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ARKANSAS DEPARTMENT OF HEALTH  
COSMETOLOGY SECTION  
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 21<sup>st</sup> day of  
November 2011, the meeting of the Arkansas Department of Health,  
Cosmetology Section, Cosmetology Technical Advisory Committee was  
held, at 9:00 a.m., at the Arkansas Department of Health, Freeway  
Medical Building, Suite 801, Little Rock, Pulaski County,  
Arkansas, where the following hearings were held:

---

TECHNICAL ADVISORY COMMITTEE:

- KIMBERLY FORD, Chair
- ROGERS BARNES
- SANDY DAVIS (not present)
- REBECCA ARGUELLO
- JACQUELYN REYNOLDS
- JEANNIE BONDS (not present)

REPORTED BY:

SUSAN B. WHITSON, CCR  
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## 11/21/11, CTAC HEARINGS

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 RICK HOGAN, ESQ.

4 Staff Members Present:

5 KELLI KERSEY - Section Chief

RENEE MALLORY

6 MICHELLE RUDOLPH - Administrative Assistant

TERI CRAVOTTA - Administrative Specialist

7

8 Inspectors Present:

9 ROSE HORNER

PAT BLAND JACKSON

10 LAVONNE LESTER

BRENDA MORGAN

11 VERA WOOD

12 HEARING OFFICER:

13 KENDRA AKIN-JONES, ESQ.

Office of the Arkansas Attorney General

14 323 Center Street, Suite 200

Little Rock, Arkansas 72201

15

16 RESPONDENTS PRESENT:

17 B. GAIL JOHNSON

DONNA STONE

18 LAURA KNOTT

AMELIA VEASEY

19

20 WITNESSES PRESENT:

21 PAIGE GRIFFITH

EVE ISABELL

22 SHARENDA WARREN

23 Court Reporter:

24 Susan B. Whitson, CCR

Arkansas Supreme Court Certificate No. 158

25

## 11/21/11, CTAC HEARINGS

I N D E X		
HEARING		PAGE
Paid Violations.....		10
HEARING VIOLATION NO. 11-6041.....		11
WITNESSES:		
PAT JACKSON		
Direct by Mr. Hogan.....		16
KELLI KERSEY		
Direct by Mr. Hogan.....		21
B. GAIL JOHNSON		
Direct testimony.....		24
EXHIBITS		
Committee's A through F.....		15
A	Letter from Ms. Kersey to B. Gail Johnson, October 10, 2011	
B	Penalty receipt signed by B. Gail Johnson	
C	Order of Notice of Hearing	
D	Return receipt (green card)	
E	Inspection report	
F	Letter from Ms. Johnson re: Violation	
Respondent's A.....		15
A	Epilation Specialist certificate	
Motion by the Committee.....		26
HEARING VIOLATION NO. 11-6034		28
Opening by Ms. Stone		32
WITNESSES:		

## 11/21/11, CTAC HEARINGS

1	PAT JACKSON	
2	Direct by Mr. Hogan.....	33
3	Examination by the Committee.....	38
4	Redirect by Mr. Hogan.....	39
5	Re-examination by the Committee.....	40
6	KELLI KERSEY	
7	Direct by Mr. Hogan.....	41
8	DONNA STONE	
9	Direct testimony.....	44
10	Cross by Mr. Hogan.....	46
11	Examination by the Committee.....	47
12	EXHIBITS	
13	Committee's A through E.....	31
14	A Letter from Ms. Kersey to Trinity, Inc., September 20, 2011	
15	B Order of Notice of Hearing	
16	C Penalty Receipt signed by Donna S. Stone	
17	D Inspection report	
18	E Letter from Donna Stone to Ms. Kersey, October 6, 2011	
19	Motion by the Committee.....	53
20	HEARING VIOLATION NO. 11-8019	56
21	ROSE HORNER	
22	Direct by Mr. Hogan.....	61
23	Cross by Ms. Knott.....	64
24	Examination by the Committee.....	65
25	KELLI KERSEY	

## 11/21/11, CTAC HEARINGS

1	Direct by Mr. Hogan.....	67
2	Examination by the Committee.....	71
3	LAURA KNOTT	
4	Direct testimony.....	74
5	Cross by Mr. Hogan.....	77
6	Examination by the Committee.....	87
7	PAIGE GRIFFITH	
8	Direct by Ms. Knott.....	90
9	EVE ISABELL	
10	Direct by Ms. Knott.....	92
11	Cross by Mr. Hogan.....	93
12	ROSE HORNER	
13	Redirect by Mr. Hogan.....	102
14	Examination by the Committee.....	103
15	Cross by Ms. Knott.....	104
16	EXHIBITS	
17	Committee's A through E.....	59
18	A Letter from Ms. Kersey to Laura Knott, October 10, 2011	
19	B Penalty receipt signed by Laura Knott	
20	C Order of Notice of Hearing	
21	D Return receipt (green card)	
22	E Inspection report	
23	Respondent's A through D.....	73
24	A Establishment Registration	
25	B Sales and Use Tax Permit	

## 11/21/11, CTAC HEARINGS

1	C	Express Mail receipt	
2	D	Certificate of person conducting business under an assumed	
3		name	
4		Motion by the Committee.....	105
5		HEARING VIOLATION NO. 11-6018	107
6		VERA WOOD	
7		Direct by Mr. Hogan.....	110
8		Cross by Ms. Veasey.....	115
9		Examination by the Committee.....	118
10		SHARENDA WARREN	
11		Direct by Ms. Veasey.....	120
12		Cross by Mr. Hogan.....	121
13		Examination by the Committee.....	123
14		AMELIA VEASEY	
15		Direct testimony.....	126
16		Examination by the Committee.....	128
17		EXHIBITS	
18		Committee's A through E.....	110
19	A	Letter from Ms. Kersey to Amelia Veasey, June 17, 2011	
20	B	Letter from Ms. Veasey to Arkansas Department of Health,	
21		August 16, 2011	
22	C	Order of Notice of Hearing	
23	D	Fax transmission verification report	
24	E	Inspection report	
25		Closing by Ms. Veasey.....	133

## 11/21/11, CTAC HEARINGS

1	Motion by the Committee.....	133
2	HEARING VIOLATION NO. 11-7119	137
3	WITNESSES	
4	BRENDA MORGAN	
5	Direct by Mr. Hogan.....	139
6	Examination by the Committee.....	141
7	KELLI KERSEY	
8	Direct by Mr. Hogan.....	141
9	EXHIBITS	
10	Committee's 1.....	138
11	1 Letter from Ms. Kersey to Linda Sanders, September 20,	
12	2011, with attachments	
13	Motion by the Committee.....	143
14	HEARING VIOLATION NO. 11-5087	145
15	BRENDA MORGAN	
16	Direct by Mr. Hogan.....	147
17	KELLI KERSEY	
18	Direct by Mr. Hogan.....	149
19	Examination by the Committee.....	150
20	EXHIBITS	
21	Committee's 1.....	147
22	1 Letter from Ms. Kersey to Rhonda Polk, September 20, 2011,	
23	with attachments	
24	Motion by the Committee.....	151
25	HEARING VIOLATION NO. 11-8013	153

## 11/21/11, CTAC HEARINGS

1	ROSE HORNER	
2	Direct by Mr. Hogan.....	155
3	KELLI KERSEY	
4	Direct by Mr. Hogan.....	156
5	EXHIBITS	
6	Committee's 1.....	155
7	1 Letter from Ms. Kersey to Tracy Matthews, September 26,	
8	2011, with attachments	
9	Motion by the Committee.....	158
10	HEARING VIOLATION NO. 11-7114	160
11	ROSE HORNER	
12	Direct by Mr. Hogan.....	162
13	KELLI KERSEY	
14	Direct by Mr. Hogan.....	163
15	Examination by the Committee.....	163
16	EXHIBITS	
17	Committee's 1.....	162
18	1 Letter from Ms. Kersey to Evelyn Stuart, September 20,	
19	2011, with attachments	
20	Motion by the Committee.....	166
21	HEARING VIOLATION NO. 11-8003	168
22	PAT JACKSON	
23	Direct by Mr. Hogan.....	170
24	Examination by the Committee.....	173
25	EXHIBITS	

11/21/11, CTAC HEARINGS

1	Committee's 1.....	170
2	1 Letter from Ms. Kersey to Tojuanna Talley, September 26,	
3	2011, with attachments	
4	Motion by the Committee.....	174
5	Reporter's certificate	176

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6  
7  
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## 11/21/11, CTAC HEARINGS

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

MS. FORD: Next is the approval of paid violations.

We need a motion on the floor for approval of all the paid violations from the last meeting.

MR. BARNES: I make a motion that the paid violations be approved.

MS. ARGUELLO: I'll second the motion.

MS. FORD: Motion has been seconded. Now we will take a vote.

All in favor, say, "Aye," or raise your hand.

COMMITTEE MEMBERS: Aye.

MS. FORD: Paid violations will stand.

---o---

MS. FORD: Okay. We'll turn it over to Rick Hogan for our hearings. (9:40 a.m.)



## 11/21/11, CTAC HEARINGS

1           And I know we have a Hearing Officer from the  
2           Attorney General's Office here this morning and she  
3           will conduct the hearings, and I'll represent the  
4           committee and the investigator.

5           And I haven't had a chance to talk to you, but  
6           this is the information we've -- we've received,  
7           including a letter from you that we've included in the  
8           packet.

9           MS. GAIL JOHNSON: Okay.

10          MR. HOGAN: And if you look through it and it's  
11          okay, we'll put that in the record. And if there is  
12          anything that you have in addition to that, we'll put  
13          that in the record, too.

14          MS. GAIL JOHNSON: All right. All I have to put  
15          in is this certificate.

16          MR. HOGAN: Okay.

17          MS. GAIL JOHNSON: And I haven't been in a court  
18          or a hearing in over 30 years.

19          MR. HOGAN: Oh, that's okay. We're pretty  
20          informal here.

21          MS. GAIL JOHNSON: So I'm kind of -- and after  
22          driving in all of that rain --

23          MR. HOGAN: Well, I wear a tie but we're pretty  
24          informal otherwise.

25          MS. GAIL JOHNSON: Okay.

## 11/21/11, CTAC HEARINGS

1 MR. HOGAN: Do you need to look at that while  
2 we're going through this?

3 MS. GAIL JOHNSON: Yeah. I've looked at it.

4 MR. HOGAN: We're up to Exhibit F there, I  
5 believe, for the committee.

6 HEARING OFFICER JONES: Rick, if we can, we'll get  
7 the introduction and all on the record and then we'll  
8 go to the exhibits.

9 MR. HOGAN: Okay. All right.

10 HEARING OFFICER JONES: My name is Kendra Akin  
11 Jones and I'm the Hearing Officer today in the matter  
12 of the Cosmetology Technical Advisory Committee,  
13 Present is B. Gail Johnson, Violation No. 11-6041.  
14 Today is November 21, 2011, and we are located in Suite  
15 801 of the Freeway Medical Building.

16 Ms. Johnson, if you would, please identify  
17 yourself for the record.

18 MS. GAIL JOHNSON: B. Gail Johnson.

19 HEARING OFFICER JONES: And do you have counsel  
20 present with you today?

21 MS. GAIL JOHNSON: No.

22 HEARING OFFICER JONES: And you -- you received an  
23 Order of Notice of Hearing for today's matter?

24 MS. GAIL JOHNSON: Yes.

25 HEARING OFFICER JONES: Mr. Hogan, if you would,

## 11/21/11, CTAC HEARINGS

1 identify yourself for the record.

2 MR. HOGAN: Rick Hogan, general counsel for the  
3 Arkansas Department of Health.

4 HEARING OFFICER JONES: For the benefit of the  
5 respondent as well as anyone present today who may not  
6 have appeared before an administrative hearing, the  
7 board will base its decision today based solely on the  
8 evidence presented today. The hearing is being held  
9 under the Administrative Procedures Act, which means  
10 the strict rules of evidence do not apply. To ensure  
11 the efficiency of the proceeding I will grant  
12 objections and caution parties only as is necessary.

13 The board knows of this case only as it appears  
14 and is set forth in the notice of hearing. Anything to  
15 be considered by them today must be submitted as an  
16 exhibit.

17 All participants should also be aware that this  
18 hearing is open to the public under the Freedom of  
19 Information Act.

20 For those of you who are going to be witnesses or  
21 may be in witnesses in this matter today, please stand  
22 and raise your right hand and be sworn in by the court  
23 reporter.

24 (WHEREUPON, the witnesses were sworn.)

25 Very well. At this time we'll move on to

## 11/21/11, CTAC HEARINGS

1 preliminary matters, which is the exhibits.

2 Ms. Johnson, Mr. Hogan has shown you the health  
3 department's packet of Exhibits A through F. Do you  
4 have any problems with that?

5 MS. GAIL JOHNSON: Huh-uh.

6 HEARING OFFICER JONES: The health department's  
7 compilation exhibit packet A through F will be  
8 admitted.

9 (WHEREUPON, Committee's Exhibits A through F were  
10 received in evidence.)

11 HEARING OFFICER JONES: Your certificate from --  
12 as an Epilation Specialist will be admitted as Exhibit  
13 G -- well, Respondent's Exhibit A.

14 (WHEREUPON, Respondent's Exhibit A was received in  
15 evidence.)

16 HEARING OFFICER JONES: Sorry. The rain has me a  
17 little foggy this morning.

18 Anything else in preliminary matters, Mr. Hogan?

19 MR. HOGAN: I just ask that the committee be able  
20 to acknowledge or by -- what's that rule? The -- it's  
21 like judicial notice.

22 HEARING OFFICER JONES: Take notice.

23 MR. HOGAN: They can take notice of their rules  
24 and regulations.

25 I've got a law degree, I really do.

## 11/21/11, CTAC HEARINGS

1           Take notice of the rules and regulations and the  
2 statutes of them.

3           HEARING OFFICER JONES: Those will be so noted by  
4 the Technical Advisory Committee.

5           Anything you would like to state in opening,  
6 Mr. Hogan?

7           MR. HOGAN: No. I'll waive that.

8           HEARING OFFICER JONES: Ms. Johnson, anything you  
9 would like to tell the board by way of opening?

10          MS. GAIL JOHNSON: (Shaking head from side to  
11 side.)

12          HEARING OFFICER JONES: Okay. Mr. Hogan, you can  
13 call your first witness.

14          MR. HOGAN: I call Pat. Ms. Jackson, Pat.

15          HEARING OFFICER JONES: Ms. Johnson, I'll tell  
16 you, at any time you have any questions about how this  
17 is going to run, just feel free to ask. You'll get a  
18 chance to ask Pat questions after Mr. Hogan does.

19          MS. GAIL JOHNSON: Okay.

20 WHEREUPON,

21                                 PAT JACKSON,  
22 having been called for examination, and having been first duly  
23 sworn by the undersigned notary public, was examined and  
24 testified, as follows:

25   DIRECT EXAMINATION

## 11/21/11, CTAC HEARINGS

1 BY MR. HOGAN:

2 Q Pat, state your name for the record and your position with  
3 the Department of Health, please.

4 A Pat Jackson, inspector for the Department of Health.

5 Q You got your hair cut, it looks different. It looks good.

6 A And wet.

7 Q Pat, do you have this packet of information in front of you?  
8 You may want -- I want you to look at Exhibit E.

9 A Okay.

10 Q What is that?

11 A That is the inspection form that I filled out.

12 Q Tell the members of the committee, if you would, and for the  
13 record, what you found when you inspected Gail's Nails, was that  
14 June 17<sup>th</sup> of this year?

15 A Yes.

16 June 17<sup>th</sup> of this year when I entered the salon, or sometime  
17 after I entered, right thereabouts, I observed Ms. Johnson waxing  
18 a lady's eyebrows.

19 Q All right. Can you kind of go through your form there, if  
20 you would, Pat, and kind of go, you know, step by step, what did  
21 you cite her for and why did you cite her for a violation of the  
22 rules and the statute?

23 A Okay. There was a citation for no current practitioner  
24 Arkansas license. That was because Ms. Johnson is a manicurist  
25 and does not have an esthetics or a cosmetology license, which is

## 11/21/11, CTAC HEARINGS

1 required in order to do waxing.

2 Q Hey, Pat, before we go on, did you see this?

3 A I did.

4 Q Have you -- this is Respondent's Exhibit A?

5 A Uh-huh.

6 Q Which is an epilation --

7 A Yes.

8 And I noted that on my inspection form. Uh-huh.

9 Q Why didn't that take her outside the law? She's got a  
10 specialist certificate. Tell the members of the committee why --

11 A That -- that does -- Arkansas does not recognize that as a  
12 license in our state. You have to have a minimum of 600 hours  
13 for an esthetics license, which would allow you to wax, and a  
14 minimum of 1500 cosmetology.

15 That is a certificate from Clean and Easy, I believe, a  
16 company that -- that manufactures different wax systems.

17 Q Okay. So now, did you have any discussion with Ms. Johnson  
18 about that particular certificate?

19 A She -- she showed it to me.

20 Q And did you --

21 A And I noted it on my inspection form.

22 Q Did you inform her that that would not be acceptable under  
23 the statute or the regulations as a license or that's required by  
24 law?

25 A I'm not sure that I did. I did not write that down on my

## 11/21/11, CTAC HEARINGS

1 inspection form but I did mark it, so I -- I'm -- I can't say  
2 that I verbally --

3 Q Pat --

4 A More than likely I would have, but I don't have it on my  
5 inspection form.

6 Q On your inspection form you mentioned that, I'm looking down  
7 with the roller waxes being used, Ms. Johnson said she did not  
8 disinfect the heads of the roller before or after each use. Is  
9 that correct?

10 A That's correct.

11 Q Tell the -- and for the record, why is that important  
12 that -- someone who had gone through the training got the  
13 required license under the statute would have known that that is  
14 required, is that correct?

15 A That is correct.

16 Q And why is that important to the public that they would --  
17 could go into a facility and know that the health and safety  
18 items had been taken care of? Can you kind of elaborate why that  
19 would be important?

20 A Well, that would fall under -- under any communicable  
21 diseases, you know, if you can't disinfect an item, those roll on  
22 wax heads are in a heater and there is four or five of them in  
23 that heater, and there is no way that they can be disinfected  
24 whatsoever.

25 Q Tell us, in this process, tell us a little bit about the

## 11/21/11, CTAC HEARINGS

1 process itself. I know, and all of these folks know about the  
2 process, but later on if this goes somewhere else to court, a  
3 judge that's going to be likely as stupid as I am, starts --  
4 strike that, the judge being much more smarter than I am -- but  
5 assuming it goes further to the court, what -- the process  
6 itself, does it --

7 A Uh-huh.

8 Q -- does this open up pores in the skin such as --

9 A Well, waxing would. But any instrument that comes in direct  
10 contact with a client under our disinfecting rules must be  
11 disinfected with an EPA registered disinfectant, and those wax  
12 heads cannot be immersed in any way, I wouldn't think, to be  
13 disinfected.

14 Q Okay. And, to your knowledge, has Ms. Johnson obtained or  
15 applied for a license with this committee and the board of health  
16 since your inspection or before?

17 A Not to my knowledge.

18 Q Is there anything further that you would like the committee  
19 to be aware of?

20 A No, sir.

21 MR. HOGAN: I'll pass the witness.

22 HEARING OFFICER JONES: Ms. Johnson, do you have  
23 any questions for Ms. Jackson?

24 MS. GAIL JOHNSON: I just want to know why I  
25 wasn't told that day. I mean I wasn't told that I

## 11/21/11, CTAC HEARINGS

1 had -- I thought when she --

2 HEARING OFFICER JONES: Okay. I'm just --

3 MS. GAIL JOHNSON: -- checked "no" on the  
4 practitioner --

5 HEARING OFFICER JONES: Just to keep our record  
6 clear, I'll give you a chance to fully tell your side  
7 of the story --

8 MS. GAIL JOHNSON: Okay.

9 HEARING OFFICER JONES: -- but right now do you  
10 have any questions for Ms. Jackson?

11 MS. GAIL JOHNSON: No.

12 HEARING OFFICER JONES: Okay. Does the committee  
13 have any questions for Ms. Jackson?

14 Very well. Thank you.

15 (Witness excused.)

16 Mr. Hogan, call your next witness.

17 MR. HOGAN: Call Kelli Kersey.

18 WHEREUPON,

19 KELLI KERSEY,

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 MR. HOGAN:

25 Q Kelli, you've been sworn, haven't you?

## 11/21/11, CTAC HEARINGS

1 A Yes.

2 Q Would you state your name for the record and your position  
3 with the committee?

4 A Kelli Kersey, Section Chief, Cosmetology Section.

5 Q Kelli, as a part of your responsibilities for the board of  
6 health and this committee, are you charged with ensuring that the  
7 records are properly kept at the office at the Department of  
8 Health?

9 A Yes, sir.

10 Q And in doing so, would you be able to look at the records  
11 and determine if there was a license issued to Ms. Johnson or  
12 Gail's Nails, Jefferson, Arkansas?

13 A Yes, sir.

14 Q And when you received a copy of the inspection report and  
15 that there was no license issued for this facility, did you go to  
16 your records and determine if -- if there was in fact a license  
17 that had been issued or had ever been obtained by Gail's Nails or  
18 Ms. Johnson?

19 A Yes, sir.

20 Q What did you find?

21 A Gail's Nails does have a license, a facility license, and  
22 Ms. Johnson has a manicurist license --

23 Q And --

24 A -- only.

25 Q And as a manicurist would she, under that license, would she

## 11/21/11, CTAC HEARINGS

1 be able to perform the waxing of an individual?

2 A No, sir.

3 Q So the actions that were described in the inspection report,  
4 to the best of your ability, did you determine if there was any  
5 license that would allow her to do those particular actions?

6 A Yes, sir. I found that she did not have a cosmetologist or  
7 an esthetician license.

8 Q Is there anything further you would like to make the  
9 committee aware of?

10 A No, sir.

11 MR. HOGAN: I'll pass the witness.

12 HEARING OFFICER JONES: Ms. Johnson, do you have  
13 any questions for Ms. Kersey?

14 MS. GAIL JOHNSON: Huh-uh.

15 HEARING OFFICER JONES: Does the committee have  
16 any questions for Ms. Kersey?

17 Very well. Thank you.

18 (Witness excused.)

19 Mr. Hogan, any further witnesses?

20 MR. HOGAN: We do not. We will rest.

21 HEARING OFFICER JONES: Ms. Jackson -- or  
22 Ms. Johnson, at this time I'm going to give you a  
23 chance to explain what you want to the board and then  
24 Mr. Hogan will have an opportunity to ask you any  
25 questions, if he has for you, and the board will, too.

## 11/21/11, CTAC HEARINGS

1 WHEREUPON,

2 B. GAIL JOHNSON,

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

6 DIRECT TESTIMONY

7 THE WITNESS: I took that class through State  
8 Beauty Supply in September 11, 2000. I paid money to  
9 go to the class. They took my license down.

10 I -- I just thought that I had the right to wax.  
11 I never even questioned it.

12 I would never break a law or a regulation or  
13 anything to do with waxing or anything with my  
14 business. I wouldn't do that. I just, I -- I'm just  
15 floored by all of this.

16 And if -- and if Ms. Jackson had told me that day  
17 while I was waxing the friend of mine, if she had told  
18 me you -- you can't do that, that's against the law --  
19 I didn't even know, even when I called the cosmetology  
20 board four months after this happened, I called the  
21 cosmetology board twice and still didn't find out --  
22 I'm sorry, I'm just -- still didn't find out what  
23 license I didn't have. Because it says practitioner.  
24 It was still unclear to me, I thought she was saying I  
25 didn't have a practitioner license because that's what

## 11/21/11, CTAC HEARINGS

1           it states, "practitioner has current Arkansas license",  
2           "no". I didn't even know it had to do with the waxing  
3           until a couple of weeks later when I called -- or you  
4           called -- or you called and put me on a conference call  
5           and told me, it's a state law, and defined what the  
6           fine was for. I didn't even understand that.

7           So it was just all unclear to me. And I would  
8           have stopped that day right then, the middle of the act  
9           of waxing her, if Ms. Jackson had said, this is -- you  
10          know, it -- you're breaking a law. I wouldn't have  
11          done that.

12          I'm through.

13          HEARING OFFICER JONES: Okay. Mr. Hogan, any  
14          questions for Ms. Johnson?

15          MR. HOGAN: No. I have nothing.

16          HEARING OFFICER JONES: Okay. Committee have any  
17          questions they would like to ask Ms. Johnson?

18          Okay. Thank you, Ms. Johnson.

19          MR. HOGAN: There was one other person that --

20          AUDIENCE MEMBER: Oh, she's with me. I just  
21          thought it was witnesses in general.

22          MR. HOGAN: Oh. You had me worried there. I was  
23          thinking, well, what am I going to ask them.

24          All right. So you're not here for this case.

25          HEARING OFFICER JONES: And you don't have any

## 11/21/11, CTAC HEARINGS

1 witnesses with you, Ms. Johnson?

2 MS. GAIL JOHNSON: Huh-uh.

3 HEARING OFFICER JONES: Very well.

4 At this time we'll move on to any kind of closing,  
5 Mr. Hogan?

6 MR. HOGAN: No. I don't have anything else.

7 HEARING OFFICER JONES: Ms. Johnson, anything else  
8 you would like to say in closing?

9 MS. GAIL JOHNSON: (Shaking head from side to  
10 side.)

11 HEARING OFFICER JONES: At this time the record  
12 will be closed and made complete except for the board's  
13 recess for deliberations. Once the board does reach a  
14 decision we'll go back on the record for that decision.

15 Back to you now, ma'am.

16 (WHEREUPON, the Committee retired to deliberate,  
17 off the record, from 9:57 a.m. to 9:59 a.m., and  
18 returned with the following motion.)

19 MS. FORD: Back on the record.

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

22 Is there a motion?

23 MS. FORD: All --

24 HEARING OFFICER JONES: There has to be a motion  
25 on the record.

## 11/21/11, CTAC HEARINGS

1 MS. FORD: Someone?

2 MS. REYNOLDS: I motion -- I motion.

3 MS. FORD: For the --

4 MR. BARNES: I second.

5 MS. ARGUELLO: Second.

6 MS. FORD: It's been second. At this time, all in  
7 favor of the fine standing, say, "Aye," or raise your  
8 hand.

9 COMMITTEE MEMBERS: Aye.

10 MS. FORD: Okay. The --

11 HEARING OFFICER JONES: At this time let the  
12 record reflect that the decision of the board was  
13 unanimous. Please reduce the decision to writing and  
14 make or attempt service upon all parties. And if the  
15 respondent cares to appeal the decision of the board,  
16 an appeal may be taken under Arkansas Code Annotated  
17 found at 25-15-201, et seq., or any specific provisions  
18 of this board.

19 At this time the record will be closed.

20 Ms. Johnson, if you have any further questions,  
21 I'm sure Ms. Kersey would be happy to talk to you  
22 further about this.

23 (WHEREUPON, at 10:00 a.m., the above-entitled  
24 proceedings were concluded.)

25 ---o---



## 11/21/11, CTAC HEARINGS

1 MS. DONNA STONE: Yes, ma'am.

2 HEARING OFFICER JONES: And you have no counsel  
3 with you today?

4 MS. DONNA STONE: No, ma'am.

5 HEARING OFFICER JONES: You received the Order of  
6 Notice of Hearing for today's matter?

7 MS. DONNA STONE: I did.

8 HEARING OFFICER JONES: Okay. Mr. Hogan, if you  
9 would, please identify yourself.

10 MR. HOGAN: Rick Hogan, general counsel,  
11 Department of Health.

12 HEARING OFFICER JONES: For the benefit of the  
13 respondent as well as anyone present who may not have  
14 appeared before an administrative hearing, the board  
15 will base its decision solely on the evidence presented  
16 here today. This hearing is being held under the  
17 Administrative Procedures Act, which means the strict  
18 rules of evidence do not apply as they would in the  
19 regular court of law.

20 To ensure the efficiency of the proceedings I will  
21 grant cautions or objections only as is necessary to  
22 keep the hearing moving.

23 Board members know of this case only as it appears  
24 and is set forth in the Order of Notice of Hearing.

25 Anything you want to have submitted or that you have

## 11/21/11, CTAC HEARINGS

1 previously submitted to the staff must be introduced  
2 today for the committee to consider it.

3 This hearing is open to the public under the  
4 Freedom of Information Act, and that does include the  
5 board's recess for decisions.

6 Those of you who may be witnesses in today's  
7 matter, please raise your right hand, we'll have the  
8 court reporter swear you in.

9 (WHEREUPON, the witnesses were sworn.)

10 Very well.

11 Preliminary matters, Mr. Hogan?

12 MR. HOGAN: We have a packet that, including  
13 Exhibit E, the letter from Ms. Stone, which I got to  
14 commend you, this is a great letter. I got to tell  
15 you, I wasn't real confident about winning this case  
16 when I read your --

17 MS. DONNA STONE: Well --

18 MR. HOGAN: You did a good job. But I feel better  
19 about it now because I've looked up the law.

20 MS. DONNA STONE: Yeah. Well, that's what I was  
21 trying to do, but I am not an attorney, so...

22 MR. HOGAN: Oh, okay.

23 But I would like to make this packet of  
24 information part of the record, Exhibit A through --

25 HEARING OFFICER JONES: Ms. Stone, do you have any

## 11/21/11, CTAC HEARINGS

1 objection to Department of Health's packet, the --

2 MR. HOGAN: -- A through E.

3 HEARING OFFICER JONES: -- the letter and Order of  
4 Notice of Hearing, the inspection report and your  
5 letter?

6 MS. DONNA STONE: No objection.

7 HEARING OFFICER JONES: Those will be so admitted  
8 as the Cosmetology Board's Exhibit A through E.

9 (WHEREUPON, Committee's Exhibits A through E were  
10 received in evidence.)

11 Do you have anything you would like for the board  
12 to consider today?

13 MS. DONNA STONE: Should I go ahead and talk --

14 HEARING OFFICER JONES: No. This is just like  
15 anything paper wise that you have in your possession  
16 that we need to have some copies made and get in the  
17 record.

18 MS. DONNA STONE: Possibly this, as that's the  
19 copy of what I got on the inspection that day, which is  
20 not --

21 HEARING OFFICER JONES: Okay. Mr. Hogan, if you  
22 want to take a quick look at that, we'll go off the  
23 record for just a moment so you can take a look.

24 (WHEREUPON, a brief discussion was held off the  
25 record.)

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Mr. Hogan, is that the  
2 same thing that's already in your packet?

3 MR. HOGAN: I think it's a copy, it looks like a  
4 copy of what's already in there, it just didn't come  
5 through very well when it was copied. But there is not  
6 any -- didn't appear to be any additional information  
7 in that that's not already in the record.

8 HEARING OFFICER JONES: Okay. Very well.

9 Ms. Stone, do you have anything further you would  
10 like to put in as evidence then?

11 MS. DONNA STONE: No, ma'am.

12 HEARING OFFICER JONES: Okay. At this time we'll  
13 move on to opening statement. Mr. Hogan?

14 MR. HOGAN: I'll waive that.

15 HEARING OFFICER JONES: Ms. Stone, is there  
16 anything you would like to say in opening to the board?

17 MS. DONNA STONE: Opening, not the whole thing.  
18 Correct?

19 HEARING OFFICER JONES: Correct.

20 MS. DONNA STONE: Just an opening?

21 HEARING OFFICER JONES: Yeah.

22 MS. DONNA STONE: Just that I'm not real sure if  
23 all of this I brought forth on this letter was relevant  
24 to this as opposed to just the fine, but I'll -- I'll  
25 explain that as we go further.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Okay. Thank you.

2 MS. DONNA STONE: Okay.

3 HEARING OFFICER JONES: Mr. Hogan, you can call  
4 your first witness.

5 MR. HOGAN: Pat, would you come on up?

6 MS. DONNA STONE: Good morning.

7 THE WITNESS: Good morning.

8 WHEREUPON,

9 PAT JACKSON,

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 MR. HOGAN:

15 Q Morning, Pat.

16 State your name for the record, please, and your position  
17 with the Department of Health.

18 A Pat Jackson. I'm an inspector with the Department of  
19 Health.

20 Q Pat, Exhibit D here of this document that we have admitted  
21 into evidence appears to be an inspection report. Is that -- is  
22 that one that you have -- that you filled out after inspecting  
23 the Village Beauty Salon?

24 A Yes. It is.

25 Q This looks like it was done on June the 16<sup>th</sup> of this year.

## 11/21/11, CTAC HEARINGS

1 Is that correct?

2 A Yes. It is.

3 Q And was somebody there when you did the inspection? Was  
4 there a representative that you talked to or that was there at  
5 the site?

6 A Yes. One of the beauticians, Ms. Lancaster.

7 Q Is that Nan Lancaster?

8 A Nan. Uh-huh.

9 Q And did you discuss with her whether or not there was a  
10 license or whether they had a license?

11 A We did and we looked, and they always have had their license  
12 posted, so I was rather surprised that they -- they didn't. And  
13 we thought it might be in the office and we could not at that  
14 time locate any office personnel to see if we could -- you know,  
15 it might be -- might be in the office. So my choice was just to  
16 mark it.

17 Q So did you -- you said they always had it licensed -- or had  
18 it posted?

19 A Uh-huh.

20 Q So this facility had been licensed or was licensed in the  
21 past and posted the license according to the rules and  
22 regulations of the committee?

23 A That's correct.

24 Q And did you talk to Ms. Lancaster about specifically why it  
25 was not posted currently?

## 11/21/11, CTAC HEARINGS

1 A I don't know that we -- we discussed that. I think Nan was  
2 as surprised as I was because it's always -- it, in the past,  
3 they have always had it current and posted.

4 So we just -- I think she tried to call someone in the  
5 office and I waited, you know, to see if someone would come from  
6 the office so we could locate someone before I did, you know,  
7 complete this.

8 Q How often do you inspect this facility?

9 A It --

10 Q Do you go --

11 A On -- as with all -- all facilities, it's running about  
12 every five months now.

13 Q Okay. So are you saying that you recall last year when you  
14 looked at this facility, inspected it, that there was a license  
15 posted at that time?

16 A I'm sure there was or we would have been here last year.

17 Q All right. Now, there is a letter, I don't know if you've  
18 had a chance to read it or not, Pat, that Ms. Stone has written  
19 about some concerns of -- of whether this facility, because it's  
20 operated at a, I guess a long term care retirement community,  
21 whether or not they are required to be licensed. Has -- you're  
22 the inspector in this area, I know you've worked this area for  
23 quite a while. Have you ever been asked by this facility or any  
24 representatives of this facility whether or not they were exempt  
25 from licensure?

## 11/21/11, CTAC HEARINGS

1 A No.

2 Q What is your -- I know you've done this for several years.

3 How many years have you worked for the board and now the  
4 committee?

5 A Ten and a half now.

6 Q Is this facility -- I know you wouldn't have inspected it if  
7 you thought it was exempt from the law. But is it consistent  
8 with your understanding of rules and regulations and the laws  
9 that this type of facility would have to be licensed by this  
10 committee and the board of health?

11 A Yes. It is.

12 They -- they have a -- they have two facilities. This is a  
13 retirement village. And some years ago when the ruling was made  
14 on the long term facilities, that facility no longer had to be  
15 licensed. And -- and this is a completely separate building  
16 from -- from that facility.

17 Q Describe that layout, if you would a little bit. I -- this  
18 is -- if you -- if it was a long term care facility, if we're  
19 talking about a specific long term care facility, then you're  
20 saying it's been determined years ago that that would not have to  
21 be licensed, and you of course knew that when you went in to  
22 inspect?

23 A Right. Right.

24 The other facility is -- oh, I don't recall what -- what  
25 they call that --

## 11/21/11, CTAC HEARINGS

1 MS. DONNA STONE: The medical center.

2 THE WITNESS: -- when you have to have complete  
3 care, you know, for your residents.

4 This facility the residents are, I think, on maybe  
5 assisted care or they -- they live in little units or  
6 little apartments and -- so they have a beauty shop  
7 there at that facility also.

8 BY MR. HOGAN:

9 Q Okay.

10 A And the other one, other facility is, I guess it would all  
11 be considered long term if you're going to stay there until you  
12 die, you know, but the separation would be that --

13 Q Well, it could be short term, but --

14 A Well, could be.

15 Q Yeah.

16 A But my -- my understanding is this facility that I went to,  
17 this part of the Village Beauty Salon did have to have a  
18 cosmetological establishment license.

19 Q And, of course, you had not been asked and to your knowledge  
20 nor had the committee or board been asked in the last year  
21 whether they were exempt now for some reason from licensure --

22 A No.

23 Q -- that they should not renew with us and get a license?

24 A No.

25 Q Is there anything further you want to make the committee

## 11/21/11, CTAC HEARINGS

1 aware of, Pat?

2 A No.

3 This -- this salon has always been one of my -- my better  
4 facilities and I just hate they didn't have their license posted  
5 at that time.

6 MR. HOGAN: Thank you.

7 THE WITNESS: Uh-huh.

8 MR. HOGAN: Pass the witness.

9 HEARING OFFICER JONES: Ms. Stone, do you have any  
10 questions for Ms. Jackson?

11 MS. DONNA STONE: No.

12 HEARING OFFICER JONES: Okay. Does the committee  
13 have any questions for Ms. Jackson?

14 MS. FORD: Now, you stated that in the past this  
15 facility has had their license?

16 THE WITNESS: Yes, ma'am.

17 MS. FORD: Okay.

18 MR. BARNES: I guess the ownership of the  
19 buildings all -- whether or not they are connected by  
20 hallways or anything else, it's all owned by one  
21 agency?

22 THE WITNESS: I -- I -- to my knowledge it is.  
23 Ownership -- the only thing that I would be concerned  
24 with is who renews the license. I mean I don't know, I  
25 guess it's all owned by the same people.

## 11/21/11, CTAC HEARINGS

1 MR. BARNES: But there is --

2 THE WITNESS: The long term and the residential  
3 care facility.

4 MR. BARNES: The only difference between the two  
5 is whether or not the clients in the assisted living  
6 units are a little better off than the ones in the  
7 home?

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

9 HEARING OFFICER JONES: Further questions from the  
10 committee for Ms. Jackson?

11 MR. HOGAN: Can I go -- I've got one I forgot to  
12 ask. I think it's on the -- is that okay?

13 HEARING OFFICER JONES: Okay. I'll let you.

14 REDIRECT EXAMINATION

15 BY MR. HOGAN:

16 Q The folks that were actually working there at this facility  
17 were licensed, right?

18 A Absolutely. Uh-huh.

19 Q And that was Ms. Bumpass and Ms. Lancaster --

20 A Uh-huh.

21 Q -- they both held a license by this -- by this particular  
22 board or committee. Is that right?

23 A Yes, sir.

24 Q So it would not be -- it would be their major job or major  
25 function would be to do hair and stuff?

## 11/21/11, CTAC HEARINGS

1 A Absolutely. Uh-huh.

2 Q Okay. It wouldn't just be incidental to providing long term  
3 care services here?

4 A No.

5 And I think -- I think Nan does go back and forth, if I'm  
6 not mistaken.

7 MS. DONNA STONE: Uh-huh.

8 THE WITNESS: She works a couple of days in this  
9 facility and maybe a couple of days in the other  
10 facility, and it has been her choice to do that. I  
11 don't know about Ms. Bumpass, if she does the same or  
12 not.

13 MR. HOGAN: All right.

14 MS. FORD: Ms. Jackson, were these the only  
15 findings that were -- when you did your inspection was  
16 the posting of her license?

17 THE WITNESS: Yes, ma'am.

18 They -- they keep a really nice salon.

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

21 Very well. Thank you, Ms. Jackson.

22 (Witness excused.)

23 Mr. Hogan, you can call your next witness.

24 MR. HOGAN: We'll call Ms. Kersey.

25 WHEREUPON,



## 11/21/11, CTAC HEARINGS

1 argument is there is some confusion whether or not this facility  
2 would be required to have a license in light of the fact that  
3 they do globally, at least, provide long term care services. Can  
4 you kind of explain to the committee?

5 You may have forgotten the question by now.

6 A Yeah. I did.

7 No, I'm just kidding.

8 Q Okay.

9 A The 17-26-103 pertains to a nursing home of residents that  
10 are fully confined there and they have all their care at the  
11 nursing home side.

12 If you're an assisted living facility you have to have a  
13 license. Because, I mean, the -- it directly says a nursing  
14 facility where monthly charges are included.

15 Q Looking at the statute, the 17-26-103(5), it says that they  
16 are exempt if they provide -- if its direct care staff, as  
17 defined under 20-10-1401, who provide routine personal hygiene  
18 and related daily care services?

19 A Uh-huh.

20 Q Is that correct?

21 A Correct.

22 Q Based on your view of the record as Ms. Jackson presented it  
23 to you, the -- the inspection report, and your view of that  
24 statute, was there anything to indicate to you that this was  
25 merely routine, what does it say, personal hygiene or related

## 11/21/11, CTAC HEARINGS

1 daily issues?

2 The answer would be no to that.

3 A No. No. Exactly, no.

4 MR. HOGAN: There you go.

5 All right. I'll pass the witness.

6 THE WITNESS: Sorry.

7 HEARING OFFICER JONES: Ms. Stone, do you have any  
8 questions for Ms. Kersey?

9 MS. DONNA STONE: No.

10 HEARING OFFICER JONES: Does the committee have  
11 any questions for Ms. Kersey.

12 If there are none --

13 MR. BARNES: Yeah. I would like to ask.

14 HEARING OFFICER JONES: Sorry.

15 MR. BARNES: Do they charge the clients --

16 HEARING OFFICER JONES: No. It has to be for  
17 Ms. Kersey only.

18 You will get a chance to ask her questions later.

19 MR. BARNES: Sorry. Wrong direction.

20 HEARING OFFICER JONES: I'll let you.

21 (Witness excused.)

22 Any further witnesses, Mr. Hogan?

23 MR. HOGAN: No, I don't have any further.

24 We rest.

25 HEARING OFFICER JONES: Okay. Ms. Stone, at this



## 11/21/11, CTAC HEARINGS

1           could come through me. I understood that she said  
2           there was no one available right then.

3           But some understanding on the licensing, if we're  
4           just supposed to know to do it. Everything else that  
5           we're licensed for we receive, you know, written  
6           notification, it says your license is due, send \$500 or  
7           whatever, and I kind of had some questions about that.  
8           But because of the fact that on the lodge side we have  
9           the only licensed infirmary in the state of Arkansas,  
10          we answer to emergencies, we provide medication  
11          assistance, you know, that was what I didn't understand  
12          is whether -- how that was -- I know it's a different  
13          level of care, obviously, but I couldn't quite  
14          understand how the nursing homes, which I'm opening up  
15          a big can of worms, are exempt if it's only supposed to  
16          relate to direct care staff and families, because there  
17          is licensed beauticians doing hair over there just as  
18          there are on the lodge side, so I'm just generally  
19          confused.

20          And I would like to be the point of contact, since  
21          this is a private institution, you know. Because  
22          evidently, even this letter just kind of somehow made  
23          it in Nan's hands and she opened it. And she's a  
24          wonderful person but I had to explain to her, you know,  
25          this is official communication from the health

## 11/21/11, CTAC HEARINGS

1 department, you don't open things and bring it to me.  
2 So I would hope that somehow the administration could  
3 be the point of contact, you know, not just for  
4 inspections but for official documentation and  
5 everything.

6 That's a mouthful, I know.

7 HEARING OFFICER JONES: Okay. Anything further  
8 you want to say right now?

9 THE WITNESS: I don't think so.

10 HEARING OFFICER JONES: Okay. I'll let Mr. Hogan  
11 ask you some questions.

12 THE WITNESS: Okay.

13 CROSS-EXAMINATION

14 BY MR. HOGAN:

15 Q Mr. Stone, you say in your letter that this is a nonprofit  
16 and they are suffering from, as all businesses are, in tough  
17 economic times. Was that the reason why the licensed was dropped  
18 as it has been --

19 A No.

20 Q Okay. Tell us why --

21 A I honestly -- okay. I honestly do not recall being involved  
22 in getting a license for the beauty shop since I've been there.  
23 Now, I could be wrong, I mean I do a lot on a daily basis. But  
24 our business office manager for Trinity at one point in time was  
25 located in the lodge until almost a year ago, and now her office

## 11/21/11, CTAC HEARINGS

1 is over in the medical center, because we do have medicaid and  
2 medicare over there now on the nursing home side but not on the  
3 lodge. And I'm not sure if somehow Ms. Boosier was the one that  
4 did it and then when she left the ball got dropped, but I don't  
5 recall -- now I could be wrong, I don't know if there is a way to  
6 look up and see, you know. But it's like Ms. Jackson said, she  
7 would have, I'm sure, written it up, but I don't remember being  
8 involved in getting a license on the lodge side.

9 MR. HOGAN: All right. That's all I -- I don't  
10 have any further questions.

11 Thank you.

12 HEARING OFFICER JONES: Does the committee have  
13 any questions for Ms. Stone?

14 MS. FORD: Ms. Stone, the salon that you were  
15 written up for.

16 THE WITNESS: Uh-huh.

17 MS. FORD: Is that a separate facility outside of  
18 the nursing home?

19 THE WITNESS: Well, yes. It's all under Trinity  
20 Village, Incorporated, but --

21 MS. FORD: I understand, it's under the --

22 THE WITNESS: It's just --

23 MS. FORD: It's under the business name, but the  
24 actual physical building, is the salon located --

25 THE WITNESS: Right.

## 11/21/11, CTAC HEARINGS

1 MS. FORD: -- physically in that building?

2 THE WITNESS: Yes, ma'am.

3 MS. FORD: Okay. Do they solely deal with the  
4 residents that are in there for total care or do they  
5 service others that are not under total care?

6 THE WITNESS: Okay. The beauty shop on the  
7 nursing home side --

8 MS. FORD: Uh-huh.

9 THE WITNESS: -- strictly serves those residents  
10 who are in our nursing home.

11 MS. FORD: For total care, which means they are  
12 identified --

13 THE WITNESS: Well, not all of them are total  
14 care, but right.

15 MS. FORD: Well, you said one side is assisted  
16 living?

17 THE WITNESS: The lodge side is -- as I said, we  
18 have the only licensed infirmary and we branch out.  
19 Because of that we do the medication assistance and  
20 call lights and what have you.

21 MS. FORD: But it's not total care?

22 THE WITNESS: No. No.

23 MS. FORD: Okay.

24 THE WITNESS: It's not total care.

25 MS. FORD: Okay.

## 11/21/11, CTAC HEARINGS

1 THE WITNESS: And that beauty shop is in that  
2 building and the nursing home section has their own  
3 beauty shop.

4 MS. FORD: Okay. So the one that you were fined  
5 for is on the --

6 THE WITNESS: Lodge.

7 MS. FORD: -- on the assisted living side?

8 THE WITNESS: Right. On the lodge side.

9 MS. FORD: All right. Thank you.

10 HEARING OFFICER JONES: Are there other questions  
11 from the committee?

12 MR. BARNES: Just in discussion -- well, I'll save  
13 this for close, when you're closed here.

14 HEARING OFFICER JONES: Okay. If there are no  
15 further questions from the committee, thank you.

16 Ms. Stone, do you have any witnesses you would  
17 like to call?

18 MS. DONNA STONE: No, ma'am.

19 HEARING OFFICER JONES: Okay. Mr. Hogan, anything  
20 in closing?

21 MR. HOGAN: No.

22 HEARING OFFICER JONES: Ms. Stone, anything in  
23 closing before the board deliberates?

24 MS. FORD: I have one further question.

25 HEARING OFFICER JONES: For Ms. Stone?

## 11/21/11, CTAC HEARINGS

1 MS. FORD: Ms. Stone, yes.

2 HEARING OFFICER JONES: Okay.

3 MS. FORD: Ms. Stone, on the assisted living side,  
4 are those residents able to come and go as they please?

5 THE WITNESS: Yes. They do not have to sign  
6 out -- well, they don't have to sign out with the  
7 nurses station or anything of that.

8 MS. FORD: Okay. They don't -- they don't have to  
9 be taken out, as far as like if they have a doctor's  
10 appointment, they don't need to be transferred --

11 THE WITNESS: Oh, we transport --

12 MS. FORD: -- in a medical -- every patient there?

13 THE WITNESS: Not everyone, no.

14 MS. FORD: Okay.

15 THE WITNESS: But we do transport folks to  
16 physicians offices.

17 MS. FORD: All right. But you do provide  
18 transportation services for the assisted --

19 THE WITNESS: Yes.

20 MS. FORD: -- which would be assisted --

21 THE WITNESS: Exactly.

22 MS. FORD: Okay.

23 THE WITNESS: And in the infirmary, which would be  
24 a 10-bed infirmary, now, they cannot just leave on a  
25 whim, I mean they have -- the nurses have to keep them

## 11/21/11, CTAC HEARINGS

1 back there because they are under doctor's orders for  
2 specific care, and that's inside the lodge.

3 MS. FORD: Uh-huh. Okay.

4 MR. BARNES: And, again, you do no services for  
5 walk-in clients?

6 THE WITNESS: Sir?

7 MR. BARNES: You do no services for walk-in  
8 clients?

9 THE WITNESS: Oh, no, sir. It's all Trinity  
10 Village residents.

11 MS. REYNOLDS: Ms. Stone, can I ask you a  
12 question, please?

13 THE WITNESS: Yes, ma'am.

14 MS. REYNOLDS: Can you tell me, please, how many  
15 licensed cosmetologists you have in there that come and  
16 go?

17 THE WITNESS: Nan and Marlene.

18 MS. REYNOLDS: Two?

19 THE WITNESS: Uh-huh, those two.

20 MS. REYNOLDS: Thank you.

21 THE WITNESS: And Ms. Jackson was right, Nan  
22 serves the nursing home side and Nan and Marlene work  
23 on the lodge side.

24 MS. REYNOLDS: Okay. So how many families that  
25 come in and actually do them if they are not there?

## 11/21/11, CTAC HEARINGS

1 THE WITNESS: You know, I couldn't say. I  
2 especially couldn't on the nursing home side. I don't  
3 have a clue.

4 On the lodge side, I can remember way back seeing  
5 a family member come in and do someone's hair. Usually  
6 it's during the holidays and things like that when they  
7 can't get in to see the beautician, but it does happen  
8 occasionally on the lodge side, but I don't know about  
9 the nursing home side.

10 MS. REYNOLDS: Okay.

11 HEARING OFFICER JONES: Further questions from the  
12 committee?

13 If there are no further questions.

14 MS. FORD: No.

15 (Witness excused.)

16 HEARING OFFICER JONES: Mr. Hogan, you're going to  
17 waive closing.

18 Ms. Stone, do you waive your closing as well?

19 MS. DONNA STONE: (Nodding head up and down.)

20 HEARING OFFICER JONES: At this time we'll close  
21 the record and it will be made complete except for the  
22 board's recess for deliberations. Once the board does  
23 reach a decision we will go back on the record for that  
24 decision.

25 (WHEREUPON, the Committee retired to deliberate,

## 11/21/11, CTAC HEARINGS

1 off the record, from 10:28 a.m. to 10:38 a.m., and  
2 returned with the following motion.)

3 MS. FORD: Okay. We're going to go --

4 HEARING OFFICER JONES: At this time we will go  
5 back on the record for the board's decision.

6 Is there a motion?

7 MS. REYNOLDS: I motion.

8 MS. FORD: Say it.

9 MS. ARGUELLO: You're -- all right, it's stating  
10 that --

11 MS. FORD: Go ahead.

12 MS. REYNOLDS: I motion.

13 MS. KERSEY: What do you? You'll have to say it.

14 MS. REYNOLDS: The dropping of the fees for 1,190  
15 and renewing the license.

16 MS. FORD: At?

17 MS. REYNOLDS: Trinity.

18 MS. FORD: 150.

19 MS. REYNOLDS: 150. At 150 at Trinity.

20 MR. HOGAN: Just a point of order of -- I think  
21 it's important that there is part of the motion that it  
22 is determined that there is a violation of the law and  
23 the regulations as -- as indicated in the notice of  
24 hearing, and that your motion only goes to the  
25 penalty -- or it -- it goes to the finding that there

## 11/21/11, CTAC HEARINGS

1 is a violation but you're recommending that the penalty  
2 be suspended and that only the 150-dollar renewal fee  
3 would be --

4 MS. FORD: Assessed.

5 MR. HOGAN: -- required and assessed.

6 HEARING OFFICER JONES: Okay. Is everyone clear  
7 on the motion?

8 MS. ARGUELLO: Second.

9 MS. FORD: Okay. A motion has been seconded, that  
10 the -- we know that the -- they were infraction of the  
11 renewal law. We have made a motion and it's been  
12 second that we drop the fees that were assessed, the  
13 late fees, and only assess them the 150-dollar renewal.

14 All in favor, raise your hand or say, "Aye."

15 COMMITTEE MEMBERS: Aye.

16 MS. FORD: Majority, the 150-dollar renewal fee  
17 will stand.

18 HEARING OFFICER JONES: Please let the record  
19 reflect the board's decision and reduce the decision to  
20 writing and make or attempt service upon all parties.  
21 If the respondent cares to appeal the decision, an  
22 appeal may be taken under the Arkansas Code Annotated  
23 found at 25-15-201, et seq., or any specific provision  
24 of this board.

25 If there are any questions or comments concerning

## 11/21/11, CTAC HEARINGS

1           this hearing, they may be addressed once we go off the  
2           record.

3                   Thank you all very much.

4                   (WHEREUPON, at 10:40 a.m., the above-entitled  
5           proceedings were concluded.)

6                                   ---o---

7                   HEARING OFFICER JONES: And at this time I do need  
8           to take a little break.

9                   (WHEREUPON, a break was held from 10:40 a.m. to  
10          10:52 a.m.)

11                   MS. FORD: At this time we are going to continue  
12          back on record with our hearings.

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## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: I did.

2 HEARING OFFICER JONES: Okay. Mr. Hogan, identify  
3 yourself for the record.

4 MR. HOGAN: Rick Hogan, general counsel for the  
5 health department.

6 HEARING OFFICER JONES: For the respondent's  
7 benefit and the benefit of anyone present who may not  
8 have appeared before in an administrative hearing, the  
9 board will base its decision solely based upon the  
10 evidence presented here today.

11 This hearing is being held under the  
12 Administrative Procedures Act, which means the strict  
13 rules of evidence do not apply as they would in a  
14 regular court of law. To ensure the efficiency of the  
15 proceeding I will grant objections and caution parties  
16 only as is necessary.

17 The board members know of this case only as it  
18 appears and is set forth in the Order of Notice of  
19 Hearing. Anything that you want to have them consider  
20 needs to be submitted as evidence today.

21 Participants should be aware that these  
22 proceedings are open to the public under the Freedom of  
23 Information Act, and that does include the board's  
24 recession for deliberation.

25 For those of you who are going to be witnesses in

## 11/21/11, CTAC HEARINGS

1 today's matter, please raise your right hand and I'll  
2 have the court reporter swear your in.

3 (WHEREUPON, the witnesses were sworn.)

4 Very well.

5 Mr. Hogan, preliminary matters?

6 MR. HOGAN: That the committee be able to accept  
7 the board's rules and regulations and the statute as  
8 the -- judicial notice of them.

9 HEARING OFFICER JONES: Those will be so noticed.

10 MR. HOGAN: And that we also admit into evidence  
11 this packet of information, A through Exhibit E, which  
12 includes a letter dated October 10, 2011, to Ms. Knott,  
13 the -- notifying her of the hearing, including the  
14 option of paying the penalty; and also an Order of  
15 Notice of Hearing and, which has been signed as  
16 received and Ms. Knott is here today. And then the  
17 final item is the inspection report that Ms. Horner  
18 executed as Exhibit E. And we ask that those be  
19 admitted as board's exhibit, board's exhibits for the  
20 record today.

21 HEARING OFFICER JONES: Ms. Knott, do you have any  
22 objection to any of these exhibits?

23 MS. LAURA KNOTT: I have them all.

24 HEARING OFFICER JONES: Okay. Very well. Those  
25 will be admitted as Board's Exhibits A through E.

## 11/21/11, CTAC HEARINGS

1 (WHEREUPON, Committee's Exhibits A through E were  
2 received in evidence.)

3 Okay. Ms. Knott, do you have anything in your  
4 possession that you want the board to see to consider  
5 today?

6 MS. LAURA KNOTT: Well, I have my -- all of the  
7 information of when the licensing of my salon took  
8 place. The only thing that you don't have, and I don't  
9 know how to do that, the salon was an open salon, it  
10 was called Shine, and he --

11 HEARING OFFICER JONES: Well, we'll get into --

12 MS. LAURA KNOTT: Okay.

13 HEARING OFFICER JONES: I'll let you all tell all  
14 of that in just a minute.

15 MS. LAURA KNOTT: Okay. I was just going to let  
16 you know.

17 HEARING OFFICER JONES: If there is anything that  
18 you have that you want the board to see, such as when  
19 it was licensed, then we can get some copies of those  
20 probably and let -- get them handed around to the board  
21 to see them.

22 MS. LAURA KNOTT: Okay.

23 MR. HOGAN: If you've got something that you want  
24 to put in, Michelle or someone can copy it for you  
25 right now and we'll be ready whenever --

## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: Okay.

2 HEARING OFFICER JONES: Then we'll admit those  
3 when they come back with the copies.

4 MS. LAURA KNOTT: Okay. Thank you.

5 HEARING OFFICER JONES: Mr. Hogan, an opening  
6 statement?

7 MR. HOGAN: I have no opening statement.

8 HEARING OFFICER JONES: Okay. Ms. Knott, anything  
9 in opening?

10 MS. LAURA KNOTT: I don't know.

11 HEARING OFFICER JONES: If there is anything you  
12 want to tell the committee to start with, then now is  
13 the time. If not you can wait until -- until it's your  
14 time to basically tell your side of the story and call  
15 your witness.

16 MS. LAURA KNOTT: That's fine.

17 MR. HOGAN: I waived mine.

18 MS. LAURA KNOTT: Okay. I'll waive.

19 HEARING OFFICER JONES: Okay. Mr. Hogan, call  
20 your first witness.

21 MR. HOGAN: Call Ms. Rose Horner.

22 WHEREUPON,

23 ROSE HORNER,

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

25 sworn by the undersigned notary public, was examined and

## 11/21/11, CTAC HEARINGS

1 testified, as follows:

2 DIRECT EXAMINATION

3 BY MR. HOGAN:

4 Q Rose, state your name for the record, please.

5 A Rose Horner.

6 Q You're an inspector for the Arkansas Department of Health?

7 A Yes, sir.

8 Q Rose, Exhibit E is an inspection report that you filled out  
9 in August of this year. Correct?

10 A Yes, sir.

11 Q Tell the members of the committee -- I believe the name of  
12 the salon is Allure Hair, it's located up in Mountain Home.

13 Right?

14 A Yes, sir.

15 Q What did you find when you went to the site to inspect the  
16 facility?

17 A I was driving by, I think maybe on my way home, anyway, I  
18 saw cars there and I stopped and Laura was there. And there --  
19 there was no salon license posted.

20 Q Was this a new place or was this -- had you been --  
21 inspected this place before?

22 A There has been a salon there in the past.

23 Q But was it called Allure Hair as well or was this a  
24 different --

25 A A different name.

## 11/21/11, CTAC HEARINGS

- 1 Q So it was a new place, as far as you knew?
- 2 A Yes.
- 3 Q Okay. Go ahead.
- 4 A I talked to Ms. Laura. She told me she had mailed her  
5 paperwork on Monday or Tuesday of that week, \$150 salon  
6 application fee. And I don't recall if her license was posted or  
7 she gave it to me, but I wrote down her ID number.
- 8 Q So she had a license to practice cosmetology, at least?
- 9 A (Nodding head up and down.)
- 10 Q An individual license, right?
- 11 A Yes, sir.
- 12 Q Okay. And then you mentioned, there is something here  
13 "Working on a friend, opening next Tuesday." Can you explain  
14 what that means?
- 15 A She had -- when I went in there was a person in the -- I  
16 believe the shampoo bowl, and she told me she was a friend and  
17 that she was opening her salon the next Tuesday.
- 18 Q Okay. So, at this time did you talk to her about was she  
19 charging her friend for these services or was there an "open"  
20 sign on the front door or --
- 21 A The door was unlocked and I went in.
- 22 Q Okay. The only person there then, persons were Ms. Knott  
23 and the -- and this friend of hers?
- 24 A Yes.
- 25 Q Is that right?

## 11/21/11, CTAC HEARINGS

1 A Yes, sir.

2 Q So, then, Ms. Knott told you that she wasn't officially open  
3 for business until August the 8<sup>th</sup>? Is that right?

4 MS. LAURA KNOTT: The following week.

5 THE WITNESS: She said that her opening was the  
6 next Tuesday.

7 BY MR. HOGAN:

8 Q Okay. You were there on August the 4<sup>th</sup>?

9 A Yes, sir.

10 Q And I believe August 8<sup>th</sup> would have been that following  
11 Tuesday, I believe.

12 A (Nodding head up and down.)

13 Q All right. To your knowledge did she get her license? Did  
14 she obtain her license or did she -- had she in fact sent in the  
15 application fee and --

16 A I -- at some point after this I did receive an email. Our  
17 new applications are sent by email to us from Kelli, and I did  
18 receive one.

19 Q All right.

20 A I'm not sure what that date was that I received it, though.

21 Q So is there anything further you want to make the committee  
22 aware of, Rose?

23 A No.

24 MR. HOGAN: I'll pass the witness.

25 HEARING OFFICER JONES: Ms. Knott, any questions

## 11/21/11, CTAC HEARINGS

1 for Ms. Horner?

2 CROSS-EXAMINATION

3 BY MS. LAURA KNOTT:

4 Q This is the lady -- is this the lady that was there?

5 A Yes.

6 HEARING OFFICER JONES: Okay. I'm going to ask  
7 you to speak up because I didn't hear you. I don't  
8 hear very well but I wanted to make sure the court  
9 reporter and the committee can hear you.

10 MS. LAURA KNOTT: I just wanted to make sure Rose,  
11 identify the girl that was there. She's my friend.

12 HEARING OFFICER JONES: Well, come on up.

13 MR. HOGAN: Come on up.

14 MS. LAURA KNOTT: Paige Griffith.

15 MR. HOGAN: Paige?

16 MS. LAURA KNOTT: Paige.

17 MR. HOGAN: Good to meet you, Paige.

18 HEARING OFFICER JONES: And just to clarify for  
19 the record, Ms. Horner, it was Ms. Griffith that you  
20 saw?

21 THE WITNESS: Yes, she does, she looks familiar.  
22 Yes.

23 HEARING OFFICER JONES: Okay. I just wanted to be  
24 sure the record is clear.

25 Do you have any other questions for Ms. Horner?

## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: No.

2 HEARING OFFICER JONES: Ms. Horner, you ran away  
3 too quick. What if the committee has questions?

4 THE WITNESS: I'll be close.

5 HEARING OFFICER JONES: Does the committee have  
6 any questions?

7 MS. FORD: I do.

8 THE WITNESS: Okay.

9 MS. FORD: You went in and inspected on the --

10 THE WITNESS: August the 4<sup>th</sup>.

11 MS. FORD: -- the 4<sup>th</sup>? Correct?

12 THE WITNESS: Yes, ma'am.

13 MS. FORD: Was the old license posted from the  
14 previous business or anything like that?

15 THE WITNESS: No. No.

16 MS. FORD: There was no establishment license?

17 THE WITNESS: No. No establishment license.

18 MS. FORD: Okay.

19 HEARING OFFICER JONES: Other questions for the  
20 committee for Ms. Horner?

21 MS. FORD: Yes. One more.

22 THE WITNESS: Uh-huh.

23 MS. FORD: What does the law state as far as a new  
24 business opening?

25 Can you -- can you work in the salon prior to

## 11/21/11, CTAC HEARINGS

1 receiving your physical license or does the physical  
2 license need to be posted prior to opening? Any kind  
3 of provisions there?

4 THE WITNESS: Letter of Authorization, Rule No. 6,  
5 2(A), "Any person, firm, or corporation who has applied  
6 for a license to operate a cosmetology -- cosmetology  
7 establishment will receive a letter of authorization,  
8 letter authorizing the owner to establish -- operate  
9 the establishment, provided that the owner has  
10 certified compliance with the licensing code and the  
11 rules of the board. The letter shall be conspicuously  
12 posted in the salon."

13 MS. FORD: Okay. Thank you.

14 HEARING OFFICER JONES: Go right ahead.

15 MS. REYNOLDS: What was her name?

16 HEARING OFFICER JONES: Ms. Horner.

17 MS. REYNOLDS: Ms. Warren.

18 HEARING OFFICER JONES: Horner.

19 MS. REYNOLDS: Ms. Horner.

20 THE WITNESS: Yes, ma'am.

21 MS. REYNOLDS: At the time when you visited her  
22 establishment, was this name listed or the old salon  
23 name?

24 THE WITNESS: I -- I want to think it -- I'm not  
25 sure. I'm not sure.

## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: There wasn't a name. Sorry.

2 MS. FORD: I want to say, on this inspection sheet  
3 it has Allure, it doesn't have the owner name.

4 MS. REYNOLDS: No. I know on this. That's why I  
5 was asking at the time was that, even though on the  
6 registration it was Allure, was that name Shine up  
7 there on the --

8 THE WITNESS: Huh-uh.

9 MS. REYNOLDS: Okay.

10 MS. FORD: The business cited is Allure.

11 MS. REYNOLDS: Okay.

12 HEARING OFFICER JONES: Further questions from the  
13 committee for Ms. Horner?

14 MS. FORD: No.

15 HEARING OFFICER JONES: Okay. Thank you very  
16 much, Ms. Horner.

17 (Witness excused.)

18 Mr. Hogan, you can call your next witness.

19 MR. HOGAN: We'll call Ms. Kersey.

20 WHEREUPON,

21 KELLI KERSEY,

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

## 11/21/11, CTAC HEARINGS

1 BY MR. HOGAN:

2 Q State your name, Kelli, for the record and your position  
3 with the board or department.

4 A Kelli Kersey, Section Chief, Arkansas Department of Health,  
5 Cosmetology.

6 Q Kelli, when does your records reflect that this facility --  
7 and let me make sure I understand.

8 The application you received, was that for Allure Hair and  
9 Beauty Salon? Was that the name of the facility?

10 A Yes, sir.

11 Q That was the applicant that was asking to be licensed at  
12 this address, 113 Western Hills Lane in Mountain Home?

13 A Yes, sir. On August 8<sup>th</sup>. Yes, sir.

14 Q On August the 8<sup>th</sup>?

15 A Uh-huh.

16 Q When the inspection report was submitted or done on August  
17 the 4<sup>th</sup>, was there any evidence that a license had been issued  
18 to Allure Hair and Beauty Salon in your records?

19 A We had actually got the application on August 3<sup>rd</sup>.

20 Q You received the application on August 3<sup>rd</sup>?

21 A Uh-huh. I know I didn't put that out, I'm sorry, I do have  
22 it on a file, though.

23 Q So, well let's make sure we get this clear.

24 Had the inspector called you and said -- and asked if you  
25 had received an application for this facility on August the

## 11/21/11, CTAC HEARINGS

1 4<sup>th</sup>, when she was there, what would have been the instructions  
2 to her as far as issuing a violation or in her inspection report  
3 on August the 4<sup>th</sup>, with the understanding you had received it  
4 on August the 3<sup>rd</sup>?

5 That's a hypothetical question, but had she called you, what  
6 would you have informed her of at that time?

7 A Well, I would have looked it up in the system to see if it  
8 had been processed, and it obviously wasn't until the 8<sup>th</sup>. And  
9 but then I would have looked in the mail and I would have saw  
10 that it had been there on the 3<sup>rd</sup>.

11 Q Okay. The fact that the application had been submitted, I  
12 guess my question is, would that have relieved the applicant from  
13 responsibility as far as being able to do hair at the  
14 establishment or perform services at the establishment related to  
15 cosmetology?

16 Would -- would -- in other words, would she have still had  
17 to have had either a letter stating that she could do so or that  
18 a license authorizing her to operate within that establishment?

19 A Yes. She has to wait until she has the letter of  
20 authorization hanging in her salon, so it still would not -- it  
21 wouldn't matter when we got it. If she doesn't have the letter  
22 of authorization hanging, she can't open until then.

23 Q What -- let's say I've got a facility that's got a sign out  
24 front and, you know, that all -- you know, my aunt used to be a  
25 cosmetologist, and I could go down there at night, any time when

## 11/21/11, CTAC HEARINGS

1 she wasn't open and she would cut my hair for me, and I would try  
2 to pay her and she would say, I don't -- she wouldn't take it,  
3 she wouldn't take any money for it. But she -- the fact that,  
4 let's say, this friend was not paying her for the services, would  
5 that relieve a licensee from still having to meet the  
6 requirements of licensure and the -- and to be licensed as a  
7 cosmetologist and that the shop itself would have to be licensed?

8 Did that make any sense?

9 A Yes. I think.

10 If there was no compensation whatsoever, even money, gifts,  
11 lunch, then that would relieve her --

12 Q Okay.

13 A -- from the obligation, if there was --

14 Q Even though she was open to the public to provide the  
15 service, would it relieve the licensee for her as a cosmetologist  
16 or for her operating the business or both?

17 A Both.

18 Q That's a tough one?

19 A Yeah.

20 Q Okay. Yeah, that was a tough question.

21 A Yeah. Sorry. Yeah. Hmm.

22 MR. HOGAN: Well, I'll pass the witness.

23 HEARING OFFICER JONES: Ms. Knott, do you have any  
24 questions for Ms. Kersey?

25 MS. LAURA KNOTT: No.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Okay. Does the committee  
2 have any questions for Ms. Kersey?

3 MS. FORD: I do.

4 I need to be clear on the compensation and the  
5 facility being licensed.

6 THE WITNESS: Uh-huh.

7 MS. FORD: So are you saying that because there  
8 was -- or if there is no money or no type of  
9 compensation for the service --

10 THE WITNESS: Um --

11 MS. FORD: -- then it doesn't need to be a  
12 licensed facility by a licensed cosmetologist?

13 THE WITNESS: Yeah. That's not what I'm saying,  
14 that's what the law says.

15 MS. FORD: That is what the law says?

16 THE WITNESS: There is a law that states that.  
17 It's either a law or a rule, I'm sorry, I don't know  
18 which one it is, but we've had this discussion.

19 MS. FORD: Okay.

20 THE WITNESS: If no compensation -- oh, I'm sorry.  
21 It's a statute.

22 MS. FORD: It's a statute?

23 THE WITNESS: It's not a law, it's a statute.

24 So any compensation, I mean like I said, lunch,  
25 cookies, a gift.

## 11/21/11, CTAC HEARINGS

1 MS. FORD: Okay.

2 THE WITNESS: So...

3 MS. FORD: I notice that at the top of the  
4 application that Allure had submitted there is a  
5 statement in the -- that covers the instructions. And  
6 could you read that for us, please?

7 THE WITNESS: Sure.

8 "This form is to be filed approximately two weeks  
9 before your opening date. You will receive a letter of  
10 authorization to be posted in the reception area that  
11 will allow you to open and operate said salon until  
12 such time it is inspected."

13 MS. FORD: Okay. Now, on that application, if you  
14 will go down to where No. 6 is highlighted, and it has  
15 the opening date, what is the opening date on that form  
16 for me, please?

17 THE WITNESS: August 1<sup>st</sup>.

18 MS. FORD: Okay. And when did you receive this  
19 application into your office?

20 THE WITNESS: The 3<sup>rd</sup>.

21 MS. FORD: Thank you.

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

24 MR. HOGAN: She can do my job better than I can.

25 MS. FORD: I'm sorry. I am so sorry.

## 11/21/11, CTAC HEARINGS

1 MR. HOGAN: I'm not even going to comment on that  
2 statement.

3 HEARING OFFICER JONES: Are there any further  
4 questions from the committee for Ms. Kersey?

5 MS. FORD: No.

6 HEARING OFFICER JONES: Okay. Very well.

7 Mr. Hogan, any further witnesses?

8 MR. HOGAN: Let me ask the chair if she thinks I  
9 ought to call anybody.

10 No. That's all I have.

11 HEARING OFFICER JONES: Okay. Let's just move on.

12 Okay. At this time we are going to introduce the  
13 establishment registration as Respondent's Exhibit A,  
14 the sales and use tax permit as Respondent's Exhibit B,  
15 the Express Mail receipt as Respondent's Exhibit C, and  
16 the certificate of person conducting business under an  
17 assumed name as Respondent's Exhibit D, those will be  
18 admitted into the record.

19 (WHEREUPON, Respondent's Exhibits A through D were  
20 received in evidence.)

21 HEARING OFFICER JONES: Ms. Knott, you can  
22 either --

23 MS. LAURA KNOTT: I have --

24 HEARING OFFICER JONES: -- tell your side of the  
25 story.

## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: I don't have a story.

2 HEARING OFFICER JONES: -- or you can call your  
3 witnesses and tell your side. Doesn't matter either  
4 way.

5 WHEREUPON,

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

10 DIRECT TESTIMONY

11 THE WITNESS: I'm going to start.

12 Who answers the phone when you call the phone  
13 number at the top of this grey area when you call  
14 cosmetology? This one right here, 501-682-2168?

15 HEARING OFFICER JONES: Okay. That was probably  
16 something you should have asked Ms. Kersey, but --

17 THE WITNESS: I don't know the rules. I'm sorry.

18 HEARING OFFICER JONES: I'll let her answer that.  
19 Go ahead.

20 MS. KERSEY: Our receptionist Patricia, or our  
21 backup receptionist, which could at any time be two  
22 different people.

23 THE WITNESS: Okay. Back in July I spoke with  
24 this person, it was -- the salon's name was Shine. The  
25 person that ran it was Marla Pemberton. She hired me

## 11/21/11, CTAC HEARINGS

1 to work at the salon. Eve Isabell is the owner of the  
2 building and owns all of the equipment inside of it.  
3 She left on the weekend and dissolved her business,  
4 took everything with her, owing \$4,000, me without job.  
5 Eve said, do you want the job working at the salon, you  
6 can run it, all the stuff is already in it. I called  
7 the board and I said, this is already an active salon.  
8 I had to have a letter from Marla saying that she was  
9 transferring the -- because it was a -- it was a  
10 running salon, we were working there, that it was --  
11 that she was -- would transfer it to Allure. She would  
12 not do so, she wouldn't contact us, she wouldn't call  
13 me back. So I called back and I said, what do I do?  
14 She said, that's very easy. Get a new establishment.  
15 This was at the end of July, whatever this Monday was.  
16 It was not on a -- I couldn't get a hold of anyone on  
17 Monday or Tuesday, whatever day.

18 So I finally got a hold, I said what do I do, this  
19 woman owes \$4,000, she hates the person who owns the  
20 building, I don't know what to do. She said, very  
21 easy, print the forms. I did, I printed them right  
22 then, went to the post office.

23 When Rose came in, we still had construction --  
24 the door was open because the construction workers were  
25 still in there. Paige was going on vacation. She

## 11/21/11, CTAC HEARINGS

1           wasn't in the shampoo bowl, she was in my pedicure  
2           bowl. I didn't know how to work the massage, I didn't  
3           know how to turn it on, I didn't know how to do  
4           anything. I was there with the construction workers,  
5           she was on her way on to vacation. I said, sit in this  
6           chair.

7                        When Rose came in, the bell would ding in the  
8           front, I just said from the back, "I'm in the back."  
9           So I said, "Wow, you work fast and speedy. I'm so  
10          happy to see you." She didn't know why I was glad to  
11          see her, she didn't know I had mailed my paperwork in.  
12          So I thought she was there to inspect me. So I said,  
13          well, while you're here will you look around and tell  
14          me if anything is missing. And so all of this takes  
15          place, she just happened to be stopping by.

16                       I wasn't open for business but whomever I spoke to  
17          on the phone told me that's how I solve this problem is  
18          to send in a new establishment because it was already a  
19          working salon. And so I didn't --

20                       And it was actually August the 11<sup>th</sup>, whatever  
21          day is the first day in my book. And so and it was  
22          after I called to verify that they had all the  
23          information, everything through -- I had to get  
24          everything, an LLC, a business license, a state ID  
25          number, all of that, because Marla would not sign off

## 11/21/11, CTAC HEARINGS

1 on Shine, she would not release that. So there was no  
2 name up of anything. She knows it was Allure, because  
3 I had all of my business licenses there. I had all of  
4 my licensing, but it was all taped up, the Shine,  
5 because that's her name and she threatened to sue  
6 Ms. Isabell over the fact that it was -- that was her  
7 name. And so that's how the Allure comes into it, is  
8 because my business license says that, and I had all  
9 the paperwork there.

10 That's it.

11 HEARING OFFICER JONES: Mr. Hogan, questions?

## 12 CROSS-EXAMINATION

13 BY MR. HOGAN:

14 Q Oh, the document that you brought, introduced --

15 A (Nodding head up and down.)

16 Q -- that's not -- Madam Chair has already referred to the  
17 opening date on here.

18 Did you -- did you fill out this document yourself or how  
19 did this document --

20 A This one right here, the new establishment?

21 Q Yes.

22 A Yeah, this is what I printed off of the Internet.

23 Q Well, but you didn't print off the handwritten --

24 A The new establishment registration form?

25 Q Yeah. But what I'm asking about, inside that, what you've

## 11/21/11, CTAC HEARINGS

1 submitted in addition to this form, it has written in there,  
2 "Allure Hair and Beauty Salon."

3 A Oh, this is for the City of Mountain Home.

4 Q And that's -- did you fill that out?

5 A Are you looking at this one or this one?

6 HEARING OFFICER JONES: He's looking at  
7 Respondent's Exhibit A, which is your registration,  
8 your new establishment registration.

9 THE WITNESS: Yes.

10 HEARING OFFICER JONES: And he's just asking you  
11 if you filled out the handwritten part?

12 THE WITNESS: Yes.

13 BY MR. HOGAN:

14 Q You did?

15 A From the Internet from whoever I spoke to on the phone in  
16 July, this is what she had me fill out. And I went to the post  
17 office the next day, whatever the next day was.

18 Q So you put -- you actually wrote in there and filled that  
19 out? That's your handwriting there, right?

20 A That's when I talked to her.

21 Q Okay. Are you saying that you talked to someone at the --  
22 at the board office in July?

23 A Yeah.

24 Q Because I thought you said it was in August?

25 A It was at the very end of July, first of August, I don't

## 11/21/11, CTAC HEARINGS

1 know the exact date, because I could not get Marla to sign  
2 anything that said she was not there operating under Shine. So  
3 the day, whoever I talked to on the phone, walked me through this  
4 Internet form and I wrote the date on there. And then I called  
5 on whatever that Tuesday was, or on the Wednesday, two days after  
6 I sent the application, the money in for the new establishment,  
7 and then Rose came to inspect, so I just thought she was there  
8 that jiffy quick.

9 Q You didn't -- you're not saying that someone at the health  
10 department or the board told you to write in the opening date of  
11 August 1, 2011, are you?

12 A This is when I sent the paper, this is when I talked to them  
13 on the phone, somewhere on that date as I was talking to her on  
14 the phone.

15 Q That's not the question I'm asking. The question I'm asking  
16 you is this: You're not saying that someone at the health  
17 department told you to write in August 1<sup>st</sup> as the opening date?

18 A No, I wrote that down because that's the day I spoke with  
19 them on the phone.

20 Q All right. The second page of this document, the sales and  
21 use tax permit, it has -- do you see that document that we have?

22 A Uh-huh.

23 Q Okay. It has date opening, August 2, 2011?

24 A Right.

25 Q Now, where did they get that date from?

## 11/21/11, CTAC HEARINGS

1 A That's when I went to the attorney's office to get the  
2 paperwork. That's -- that's the day the attorney did the  
3 paperwork.

4 Q So that's the date that you gave to him --

5 A Uh-huh.

6 Q -- to put down as the opening?

7 A I gave him, that's the date I was at the attorney's office.

8 Q But that's the date you gave to him to put as the date of  
9 opening for the facility, right?

10 A No. He evidently just put that on there himself.

11 MS. EVE ISABELL: That is exactly contract. That  
12 is exactly true.

13 HEARING OFFICER JONES: Wait, wait, wait. You  
14 can't talk right now. I'm sorry. We've got to try to  
15 keep the record clear here.

16 THE WITNESS: September 22<sup>nd</sup>, the date the  
17 issue -- this was issued was September the 22<sup>nd</sup> of  
18 2011. I couldn't buy any products or anything until  
19 the -- until the middle week of August. The only thing  
20 that happened on the first week of August when I was  
21 there was the front door was open. There is not a  
22 sign, there wasn't anything out there.

23 Until my LLC and my -- and my -- all of this  
24 paperwork went through, there wasn't anything I could  
25 do until I talked to the people on the phone that said

## 11/21/11, CTAC HEARINGS

1           they had received my -- so when Rose was there, I said,  
2           great, you're here. She said she probably wouldn't  
3           even have to come back, that I would get something in  
4           the mail from the board, because I thought it was  
5           already from when I sent it in.

6                     The day that Paige was there I wasn't -- there --  
7           she -- she didn't pay me, she didn't do anything. I  
8           had her sit in the chair because I didn't know how to  
9           work the manicure -- I mean the pedicure chair.

10 BY MR. HOGAN:

11 Q       What were you doing?

12           What kind of services were you performing or doing for her  
13 that day?

14 A       On that day?

15 Q       For Paige, yes.

16 A       She -- I had her sit in my pedicure -- in the manicure -- or  
17 pedicure chair and try to figure out how to move the seat back  
18 and forth, and the construction workers were in the main part of  
19 the -- in the back, because there is two stations available to  
20 hire a booth rent person, which now they are there. But they  
21 were in there hanging the mirrors. And so the back, there is two  
22 shampoos, there is a manicure in that --

23 Q       I'm not asking what the construction workers were doing, I'm  
24 asking you what services --

25 A       She was in the pedicure chair.

## 11/21/11, CTAC HEARINGS

1 Q Okay. So she was in the pedicure chair?

2 A Uh-huh.

3 Q Did she come in knowing that she was going to get a pedicure  
4 or what?

5 MS. PAIGE GRIFFITH: No.

6 THE WITNESS: You can -- do you want to ask her  
7 that question?

8 BY MR. HOGAN:

9 Q Well, I'm asking you. Do you --

10 A No, she --

11 HEARING OFFICER JONES: You can't answer the  
12 question right now. When you're called as a witness  
13 then you can be asked that, too.

14 THE WITNESS: She stopped by to check how the  
15 construction that was going on, because she was headed  
16 to Mississippi for a vacation. And I said -- and so  
17 she looked in and she's like, "Wow, this is beautiful."  
18 And I'm like, "Oh, my gosh, look at this wonderful  
19 pedicure chair I have, if I could only figure out how  
20 to work it." And I said, "Sit in the seat, I'm going  
21 to put you in here and turn on the water." And I said,  
22 "Move this seat back and forth and put your feet up  
23 here and tell me how this works." And then Rose came  
24 in and I was happy to see her. Shouldn't have been,  
25 but I was.

## 11/21/11, CTAC HEARINGS

1 BY MR. HOGAN:

2 Q Okay. So this is the only person that --

3 A Yes.

4 Q -- has come into your facility that --

5 A Yeah.

6 Q All right. That was --

7 A Yeah, I was --

8 Q -- doing anything in terms of any kind of services that you  
9 would -- yeah. I guess you performed the services that she was  
10 getting that day now? For example, you give pedicures?

11 A Uh-huh.

12 Q So forth?

13 A I do.

14 I my first service was on August the 17<sup>th</sup> --

15 Q Okay.

16 A -- was the first day that I did a person's hair --

17 Q Okay.

18 A -- was on August the 17<sup>th</sup>, and I have written that here.

19 No one, open, nothing there, I have written on my book, no people  
20 on my book. I didn't -- I -- Marla would not sign a piece of  
21 paper. And I thought had -- because it was already an open  
22 salon, that that following week in August, that I wasn't working  
23 on her, she just stopped in. She has been my friend for 10 years  
24 and I said sit in the chair and show me how to move it back and  
25 forth so I don't look like a total idiot when someone actually

## 11/21/11, CTAC HEARINGS

1 does come in. That was it.

2 Q That -- that brings up just -- I've just got a few  
3 questions. But about your taking over this facility or your  
4 assuming the equipment or everything that was in the facility,  
5 what -- I'm trying to understand what your familiarity with the  
6 old business was.

7 You obviously knew -- they wouldn't have asked you to take  
8 it over if you wanted to if you were not knowledgeable of --

9 A The pedicure chair?

10 Q -- that facility in the past, right?

11 A Can I -- no. Eve is the one, Eve still owns the building.  
12 She owns the -- she owns the entire thing, she owns the store  
13 next door.

14 Q Okay.

15 A And so she's known me for a long time.

16 And the person that hired me, I don't -- is it -- it's going  
17 to take ten years. She has a drug problem. And so Eve -- they  
18 dissolved their partnership because she owed her \$4,000. And so  
19 I said, "I can't work for this woman," she said, "Don't leave,  
20 she's going to be leaving." The following week, she said --

21 Q You can't work for this woman? Had you been working there  
22 and --

23 A She had just hired me to work. It had been -- I had been  
24 one week at -- under Shine.

25 Q Okay.

## 11/21/11, CTAC HEARINGS

1 A And then Marla took off work and went to Mexico, I did not  
2 work. She came back. She took one week for drug rehab?

3 MS. EVE ISABELL: Yes.

4 THE WITNESS: I -- and so in the meantime, that  
5 all ended, she left and took all of her stuff, her  
6 personal belongings on a weekend. And Eve said, "Do  
7 you want to stay?" And I said, "Yes."

8 I called the board, said this is formerly been  
9 called Shine. She, this is her name, it's going to be  
10 called Allure, what do I do? That leads me to where I  
11 am right here today.

12 BY MR. HOGAN:

13 Q And you started that process back in July somehow?

14 A In the end of July, yes.

15 Q Because --

16 A And all of this paperwork is August.

17 Q But the last document, Certificate of Person Conducting  
18 Business, it was signed by you on July 25<sup>th</sup> of this year?

19 A Yeah. Right there, certified by the courthouse, that's when  
20 it started.

21 Q So that's when you started this process?

22 A She left that fall -- she unloaded all of her personal stuff  
23 that weekend before and that's when I called the board to figure  
24 out, okay, all the equipment is in there, what do I have to do  
25 legally to be in the salon.

## 11/21/11, CTAC HEARINGS

1 Q Okay. And that was back in July?

2 A Yes.

3 Q Okay. Just -- it sounds like Shine was a hair salon, right?

4 That's what it was?

5 A They were a hair salon.

6 Q And you were work there? And I guess --

7 A I was supposed to be working here.

8 Q But we're only talking about \$250 here.

9 A No, but the point is --

10 Q But I've already asked more questions than I have in some  
11 federal court cases.

12 Let me just ask you what, you know, this -- what I can't  
13 understand is what kind of construction, what was needed in terms  
14 of construction to retool a facility that was already operating  
15 as a hair salon?

16 A It wasn't. It was a one-person salon that -- it was a  
17 one-person salon with a gourmet shop, there was a gourmet store  
18 in between and a liquor store on the other side, a brand new  
19 facility. She decided she wanted to expand and hire another  
20 hairdresser and someone who could do manicures and pedicures, and  
21 that was me. Way back in June she started interviewing me but  
22 never hired me. And so when she finally hired me in July, then  
23 all of this, she -- like I said, she went to Mexico, I was going  
24 to work when she came back, she came back and went to rehab.

25 Q So you were -- you were hired to do manicures and pedicures

## 11/21/11, CTAC HEARINGS

1 but you didn't know how to operate the --

2 A But I had never started.

3 Q But you didn't know how to operate the pedicure chair?

4 A No. Every manicure chair -- every pedicure chair is  
5 different. This one has massaging and goes back and forth and  
6 the arms -- all of them are different.

7 MR. HOGAN: Okay. I pass the witness.

8 HEARING OFFICER JONES: Okay. Does the committee  
9 have any questions for Ms. Knott?

10 Go right ahead.

11 MS. FORD: I do.

12 So the pedicure chair -- you said you were hired a  
13 week prior when it was Shine?

14 THE WITNESS: To --

15 MS. FORD: Was that pedicure chair not in that  
16 facility at that time?

17 THE WITNESS: No, it was brand new.

18 MS. FORD: Okay.

19 THE WITNESS: Everything had been put in there  
20 brand new. All the manicure stuff, shellacs, every --  
21 all of the equipment had come in. She was supposed to  
22 have left everything there. She had -- Eve had bought  
23 all of that stuff. She came in on the weekend and took  
24 everything out. There was not even any products in at  
25 this time until -- until August the 10<sup>th</sup> there wasn't

## 11/21/11, CTAC HEARINGS

1 even anything to do with a pedicure with. She took  
2 everything out of the shop that wasn't hooked to the  
3 floor.

4 And there was no money exchanged. She didn't  
5 bring me a drink, she didn't pay me. I asked her to  
6 sit in the chair.

7 You said was there any money exchanged? I guess  
8 that's the bottom line. I wasn't performing a service  
9 for any money or any gifts.

10 MR. BARNES: I just have one question, it may have  
11 been answered already.

12 Did she have her shoes on or off when they took  
13 the -- when Rose came in and was there water in the  
14 sink?

15 THE WITNESS: There was water in the sink.

16 MR. BARNES: Was she wearing shoes or was  
17 she wearing --

18 THE WITNESS: She had her flip flops on top of  
19 the -- on the top of her pedicure chair.

20 MS. FORD: So she actually -- okay.

21 HEARING OFFICER JONES: Okay. Further questions  
22 from the committee?

23 MS. FORD: Yes.

24 So, in order to figure out how to work the chair  
25 back and forth you had to fill water in the basin and

## 11/21/11, CTAC HEARINGS

1 she was in flip flops?

2 THE WITNESS: No. I was filling the water -- I  
3 was filling the pedicure chair up when she game in.

4 MS. FORD: Uh-huh.

5 THE WITNESS: I said sit in the chair and put your  
6 feet on the front and push back and show me. Because  
7 most of them have an automatic, this is like a car that  
8 you lift out and you have to push. So I just -- I just  
9 had her push it back to tell me, you know, where you  
10 would set your toes to have her polish them, how far  
11 your feet, she's got long legs, does this chair push  
12 back far enough. That's all that was, that was it.

13 MS. FORD: Okay.

14 HEARING OFFICER JONES: Further questions from the  
15 committee?

16 Okay. Thank you, Ms. Knott.

17 (Witness excused.)

18 You can call your witnesses.

19 MS. LAURA KNOTT: Paige Griffith.

20 HEARING OFFICER JONES: Okay.

21 MS. LAURA KNOTT: And Eve Isabell is the owner of  
22 the building.

23 HEARING OFFICER JONES: Okay. Do you want to call  
24 them as witnesses to testify for you today?

25 MS. LAURA KNOTT: Yes.

## 11/21/11, CTAC HEARINGS

1 Did you pay me or give me anything --

2 HEARING OFFICER JONES: Wait. Wait. Just to  
3 clarify.

4 If you will state your name for the record and  
5 then you can ask her all the questions.

6 WHEREUPON,

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

11 THE WITNESS: It's Rebecca Paige Griffith.

12 DIRECT EXAMINATION

13 BY MS. LAURA KNOTT:

14 Q Okay. The day you came in, were you there to get a service  
15 done?

16 A No.

17 I swung in just to check on the construction, give my friend  
18 a hug as I was leaving town for vacation. And the pedicure chair  
19 had just gotten there, she didn't know how to work it. I said,  
20 man, I do lots of pedicures, let me help you out. Sat in the  
21 chair, still had my flip flops on. I had already had a pedicure,  
22 I didn't need a pedicure, I was going on vacation. I didn't -- I  
23 paid her in hugs, if that's what you want to -- you know, she  
24 didn't do anything for me to pay her.

25 MS. LAURA KNOTT: That's all.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Do you have any other  
2 questions for her?

3 MS. LAURA KNOTT: No.

4 HEARING OFFICER JONES: Okay. Mr. Hogan, do you  
5 have any questions for Ms. Griffith?

6 MR. HOGAN: No. I don't think so.

7 HEARING OFFICER JONES: Committee, questions for  
8 Ms. Griffith?

9 MS. FORD: No.

10 (Witness excused.)

11 HEARING OFFICER JONES: Okay. Do you want to call  
12 Ms. Isabell?

13 MS. LAURA KNOTT: This is Ms. Eve Isabell. She  
14 owns the building.

15 HEARING OFFICER JONES: And, Ms. Isabell, were you  
16 sworn in earlier?

17 MS. EVE ISABELL: I was.

18 HEARING OFFICER JONES: I just couldn't remember  
19 what all hands I saw.

20 WHEREUPON,

21 EVE ISABELL,

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: My husband is an attorney, what can

## 11/21/11, CTAC HEARINGS

1 I tell you.

2 HEARING OFFICER JONES: Would that happen to be  
3 Judge Isabell?

4 THE WITNESS: It is.

5 MS. LAURA KNOTT: I'm only here because I tried  
6 for five weeks, this woman is horrible, to get to be  
7 able to work. And then I go and do everything right,  
8 like I say I was excited to see Rose because I thought  
9 that it had finally happened. I wasn't open.

10 HEARING OFFICER JONES: Okay.

11 MS. LAURA KNOTT: And so she, Eve can testify as  
12 to when I started working and what happened with Marla,  
13 because she rented the building to her.

14 THE WITNESS: Unfortunately.

15 HEARING OFFICER JONES: Okay. Ms. Isabell, did we  
16 get your name for the record?

17 Okay. Let's get your name for the record.

18 THE WITNESS: I'm Eve Isabell, Mountain Home,  
19 Arkansas, owner of the building.

20 HEARING OFFICER JONES: Go right ahead and ask her  
21 the questions.

22 MS. LAURA KNOTT: Do you want me to ask her the  
23 questions?

24 HEARING OFFICER JONES: Yes.

25 DIRECT EXAMINATION

## 11/21/11, CTAC HEARINGS

1 BY MS. LAURA KNOTT:

2 Q Had I -- had I been working in the salon before Marla left?

3 A No.

4 Q Did she take every bit of manicure, pedicure equipment out  
5 of there except what was bolted to the floor and belonged to you?

6 A She did.

7 Q Did she take \$1,500 in supplies that were there --

8 A She did.

9 Q -- belonging to you and her -- I mean you and I and left on  
10 a weekend when no one was there?

11 A She did.

12 Q Did we decide to turn it into a -- did I call to get working  
13 and was told that she had to sign a paper?

14 A That is correct.

15 Q Would she sign the paper?

16 A No, she would not.

17 Q Are you having to sue her to get anything out of her?

18 A I am.

19 MS. LAURA KNOTT: That's all.

20 HEARING OFFICER JONES: Mr. Hogan, any questions  
21 for Ms. Isabell?

22 CROSS-EXAMINATION

23 BY MR. HOGAN:

24 Q The questions that you asked about she took all the supplies  
25 belonging to you and I --

11/21/11, CTAC HEARINGS

1 A Well, here is what happened if you want me to tell you, if  
2 you would permit me to do that. Marla was there for  
3 approximately a year. It's a large building, 6,000 square feet,  
4 there is approximately four or \$500 -- four or 500 square fee  
5 that was originally a beauty salon, supposed to be a one-person  
6 salon, a large foyer. Then I had a gourmet shop, a little small  
7 room, like 140 square feet, something like that. And we closed  
8 that because she wanted to expand in February. So all of March,  
9 April, May, June, we've drug on here, she couldn't make her  
10 decisions about doing anything, including whether she was going  
11 to hire Lori or not, and she had had other people in there that  
12 she didn't think she could work with. And then she had another  
13 melt down, to be totally honest with you.

14 I kind of had a long conversation with her about it and  
15 decided to terminate her lease because my husband is a sitting  
16 circuit judge so I kind of try to do everything by the book,  
17 because they look at us a lot harder than they would anybody  
18 else.

19 And when we -- after she was leaving, she told me she was  
20 going to move out on July the 11<sup>th</sup>, and I said that's fine.  
21 The product issue came up because Lori had been sort of hired by  
22 Marla. She had not worked in the salon, she was not due to start  
23 work until Marla got back from vacation and then all of this  
24 other stuff happened so, obviously, Lori did not go to work for  
25 her. And I had told Lori, I said, just stay, don't leave,

## 11/21/11, CTAC HEARINGS

1 because I have to have somebody in there anyway. I mean now that  
2 it's set up as a beauty salon, why would I not want to do that.  
3 So she had --

4 And I had made arrangements. Marla had borrowed money from  
5 me to buy a shellac nail set, \$1,100 or something like that, and  
6 we had made arrangements when she left that she was going to  
7 leave those things in the salon to be relieved of that debt. And  
8 when she moved out on July 11 she chose not to do that, so she  
9 took everything. And she had her own, you know, shampoo, cream  
10 rinse, all of that stuff was all her own product, I just owned  
11 all of the equipment in the salon. And I did that on purpose  
12 because I didn't want to have to be in a situation where if a --  
13 if a stylist moved out, then I would have nothing to start over  
14 with, basically.

15 So since then, though, you know, so she's left and then we  
16 started going through the process of what we needed to do to  
17 reopen the salon under a different name. We scraped off --  
18 "Shine" off of the windows. It was still on my signage out on  
19 the front but it was not operating at all, it was just there. We  
20 covered up the numbers and everything that we could until my sign  
21 people came back, because it's a huge sign that's on the highway,  
22 and did all that.

23 And then we went to the lawyers. And I have, I went back  
24 through my check register, Ted Sanders did the LLC paperwork on  
25 August the 1<sup>st</sup> for Lori and they at that time submitted for her

## 11/21/11, CTAC HEARINGS

1 federal ID number, and I was with her in the office that day.  
2 And then we went from there to Bowman's. And Bowman's, which is  
3 my CPA, submitted to the state for the sales tax number and they  
4 just put that date on there. Those dates have nothing to do with  
5 anything when she started the business, when she thought she was  
6 going to start business, none of that. Those dates were just  
7 their arbitrary dates that they just put on there.

8 MS. LAURA KNOTT: They just asked what date I had  
9 on my paperwork and I said August the 1<sup>st</sup>.

10 MR. HOGAN: Just to make sure what dates you're  
11 talking about --

12 MS. LAURA KNOTT: Yes.

13 THE WITNESS: The salon is --

14 BY MR. HOGAN:

15 Q Let me just ask you what you're talking about. There is a  
16 date on one of the documents, it's a printed date?

17 A Yes.

18 Q And that's just the issue of the sales and use tax?  
19 Correct?

20 A That's correct.

21 Q But there is also a date where she has handwritten the date  
22 of new establishment registration on August 1<sup>st</sup>?

23 A But she just put that date on there. It means nothing.

24 MS. LAURA KNOTT: That's not when --

25 THE WITNESS: We didn't open the salon then. The

## 11/21/11, CTAC HEARINGS

1 salon could not have been opened then. There was dust  
2 everywhere, there was drywalling being done in there.

3 MS. LAURA KNOTT: That was just my, when I talked  
4 to the board, I wrote down on the day I talked to her  
5 because I could not get a letter from Marla to say she  
6 would transfer it. So that's, yes, I did write that  
7 date on there.

8 THE WITNESS: And after --

9 BY MR. HOGAN:

10 Q When you said -- when you said just stay, when you were  
11 talking to her --

12 A I just said I wanted --

13 Q -- that was the deal --

14 A I wanted her to stay if -- because she was not an employee  
15 of Marla, she had never worked in there one single day, and I had  
16 basically told Lori, I said, if you want to stay and work for me,  
17 for us, start this as a business, however we decide to do it,  
18 then by all means do that, don't bail on the project now, is  
19 basically what I told her.

20 MS. LAURA KNOTT: Because I was going to get a job  
21 as a cosmetologist some place else.

22 HEARING OFFICER JONES: We've got to try to keep  
23 the record a little clear.

24 Ms. Knott, you've had your chance. This is  
25 Ms. Isabell's chance.

## 11/21/11, CTAC HEARINGS

1 MS. LAURA KNOTT: Okay.

2 HEARING OFFICER JONES: And Mr. Hogan is  
3 questioning her.

4 I'm just trying to keep this as clear as possible.

5 BY MR. HOGAN:

6 Q When you said to her "just stay," I think -- did you pay --  
7 did you start paying her at that point in time?

8 A (Shaking head from side to side.)

9 Q Did you have any other agreement with her about the supplies  
10 or about anything that was at the facility, and what was the  
11 nature of those agreements?

12 A We actually went to the attorney to discuss how we needed to  
13 do that, which that's when we went on August the 1<sup>st</sup>, so it's  
14 pretty ridiculous to think that we would have been open. And  
15 the --

16 Lori started a single member LLC, but that was advised  
17 through the tax accountant because she basically works on  
18 commission and there is some tax issues that are advantageous to  
19 do it that way, so that's how we did it. And I basically get my  
20 rent for that portion of the building as a portion of the profit  
21 that comes out of there.

22 My agreement was they -- that I would supply everything that  
23 they needed in there with the exception of their own personal  
24 items which they have to supply themselves, as far as like  
25 curling irons and that kind of stuff.

11/21/11, CTAC HEARINGS

1           We've, since Marla has moved out, though, the reason the  
2 construction was going on there, we put first a spray tan booth  
3 in there and there was plumbing construction going on and drywall  
4 construction going on, so there is physically no way that they  
5 could have -- I mean I suppose you could have done it if you  
6 would be willing to do that but it would have been ridiculous.  
7 And it was not open, and it was, the door was only open that day  
8 because of the fact that there were construction workers in and  
9 out, that was the only reason that it was there.

10 Q       There was testimony earlier, I think it was Ms. Knott, about  
11 she had called to ask the receptionist about transferring a  
12 license --

13                       MS. LAURA KNOTT: Uh-huh.

14 BY MR. HOGAN:

15 Q       -- to Shine. And I guess that makes me wonder, if you're  
16 just transferring -- if there was a question about -- did you  
17 understand that at first it was just going to be a transfer of  
18 the license and not a new business?

19                       MS. LAURA KNOTT: I called to say --

20                       MR. HOGAN: No, I meant -- I was asking --

21                       MS. LAURA KNOTT: Oh, okay.

22                       THE WITNESS: We were never going to keep that  
23 name, that's not our name. And, honestly, the way the  
24 woman left, there was no way that I would ever want to  
25 leave that name on there. Lori was basically just

## 11/21/11, CTAC HEARINGS

1 calling to find out what she needed to do, because we  
2 didn't know what we needed to do. And I'm not a  
3 beautician, I'm a real estate agent and I'm a liquor  
4 store owner. So I, you know, left her with that  
5 particular part of it to figure out what it is that we  
6 needed to do, reopen the salon obviously under another  
7 name, but what we needed to do to be correctly licensed  
8 and what we needed to do with that whole situation.  
9 And then she called and talked to the board.

10 And we both have very complicated lives so it's  
11 not like anything got done, you know, just one day  
12 right after the other, there were some time spans in  
13 there, but since the construction was going on it  
14 wasn't any big push.

15 And we -- when I went to -- when we went to Ted  
16 Sanders' office to set up the LLC that day because he's  
17 my attorney for my liquor store, and I -- we went there  
18 just to make sure that everything was done right, and  
19 we were not going to do anything until we got  
20 everything back from the state as far as the sales tax  
21 registration and all of that kind of stuff.

22 So now why they put those dates on there, I don't  
23 have any idea because it's not like -- they wouldn't  
24 issue it like that anyway.

25 MR. HOGAN: I don't have any further questions.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Does the committee have  
2 any questions for Ms. Isabell?

3 MS. FORD: No.

4 HEARING OFFICER JONES: Very well. Thank you very  
5 much, ma'am.

6 (Witness excused.)

7 Mr. Hogan, any -- or do you have any further  
8 witnesses, Ms. Knott?

9 MS. LAURA KNOTT: No.

10 HEARING OFFICER JONES: Okay. Mr. Hogan, anything  
11 in closing?

12 MR. HOGAN: No.

13 HEARING OFFICER JONES: Ms. Knott, is there  
14 anything else you would like to tell the committee  
15 before they deliberate?

16 MS. LAURA KNOTT: No.

17 HEARING OFFICER JONES: Very well. At this time  
18 the record will be closed and made complete, except for  
19 the board's recess for deliberations.

20 MS. FORD: Can we cross-examine or recross --

21 MR. HOGAN: Do you want to recall the inspector?

22 MS. FORD: I want to recall the inspection or  
23 the --

24 MR. HOGAN: We'll recall the inspector.

25 MS. FORD: How do we do that?

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Well, that will be  
2 Mr. Hogan.

3 MR. HOGAN: I will recall Rose.

4 MS. HORNER: Yes, sir.

5 MR. HOGAN: I'm recalling you for -- just have a  
6 seat.

7 WHEREUPON,

8 ROSE HORNER,

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

12 REDIRECT EXAMINATION

13 BY MR. HOGAN:

14 Q There has been a lot of testimony about the person at the  
15 shop and what they were there for and what they were doing.  
16 Describe again, I'm not sure I was clear in asking you earlier  
17 about what you saw in terms of the person that was there at the  
18 shop, what kind of -- where was she sitting, what was she doing,  
19 and any observations you had about that?

20 A Well, when I walked in her -- I mean she -- the pedicure spa  
21 and it, you know, the flip flops or the little -- I don't know if  
22 they were disposable type, but it appeared that she had had a  
23 pedicure. You know, her feet --

24 Q You heard in her testimony that she had had one previously?

25 A Yes.

## 11/21/11, CTAC HEARINGS

1 Q Not here at this shop?

2 A Right.

3 Q I mean, you don't have any evidence to dispute that, that  
4 she could have had it done anywhere, I guess?

5 HEARING OFFICER JONES: Ms. Horner, please  
6 verbalize your answers.

7 BY MR. HOGAN:

8 Q Well, let me ask you this, was there any evidence that she  
9 had had a pedicure at this shop that day, based on your  
10 observation?

11 A All I saw was her feet. I mean she was sitting at the  
12 pedicure spa with her feet on the pedicure spa, so I assumed that  
13 she had had, you know, a pedicure.

14 Q But you didn't ask her --

15 A No, I didn't.

16 Q -- or did you ask Ms. Knott --

17 A No.

18 Q -- whether or not she had performed --

19 A No.

20 Q -- or did the pedicure?

21 A (Shaking head from side to side.)

22 MR. HOGAN: Okay. No other questions.

23 MS. FORD: Yeah.

24 Did you see any implements out? Pedicure,  
25 manicure implements laid out, towels, anything of that

## 11/21/11, CTAC HEARINGS

1 nature? Polish?

2 THE WITNESS: I did not make note of that.

3 MS. FORD: Okay. There was water in the basin,  
4 did you --

5 THE WITNESS: Yes.

6 MS. FORD: -- they stated there was water?

7 THE WITNESS: Uh-huh. Uh-huh.

8 MS. FORD: And did it look used?

9 THE WITNESS: That was August. I don't know.

10 MS. FORD: All right.

11 HEARING OFFICER JONES: Ms. Knott, do you have any  
12 questions you would like to ask Ms. Horner?

13 CROSS-EXAMINATION

14 BY MS. LAURA KNOTT:

15 Q Was I happy to see you when you got there because I thought  
16 you were there to inspect?

17 A Yes, you were excited.

18 Q And I thought you were very jiffy and efficient?

19 A Yes. You were excited.

20 MS. LAURA KNOTT: That's all.

21 I didn't know I was doing nothing wrong, so --

22 HEARING OFFICER JONES: Okay. Everybody finished  
23 with Ms. Horner now?

24 MS. FORD: Yeah.

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

## 11/21/11, CTAC HEARINGS

1 close the record and make it complete, except for the  
2 board's recess for deliberations. Once the board has  
3 reached a decision, we will go back on the record.

4 (WHEREUPON, the Committee retired to deliberate,  
5 off the record, from 11:42 a.m. to 11:44 a.m., and  
6 returned with the following motion.)

7 HEARING OFFICER JONES: At this time we'll go back  
8 on the record for the board's decision. Is there a  
9 motion?

10 MR. BARNES: I forgot the motion.

11 I make a motion, come back and take a vote.

12 HEARING OFFICER JONES: You have to state what the  
13 motion is, though. Somebody has got to be able to --

14 MS. FORD: What is the motion?

15 HEARING OFFICER JONES: -- state what that motion  
16 is.

17 MR. HOGAN: Just for the -- I'll have -- I  
18 understood the discussion and the motion to be that  
19 there was no -- no finding of a violation based on the  
20 evidence that was presented today, that there would be  
21 no findings. So the motion would be that there was no  
22 violation proven.

23 MR. BARNES: Right. I make a motion to find that  
24 there was no violation.

25 HEARING OFFICER JONES: Okay.

## 11/21/11, CTAC HEARINGS

1 MS. REYNOLDS: I second it.

2 MS. FORD: Okay. The motion has been second. We  
3 will now take a vote that no -- no violation and no fee  
4 will be imposed. All in favor, say, "Aye."

5 COMMITTEE MEMBERS: Aye.

6 MS. FORD: All opposed?

7 Majority.

8 HEARING OFFICER JONES: Very well. Let the record  
9 reflect the decision of the board, please make or  
10 attempt -- please reduce that decision to writing and  
11 make or attempt service upon all parties. If the  
12 respondent cares to appeal the decision, one can be  
13 taken under the Administrative Procedures Act found at  
14 Arkansas Code Annotated 25-15-201, et seq., or any  
15 specific provisions of this board.

16 At this time the record and the hearing is  
17 concluded. If there are any questions or comments,  
18 they can be made afterwards with Ms. Kersey.

19 Thank you.

20 (WHEREUPON, at 11:45 a.m., the above-entitled  
21 proceedings were concluded.)

22 ---o---

23

24

25



## 11/21/11, CTAC HEARINGS

1 counsel present with you today, Ms. Veasey?

2 MS. AMELIA VEASEY: No, I do not.

3 HEARING OFFICER JONES: Okay. You did receive the  
4 Order of Notice of Hearing for today's matter?

5 MS. AMELIA VEASEY: Yes.

6 HEARING OFFICER JONES: Okay. Mr. Hogan, please  
7 identify yourself for the record.

8 MR. HOGAN: Rick Hogan, general counsel for the  
9 health department.

10 HEARING OFFICER JONES: For the benefit of the  
11 respondent, as well as anyone present today who may not  
12 have appeared before in an administrative hearing, I  
13 will explain that the board will base its decision  
14 solely on evidence presented here today. This hearing  
15 is being held under the Administrative Procedures Act,  
16 which means that the strict rules of evidence do not  
17 apply as they would in a regular court of law.

18 To ensure the efficiency of the proceeding I will  
19 grant cautions and objections only as necessary.

20 The board members know of this case only as it  
21 appears and is set forth in the Order of Notice of  
22 Hearing. If there is anything that you have previously  
23 submitted to staff or you have in your possession you  
24 want them to consider, it must be presented as evidence  
25 here today.

## 11/21/11, CTAC HEARINGS

1           This hearing is open to the public under the  
2           Freedom of Information Act, and that does include the  
3           board's recess for deliberations.

4           For those of you who are going to be witnesses in  
5           today's matter, please raise your right hand and we'll  
6           have the court reporter swear you in.

7           (WHEREUPON, the witnesses were sworn.)

8           Ms. Kersey, were you going to be a witness in  
9           this?

10          MR. HOGAN: Not in this case.

11          HEARING OFFICER JONES: Okay. Very well. I just  
12          wanted to make sure so we could get that clear.

13          Preliminary matters, Mr. Hogan, any exhibits you  
14          would like to introduce at this time?

15          MR. HOGAN: We would just ask that the document,  
16          Exhibits A through E, that includes a letter of  
17          June 17<sup>th</sup> of this year as well as a letter from  
18          Ms. Veasey dated August the 16<sup>th</sup>, and the Order of  
19          Notice of Hearing, and finally the inspection report  
20          from Ms. Wood be introduced to the record today.

21          HEARING OFFICER JONES: Ms. Veasey, do you have  
22          any problem with any of that?

23          MS. AMELIA VEASEY: No.

24          HEARING OFFICER JONES: Okay. Those will be so  
25          admitted.

11/21/11, CTAC HEARINGS

1 (WHEREUPON, Committee's Exhibits A through E were  
2 received in evidence.)

3 MR. HOGAN: And we would ask that the board or the  
4 committee be able to take judicial notice of their  
5 rules and statutes.

6 HEARING OFFICER JONES: Those will be noted.

7 Ms. Veasey, do you have anything with you today  
8 that you want the board to be able to look at?

9 MS. AMELIA VEASEY: No.

10 HEARING OFFICER JONES: Very well. Mr. Hogan,  
11 anything in opening?

12 MR. HOGAN: No, ma'am.

13 HEARING OFFICER JONES: Ms. Veasey, anything you  
14 would like to say in opening?

15 MS. AMELIA VEASEY: No.

16 HEARING OFFICER JONES: Okay. You can call your  
17 first witness, Mr. Hogan.

18 WHEREUPON,

19 VERA WOOD,

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 MR. HOGAN:

25 Q Ms. Wood, state your name for the record and what your

## 11/21/11, CTAC HEARINGS

1 position is for the department?

2 A Vera Wood, Inspector for the Health Department.

3 Q Vera, Exhibit E in the record is an inspection report that  
4 has been submitted regarding the Salon Beautiful, I believe it's  
5 called, at 3415 East Kiehl in Sherwood. Is that form the one  
6 that you executed on June the 7<sup>th</sup> of this year?

7 A Yes, sir.

8 Q It mentions that -- it actually lists that there were three  
9 separate folks that had licenses there, or I guess  
10 cosmetologists. Is that right?

11 A Yes, sir.

12 Q One was Ms. Veasey and Ms. Jones and Ms. Warren, is that  
13 right?

14 A Yes, sir.

15 Q Vera, what does it mean, you've handwritten in "Her  
16 authorization letter posted" but that's not on the form. What  
17 does that mean exactly?

18 A Well, on this inspection form, the authorization  
19 requirements were not listed. This is a form that was put  
20 together but those were left out, and to have a new salon you  
21 have to be authorized to open.

22 Q So when you went in there did you talk to Ms. Veasey?  
23 Was she the owner of the facility?

24 A Yes, sir.

25 Q And did -- at that time was the salon open for business?

## 11/21/11, CTAC HEARINGS

1 A According to the sign on the window, yes.

2 Q Sign on the window? What did the sign on the window say?

3 A Well, this sign said the dates that it was open, and this  
4 was a Tuesday that I went because I went back and looked it up,  
5 but it said the salon was open on Tuesday.

6 Q On Tuesday?

7 A Uh-huh.

8 It didn't say that they were going to open a new salon that  
9 day. I'm just saying that the day I was there, they were,  
10 according to their sign in the window, were open on Tuesday.

11 Q And was there anybody -- was -- was the three cosmetologists  
12 in there at that time, Ms. Jones, Ms. Warren, and Ms. Veasey?

13 A Ms. Veasey and another lady were visiting with a young man  
14 that was there.

15 Q Visiting with a young man? The young man, was he getting  
16 a --

17 A No, sir.

18 Q -- any kind of -- okay.

19 A They were sitting at the front of the salon in the reception  
20 area discussing.

21 Q Did you see anybody there that was getting their hair  
22 done --

23 A No, sir.

24 Q -- or any kind of service?

25 A They were not.

## 11/21/11, CTAC HEARINGS

1 Q Did you talk to Ms. Veasey at that time about whether or not  
2 the salon was open for business?

3 A I told her I was there -- introduced myself, told her I was  
4 there to do the inspection for her new license. And asked her if  
5 it's -- just go ahead and do it.

6 Q And did she -- she had applied for a new license?

7 A Yes, sir.

8 Q And you were there to do the -- the inspection?

9 A (Nodding head up and down.)

10 Q Under the rules she would have been required to get or  
11 obtain a letter of authorization allowing her to open or conduct  
12 business?

13 A Prior --

14 Q Prior -- would that have allowed her to do that prior to  
15 your inspections, allowed her --

16 A Yes, sir.

17 Q And to your knowledge, had she requested such a letter of  
18 authorization?

19 Was that part of the application process?

20 A From what she told me she had. Yes, sir.

21 Q And but she had not received it?

22 A She said it was at home.

23 Q It was at her house?

24 A Uh-huh.

25 Q But it wasn't posted?

## 11/21/11, CTAC HEARINGS

1 A No, sir.

2 Q Now, what about the physical facility of the salon itself?

3 A The --

4 Q There was, it says, no hot and cold running water?

5 A I followed the list and checked the things that it -- that

6 are required. Turned on the water, there was none.

7 Q There wasn't any water at all or there wasn't any hot?

8 A No, there wasn't, there wasn't water.

9 Q Oh, I -- oh, I see. Water had been turned off?

10 What -- did you talk to Ms. Veasey about that? What --

11 A Yes, sir, and she said it should be on that afternoon. It

12 should be back on that afternoon.

13 Q So based on your discussions and your observations, there

14 was a sign on the window that said they were open for business

15 that day?

16 A (Nodding head up and down.)

17 Q Ms. Veasey told you that she had received her letter of

18 authorization but it was at her house?

19 A (Nodding head up and down.)

20 Q And the facility itself was not in compliance with the

21 requirements of the rules as far as having hot and cold running

22 water?

23 A Yes, sir.

24 Q Or having any water at all?

25 A Uh-huh. Yes, sir.

## 11/21/11, CTAC HEARINGS

1 Q Anything further you want to make the committee aware of?

2 A No, sir.

3 MR. HOGAN: I'll pass the witness.

4 HEARING OFFICER JONES: Ms. Veasey, do you have  
5 any questions for Ms. Wood?

6 MS. AMELIA VEASEY: I do.

7 HEARING OFFICER JONES: Go right ahead.

8 CROSS-EXAMINATION

9 BY MS. AMELIA VEASEY:

10 Q You said that you seen one sign in the window. Were  
11 there -- was that the only sign that was posted in the window the  
12 day that you visit -- visited?

13 A There could have been signs like for product that you were  
14 selling but I -- I looked at the sign -- what do you call it,  
15 days open or whatever kind of sign you call it, it was the little  
16 plastic sign that had the days and the times that it was open.

17 Q So -- so you're saying that you did not see another sign  
18 next to that sign at all that was saying we're open or we're  
19 closed?

20 A No, sir -- no, ma'am.

21 Q You did not see that?

22 A No, ma'am.

23 Q Okay. When you came in were the doors -- were the lights on  
24 when you inspected and inside, were the lights on in the back of  
25 the salon?

## 11/21/11, CTAC HEARINGS

1 A Yes, ma'am.

2 Q The lights were on in the back of the salon?

3 A As far as I can remember, yes, ma'am.

4 Q Okay. On the form that you filled out, you marked "open  
5 windows and doors," is that correct?

6 A Yes.

7 Q And but you later scratched that out. Would you mind  
8 telling us why you scratched that out?

9 A The front door was open, open. She -- when I went to  
10 discuss this with her, she told me that they were there just to  
11 visit with the young man that was there, that she was not open  
12 for business. So I conceded and said, okay, she had the door  
13 open because it was a nice day. She said that they were not  
14 there for -- for work, that they were just there to visit the  
15 young man on whatever business he was there for.

16 Q So based on that, did you understand that we were not open  
17 for business, is that the reason why, again, that you marked off  
18 the door open?

19 A Yes, ma'am.

20 Q So you're saying that we were closed?

21 A According to you after I had done the inspection --

22 Q I mean --

23 A -- yes.

24 Q The question is are you saying that we were closed? You  
25 just concluded that we were closed, the reason why you marked off

## 11/21/11, CTAC HEARINGS

1 the door was open? Yes or no?

2 A One more time.

3 Q Are you saying the reason that you marked off the doors was  
4 open and you did not cite me for -- cite the salon for that, are  
5 you saying the reason you marked it off was because you concluded  
6 that we were closed that day?

7 A According to what you told me, yes, ma'am.

8 Q Yes. So your answer is yes, you --

9 A Yes. According to what you told me, yes, ma'am.

10 Q Okay. So when -- the second question is about that letter  
11 of authorization. Did you call the State Board of Cosmetology to  
12 confirm that there was a -- were a letter?

13 A Yes, ma'am, I did, because I, in my territory book, I had  
14 you listed as a different number.

15 Q Okay.

16 A And to clear that up I had -- I did call.

17 Q Okay.

18 A They told me, yes, you had received an authorization letter.

19 Q Okay.

20 A And they gave me this number, which is not the number you  
21 are listed in my territory book.

22 Q Okay. And the second about the water, what was the  
23 explanation that -- were you given an explanation why the water  
24 were -- was not on?

25 A You told me it had been turned off and it should be back on

## 11/21/11, CTAC HEARINGS

1 that afternoon.

2 MS. AMELIA VEASEY: Okay. No further questions  
3 for her.

4 HEARING OFFICER JONES: Very well. Thank you,  
5 Ms. Veasey.

6 Any questions for Ms. Wood?

7 MS. FORD: Yes.

8 Ms. Wood, what does the Arkansas State law -- what  
9 is their requirements for the authorization letter? As  
10 far as placement and where --

11 THE WITNESS: Well, it's like Ms. Rose read to you  
12 earlier, give me a second and let me find it, "A letter  
13 of authorization to operate a cosmetology  
14 establishment."

15 Sorry. Wrong one.

16 "Any person, firm or corporation who has applied  
17 for a license to operate a cosmetological establishment  
18 will receive a letter of authorization, the owner -- a  
19 letter of authorization the owner to operate the  
20 establishment, provided that the owner has certified  
21 compliance with the licensing code and the rules of the  
22 board. The latter" -- sorry. "The letter shall be  
23 conspicuously posted in the salon."

24 MS. FORD: Okay. Now, when you called to clarify,  
25 because you had two different numbers, at that

## 11/21/11, CTAC HEARINGS

1 particular time, did they give you a date or an  
2 approximate date when that letter was mailed out?

3 THE WITNESS: No, ma'am.

4 MS. FORD: Okay. No further questions.

5 HEARING OFFICER JONES: Any other questions from  
6 the committee members?

7 Thank you, Ms. Wood.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 HEARING OFFICER JONES: Mr. Hogan, any other  
11 witnesses?

12 MR. HOGAN: No. I think that's going to -- we're  
13 going to rest right now.

14 HEARING OFFICER JONES: Ms. Veasey, you can either  
15 tell your side of the story and let them question you  
16 or you can call your witness and then tell your side of  
17 the story, either way is fine.

18 MS. AMELIA VEASEY: I call my witness.

19 HEARING OFFICER JONES: Very well.

20 MS. AMELIA VEASEY: Ms. Sharenda Warren.

21 HEARING OFFICER JONES: Come right on up,  
22 Ms. Warren.

23 You were sworn in earlier?

24 MS. SHARENDA WARREN: Yes, ma'am.

25 HEARING OFFICER JONES: If you would, please state

## 11/21/11, CTAC HEARINGS

1           your name for the record.

2           MS. SHARENDA WARREN:   Sharenda Warren.

3 WHEREUPON,

4                                 SHARENDA WARREN,

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. AMELIA VEASEY:

10 Q       On the day that Ms. Wood came out, had you been called  
11 earlier that morning about the water situation at the salon?

12 A       Yes.

13       I -- I actually came in later. The gentleman that was  
14 actually there at the salon, I actually met him, he was an  
15 advertising guy, so I told him about, you know, I work at a  
16 salon, the owner name is, you know -- well, we call her A.J., and  
17 I gave him her number. And so that day we was supposed to meet  
18 with him that day. Well, I had a doctor's appointment but A.J.  
19 did call me and say, hey, we're not going to be open for business  
20 but we're going to go ahead and meet with the gentleman because  
21 the water was off. So I went to the doctor appointment. By the  
22 time I made it to the salon, everything had already happened.  
23 The -- Ms. -- the inspection lady did -- had already been there.

24       But, yes, she did call me and tell me that we was not going  
25 to be open for business that day because due to the water being

## 11/21/11, CTAC HEARINGS

1 off.

2 MS. AMELIA VEASEY: That's -- I rest. No other  
3 questions.

4 HEARING OFFICER JONES: Okay. Mr. Hogan, any  
5 questions for Ms. Warren?

6 CROSS-EXAMINATION

7 BY MR. HOGAN:

8 Q Not open for business that day. Had you been previously --  
9 had you worked there earlier that week or that month or how long  
10 did you --

11 A Yes. Yes, sir.

12 Due to my understanding, Amelia's water with the salon and  
13 her house water bill is in one account. And I guess when she  
14 went in to pay the bill, she put it on to her house account and  
15 therefore the water bill for the salon wasn't -- wasn't paid.  
16 And she didn't realize that until that -- that Tuesday when we  
17 came back to open, because we're closed on Monday. So when she  
18 came in on Tuesday, that's when she was -- she realized the water  
19 was off. She called the water company, they did the research and  
20 they said she posted her salon payment into her house payment.  
21 So that's the reason why we was closed that day until that  
22 evening. So once they put the money to her salon account, then  
23 they was going to come back out and turn her water back on.

24 Q Was the -- how long had you been working there --

25 A I started in May.

## 11/21/11, CTAC HEARINGS

1 Q In May?

2 A Yes.

3 Q Um --

4 A Of this year. I'm sorry. May, around May 5, 2011.

5 Q Okay. Were you aware of the request for licensure and that  
6 there had been an authorization letter that was supposed to be  
7 posted at the business or anything like that?

8 A No, sir, I wasn't aware of that. I just, I found out about  
9 that when the inspection lady came in, Amelia was, you know,  
10 telling us about the letter or whatever. And she just told, like  
11 she just told y'all, she told her she did have it, it was at the  
12 house, she need to bring it back up to the salon.

13 Prior to me coming to the salon, she had did some remodeling  
14 and she took the paper, you know, took everything off the walls,  
15 apparently took everything home so she wouldn't lose her  
16 paperwork. And once the salon got repainted, new pictures came  
17 up, she just forgot to bring it back to the salon and post it on  
18 her wall.

19 Q Did you -- did they -- did y'all regularly get mail there at  
20 the business? Any kind of --

21 A Yes, sir.

22 Q Would you get letters?

23 A Yes, sir. She does have a mailbox.

24 Q Did you look through -- do you -- is it part of your job, do  
25 you process the mail or anything?

## 11/21/11, CTAC HEARINGS

1 A I go out and check the mailbox but I don't go through it  
2 because nothing comes there to me, addressed to me. What I do,  
3 if I check the mailbox for that day, if Ms. A.J. is not in the  
4 salon I take the mail and put it in her chair, her styling chair,  
5 and when she return back to work she gets it out of her chair.

6 Q In my youth of college days I remember getting shut off  
7 notices occasionally for one reason or another, but they tell you  
8 for a while before you actually, you know, they actually send  
9 them in the check. Had you ever seen any shut off notices or  
10 anything like that?

11 A No, sir.

12 MR. HOGAN: Okay. I'll pass the witness.

13 HEARING OFFICER JONES: Does the committee have  
14 any questions for Ms. Warren?

15 MS. REYNOLDS: Yes, I do.

16 HEARING OFFICER JONES: Go right ahead.

17 MS. REYNOLDS: Ms. Warren?

18 THE WITNESS: Yes, ma'am.

19 MS. REYNOLDS: The time that you've been there  
20 since May?

21 THE WITNESS: Uh-huh.

22 MS. REYNOLDS: Have they ever had any type of shut  
23 off notices?

24 THE WITNESS: Now, from the time I've been there,  
25 I did not see -- like I did, like I say, I do check the

## 11/21/11, CTAC HEARINGS

1 mail but I don't go through the mail. You know, I --  
2 if the shut off notice come, it's going to be in an  
3 envelope and I set it in her chair. I don't open up  
4 none of her mail, I don't go through anything. You  
5 know, I go straight to the mailbox, grab it, it can be  
6 a stack, I don't flip through it, I don't -- because I  
7 know nothing is addressed to me there. So I don't,  
8 it's not my business what come in and out of that  
9 salon, I just take it, put it in her chair, go back to  
10 my station and that's it. So if there was a shut off  
11 notice, I haven't -- I'm not aware of it.

12 MS. REYNOLDS: She never mentioned to you any time  
13 that you were working there that she actually had to  
14 leave her salon to go pay the water bill?

15 THE WITNESS: No, ma'am.

16 HEARING OFFICER JONES: Further questions for the  
17 committee?

18 MS. FORD: Yes, ma'am.

19 Ms. Warren?

20 THE WITNESS: Yes, ma'am.

21 MS. FORD: You said you started working there back  
22 in May?

23 THE WITNESS: Yes, ma'am.

24 MS. FORD: Do you remember the exact date?

25 THE WITNESS: I want to say it was like May the



## 11/21/11, CTAC HEARINGS

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 TESTIMONY

5 THE WITNESS: Basically, Ms. Warren -- it was a  
6 little communication. The water bill had been paid  
7 over the phone, it didn't connect with -- I didn't call  
8 the -- the water department to give them a confirmation  
9 number.

10 When I got to the salon I realized that the water  
11 was cut off. I immediately called the two people that  
12 paid me booth rent to tell them, hey, we can't have any  
13 work today, there isn't any water but we are going to  
14 have a meeting.

15 The day that Ms. Wood came by, the way the salon  
16 is set up is you come in through the front door, of  
17 course, and then that's a waiting area. There is three  
18 stations there and then you go back to the back room  
19 and then that's where I work and the shampoo bowls are.  
20 All of those lights were off. The only lights that  
21 were on was the one right in the front, so we were  
22 clearly not in operation.

23 There is a sign next to -- I forgot to ask my  
24 witness, but there is a sign that shows the hours of  
25 operation. Ms. Warren is correct, there is an hours of

## 11/21/11, CTAC HEARINGS

1 operation that is posted. However, there is a "yes, we  
2 are open" sign that's right next to it, and it said,  
3 "sorry, we're closed." And that's the reason why  
4 Ms. Ward took off the -- the violation of the door  
5 being open, because I said, the sign is posted that  
6 says we're closed. And so she took it off, not because  
7 of what I said, because of what she seen and there were  
8 two witnesses there.

9 The letter of authorization -- authorization, we  
10 had had the walls painted and the guys were slob,  
11 I'm -- they painted the shop and there was like paint  
12 and stuff everywhere. I did take my important things  
13 out of the salon and those, that paperwork was with it.  
14 And I did not -- I hadn't -- I didn't have it posted, I  
15 did not.

16 But as far as the water, we wasn't in operation.  
17 And I feel that if the violation can be taken off about  
18 the door being open and we wasn't in operation, then I  
19 feel like the letter of authorization and also the hot  
20 water, because we were not operating at the time.

21 And it does say if you are operating you should  
22 have this stuff posted and we were not in operation at  
23 the time.

24 HEARING OFFICER JONES: Anything further before I  
25 let them ask you questions?

## 11/21/11, CTAC HEARINGS

1 THE WITNESS: No.

2 HEARING OFFICER JONES: Okay. Thank you,  
3 Ms. Veasey.

4 Mr. Hogan?

5 MR. HOGAN: No. I pass the witness.

6 HEARING OFFICER JONES: Committee members,  
7 questions?

8 MS. FORD: Okay. I -- you're saying that the  
9 business was painted?

10 THE WITNESS: Uh-huh.

11 MS. FORD: And so, obviously, if there is painting  
12 being done you're going to remove things from the wall.  
13 However, your witness states that she started working  
14 there back in May?

15 THE WITNESS: Uh-huh.

16 MS. FORD: When did the painting take place?

17 THE WITNESS: The painting had been like at the  
18 end of April. And I did not post -- I did not put  
19 everything back up on the wall, pretty much.

20 MS. FORD: So you --

21 THE WITNESS: I did the rules and regulations, the  
22 pamphlet book, and the license from the city, and there  
23 was just one letter that should have been up there that  
24 I personally forgot. Or because I had posted  
25 everything else, I guess it wasn't on my checklist to

## 11/21/11, CTAC HEARINGS

1 make sure it was up there.

2 MS. FORD: Okay. So that was back in April. So  
3 from -- in April, were you the owner and was the name  
4 of the salon the same, Salon Beautiful, back in April?

5 THE WITNESS: It was Salon Beautiful. Yes.

6 MS. FORD: And so from -- from April to June, you  
7 hadn't received any type of license?

8 THE WITNESS: No. The authorization -- we  
9 actually, I want to say that, I wish I had my  
10 application, I don't know if you guys have the  
11 application or not, that when I went in to do the  
12 paperwork, it took up until -- I got this violation  
13 letter July -- in the mail, and a week later I received  
14 my license.

15 MS. FORD: Uh-huh.

16 THE WITNESS: And I think, if I'm not mistaken, I  
17 wish I had the paperwork, but I'm pretty sure that we  
18 filled out the paperwork in February or March.

19 MS. FORD: So, from April when they painted up  
20 until June when the inspection happened, you didn't --  
21 have any type of license or any type of authorization,  
22 authorization in your salon to operate as a cosmetology  
23 establishment?

24 THE WITNESS: No, I did have the letter in there  
25 before --

## 11/21/11, CTAC HEARINGS

1 MS. FORD: Before the painting?

2 THE WITNESS: Before the painting the letter was  
3 up of authorization, yes.

4 MS. FORD: In April?

5 THE WITNESS: Yes.

6 MS. FORD: So when did you apply for a license?

7 THE WITNESS: It had -- I think it was in like  
8 February or March.

9 MS. FORD: In February or March?

10 THE WITNESS: Uh-huh.

11 MS. FORD: And can you remember when you received  
12 your license?

13 THE WITNESS: It had to be a week after --  
14 sometime in June.

15 MS. FORD: When did you receive your letter? I'm  
16 sorry.

17 THE WITNESS: The letter?

18 MS. FORD: To start opening, to start conducting  
19 business?

20 THE WITNESS: I think it was like March.

21 MS. FORD: In March?

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

23 I think it was maybe --

24 MS. FORD: And so you opened in March but you  
25 painted in April?

## 11/21/11, CTAC HEARINGS

1 THE WITNESS: Uh-huh.

2 MS. FORD: Okay.

3 THE WITNESS: The reason for it, because it was --  
4 it was up in the air on when -- if I was going to paint  
5 it or just leave it alone. And when I was able to talk  
6 with the young man that was going to give me a  
7 reasonable price to do it, that was in April. And so  
8 he came in and painted on the days that we were closed,  
9 like after Saturday, Sunday, and Monday, he came in and  
10 did the painting. It was just some touch up painting,  
11 things of that nature, in the front area and the red in  
12 the front.

13 MS. FORD: I don't have any further questions at  
14 this time for her.

15 HEARING OFFICER JONES: Further questions from the  
16 committee members for Ms. Veasey?

17 MS. REYNOLDS: I do.

18 HEARING OFFICER JONES: Go right ahead.

19 MS. REYNOLDS: Ms. Veasey, when the inspector came  
20 in, where exactly were you holding the meeting?

21 THE WITNESS: We were in the waiting area.

22 MS. REYNOLDS: That's where you were when she came  
23 in?

24 THE WITNESS: Uh-huh.

25 MS. REYNOLDS: Where did she say she saw you guys

## 11/21/11, CTAC HEARINGS

1 when she came in?

2 THE WITNESS: In the front area. We were all in  
3 the front area.

4 The back area was completely black. I mean there  
5 was no -- I pay the light bill, wasn't nobody working  
6 back there, wasn't any reason to have your lights on.

7 And another reason, the little light that was in  
8 the front, it was daytime as well, and we kind of had  
9 the door open because we weren't in operation anyway.  
10 So it was dark back there, so I had to cut the lights  
11 on and everything, so it was clear, you know, by the  
12 sign being we were closed and by our -- through our  
13 conversation we were closed, and I had informed her  
14 about the water situation.

15 HEARING OFFICER JONES: Further questions from the  
16 committee members?

17 MS. FORD: No.

18 HEARING OFFICER JONES: If there are none, thank  
19 you, Ms. Veasey.

20 MS. AMELIA VEASEY: Thank you.

21 (Witness excused.)

22 HEARING OFFICER JONES: Mr. Hogan, anything in  
23 closing?

24 MR. HOGAN: No. I have nothing further.

25 HEARING OFFICER JONES: Ms. Veasey, anything else

## 11/21/11, CTAC HEARINGS

1           you want to tell the committee members before they make  
2           their decision?

3           MS. AMELIA VEASEY:   Basically, you know, I think  
4           we pretty much said and the evidence has been shown  
5           that, you know, I was not trying to violate any  
6           violations.

7           At this point I guess we just have to go with what  
8           the law says or what the statute say about the  
9           situation.  You know, if I wasn't operating, in  
10          operation, then I don't feel like I should be violated  
11          for something if I -- if I had been in operation, so  
12          that's it.

13          HEARING OFFICER JONES:  Thank you very much.

14          At this time the record will be closed and made  
15          complete, except for the board's recess for  
16          deliberations.  Once the board reaches a decision, we  
17          will go back on the record.

18          (WHEREUPON, the Committee retired to deliberate,  
19          off the record, from 12:14 p.m. to 12:19 p.m., and  
20          returned with the following motion.)

21          HEARING OFFICER JONES:  We're back on the record.

22          MS. ARGUELLO:  We state the motion that the  
23          penalty will stay intact, but we'll reduce the fine to  
24          \$25 for the no authorization posted.

25          MS. REYNOLDS:  I second.

## 11/21/11, CTAC HEARINGS

1 MS. FORD: The motion has been seconded. We need  
2 to take a vote.

3 All in favor of the fee being \$75, reduced by 25,  
4 all in favor, say, "Aye."

5 COMMITTEE MEMBERS: Aye.

6 MS. FORD: Those opposed?

7 Majority.

8 HEARING OFFICER JONES: Let the record reflect the  
9 decision of the board. Please reduce that decision to  
10 writing, make or attempt service upon all parties.

11 If the respondent cares to appeal the decision,  
12 appeal can be taken under the Arkansas Code Annotated  
13 at 25-15-201, et seq., or any specific provisions of  
14 this board.

15 At this time the record will be made closed and  
16 complete. If there are any questions or comments  
17 pertaining to this hearing they can be made afterward.

18 Thank you very much.

19 (WHEREUPON, at 12:20 p.m., the above-entitled  
20 proceedings were concluded.)

21 ---o---

22 MR. HOGAN: Sounds like a motion would be in order  
23 to defer the hearings of those that are not present  
24 today until the January committee meeting and we will  
25 resend the Order of Notice of Hearing for that.

## 11/21/11, CTAC HEARINGS

1 MS. REYNOLDS: And then in January there will be  
2 snow everywhere and ice and they will still not show  
3 up.

4 MR. BARNES: My recommendation is that we make a  
5 motion -- I make a motion that we defer the five until  
6 next meeting, because the news was to stay off the  
7 highways this morning, basically.

8 MS. REYNOLDS: I had to come anyway.

9 MR. HOGAN: Is there a second?

10 MS. REYNOLDS: We need to get this over with. I  
11 mean we put it off so many times.

12 MS. FORD: The motion is on the floor. We need  
13 someone to second.

14 HEARING OFFICER JONES: Sounds like it dies for  
15 lack of a second.

16 MS. ARGUELLO: I don't know whether to -- I'm not  
17 really sure what to do. I would kind of like to get  
18 them over with today, too.

19 MS. FORD: The motion has been denied, is that --

20 HEARING OFFICER JONES: Well, it would die for  
21 lack of a second.

22 MR. HOGAN: It dies for lack of a second, so we  
23 need to go forward with the hearings, then.

24 HEARING OFFICER JONES: We need to get the  
25 paperwork.

## 11/21/11, CTAC HEARINGS

1 MS. KERSEY: And I'm really sorry I didn't get  
2 lunch. If I would have had any idea it would take so  
3 long I would have gotten lunch.

4 MS. REYNOLDS: We'll do it next time in January.

5 MS. KERSEY: No, we're going to be out of here by  
6 11.

7 MS. FORD: So we're going to go forward with the  
8 five cases.

9 MS. REYNOLDS: Okay. I have a motion that we go  
10 forward.

11 MS. KERSEY: I don't think we have to have a  
12 motion to go forward, do we?

13 HEARING OFFICER JONES: No.

14 MS. KERSEY: Only if we --

15 MR. HOGAN: No, no, no.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



## 11/21/11, CTAC HEARINGS

1 do not apply.

2 The board members know of this case only as it  
3 appears and is set forth in the notice of hearing.  
4 Anything to have the board consider must be presented  
5 as evidence today.

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

9 For all of you that are going to be witnesses at  
10 today's hearing, please raise your right hand and be  
11 sworn in by the court reporter.

12 (WHEREUPON, the witnesses were sworn.)

13 HEARING OFFICER JONES: Preliminary matters,  
14 Mr. Hogan?

15 MR. HOGAN: We would ask that in Ms. Sanders'  
16 case, that we admit for purposes of the record this  
17 document that is one, two, three, four pages in length,  
18 front and back, it starts with a letter of  
19 September 20, 2011, and concludes with the inspection  
20 report of July 27 of this year, and that would be  
21 admitted as Board's Exhibit No. 1.

22 HEARING OFFICER JONES: Very well. Those  
23 documents will be admitted as Board's Exhibit No. 1.

24 (WHEREUPON, Committee's Exhibit No. 1 was received  
25 in evidence.)

## 11/21/11, CTAC HEARINGS

1 Mr. Hogan, anything else in opening?

2 MR. HOGAN: No opening statement.

3 Just that the committee be able to acknowledge or  
4 take notice of their rules and regulations and the  
5 statutes of the board of health.

6 HEARING OFFICER JONES: Very well.

7 You may call your first witness.

8 MR. HOGAN: Call Brenda Morgan.

9 WHEREUPON,

10 BRENDA MORGAN,

11 having been called for examination, and having been first duly  
12 sworn by the undersigned notary public, was examined and  
13 testified, as follows:

14 DIRECT EXAMINATION

15 BY MR. HOGAN:

16 Q Brenda, state your name for the record and your position  
17 with the department of health.

18 A I'm Brenda Morgan, I work for the Arkansas Department of  
19 Health, Cosmetology.

20 Q Brenda, on the final page of this document we've introduced  
21 as your inspection report, is that document familiar to you?

22 A Yes, sir. It is.

23 Q Did you inspect this facility at Linda's Hair & Nails in  
24 Eudora, Arkansas, on July 27<sup>th</sup> of this year?

25 A Yes, sir. I did.

## 11/21/11, CTAC HEARINGS

1 Q What did you find when you did your inspection?

2 A I found that the salon license were not current. I  
3 truthfully didn't know from what I saw at the salon exactly how  
4 far behind she was, because she had not been open several times  
5 that I've been by.

6 Q Okay. So it says the license expired in December of 2007.  
7 Your testimony is that at times in the past when you tried to go  
8 by the facility, the operation of this business, that it was  
9 never open until you went by on -- in July of this year. Right?

10 A Yes, sir.

11 Q So there is no current license, according to what you found  
12 in your records, and the license was, of course, not current, the  
13 old one was not posted anywhere. Right?

14 A (Shaking head from side to side.)

15 Q Or was it posted?

16 A No, sir. I did not see it.

17 Q And did you talk to Ms. Sanders that day about why her --  
18 why she did not have a current license?

19 A (Shaking head from side to side.)

20 Her story was that she did have them, but I did not see any  
21 so I have to write down what I see.

22 Q And did you later find out that she had a license or that  
23 there was a license there?

24 A I didn't know until today about this.

25 Q Okay. Anything further you want to make the committee aware

## 11/21/11, CTAC HEARINGS

1 of?

2 A No, sir.

3 MR. HOGAN: Pass the witness.

4 HEARING OFFICER JONES: Committee members, any  
5 questions for Ms. Morgan?

6 Very well.

7 MS. FORD: Were they -- I'm sorry.

8 Were they working in the salon?

9 THE WITNESS: Yes, ma'am, she was.

10 MS. FORD: All right.

11 HEARING OFFICER JONES: Any other questions from  
12 the committee?

13 Okay. Thank you, Ms. Morgan.

14 (Witness excused.)

15 MR. HOGAN: We'll call Kelli Kersey.

16 WHEREUPON,

17 KELLI KERSEY,

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

21 DIRECT EXAMINATION

22 BY MR. HOGAN:

23 Q Kelli, state your name and your position with the  
24 department, please.

25 A Kelli Kersey, Section Chief, Arkansas Department of Health,

## 11/21/11, CTAC HEARINGS

1 Cosmetology.

2 Q And, Kelli, when you received the inspection report from  
3 Ms. Morgan, did you go through the records of the Department of  
4 Health and Cosmetology Committee and find out whether or not  
5 Linda's Hair & Nails was a licensed facility in Arkansas?

6 A Yes, sir, I did, and I found that her license had been  
7 expired since 12/31/2007. She does have a current practitioner  
8 license, so --

9 Q She has a license as a practitioner?

10 A Uh-huh.

11 Q And that is current?

12 A (Nodding head up and down.)

13 Q But for the business itself there is no current license?

14 A Yeah.

15 Q Is there anything further you want to make the committee  
16 aware of?

17 A No.

18 MR. HOGAN: I'll pass the witness.

19 HEARING OFFICER JONES: Committee members,  
20 anything further for Ms. Kersey?

21 Very well.

22 (Witness excused.)

23 Do you have any further witnesses?

24 MR. HOGAN: We close, conclude and we rest at this  
25 time.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Okay. At this time the  
2 record will be closed and we will go off the record for  
3 the board's deliberations. Once a decision has been  
4 reached we'll go back on the record.

5 (WHEREUPON, the Committee retired to deliberate,  
6 off the record, from 12:31 p.m. to 12:32 p.m., and  
7 returned with the following motion.)

8 HEARING OFFICER JONES: Okay. We'll go back on  
9 the record at this time. Is there a motion?

10 MS. REYNOLDS: I motion that the fees still stand,  
11 and 1,000 -- what it said --

12 MS. FORD: \$581.

13 MS. REYNOLDS: -- 581.

14 MS. ARGUELLO: I second the motion.

15 MS. FORD: Okay. At this time the motion has been  
16 second, we'll take a vote.

17 All in favor of the fine standing as stated say,  
18 "Aye."

19 COMMITTEE MEMBERS: Aye.

20 MS. FORD: Or raise your hand.

21 Those opposed?

22 The fine will stand as stated, for \$1,581.

23 HEARING OFFICER JONES: Let the record reflect the  
24 decision of the board and please reduce that decision  
25 to writing and make or attempt service upon all

## 11/21/11, CTAC HEARINGS

1 parties. If the respondent cares to appeal the  
2 decision, appeal can be taken under Administrative  
3 Procedures Act found at Arkansas Code Annotated  
4 25-15-201, et seq., or any specific provisions of this  
5 board.

6 At this time this record is closed.

7 (WHEREUPON, at 12:33 p.m., the above-entitled  
8 proceedings were concluded.)

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## 11/21/11, CTAC HEARINGS

1 presented here today. This hearing is being held under  
2 the Administrative Procedures Act, which means that the  
3 strict rules of evidence do not apply as they would in  
4 a regular court of law. To ensure the efficiency of  
5 the proceedings I will grant cautions and objections  
6 only as is necessary.

7 The board members know of this case only as it  
8 appears and is set forth in the Order of Notice of  
9 Hearing. Anything to be considered by them today must  
10 be presented into evidence.

11 This hearing is open to the public under the  
12 Freedom of Information Act, and that includes the  
13 board's recess for deliberations.

14 Those of you who are going to be witnesses in  
15 today's matter, please raise your right hand and be  
16 sworn in by the court reporter.

17 (WHEREUPON, the witnesses were sworn.)

18 HEARING OFFICER JONES: Preliminary matters,  
19 Mr. Hogan?

20 MR. HOGAN: We would ask that this exhibit, three  
21 pages in length and starting with the letter of  
22 September 20, 2011, to Rhonda Polk be admitted as  
23 Exhibit No. 1 of the board, and that the committee be  
24 able to take notice of the rules and regulations and  
25 the statutes.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Those exhibits will be so  
2 admitted and the rules and regulations so noted.

3 (WHEREUPON, Committee's Exhibit No. 1 was received  
4 in evidence.)

5 Anything in opening?

6 MR. HOGAN: Nothing.

7 HEARING OFFICER JONES: You can call your first  
8 witness.

9 MR. HOGAN: Just, I should have noted earlier, but  
10 just to make sure that Ms. Polk is not present today,  
11 there is nobody here.

12 Ms. Polk, are you present in the room?

13 Hearing no acknowledgment, then we'll go further.

14 WHEREUPON,

15 BRENDA MORGAN,

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 MR. HOGAN:

21 Q Brenda, state your name for the record and what your  
22 position is with for the committee.

23 A Brenda Morgan, I work for the Arkansas Department of Health,  
24 Cosmetology, as an inspector.

25 Q Brenda, did you have occasion to inspect Xtreme Sun Tanning

## 11/21/11, CTAC HEARINGS

1 & Hair Salon at Lonoke, Arkansas, in May of this year?

2 A Yes, sir. I did.

3 Q Last page there is a document we've introduced that is dated  
4 May 26 of 1911 -- or 2011. Did you -- is that your inspection  
5 report?

6 A Yes, sir, it is.

7 Q And what did you find on your inspection of May of 2011?

8 A This salon license had a 2009 -- had a 2009 license posted  
9 that day.

10 Q And did you talk to Ms. Polk?

11 It says that she was there that day at the time you  
12 inspected.

13 A Yes.

14 Q Did you discuss with her why her license was not current or  
15 why she did not have a current license posted?

16 A I did talk with her about it. No excuse for a late license.  
17 No, she didn't give me an excuse.

18 Q So but did she say that it was not -- she did not have a  
19 current license?

20 A She was -- what's -- they don't look at them very often,  
21 they just -- yeah.

22 Q Okay.

23 A Her mistake.

24 Q Anything further you want to make the committee aware of?

25 Nothing further you want to make the committee aware of?

## 11/21/11, CTAC HEARINGS

1 A No, sir.

2 MR. HOGAN: I pass the witness.

3 HEARING OFFICER JONES: Questions of the committee  
4 for this witness?

5 If there are none, Mr. Hogan, you can call your  
6 next witness.

7 Thank you, Ms. Morgan.

8 (Witness excused.)

9 MR. HOGAN: Call Kelli Kersey.

10 WHEREUPON,

11 KELLI KERSEY,

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

15 DIRECT EXAMINATION

16 BY MR. HOGAN:

17 Q Kelli, state your name and your position with the  
18 department.

19 A Kelli Kersey, Section Chief, Arkansas Department of Health,  
20 Cosmetology.

21 Q Kelli, have you had occasion to search the records of the  
22 department and determine whether or not Xtreme Sun Tanning Hair &  
23 Salon or Ms. Polk is licensed by this committee or the board of  
24 health?

25 A I did. Her last license was 12/31/2009.

## 11/21/11, CTAC HEARINGS

1 Q And has she subsequently applied or, to your knowledge, has  
2 she made application for renewal of the license?

3 A Not to my knowledge.

4 MR. HOGAN: All right. I'll -- I'll pass the  
5 witness, and that concludes our case. We'll rest at  
6 this time.

7 HEARING OFFICER JONES: Okay. Committee members,  
8 any questions for Ms. Kersey?

9 MS. FORD: Yes.

10 The 619 that state on the notice of violation, I  
11 notice that it does not include the 150-dollar renewal  
12 fee. Is that already added in or would that be an  
13 additional cost on this fine?

14 THE WITNESS: I would believe it would be an  
15 additional cost.

16 MS. REYNOLDS: Would that be for each year?

17 THE WITNESS: No, just to -- this is the fine and  
18 then to renew is 150.

19 MS. REYNOLDS: Okay.

20 MS. FORD: Renew. So that would make that total  
21 due --

22 MR. HOGAN: Wait. Did -- Madam Chair, the -- it  
23 would only be necessary to do that had she, I think,  
24 intended to renew her license.

25 MS. KERSEY: Renew, yeah. See, she may not want

## 11/21/11, CTAC HEARINGS

1 to renew.

2 MR. HOGAN: I don't think she's applied for  
3 renewal or anything.

4 THE WITNESS: Yeah. So this is actually the fine,  
5 yeah.

6 MS. FORD: Okay.

7 THE WITNESS: So...

8 HEARING OFFICER JONES: Any other questions for  
9 Ms. Kersey from the committee?

10 MS. FORD: No, ma'am.

11 HEARING OFFICER JONES: If there are none, at this  
12 time the record will be closed and made complete,  
13 except for the board's recess for deliberations. Once  
14 a decision has been reached we'll go back on the  
15 record.

16 (WHEREUPON, the Committee retired to deliberate,  
17 off the record, from 12:39 p.m. to 12:40 p.m., and  
18 returned with the following motion.)

19 HEARING OFFICER JONES: We'll go back on the  
20 record at this time for a motion.

21 MR. BARNES: I make a motion that the fine of \$619  
22 is acceptable.

23 MS. REYNOLDS: I second it.

24 MS. FORD: The motion has been second. At this  
25 time we'll take a vote.

## 11/21/11, CTAC HEARINGS

1 All in favor, raise your hand and say, "Aye."

2 COMMITTEE MEMBERS: Aye.

3 MS. FORD: Those opposed?

4 The fine will stand at \$619.

5 HEARING OFFICER JONES: Let the record reflect the  
6 decision of the board. Please reduce the decision to  
7 writing and make or attempt service upon all parties.  
8 Notify the respondent if they care to appeal the  
9 decision of the board, it may be taken under the  
10 Administrative Procedures Act found at Arkansas Code  
11 Annotated 25-15-201, et seq., or any specific provision  
12 of this board.

13 At this time this record would be closed and made  
14 complete.

15 (WHEREUPON, at 12:41 p.m., the above-entitled  
16 proceedings were concluded.)

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18 MS. FORD: Off the record, may I ask?

19 HEARING OFFICER JONES: Sure.

20 (WHEREUPON, a brief discussion was held off the  
21 record.)

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## 11/21/11, CTAC HEARINGS

1           today. This hearing is being held under the  
2           Administrative Procedures Act, so the strict rules of  
3           evidence do not apply as they would in a court of law.  
4           To ensure the efficiency of the proceedings, I will  
5           grant cautions and objections only as is necessary.

6           The board members know of the case only as it  
7           appears and is set forth in the Order of Notice of  
8           Hearing. Anything that is to be considered by the  
9           board needs to be submitted as evidence today. All  
10          participants should be aware that this hearing is open  
11          to the public under the Freedom of Information Act, and  
12          that does include the board's recess for deliberations.

13          Anybody who is going to be a witness in today's  
14          matter, please raise your right hand and be sworn in by  
15          the court reporter.

16                   (WHEREUPON, the witnesses were sworn.)

17          Mr. Hogan, preliminary matters?

18          MR. HOGAN: We would ask that this document that's  
19          starting with the letter of September 26, 2011, to  
20          Tracy Matthews be admitted as the Board's Exhibit  
21          No. 1. It's five pages in length and concludes with  
22          the inspection report on August 12, 2011. And that the  
23          committee be able to take notice of the board's rules  
24          and regulations and the statutes.

25          HEARING OFFICER JONES: Very well. This -- this

## 11/21/11, CTAC HEARINGS

1 packet of information with the letter dated  
2 September 26, 2011, consisting of five 2-sided pages,  
3 will be admitted as the board's exhibit, and the  
4 committee can so note the rules and regulations of this  
5 committee.

6 (WHEREUPON, Committee's Exhibit No. 1 was received  
7 in evidence.)

8 MR. HOGAN: We would call Ms. Rose Horner.

9 WHEREUPON,

10 ROSE HORNER,

11 having been called for examination, and having been first duly  
12 sworn by the undersigned notary public, was examined and  
13 testified, as follows:

14 DIRECT EXAMINATION

15 BY MR. HOGAN:

16 Q Rose, state your name and your position with the department,  
17 please?

18 A Rose Horner, Arkansas Department of Health and Cosmetology  
19 Inspector.

20 Q Rose, the last page of this document we've introduced is the  
21 inspection report dated August 12 of this year, saying that you  
22 inspected this salon at Berryville, Arkansas. Do you -- is that  
23 your inspection report?

24 A Yes, sir.

25 Q What did you find at Tracy's Hair Salon that day in August?

## 11/21/11, CTAC HEARINGS

1 A There were no licenses posted, no practitioner, no salon  
2 license. She did have a client. She went out to her car to try  
3 to find her licenses but could not find them.

4 Q So you've noted on the inspection report that the salon  
5 license was not current and the practitioner did not have a  
6 current license, and we'll ask Ms. Kersey about that.

7 But did you have any discussions with Ms. Matthews that day  
8 about why the license were not posted and why they weren't  
9 current, that you recall?

10 A Well, she was telling me a story about going through a  
11 divorce and she's going to move and -- and, you know, different  
12 things, but she just said she couldn't find them.

13 MR. HOGAN: Okay. I'll pass the witness.

14 I would call --

15 HEARING OFFICER JONES: Very well. Does the  
16 committee have any questions for Ms. Horner?

17 If there are none, thank you, Ms. Horner.

18 (Witness excused.)

19 Mr. Hogan, you can call your next witness.

20 WHEREUPON,

21 KELLI KERSEY,  
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

## 11/21/11, CTAC HEARINGS

1 BY MR. HOGAN:

2 Q Ms. Kersey, state your name and your position with the  
3 department.

4 A Kelli Kersey, Section Chief, Arkansas Department of Health,  
5 Cosmetology Section.

6 Q Kelli, did you have occasion to look at your records to  
7 determine whether or not this Tracy's Hair Salon was currently  
8 licensed or the practitioner, Ms. Matthews, was currently  
9 licensed in the state of Arkansas?

10 A I did. Her license expired 7/23/2010 and have not -- was  
11 not renewed as of 9/22/2011.

12 Q That's the salon license?

13 A Uh-huh. But she does have a current practitioner license.

14 Q Okay. But it was apparently not posted, according to the  
15 record?

16 A It was not posted.

17 Q Okay. Now, is there anything further you want to make the  
18 board or the committee aware of at this time?

19 A No, sir.

20 MR. HOGAN: And I don't know where Michelle is,  
21 but -- well, we can get that cleared up during  
22 deliberations.

23 We will rest at this time. No further questions.

24 HEARING OFFICER JONES: Do the committee members  
25 have any questions for Ms. Kersey?

## 11/21/11, CTAC HEARINGS

1           Very well. At this time the record will be closed  
2 and made complete, except for the board's recess for  
3 deliberations. Once a decision has been reached, we'll  
4 go back on the record.

5           (WHEREUPON, the Committee retired to deliberate,  
6 off the record, from 12:46 p.m. to 12:52 p.m., and  
7 returned with the following motion.)

8           HEARING OFFICER JONES: At this time we'll go back  
9 on the record for a motion.

10          MR. BARNES: I make a motion that she be required  
11 to pay that \$443, and also renew her license for \$150.

12          MS. ARGUELLO: I second it.

13          MS. FORD: The motion has been seconded, we'll now  
14 take a vote.

15          All in favor of the 443 and the 150 renewal, say,  
16 "Aye."

17          COMMITTEE MEMBERS: Aye.

18          MS. FORD: All opposed?

19          HEARING OFFICER JONES: Very well. Let the record  
20 reflect the decision of the board. Please reduce the  
21 board's decision to writing and make or attempt service  
22 upon all parties. If the respondent cares to appeal  
23 the decision, an appeal can be taken under the Arkansas  
24 Code Annotated 25-15-201, et seq., or any specific  
25 provisions of this board.

## 11/21/11, CTAC HEARINGS

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At this time the record is closed and complete.  
(WHEREUPON, at 12:53 p.m., the above-entitled  
proceedings were concluded.)

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## 11/21/11, CTAC HEARINGS

1 strict rules of evidence do not apply as they would in  
2 a regular court of law. To ensure the efficiency of  
3 the proceedings, I will grant cautions and objections  
4 only as is necessary.

5 The board members know of this case as it appears  
6 and is set forth in the Order of Notice of Hearing.  
7 Anything to be considered by the board today must be  
8 submitted as evidence.

9 All participants to the hearing should be aware  
10 that these proceedings are open to the public under the  
11 Freedom of Information Act, and it does include the  
12 board's recess for deliberations.

13 For those of you who may be witnesses in today's  
14 hearing, please raise your right hand and we'll have  
15 the court reporter swear you in.

16 (WHEREUPON, the witnesses were sworn.)

17 Very well. Mr. Hogan, preliminary matters?

18 MR. HOGAN: Yes. We ask that this document that  
19 starts with the letter of September 20, 2011, front and  
20 back, four pages, be admitted as Exhibit No. 1 for the  
21 record, and that the committee be able to take notice  
22 of the rules and regulations of the board and the  
23 statutes.

24 HEARING OFFICER JONES: Very well. The packet  
25 containing the September 20, 2011 letter will be

## 11/21/11, CTAC HEARINGS

1 admitted as Exhibit 1, and the board can so take notice  
2 of their own regulations and rules.

3 (WHEREUPON, Committee's Exhibit No. 1 was received  
4 in evidence.)

5 Call your first witness.

6 MR. HOGAN: Call Ms. Rose Horner.

7 WHEREUPON,

8 ROSE HORNER,

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

12 DIRECT EXAMINATION

13 BY MR. HOGAN:

14 Q State your name and your position with the department.

15 A Rose Horner, cosmetology inspector.

16 Q Rose, did you inspect this facility in, I guess it's -- is  
17 this in Salem, Arkansas? Is that right?

18 A Yes, sir. Yes.

19 Q On July 7<sup>th</sup> of this year?

20 A Yes, sir.

21 Q Can you tell us what you found that's -- I'm looking at the  
22 last page of this document, your inspection report. It indicates  
23 in paragraph or No. 5, "Salon license current," and then it says  
24 12/31/11, and then it says "Practitioner has a current Arkansas  
25 license," and that's checked. What did -- did you find that

## 11/21/11, CTAC HEARINGS

1 Ms. Evelyn Stuart did not have a current license? Is that the --  
2 what you found on that day?

3 A No license. Actually I think it may have been she may have  
4 had an old '07 license posted, I think.

5 Q Okay. And so Ms. Stuart was practicing under and posted in  
6 her business an '07 license?

7 A Yes.

8 Q Is there anything else that you want to make the committee  
9 aware of about your findings or inspection or anything, any of  
10 the discussions you had with Ms. Stuart or others?

11 A No.

12 MR. HOGAN: Pass the witness.

13 HEARING OFFICER JONES: Committee members, do you  
14 do you have any questions for Ms. Horner?

15 COMMITTEE MEMBERS: No.

16 HEARING OFFICER JONES: Okay. Very well.

17 Mr. Hogan, call your next witness.

18 MR. HOGAN: Kelli Kersey.

19 WHEREUPON,

20 KELLI KERSEY,

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 MR. HOGAN:

## 11/21/11, CTAC HEARINGS

1 Q Kelli, will you state your name for the record and your  
2 position with the department, please?

3 A Kelli Kersey, Section Chief, Arkansas Department of Health,  
4 Cosmetology.

5 Q Kelli, did you take the inspection report and determine  
6 whether or not there was a current license in the records for the  
7 Salem Style Shop or Ms. Evelyn Stuart?

8 A I did. There was one for the Salem Style Shop, it expired  
9 12/31/2011. And Ms. Evelyn's practitioner license expired  
10 12/31/2007.

11 Q All right. Anything further -- well, let me ask you this,  
12 has Ms. Stuart made application for a license, renewal of her  
13 license --

14 A No.

15 Q -- as of today or to your knowledge has a --

16 A Not to my knowledge.

17 MR. HOGAN: Then I pass the witness.

18 HEARING OFFICER JONES: Very well. Committee  
19 members, do you have any questions for Ms. Kersey?

20 MS. FORD: I do, I have one.

21 HEARING OFFICER JONES: Go right ahead.

22 MS. FORD: She has a current license that had --

23 THE WITNESS: Uh-huh.

24 MS. FORD: -- her license -- her facility license  
25 is current, however her individual license is not. Is

## 11/21/11, CTAC HEARINGS

1           that not a prerequisite for having a cosmetology --  
2           being able to license a salon?

3           THE WITNESS: No.

4           MS. FORD: You don't have to be a --

5           THE WITNESS: Anybody can own a salon.

6           MS. FORD: -- a current --

7           THE WITNESS: Huh-uh. You don't have to have a  
8           license to be a --

9           MS. FORD: As far as that, I thought there was a  
10          provision in there where you had to have a licensed  
11          cosmetologist?

12          THE WITNESS: No. That lady a while ago owned a  
13          salon and nobody worked there, she's not a  
14          practitioner.

15          MS. FORD: Okay. I was just wondering how the two  
16          got crossed.

17          THE WITNESS: Don't know.

18          HEARING OFFICER JONES: Are there any questions  
19          from the committee?

20          If there are none, Ms. Kersey, thank you.

21          (Witness excused.)

22          Mr. Hogan, anything in closing?

23          MR. HOGAN: Nope.

24          HEARING OFFICER JONES: At this time the record  
25          will be closed and made complete, except for the

## 11/21/11, CTAC HEARINGS

1 board's recess for deliberations. Once the board makes  
2 a decision we will go back on the record.

3 (WHEREUPON, the Committee retired to deliberate,  
4 off the record, from 12:59 p.m. to 1:00 p.m., and  
5 returned with the following motion.)

6 HEARING OFFICER JONES: Very well. At this time  
7 we'll go back on the record.

8 Is there a motion?

9 MS. ARGUELLO: I recommend that the fees --

10 MS. FORD: You make a motion?

11 MS. ARGUELLO: I make a motion that the fees of  
12 \$631 remain the same for Evelyn Stuart.

13 MS. REYNOLDS: I second.

14 MS. FORD: The motion has been second. At this  
15 time we need to take a vote.

16 All in favor, raise your hand and say, "Aye."

17 COMMITTEE MEMBERS: Aye.

18 MS. FORD: Those opposed?

19 Majority, as I understand.

20 HEARING OFFICER JONES: Okay. Let the record  
21 reflect the decision of the board, please reduce that  
22 decision to writing and make or attempt service upon  
23 all parties. If respondent cares to appeal the  
24 decision, appeal can be taken under the Administrative  
25 Procedures Act found at Arkansas Code Annotated

## 11/21/11, CTAC HEARINGS

1 25-15-201, or any specific provision of this board.

2 The record is closed and made complete.

3 (WHEREUPON, at 1:01 p.m., the above-entitled  
4 proceedings were concluded.)

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6 HEARING OFFICER JONES: One more.

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## 11/21/11, CTAC HEARINGS

1 administrative hearing, I will explain that the board's  
2 decision is based solely on the evidence presented here  
3 today. The hearing is being held under the  
4 Administrative Procedures Act, which means the strict  
5 rules of evidence do not apply as they would in a court  
6 of law. To ensure the efficiency of the proceedings, I  
7 will grand cautions and objections only as necessary.

8 The board members know of this case as it appears  
9 and is set forth in the Order of Notice of Hearing.  
10 Anything to be considered by them today must be  
11 presented into evidence.

12 All participants should be made aware that this  
13 hearing is open to the public under the Freedom of  
14 Information Act, and that does include the board's  
15 recess for deliberations.

16 If you or any witnesses in today's matter, please  
17 raise your right hand and we'll have the court reporter  
18 swear you in.

19 (WHEREUPON, the witnesses were sworn.)

20 Preliminary matters, Mr. Hogan?

21 MR. HOGAN: We would ask that this document  
22 starting with the letter of September 26, 2011, four  
23 pages, front and back, be admitted as Board Exhibit  
24 No. 1, and the committee be able to accept or take  
25 notice of the rules and regulations and the statutes.

## 11/21/11, CTAC HEARINGS

1 HEARING OFFICER JONES: Very well, that will be so  
2 admitted as Board's Exhibit No. 1. The letter starts  
3 out with the letter of September 26, it will be four  
4 pages, front and back. And the committee may take note  
5 of their rules and regulations.

6 (WHEREUPON, Committee's Exhibit No. 1 was received  
7 in evidence.)

8 Do you want to make an opening statement?

9 MR. HOGAN: No.

10 HEARING OFFICER JONES: Call your first witness.

11 MR. HOGAN: Pat Jackson.

12 WHEREUPON,

13 PAT JACKSON,

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

17 DIRECT EXAMINATION

18 BY MR. HOGAN:

19 Q Ms. Jackson, state your name for the record and your  
20 position with the department, please.

21 A Pat Jackson, inspector.

22 Q Page 4 of the document that we just admitted, Pat, is an  
23 inspection report. It appears that you inspected this facility  
24 in Magnolia, Arkansas, on August 11 of this year. Is that  
25 correct?

## 11/21/11, CTAC HEARINGS

1 A That's correct.

2 Q It looks like there is numerous health and safety type  
3 violations. Can you go through those?

4 What did you observe when you went into the shop that day?

5 A Sure.

6 One of the first things observed was floors and mats were  
7 not clean. The equipment and furnishings and other fixtures in  
8 the building were -- were not clean and repaired. There was not  
9 a closed receptacle for soiled towels. The -- there was no  
10 sanitizer for disinfecting instruments. Food preparation, which  
11 was the microwave and a regular little kitchen table were in the  
12 very front of the salon and, of course, that's not allowed in  
13 the -- in that area. The shampoo bowl had numerous bottles of  
14 bath oil in it, I mean just like throwed in there, and the dirty  
15 soiled towel. And there were several, several used buffers and  
16 files, nippers laying on the table that were not disposed of  
17 immediately. Just the floor was dirty, it was...

18 Q Did you discuss -- and I can't read the -- the writing of --  
19 is that Ms. -- was Ms. Tally actually there that day?

20 A She was there and she had clients. Uh-huh.

21 Q That's her signature there?

22 A It is.

23 Q Did you discuss with her the date of that? It sounds  
24 like --

25 A Yes, I did.

## 11/21/11, CTAC HEARINGS

1 Q -- the facility was very filthy. Did you talk to her about  
2 it?

3 A I did.

4 Q What was -- what did she say? Why was it -- had it not been  
5 cleaned? Was she just real busy and hadn't gotten around to it  
6 or what was the --

7 A Well, I think her only comment was, "Am I going to get  
8 fined?"

9 I took pictures of all of this along with the writing it  
10 down physically.

11 Q Is this a -- have you inspected this place before?

12 A Uh-huh. It's a beauty -- beauty -- cosmetology facility  
13 and -- and she also does manicures and pedicures.

14 Q Okay. Is there anything further you want to make the  
15 committee aware of at this time?

16 A No.

17 MR. HOGAN: All right. I'll pass the witness.

18 HEARING OFFICER JONES: Committee members, any  
19 questions for Ms. Jackson?

20 MS. FORD: No.

21 MS. ARGUELLO: I don't have a question, but I  
22 would like to comment and tell you, this is very nice  
23 the way you are very specific in writing everything  
24 down, it really helps --

25 THE WITNESS: Thank you.

## 11/21/11, CTAC HEARINGS

1 MS. ARGUELLO: -- to me. I mean I just want to  
2 make that comment, that's nice.

3 THE WITNESS: Thank you.

4 HEARING OFFICER JONES: Go right ahead.

5 MS. REYNOLDS: When you went in you said that the  
6 pedicure and floors around that area was dirty?

7 THE WITNESS: Yes. That -- the area, the floors  
8 were dirty, the pedicure pedi-spa itself, she had two  
9 of them, one of them was -- was very, very soiled. And  
10 like I said, I did take pictures of that.

11 MS. REYNOLDS: And, what, the jets and everything  
12 were clogged with --

13 THE WITNESS: You know, I -- I think she had a  
14 client at both of them and I did not have the  
15 opportunity to take those drains out.

16 MS. REYNOLDS: Uh-huh. Okay.

17 THE WITNESS: But the -- I can't say because I  
18 didn't see it.

19 MS. REYNOLDS: What -- what type of -- well, I  
20 guess I would say what, was it like the floors, give me  
21 a --

22 THE WITNESS: There would be spilled product on  
23 the floor, there would be dirty towels in the floor.  
24 Her -- her styling chair had a water bottle laying  
25 sideways in it. Numerous brushes and combs throughout

## 11/21/11, CTAC HEARINGS

1 the station. Her -- her manicure station had nippers  
2 laying on it. I opened a drawer, probably seven or  
3 eight used files and buffers, and I determine that by  
4 all the marks that are on them.

5 It -- it was -- it was not a real clean facility.

6 MS. REYNOLDS: Thank you.

7 HEARING OFFICER JONES: Any further questions from  
8 the committee for Ms. Jackson?

9 MS. FORD: No, not at this time.

10 (Witness excused.)

11 HEARING OFFICER JONES: Very well. Mr. Hogan, you  
12 can call your next witness.

13 MR. HOGAN: We'll rest.

14 HEARING OFFICER JONES: Okay. At this time we'll  
15 go off the record and the record will be made complete,  
16 except for the board's recess for deliberations. Once  
17 a decision is reached, we'll go back on the record.

18 (WHEREUPON, the Committee retired to deliberate,  
19 off the record, from 1:08 p.m. to 1:09 p.m., and  
20 returned with the following motion.)

21 HEARING OFFICER JONES: At this time we'll go back  
22 on the record for a motion.

23 MR. BARNES: I make a motion that the fine of \$175  
24 can carry.

25 MS. ARGUELLO: I second.

## 11/21/11, CTAC HEARINGS

1 MS. FORD: The motion has been seconded. At this  
2 time we'll take a vote.

3 All in favor, raise your right hand and say,  
4 "Aye."

5 COMMITTEE MEMBERS: Aye.

6 MS. FORD: All opposed?

7 The fine will stand at 175.

8 HEARING OFFICER JONES: Please let the record  
9 reflect the decision of the board. Please reduce that  
10 decision to writing and make or attempt service upon  
11 all parties. Please notify the respondent that they  
12 can appeal the decision of the board if they so wish  
13 under the Administrative Procedures Act found at  
14 Arkansas Code Annotated 25-15-201 et seq., or any  
15 specific provisions this board.

16 At this time the record is closed and made  
17 complete.

18 (WHEREUPON, at 1:10 p.m., the above-entitled  
19 proceedings were concluded.)

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11/21/11, CTAC HEARINGS

## 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 hearings held before the Arkansas  
9 Department of Health, Cosmetology Technical Advisory Committee  
10 (CTAC), November 21, 2011, was taken by me in Stenotype and was  
11 reduced to computer-generated typewritten form by me or under my  
12 direction and supervision; that the witnesses were duly sworn by  
13 the undersigned notary public; and that the same is a true and  
14 correct reflection of the proceedings that occurred, to the best  
15 of my knowledge and ability.

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

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11/21/11, CTAC HEARINGS

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

4 SIGNED AND SWORN this \_\_\_\_\_ day of

5 \_\_\_\_\_.

6

7

8 \_\_\_\_\_  
SUSAN B. WHITSON, CCR, #158

9

NOTARY PUBLIC IN AND FOR

10

PULASKI COUNTY, ARKANSAS

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12 My Commission Expires: June 4, 2012.

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