We'll go back on  
2 the record for a decision of the board.

3 Is there a motion?

4 MS. BURCHETT: Yes.

5 HEARING OFFICER JONES: Go right ahead.

6 MS. BURCHETT: Finding the allegations being true,  
7 I move to order the respondent to pay a fine in the  
8 amount of \$259, payable within 30 days of receipt of  
9 the board's order. Failure to pay the fine as ordered  
10 will result in suspension of the respondent's  
11 practitioner's license beginning 30 days from the  
12 receipt of the order and continuing for a period of 90  
13 days from the date the respondent relinquishes his or  
14 her license to the board.

15 HEARING OFFICER JONES: Is there a second?

16 MS. AKARD: I second the motion.

17 HEARING OFFICER JONES: We have a motion and a  
18 second. All those in favor, please raise your right  
19 hand.

20 (Hands raised.)

21 Please let the record reflect the decision of the

22 board is unanimous. Please reduce the decision to

23 writing, make or attempt service upon all parties.

24 Inform the respondent that if they care to take an

25 appeal of this decision, one may be taken under the

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1 Administrative Procedures Act found at Arkansas Code  
2 Annotated 25-15-201, et seq.

3 Any other questions or comments concerning Hearing  
4 2101?

5 MS. BURCHETT: I recommend Jeanie -- Jeanie Hixon,  
6 owner of this salon, whatever the name of it is, be  
7 sent a notice of hearing for a penalty of \$25 for  
8 allowing an expired license to be hanging on the wall  
9 in her salon.

10 HEARING OFFICER JONES: Okay. That recommendation  
11 will be so noted.

12 At this time 2101 will be closed and we will move  
13 on to the next hearing, which is 08-2089.

14 ADMINISTRATIVE HEARING NO. 08-2089

15 NEW B&D BEAUTY SHOP

16 HEARING OFFICER JONES: 2089, and this is New B&D  
17 Beauty Shop.

18 Go right ahead, Ms. Gee.

19 MS. GEE: I would like to call Ms. Caudle, please.

20 WHEREUPON,

21 SHEILA CAUDLE,

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 THE WITNESS: Sheila Caudle Director, Cosmetology,

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1 Board.

2 DIRECT EXAMINATION

3 BY MS. GEE:

4 Q Ms. Caudle, did you serve Order and Notice of Hearing upon  
5 New B&D Beauty Shop and Doris Franklin?

6 A I did.

7 Q And did Ms. Franklin and the beauty shop receive that  
8 notice?

9 A Yes.

10 It was signed for February 18, 2009 by Doris Franklin.

11 Q Thank you.

12 Based on the board's records, did New B&D Beauty Shop have  
13 any alleged violations of the board's rules?

14 A Yes.

15 Q And what were those?

16 A Salon license were not current, and salon license were not  
17 posted.

18 Q And what date were those violations noted by the board's  
19 inspector?

20 A December 5, 2008.

21 Q Just for the record, what inspector was that?

22 A Ms. Jackson.

23 Q Thank you.

24 So the -- she noted the salon license was not current on

25 that date and it was not posted. Is that correct?

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1 A Correct.

2 Q Okay. Based on your knowledge of the board's records of the  
3 license issued to this salon, could you tell the board, please,  
4 what is the current state of that license?

5 A That license was renewed on February 6, 2009.

6 Q Okay. And so it is now current?

7 A It is now current.

8 Q And please tell the board what the proposed penalty for that  
9 alleged violation is and how it was calculated?

10 A It's \$430. And it's \$25, and I think it was for each, but  
11 it's a dollar per day, so it was 365.

12 Q For each?

13 A For each violation, until the time this letter was sent out,  
14 which would have been February 15, which would have made \$430.

15 Q Okay. And that is, just to be clear, the salon license in  
16 this Order and Notice of Hearing was issued to the salon?

17 A Correct.

18 MS. GEE: Okay. I would like to introduce the  
19 letter, the inspection report, the board's licensing

20 records, and the certified mail receipt as Exhibit 1.

21 And I have no further questions.

22 HEARING OFFICER JONES: Those will be admitted as

23 Exhibit 1 to Hearing 08-2089.

24 (WHEREUPON, Exhibit No. 1 (08-2089) was received

25 in evidence.)

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1 HEARING OFFICER JONES: Are there any questions  
2 from the board for Ms. Caudle?

3 MS. AKARD: So this salon did not have a current  
4 license?

5 THE WITNESS: That's correct.

6 MS. AKARD: In what year?

7 THE WITNESS: The license expired 12/31/2007, and  
8 Ms. Jackson was there to inspect 12/5/2008.

9 MS. AKARD: So basically the entire year?

10 THE WITNESS: Yes, ma'am.

11 MS. AKARD: Okay.

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

14 MS. BURCHETT: Did they renew?

15 THE WITNESS: Yes, ma'am.

16 MS. BURCHETT: Oh, okay.

17 THE WITNESS: They renewed February the 6th.

18 HEARING OFFICER JONES: Any further questions from  
19 the board?

20           If there are no further questions, we'll close the  
21           record at this time and go off to recess for  
22           deliberations. Once a decision has been made, we will  
23           go back on the record.

24           (WHEREUPON, the Board retired to deliberate, off  
25           the record, and returned with the following motion:)

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1 HEARING OFFICER JONES: Okay. At this time we'll  
2 go back on the record for a decision of the board.

3 Is there a motion?

4 MS. BURCHETT: Yes.

5 MS. AKARD: I'll make a motion.

6 HEARING OFFICER JONES: Go ahead, Tracy.

7 MS. AKARD: Finding the allegations being true, I  
8 move to order the respondent to pay the amount, the  
9 fine in the amount of \$430, payable within 30 days of  
10 the receipt of the board's order. Failure to pay the  
11 fine as ordered will result in the suspension of the  
12 respondent's salon license beginning 30 days from the  
13 receipt of the order and continuing for a period of 90  
14 days from the date of the respondent's relinquishing  
15 his or her license to the board.

16 HEARING OFFICER JONES: We have a motion. Is  
17 there a second?

18 MS. BURCHETT: Second.

19 HEARING OFFICER JONES: We have a motion and

20 a second.

21 All those in favor, please raise your hand.

22 (Hands raised.)

23 Let the record reflect the decision of the board

24 is unanimous. Please reduce the decision to writing

25 and make or attempt service upon all parties. Let the

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1       respondent know if they care to appeal such decision,  
2       that may be taken under the Administrative Procedures  
3       Act at 25-15-201, et seq.

4             Are there any other questions or comments  
5       concerning Hearing 2089?

6             If there are none, we'll move to the final Hearing  
7       08-2099.

8             ADMINISTRATIVE HEARING NO. 08-2099

9             PLAZA SALON, BONNIE COLEMAN

10            HEARING OFFICER JONES: 08-2099, Plaza Salon.

11            MS. GEE: I would like to call Sheila Caudle,  
12       please.

13            HEARING OFFICER JONES: Go right ahead, Ms. Gee.

14       WHEREUPON,

15            SHEILA CAUDLE,

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

17       sworn by the undersigned notary public, was examined and

18       testified, as follows:

19            THE WITNESS: Sheila Caudle, Director, Cosmetology

20 Board.

21 DIRECT EXAMINATION

22 BY MS. GEE:

23 Q Ms. Caudle, did you send an Order and Notice of Hearing to

24 Plaza Salon and Bonnie Coleman?

25 A Yes. I did.

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1 Q And did Ms. Coleman receive that?

2 A Yes.

3 She received the delivery of the certified mail on  
4 February 18, 2009.

5 Q Okay. And what violations were alleged against Ms. Coleman?

6 A Her salon license were not current, the practitioner's  
7 license were not current, and all posted license were not  
8 current.

9 Q Okay. And what is the proposed penalty for these violations  
10 under the board's policy?

11 A \$868.

12 Q Could you tell us how that was calculated?

13 A That's calculated at 25-dollar base, plus a dollar per day  
14 on each license.

15 Q So that would be \$434 for the salon license being expired  
16 and 434 for the practitioner license?

17 A Correct.

18 Q And what is the current status of those two licenses?

19 A To date these license have not been renewed.

20 Q So neither the salon nor the practitioner have been renewed?

21 A Neither one.

22 Q And when did they expire?

23 A 12/31/2007.

24 Q And that's for both of those?

25 A That's for both of them.

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1 MS. GEE: Thank you.

2 I would like to call Ms. Morgan, please.

3 HEARING OFFICER JONES: Go right ahead.

4 WHEREUPON,

5 BRENDA MORGAN,

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 Ms. Morgan, could you state your occupation for the record,

12 please?

13 A I'm an inspector for the board.

14 Q And, I'm sorry, your first name was Brenda?

15 A Brenda Morgan.

16 Q Thank you.

17 Ms. Morgan, did you inspect the Plaza Salon on September 26,

18 2008?

19 A Yes. I did.

20 Q And on the date of that inspection, could you tell the

21 board, please, what you discovered about the licenses?

22 A This is a one operator shop, but she does have three

23 stations but she mans it by herself.

24 I went in and she was performing services on a client, and

25 proceeded to tell me that she had renewed her license but just

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1 never did get it.

2 Well, that's the likely story that they usually tell you.

3 So I told her that I would check. This was at the time that  
4 things were kind of in a turmoil.

5 But she evidently hasn't renewed in some time.

6 Q Okay. So she told you that she had sent everything in  
7 but --

8 A She said please check, she mailed all requested items for  
9 renewal.

10 Q Did she show you any documentation about that or anything?

11 A No. She did not.

12 Q Okay. Based on the board's records, that was not true?

13 A That's what I assume so. Yes.

14 HEARING OFFICER JONES: Anything further, Ms. Gee?

15 MS. GEE: No.

16 Thank you. I have nothing further.

17 MS. AKARD: Was there something you need to say?

18 MS. GEE: Thank you.

19 I would like to introduce the letter, Order and

20 Notice of Hearing, the certified mail and the  
21 inspection report and the board's licensing records as  
22 Exhibit 1.

23 And now I have nothing further.

24 HEARING OFFICER JONES: Okay. Those will be  
25 admitted as Exhibit 1 to Hearing 08-2099.

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1 (WHEREUPON, Exhibit No. 1 (08-2099) was received  
2 in evidence.)

3 HEARING OFFICER JONES: At this time are there any  
4 questions from the board for either of the witnesses?

5 MS. AKARD: Was there something that you wanted to  
6 say?

7 HEARING OFFICER JONES: Well, just be sure you're  
8 loud enough so that the court reporter can hear you.

9 THE WITNESS: Okay. Can I say something about the  
10 case, then? Is that correct?

11 HEARING OFFICER JONES: Well, typically it would  
12 be asked in question form, but I guess do you have  
13 anything further you would like to add is close enough,  
14 so --

15 MS. AKARD: Do you have anything further you would  
16 like to add?

17 THE WITNESS: Yes. There is.

18 This particular salon, I've inspected it a few  
19 days before. And as usual, it had a -- it was closed,

20           there was no one there. But it just so happened, I  
21           feel like that they knew I was in town and on another  
22           day I came by and she was open. That's why I feel like  
23           that it should be, you know, acknowledged that I had  
24           been by the salon more than this one time and it had  
25           been closed for today, so evidently, you know, I was

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1 missing her thinking she was closed and had her  
2 license, but evidently that was untrue.

3 MS. HOPPER: Weren't there other people working at  
4 that salon?

5 THE WITNESS: No.

6 MS. HOPPER: Okay.

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

9 Any further questions?

10 MS. WARD: She still doesn't have a license?

11 MS. CAUDLE: (Shaking head from side to side.)

12 HEARING OFFICER JONES: Anything further from the  
13 board for either of these witnesses?

14 Would the board like to recess for deliberations  
15 at this time or are you ready to make a motion right  
16 now?

17 MS. BURCHETT: I have a motion.

18 HEARING OFFICER JONES: If there is a motion at  
19 this time we'll have no deliberations. Go right ahead

20 with your motion.

21 MS. BURCHETT: Finding the allegations being true,

22 I move to order the respondent to pay a fine in the

23 amount of \$868, payable within 30 days of receipt of

24 the board's order. Failure to pay the fine as ordered

25 will result in a suspension of the respondent's

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1 salon -- or establishment and practitioner license,  
2 beginning 30 days from the receipt of the order and  
3 continuing for a period of 90 days from the date the  
4 respondent relinquishes his or her license to the  
5 board.

6 HEARING OFFICER JONES: We have a motion. Is  
7 there a second?

8 MS. HOPPER: Second it.

9 HEARING OFFICER JONES: Motion and a second.

10 At this time all those in favor, please raise your  
11 right hand.

12 (Hands raised.)

13 Please let the record reflect the decision of the  
14 board is unanimous, reduce the decision to writing, and  
15 attempt or make service upon all parties. Let the  
16 respondent know if they care to take an appeal, one may  
17 be taken under the Administrative Procedures Act found  
18 at Arkansas Code Annotated 25-15-201, et seq.

19 Are there any questions or comments concerning

20           Hearing 2099?

21           If there are no questions or comments concerning  
22           this Hearing 2099, it will be closed and this record is  
23           complete.

24           Thank you, all.

25           MS. JACKSON: Madam Chairman, may I say something?

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1 MS. COLLINS-BURROUGH: Yes.

2 MS. JACKSON: Was our licensing period extended  
3 until June 15th of 2008? Or was that June -- June  
4 something?

5 Did we not extend that period?

6 MS. MORGAN: June the 1st?

7 MS. JACKSON: Or was it 2007?

8 MS. CAVER: It was 2008.

9 MS. JACKSON: I was thinking it was '08.

10 So would not the folks that normally would have  
11 expired dah, dah, dah time not have until June 15th  
12 or 30th, whenever we extended that?

13 MS. COLLINS-BURROUGH: Uh-huh.

14 MS. CAUDLE: If they did not renew, we just based  
15 it on the regular renewal period.

16 MS. JACKSON: Well, I know that, but I was just  
17 wondering because I know that we allowed people to go  
18 ahead and renew up until that period of time, so -- but  
19 that was just something that I thought of.

20 MS. GEE: Well, none of these people did renew by  
21 that time. I mean if they had, I guess that would  
22 be --

23 MS. JACKSON: Then that would have applied?

24 MS. GEE: Uh-huh.

25 MS. JACKSON: Got you.

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1 MS. BURCHETT: Madam Chair?

2 MS. COLLINS-BURROUGH: Yes.

3 MS. BURCHETT: I would just like to make a  
4 recommendation that Bobbie King and Shikara Montgomery  
5 that works at B&D Beauty Shop be sent a notice and  
6 order, an order of hearing for working in an  
7 unlicensed -- a salon with expired license.

8 MS. COLLINS-BURROUGH: So noted.

9 Brenita? Okay.

10 Okay. I have a request for a hearing?

11 MS. KIDD: Yes. Good morning.

12 BOARD MEMBERS: Morning.

13 MS. KIDD: Arkansas State Board of Cosmetology, to  
14 the director, and to the staff, my name is Brenita  
15 Williams Kidd, I am a cosmetology establishment owner,  
16 and I enrolled in the Deluxe Beauty School in Pine  
17 Bluff June 4, 2008. I observed and reported some  
18 unfair practices on October 31, 2008. I was terminated  
19 October 23, 2008. It has been five months. I've

20           responded to -- well, actually, I've submitted

21           documentation to Ms. Sheila Caudle.

22           Ms. Caudle, thank you for responding --

23           MS. CAUDLE: You're welcome.

24           MS. KIDD: -- as soon as you have been.

25           I have a total of 433 hours that are uncertified.

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1           Ten years ago I went to Phillips County Community  
2           College and I obtained 1,025 -- or 75 hours. I'm  
3           sorry, 1,025. And after you-all reinstated  
4           January 2008, you the board reinstated the hours, I  
5           re-enrolled June 2008, with a total of 475 hours to  
6           complete.

7           I, after observing and reporting to you-all, I was  
8           terminated, and after I was terminated I was told that  
9           I had only 407 hours. Seems as if the time got longer  
10          and longer for my hours.

11          However I requested to the director to recount my  
12          time clock hours in which I have 433 hours actually.  
13          And I have paid cash for those hours but none of them  
14          are certified, and as I state, it has been five months.  
15          I should have had a cosmetology -- I mean completed the  
16          cosmetology course and probably scheduled to go to the  
17          board to take my state examination.

18          I am here today to just report some of the unfair  
19          practices, if you-all will allow me to, that Deluxe has

20 conducted. And what I'm asking today is that you  
21 further investigate to find some type of resolution  
22 because I am ready to complete my cosmetology course to  
23 go on and further my education as a cosmetology  
24 instructor.

25 Just brought along some things here. I've had

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1 documents falsified submitted to State Board of  
2 Cosmetology, as well as to Veterans Affairs, which  
3 that's no concern. My benefits have been taken due to  
4 a report of unsatisfactory progress, which was not  
5 true. I was -- I excelled very well.

6 My findings were the clocking in of time cards on  
7 a daily basis, each day I went to school I would be at  
8 school at 7:50, eight o'clock. The instructor or her  
9 sister, which is, it's a family oriented business, the  
10 instructor and her sister would clock in time cards.

11 And I was very curious as to whose time cards they  
12 were, and they -- some of them had names on them, some  
13 of them did not have names on them. But I know that  
14 mine had a name on it and I was responsible for being  
15 there for eight hours and I felt like everyone else  
16 should have been responsible for being there as well.  
17 So when I observed and reported, as I said, I was  
18 terminated.

19 And other things were the signing of initials on

20 unidentifiable time cards, which is what I said;  
21 students were attending without permits; students, they  
22 were clocking in -- well, there was a student there  
23 that needed 600 hours for an instruction, instructions  
24 permit, I guess. However she started after myself, she  
25 only attended one day a week, I attended four days a

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1 week, which she was supposed to graduate a day after  
2 me. I have 40 hours to complete before I was  
3 terminated.

4 I'm asking you the board just to possibly  
5 investigate and perhaps find some type of resolution.

6 I won't go on with this because I think you-all  
7 have a report, I'm not sure, you may have the same  
8 report that I have. I won't take up a whole lot of  
9 your time, I just wanted to let you know exactly what  
10 was taking place. And I have been put on hold for five  
11 whole months, and I have dedicated myself to finishing  
12 this program, and I would like for you-all to, as I  
13 said, just to investigate it.

14 That would be all. Thank you.

15 MS. CAUDLE: What Ms. Kidd is asking for, in  
16 essence, is that we certify her hours from this school.  
17 The school has sent in a certification form saying that  
18 they are uncertified. And I, as a director, cannot do  
19 that, and I'm not sure that the board can either.

20           But it's in Rule No. 3 of your rule book, and it's  
21           eligibility for examination. And it says, "If the  
22           training was provided in this state, then the school is  
23           responsible for submitting a certificate of training  
24           from the board office confirming the completion of  
25           hours. In order to be eligible for the examination,

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1       one of the requirements is that the hours be certified  
2       by the school. Certified hours mean that tuition has  
3       either been paid in full or the person has signed a  
4       promissory note that is acceptable to the school."

5             And that's what she's asking you, to make a long  
6       story short.

7             MS. AKARD: Well, when we send in that  
8       certification of hours, there on the back of it we --  
9       we say on the back of that why the student owes money.  
10       If we -- if she is here today, we need to see how much  
11       money the school is saying -- I mean she's asking us to  
12       get involved. We need to see how much money the school  
13       is saying that she is owed. Can we get a copy of that?

14            MS. CAUDLE: You can.

15            MS. KIDD: Excuse me.

16            I have that information readily available. I have  
17       a contract from my school which states that I owe  
18       2,000 -- not that I owe. My initial contract was  
19       \$2,180. I have receipts that I paid the school \$2,140.

20           Actually 2,180 because I sent the last \$40. I've  
21           submitted that information to Ms. Caudle, and I don't  
22           see a reason why those 433 hours should not be  
23           certified.

24           MS. AKARD: What is the school stating that she  
25           still owes?

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1 Can we see her information?

2 MS. WARD: Yeah. Can we see?

3 MS. GEE: If -- wait a minute.

4 My suggestion would be, if you-all would like to  
5 investigate this further, that we need to get a formal  
6 response from the school as to their position regarding  
7 her tuition payment, and then you-all can decide. I  
8 mean if you -- if you feel that the school is really in  
9 error --

10 MS. AKARD: Is that not a formal position, that  
11 form they send in, that certification of hours? Is  
12 that not a formal position? It is with the school's  
13 seal and it's something that they send in that is  
14 saying that she owes X amount of dollars.

15 MS. GEE: Yes. It's not in response to her  
16 allegations, though, so that would be my suggestion.

17 MS. KIDD: Excuse me. I'm sorry.

18 I came here today with intentions of testifying  
19 against Deluxe Beauty School because of the fact that I

20 was initially scheduled a few months ago. They were  
21 here and they are gone now, so I don't know exactly  
22 what happened, if they were rescheduled. This has been  
23 a long, drawn out process for myself, and I am truly,  
24 you know, wanting some type of --

25 MS. AKARD: And, you know, of course we want to do

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1 everything legal, but I hate for her -- you know,  
2 whatever we've got to do to expedite it for her as  
3 well. So whatever we've got to do.

4 MS. WARD: Can I see?

5 MS. AKARD: Yeah.

6 But if we can take a look at that form as well and  
7 let's see what they say she owes.

8 I mean it's got their school seal on it.

9 MS. CAUDLE: Yes, it does.

10 MS. GEE: Essentially what she is saying is that  
11 the school is violating the board's rules by not  
12 properly certifying her hours. I mean that's what her  
13 allegation is. I mean that very well could be true, I  
14 don't know. But in order to proceed on that, the board  
15 ought to issue an Order and Notice of Hearing to the  
16 school on that particular charge and they can respond  
17 to that how ever they want to respond and then you-all  
18 can take action on that. I mean, I don't want to delay  
19 matters any further than they need to be, but if you

20 are going to take action on it, we need to follow the  
21 rules.

22 MS. KIDD: I understand perfectly well, it's just  
23 that it's been such a long time that I have been  
24 submitting and responding to everything and today was  
25 the day that I was scheduled to be here, as well as

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1 Deluxe Beauty School, and it's -- it's just an ongoing  
2 process. And it's really disheartening to me to have  
3 to continue to wait and it's been five months already.

4 MS. GEE: I absolutely understand that. I  
5 apologize to you. I was not involved in that before  
6 today, so...

7 MS. BURCHETT: Did Deluxe Beauty School come  
8 before us for something? For this?

9 MS. GEE: They had to be rescheduled. Not for  
10 this, for --

11 MS. BURCHETT: Oh, it was for something else?

12 MS. GEE: Yes, ma'am.

13 MS. KIDD: That's the second time it has been  
14 rescheduled.

15 MS. GEE: And it can be added on. Her charges can  
16 be added on to the reschedule hearing for Deluxe Beauty  
17 School.

18 MS. CAVER: Do we know when they have been  
19 rescheduled?

20 MS. BURCHETT: Today is the first I've heard of

21 it.

22 MS. WARD: I haven't heard about it either.

23 MS. KIDD: In conversing with the director, it's

24 truly been a long wait.

25 MS. BURCHETT: I understand. I'm sorry.

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1 MS. KIDD: It is a really big file in which I've  
2 submitted information and each time that I'm scheduled  
3 to be here, something else that occurs --

4 MS. BURCHETT: Did we reschedule you?

5 MS. KIDD: No, ma'am. You did not.

6 MS. BURCHETT: Oh.

7 MS. KIDD: I don't know who did. Not the board.

8 MS. BURCHETT: When did you submit your first --

9 MS. KIDD: October 24, 2008 is when I called and  
10 said that I had been terminated. And I know there is  
11 nothing that you can do about me being terminated,  
12 however I have sought legal counsel for another reason  
13 since you-all couldn't do anything about that, so I  
14 asked to appear before the board. I was scheduled  
15 initially January 26, but I was called and told that I  
16 would have to be rescheduled March 16th, and which,  
17 as I stated, it's been five months already and I've  
18 been back and forth. Ms. Caudle has submitted  
19 information. They will not let me have any information

20 out of my file, so I had to request it through the  
21 director, and she would request it and she would get it  
22 back to me. But at the same time, I just feel like if  
23 you-all had any knowledge of it, it would have possibly  
24 been taken care of already.

25 MS. WARD: When did you complete -- when did you

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1 finish at the school?

2 MS. KIDD: I was terminated October 24th, but I  
3 should have been complete September, that's what  
4 brought all of the confusion, September the 8th was  
5 my initial completion date. But I'm under the  
6 impression, due to the fact that I paid cash, that my  
7 months -- I mean my days were prolonged. That's not  
8 important. I was terminated October 24th with 41.5  
9 hours to complete to have 1500 hours.

10 MS. WARD: Okay. I notice on the contract it says  
11 your completion date is 9/24/08.

12 MS. KIDD: It should have been.

13 MS. WARD: And you went beyond that?

14 MS. KIDD: Yes, ma'am. I did.

15 MS. WARD: Okay. Did they advise you that you may  
16 have additional charges because you went beyond your  
17 completion date?

18 MS. KIDD: Correct. I was very aware of that.

19 MS. WARD: Okay. Because I don't see that. That

20           may be why they are holding your hours if you owe them  
21           any additional money.

22           MS. KIDD: If I owe them any additional money,  
23           it's not a problem to pay them. But for 433 hours,  
24           none of them are certified?

25           I have receipts where I paid for. Just certified

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1 the ones that I've paid for.

2 And four, four days, it couldn't be that  
3 expensive. How ever much it is, I'll pay that, I just  
4 need my hours.

5 They don't speak with me, they won't talk with me,  
6 they wouldn't allow me to review anything in my file.  
7 It's just -- it was just so unprofessional, and I just  
8 feel like I had to bring you-all in to get some type of  
9 results.

10 And I have, I have submitted copies of the  
11 receipts, the contract, everything that you have there,  
12 I've submitted prior to now.

13 MS. WARD: Did you want -- anybody want to see  
14 this?

15 Okay.

16 MS. CAVER: It should have come to the board,  
17 according to our rule.

18 MS. GEE: What we're looking at here is the  
19 documents that, from the school and that she has

20 previously submitted. And what we'll need to do is  
21 what I said before, is that we'll need to add a charge  
22 that they have improperly refused to certify Ms. Kidd's  
23 hours, because she submitted receipts that show that  
24 they should be certified, and so then we'll see what  
25 the school's position is on it. I mean that's really

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1 all we can do.

2 MS. CAUDLE: I have all of the documentation that  
3 she sent in to me, everything.

4 MS. AKARD: Is it -- can we look at that?

5 MS. GEE: I would really prefer that we wait for  
6 the hearing.

7 MS. CAUDLE: Not before the hearing.

8 MS. AKARD: Okay.

9 MS. GEE: I mean, to be fair to the school, they  
10 need to be able to present whatever they want to  
11 present.

12 MS. AKARD: I mean because they do send that in  
13 that says that, on the back of that, that's why we send  
14 it in.

15 MS. CAUDLE: Yes, I have all that.

16 MS. AKARD: They will --

17 MS. GEE: They say she still owes tuition is what  
18 that form says.

19 MS. CAUDLE: Right.

20 MS. AKARD: Is there an amount that it says that  
21 she owes?

22 MS. CAUDLE: \$939.

23 MS. AKARD: Because there is a calculation, there  
24 is a way of calculating that she owes that. And, I  
25 mean, it's ridiculous if we can't get involved if we're

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1 putting that on a form.

2 MS. GEE: You can get involved. We just have to  
3 make sure that they have opportunity to respond.

4 MS. AKARD: Okay.

5 MS. GEE: We can't do that without them being  
6 here.

7 MS. AKARD: Okay. So that she can get resolved  
8 and move on one way or the other and how they came to  
9 their calculations.

10 MS. BURCHETT: Is there a reason why this hasn't  
11 come -- come to us sooner?

12 MS. CAUDLE: Because when the inspection was done,  
13 we sent out certified mail, the school owner could not  
14 be here. Then --

15 MS. BURCHETT: Inspection? What -- what did you  
16 mean?

17 MS. CAUDLE: Well, there has been an inspection on  
18 the school.

19 MS. GEE: There is a pending hearing.

20 MS. CAUDLE: There is a pending hearing for the  
21 school.

22 MS. GEE: Not related to this.

23 MS. BURCHETT: Okay. But that doesn't have  
24 anything to do with this. I'm just talking about her  
25 situation.

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1 MS. CAUDLE: Because she wanted to be here at the  
2 same time that the school was here. She requested  
3 that.

4 MS. BURCHETT: Okay.

5 MS. CAUDLE: I have her letter here requesting to  
6 be here when that school was here.

7 MS. KIDD: Can I ask why they were rescheduled?  
8 Because they were here and this is like the second time  
9 that I've been rescheduled. And it's getting pretty  
10 frustrating to me, continued to be put off for someone  
11 else's reason why they can't be here.

12 MS. CAUDLE: It was a mistake made in my office.  
13 The information was not sent to the attorney. She did  
14 not have time to prepare for the case.

15 MS. KIDD: That was the first time?

16 MS. GEE: That's today.

17 MS. CAUDLE: That's today.

18 MS. KIDD: Today again? Not January?

19 MS. GEE: I didn't know that the school was

20 scheduled for a hearing today, I did not get the

21 information on it. And I apologize for that.

22 Well, we wouldn't have been able to have taken

23 yours up today, but you could have testified, but -- so

24 we weren't prepared to proceed with the school today,

25 so it had to be rescheduled.

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1 MS. KIDD: Well, I think what I'm saying, I don't  
2 know if you're understanding what I'm saying, because  
3 January 26 they were scheduled and I was called to be  
4 rescheduled here March 16th. This is the second time  
5 for me.

6 MS. GEE: I don't know what happened in January, I  
7 do understand what you're saying. And as I said, I'm  
8 sorry we can't fix this today. I mean that's just, we  
9 just can't.

10 MS. AKARD: I want to see it resolved for you.

11 MS. KIDD: Thank you very much.

12 MS. AKARD: I want to see it resolved for you, and  
13 I have that setting the next board meeting --

14 MS. CAUDLE: Yeah.

15 MS. AKARD: And maybe even before then. Maybe --  
16 maybe something can transpire and be even mediated even  
17 before then maybe. Maybe something can happen between  
18 then.

19 MS. KIDD: I hope so. I have submitted, I think,

20 more than adequate information for Ms. Caudle, for  
21 you-all to review.

22 MS. AKARD: Well, you know --

23 MS. KIDD: And I've done that.

24 MS. AKARD: Maybe some response can happen within  
25 and we can see that it will be resolved.

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1 MS. KIDD: Thank you very much. Thank you for  
2 your time.

3 MS. BURCHETT: How long will the school have to  
4 respond to a letter that we send them?

5 MS. GEE: Well, I mean, they don't have to send in  
6 a written response. It would just be -- they can if  
7 they want to or they can just show up for the hearing.

8 MS. BURCHETT: So we're just going to --

9 MS. GEE: They have to have 30 days notice, so if  
10 you-all want to have a special meeting before your  
11 meeting in May, we can do that.

12 MS. AKARD: How many people have to be here for  
13 the special meeting?

14 MS. GEE: Well you have to have a quorum.

15 MS. COLLINS-BURROUGH: You have to have a setting.

16 MS. AKARD: Set a date.

17 MS. BURCHETT: I think we should.

18 MS. HOPPER: So do I.

19 MS. AKARD: I would be willing to come to a

20 special meeting to get it resolved. She's been waiting  
21 long enough.

22 MS. BURCHETT: And I'm sorry --

23 MS. CAUDLE: All we have to do is notify the  
24 school 30 days in advance, so we could notify them by  
25 certified mail today and go from there.

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1 MS. GEE: No. We can't do that today.

2 MS. CAUDLE: Huh? You can't do that today?

3 MS. GEE: Well, we've got to add the charges. I  
4 don't know if we can get that put together today.

5 MS. CAUDLE: Well, we could try.

6 MS. GEE: I wouldn't calculate from today.

7 MS. BURCHETT: But it could happen this week?

8 MS. GEE: Give it a -- yes, the certified this  
9 week.

10 MS. CAUDLE: Yes, ma'am.

11 MS. HOPPER: Well, what's 30 days from next  
12 Monday?

13 MS. CAUDLE: Well, next Monday is the 23rd.

14 MS. GEE: So it would be April 23rd. I don't  
15 know what day of the week that is.

16 MS. BURCHETT: April 23rd is on a Thursday.

17 MS. HOPPER: Can we do it on a Monday?

18 MS. CAVER: If we send it out tomorrow, 30 days  
19 from --

20 MS. GEE: It's 30 days from receipt, is what it  
21 should be calculated by, so I would prefer we don't cut  
22 it too short.

23 MS. BURCHETT: Right.

24 MS. GEE: So 30 days from the Monday after that, I  
25 guess? What day is that?

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1 MS. BURCHETT: Maybe the 27th. April 27th,  
2 maybe.

3 MS. GEE: April 27th?

4 MS. HOPPER: What's the date of --

5 MS. AKARD: I would love to be here because I am a  
6 school owner, but I cannot be here that 27th.

7 MS. HOPPER: What's the following Monday? What  
8 date is that?

9 MS. GEE: Needs to be a Monday, right?

10 MS. CAUDLE: Yeah.

11 MS. AKARD: It does not have to be a Monday, but I  
12 will be out that -- I have to be in Kansas City for  
13 that Sunday, Monday, and Tuesday, and I would really  
14 like to be here.

15 MS. GEE: Doesn't have to be a Monday?

16 MS. COLLINS-BURROUGH: Monday or Tuesday, I would  
17 prefer.

18 MS. WARD: Monday is better for me.

19 MS. AKARD: So we can be back on Tuesday and we

20 can have it the 8th?

21 MS. COLLINS-BURROUGH: We can do it the next day,  
22 the 28th.

23 MS. AKARD: What day is that?

24 MS. GEE: Tuesday.

25 MS. AKARD: I'll be coming back on Tuesday.

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1 MS. HOPPER: Can we just not do it the following  
2 Monday?

3 MS. AKARD: Which would be fine.

4 MS. BURCHETT: May 4th.

5 MS. HOPPER: It would be better for me. It's  
6 going to be hard for me to close the salon.

7 MS. COLLINS-BURROUGH: Well, which is two weeks  
8 before our next board meeting.

9 MS. AKARD: Oh, no. We don't have a board meeting  
10 until --

11 MS. GEE: May. Yeah.

12 MS. AKARD: May.

13 MS. GEE: Yeah. That's May.

14 MS. COLLINS-BURROUGH: So might as well just  
15 schedule it for the meeting in May, if we can't be here  
16 prior to.

17 MS. WARD: Yeah. If we can't do it in April, we  
18 just need to do it in May --

19 MS. COLLINS-BURROUGH: If we can't do it two weeks

20 before, we might as well just do it that day anyway.

21 See what I'm saying?

22 MS. SMITH: Can you be here?

23 MS. KIDD: Yes, ma'am.

24 I was wondering if I need to resubmit to appear to

25 testify?

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1 MS. CAVER: We resolve --

2 MS. CAUDLE: Well, that's really not for me to get  
3 involved in that.

4 MS. BURCHETT: Well, our rule says, you know, that  
5 you can --

6 MS. CAUDLE: Our rules say that the school must  
7 certify these hours to me before I can release them.  
8 So, it's up to the school to certify these before I can  
9 do anything with them.

10 MS. BURCHETT: But under consumer complaints, you  
11 know, it says that, you know, you can investigate, and  
12 I would think that would --

13 MS. CAUDLE: Which we have.

14 MS. BURCHETT: You've called the school?

15 MS. CAUDLE: We've investigated the school.

16 MS. BURCHETT: Would it -- would it be wrong to  
17 call and ask if that's been resolved?

18 MS. CAUDLE: Oh, I've -- I've done that when I've  
19 asked for all of these other papers from Ms. Kidd.

20 MS. BURCHETT: Okay.

21 MS. CAVER: And they are saying she still owes  
22 money?

23 MS. CAUDLE: Yeah.

24 MS. KIDD: According to your investigation, the  
25 receipts that I have submitted to you, my contract, and

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1 everything that I've submitted --

2 MS. CAUDLE: All of that is information that the  
3 school needs to answer for, not -- not me.

4 MS. KIDD: I understand. But why haven't they  
5 answered to it now?

6 MS. CAUDLE: Because they haven't been here for a  
7 hearing yet.

8 MS. KIDD: Okay.

9 MS. CAUDLE: When a school gets a violation, they  
10 do not have a choice to pay a violation fine. A school  
11 must come before the board.

12 MS. KIDD: Okay.

13 MS. CAUDLE: Because they are educating all of the  
14 future cosmetologists, aestheticians, and manicurists  
15 out there. They do not have a choice just to pay a  
16 fine. When it's a records situation they must come  
17 before the board.

18 MS. KIDD: Okay. That's something that the board  
19 decides or whatever, but concerning the hours, my

20 certification hours, I would think that --

21 MS. CAUDLE: They are not being certified.

22 That's -- I cannot --

23 MS. KIDD: Right.

24 MS. CAUDLE: That's micromanaging that school,

25 which we don't do. We don't get into the finances of

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1           that school.

2           MS. KIDD: That is --

3           MS. AKARD: But we can --

4           MS. CAUDLE: You can, as far as I know. I cannot.

5           MS. CAVER: Do you have legal counsel?

6           MS. KIDD: Yes, I do.

7           MS. CAVER: Okay.

8           MS. KIDD: And I did not need legal counseling for

9           today.

10          MS. CAVER: Right.

11          MS. KIDD: I thought I would appear.

12          I have legal counseling and things are great. I

13          tell you, things are great.

14          MS. CAVER: Looks like they approved you to be,

15          right.

16          MS. KIDD: Things are great.

17          MS. CAVER: I would be countersuing.

18          MS. KIDD: Already the same day. However I have

19          been waiting on the end results from the board --

20 MS. CAVER: Right, okay.

21 MS. KIDD: -- to submit to my attorney so that I

22 can go further and move forward, and it's holding me on

23 and it's frustrating.

24 MS. AKARD: It could be possibly a mathematical

25 error.

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1 MS. CAUDLE: I've talked to the admissions several  
2 times asking and requesting different information and  
3 things that Ms. Kidd said that she couldn't get.

4 MS. KIDD: Nothing. I couldn't get it.

5 MS. CAUDLE: I've called and she's sent me all of  
6 the information. And she did incorrectly submit hours  
7 and she sent the correction on that.

8 MS. KIDD: Right.

9 MS. CAUDLE: And I think that's probably about all  
10 I need to say until the hearing.

11 MS. KIDD: That was easy to do.

12 MS. CAUDLE: Okay. On that.

13 MS. AKARD: Okay. I mean it could be -- that's  
14 what I'm saying. It could just be just an error, and  
15 that's why we need to get the two parties and maybe we  
16 can get it resolved and get the hours certified and get  
17 her to board. Or if it's a matter of a hundred dollars  
18 or 200 that she's got to pay or whatever, or a matter  
19 of a receipt, then we can get it resolved and she can

20 get to board.

21 MS. KIDD: Thank you.

22 MS. AKARD: But if we are requiring the schools to

23 submit that, that form, then it is our business or then

24 the schools don't need to submit that form.

25 MS. WARD: That form has on it if there is

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1 anything, if they don't -- if we would not certify the  
2 hours, we have to put on that form why we don't certify  
3 the hours.

4 MS. AKARD: And how much.

5 MS. WARD: Yeah. What it is.

6 MS. AKARD: And how we calculated that.

7 MS. WARD: Right.

8 And -- and but she's got to confer with the  
9 student to let them know so that they can resolve it.

10 MS. CAUDLE: Right.

11 MS. WARD: If they can't, that's the only way they  
12 know they are going to get their money is by holding  
13 those hours. So, if there is a communication problem  
14 there, you know --

15 MS. KIDD: I would love to pay --

16 MS. AKARD: Then let us mediate it.

17 MS. WARD: Yes.

18 MS. KIDD: -- whatever the difference is, because  
19 I have one week to complete a 1500 hour course. It's

20 taken me five months to just go on with one week.

21 MS. CAUDLE: How many years ago was it that you  
22 got the first?

23 MS. KIDD: It was 10 years ago that I obtained the  
24 1,025 from Phillips County Community College,  
25 Ms. Caudle, which is where I'm from. Been in Pine

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1 Bluff for 20 years now. I've completed other course  
2 work, however when you-all reinstated the hours  
3 immediately in January 2008 I did enroll. Things were  
4 much better financially so that I could go forth and I  
5 paid cash. It's not a financial aid situation. That's  
6 another reason why it's so frustrating, because I paid  
7 all of this money and I cannot -- I have not obtained  
8 anything.

9 MS. AKARD: You'll get it resolved.

10 MS. KIDD: Thank you.

11 MS. AKARD: We'll get it resolved.

12 MS. KIDD: Thank you-all for your time.

13 MS. CAUDLE: Thank you, Ms. Kidd.

14 MS. COLLINS-BURROUGH: Thank you.

15 Yes. Okay. Is there any public here that would  
16 like to comment?

17 No.

18 Okay. We need a motion for adjourn.

19 MS. AKARD: I make a motion --

20 MS. COLLINS-BURROUGH: Oh, did you want to say  
21 something?

22 MS. AKARD: No. No. My business is resolved  
23 today.

24 MS. COLLINS-BURROUGH: Okay.

25 MS. WARD: Your business is resolved?

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1 MS. AKARD: Today. Today.

2 MS. COLLINS-BURROUGH: Okay. All right.

3 MS. AKARD: I make a motion that we adjourn.

4 MS. COLLINS-BURROUGH: Have I got a second?

5 MS. CAVER: I'll second that.

6 MS. COLLINS-BURROUGH: All in favor?

7 (Hands raised.)

8 (WHEREUPON, at 12:16 p.m., the above-entitled

9 proceedings were concluded.)

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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 business meeting and administrative  
9 hearings held before the Arkansas State Board of Cosmetology,  
10 March 16, 2009, was taken by me in Stenotype and was reduced to  
11 computer-generated typewritten form by me or under my direction  
12 and supervision; and that the same is a true and correct  
13 reflection of the proceedings that occurred, to the best of my  
14 knowledge and ability.

15            I FURTHER CERTIFY that I am neither counsel for,  
16 related to, nor employed by any of the parties to the action in  
17 which these proceedings were taken; and, further that I am not a  
18 relative or employee of any attorney or counsel employed by the  
19 parties hereto, nor financially interested, or otherwise, in the

20 outcome of this action; and that I have no contract with the  
21 parties, attorneys, or persons with an interest in the action  
22 that affects or has a substantial tendency to affect  
23 impartiality, that requires me to relinquish control of an  
24 original transcript or copies of the transcript before it is  
25 certified and delivered to the custodial attorney, or that

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1 requires me to provide any service not made available to all  
2 parties to the action.

3 SIGNED AND SWORN this \_\_\_\_\_ day of  
4 \_\_\_\_\_.

5  
6 \_\_\_\_\_

7 SUSAN B. WHITSON, CCR, #158

8 NOTARY PUBLIC IN AND FOR

9 PULASKI COUNTY, ARKANSAS

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11 My Commission Expires: June 4, 2012.

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