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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 18th day of July 2011, the meeting of the Arkansas Department of Health, Cosmetology Section Cosmetology Technical Advisory Committee was held, at 9:00 a.m., at the Freeway Medical Building, 5800 West 10th Street, Conference Room 906, Little Rock, Pulaski County, Arkansas.

TECHNICAL ADVISORY COMMITTEE:

- SUSAN COLLINS-BURROUGH, Chair
- CATHY CAVER (not present)
- TRACY AKARD
- NELLIE HOPPER
- JIM BUTENSHOEN
- JACQUELYN REYNOLDS
- KATHY HAVNER (not present)

REPORTED BY:

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1 APPEARANCES :

2 ON BEHALF OF THE BOARD :

3 RICK HOGAN, ESQ.

4 HEARING OFFICER :

5 KENDRA AKIN JONES, ESQ.

6 Staff Members Present :

7 KELLI KERSEY - Section Chief

RENEE MALLORY

8 MICHELLE RUDOLPH - Administrative Assistant

TERI CRAVOTTA - Administrative Specialist

9

10 Board Inspectors Present :

11 ROSE HORNER

PAT BLAND JACKSON

12 LAVONNE LESTER

BRENDA MORGAN

13 VERA WOOD

14

15 Court Reporter :

16 Susan B. Whitson, CCR

Arkansas Supreme Court Certificate No. 158

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

2 PAID VIOLATIONS

3 MS. COLLINS-BURROUGHS: Okay. Next we have paid
4 violations. So we have several, appears to be,
5 violations that are paid. And if there is any
6 questions as you look over the list --

7 MR. HOGAN: Just for the record, Madam Chair, I
8 think it's a total of seven pages, front and back of
9 the number of violations.

10 Do you have a number of them, Kelli?

11 MS. KERSEY: I do not have a number. I'm sorry.

12 MR. HOGAN: Starts with Above and Beyond Hair
13 Studio and ends with --

14 MS. COLLINS-BURROUGHS: They are in alphabetical
15 order. Well, some are.

16 MR. HOGAN: Bella's Hair -- Bella's Hair and Nail
17 Salon is the last, for a total amount of \$11,704 of
18 amount paid violations.

19 MS. COLLINS-BURROUGHS: Okay.

20 MR. HOGAN: We met with the staff last week, went
21 through all of them, appears to be consistent with what
22 our statutes and regulations require.

23 MS. COLLINS-BURROUGHS: Okay.

24 MR. HOGAN: And certainly consistent with what the
25 board has done in the past. I would recommend to the

1 committee to adopt this list of paid violations.

2 MR. BUTENSHOEN: I make a motion to approve this
3 paid violations list.

4 MS. HOPPER: Second the motion.

5 MS. COLLINS-BURROUGHS: We have a first. Do we
6 have a second?

7 Raise your right hands, all in favor.

8 (Hands raised.)

9 MS. COLLINS-BURROUGHS: Motion carried.

10 Is there a way to add to this list here if it's a
11 second violation?

12 Once it gets in the system will it kick it out and
13 let you know? If they just consistently pay or --

14 MS. KERSEY: Well, on the third one they have to
15 come here.

16 MS. COLLINS-BURROUGHS: Yeah.

17 MS. KERSEY: So do you have to know the second
18 one, too?

19 MS. COLLINS-BURROUGHS: Well, I'm just curious.

20 MS. KERSEY: Oh. Well, I mean, we do have that on
21 record, yeah.

22 MS. COLLINS-BURROUGHS: Okay. Okay. Do we want
23 to wait for the hearing?

24 MR. HOGAN: Yeah.

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ADMINISTRATIVE HEARING

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

V.

JENNIFER HUONG, RESPONDENT.

HEARING OFFICER JONES: Okay. If everybody is ready to get started we're going to start with the matter of Jennifer Huong.

My name is Kendra Akin Jones, I'm the Hearing Officer today in the Matter of the Arkansas Department of Health versus Jennifer Huong to be heard before the Cosmetology Technical Advisory Committee. Today is Monday, July 18, 2011, and we're located in the conference room of the Freeway Medical Building.

Would the respondent please identify themselves for the record?

MS. JENNIFER HUONG CAO: Jennifer Huong Cao.

HEARING OFFICER JONES: And I'm going to ask that you speak up because I don't hear very well.

MS. JENNIFER HUONG CAO: My name is Jennifer Cao.

HEARING OFFICER JONES: Thank you.

And do you have counsel with you here today?

MS. JENNIFER HUONG CAO: No.

HEARING OFFICER JONES: And you received the Order and Notice of Hearing from the department of health?

1 MS. JENNIFER HUONG CAO: Yes, ma'am.

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

3 MR. HOGAN: Thank you.

4 My name is Rick Hogan. I'm the general counsel
5 for the health department.

6 HEARING OFFICER JONES: For the respondent's
7 benefit, as well as the benefit of anyone present today
8 who may not have appeared before an administrative
9 hearing, the board will base its decision solely on the
10 evidence presented here today. This hearing is being
11 held under the Administrative Procedures Act, which
12 means the strict rules of evidence do not apply.

13 To ensure the efficiency of the proceeding, I will
14 caution parties and grant objections only as necessary.

15 The board members know of this case only as it
16 appears and is set forth in the Order and Notice of
17 Hearing. Anything to be considered by the board today
18 needs to be submitted to the board.

19 All participants should also be aware that this
20 hearing is open to the -- under the Freedom of
21 Information Act.

22 For those of you who are going to be witnesses in
23 today's matter, please raise your right hand and we
24 will have the court reporter swear you in.

25 (WHEREUPON, the witnesses were sworn.)

1 HEARING OFFICER JONES: Okay. Any preliminary
2 matters, Mr. Hogan?

3 MR. HOGAN: Just that we ask that the statute,
4 rules and regulations, that the board or the committee
5 be able to take judicial notice of those.

6 HEARING OFFICER JONES: Okay. Those will be
7 judicially noticed, statute and board rules.

8 Ms. Huong, do you have any -- any evidence or
9 paperwork you would like to have the board consider
10 today?

11 MS. JENNIFER HUONG CAO: Yes. I have my license,
12 my Texas license, and I also have -- I turn in my -- to
13 change my license to Arkansas. This is the second time
14 I send it in to them. The first time they lost
15 somewhere so I turn in my second one.

16 HEARING OFFICER JONES: Okay. Well, why don't we
17 see about getting some copies made of those so the
18 board can take a look at them.

19 MS. JENNIFER HUONG CAO: And I also have a copy of
20 what I send to them.

21 HEARING OFFICER JONES: Okay.

22 MS. JENNIFER HUONG CAO: But I haven't heard any
23 notice from them yet.

24 HEARING OFFICER JONES: Okay. I'm going to give
25 you a chance to fully explain, I just wanted to get

1 some copies of the documents you have so the board
2 members can see them.

3 We're going to go ahead and proceed while she's
4 making the copies. Okay?

5 Mr. Hogan, you can make your opening statement, if
6 you wish.

7 MR. HOGAN: I don't have a statement. I would
8 just ask that we have a seven-page document, front and
9 back, it's actually a total of 13 pages, that we would
10 like to admit to the board as Exhibit No. 1 --

11 HEARING OFFICER JONES: Okay.

12 MR. HOGAN: -- for the record, please.

13 HEARING OFFICER JONES: Very well. The packet of
14 the Order and Notice of Hearing and the documents
15 attached will be admitted as a compilation exhibit for
16 Board's Exhibit No. 1.

17 (WHEREUPON, Board's Exhibit No. 1 was received in
18 evidence.)

19 HEARING OFFICER JONES: Okay.

20 MR. HOGAN: We've got, just to clarify the exhibit
21 as well, we've, in addition to Exhibit 1 in there,
22 inside that we've separately identified the inspection
23 report as Exhibit A, just for clarity in the record,
24 Exhibit B is the violation notice, and Exhibit C are
25 the return receipts, certified mail certificates, just

1 so that we're -- when we refer to A, B, and C, that's
2 what we're talking about.

3 HEARING OFFICER JONES: Is that clear, for the
4 record?

5 COURT REPORTER: Yes, ma'am.

6 HEARING OFFICER JONES: Okay. That's the main
7 thing.

8 You have no opening statement?

9 MR. HOGAN: Oh, I would waive any statement.

10 HEARING OFFICER JONES: Would you like to make an
11 opening statement to the board?

12 MS. JENNIFER HUONG CAO: Me?

13 HEARING OFFICER JONES: Yes.

14 MS. JENNIFER HUONG CAO: Oh, on the first time
15 Ms. Pat, she come to inspect, that's the time that I
16 come in, took my first day to come in. And then when
17 she come in, I -- I have my Texas license but I did not
18 post it on my desk because I was being processed to
19 send my information to Texas, Texas license so they can
20 transfer it to Arkansas. That's what I told her.

21 And then I call up there and they say they did not
22 receive mine so I -- so I went and do another one,
23 about getting a money order and copy and we write
24 everything down and send it to them again. I still
25 didn't hear from them again.

1 Okay. That's it.

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

4 MR. HOGAN: You would call Pat Jackson, please.

5 WHEREUPON,

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

10 DIRECT EXAMINATION

11 BY MR. HOGAN:

12 Q Pat, would you state your name for the record, please?

13 A Pat Jackson.

14 Q Pat, on Page 4 of the record that we've admitted is an
15 inspection report. Did you prepare that report?

16 A Yes, sir.

17 Is that 3/25?

18 Q Yes. Yes, ma'am.

19 A Yes, sir. I did.

20 Q Yes. That's actually Page 5, so let's start with that.

21 A Okay. Yes, I did.

22 Q Okay. On 3/25/2011 you went in to City Nails and Spa
23 located in El Dorado, Arkansas?

24 A Yes.

25 Q And made an inspection, right?

1 A That's correct.

2 Q What did you find at that time?

3 A At that time I found two people -- well, actually three
4 people there, and one person, Ms. Jennifer Huong, did not have a
5 current Arkansas license.

6 Q And I note on your report you list a Texas license, a
7 driver's license. Tell us, what did she tell you about, did she
8 have a license in Texas to practice cosmetology?

9 A No, sir. It was a manicure.

10 Q Manicure?

11 A And she did show me, the reason I put her Texas driver's
12 license down was just to identify her.

13 Q And she was -- at the time she had her own station that she
14 was working in the --

15 A Yes. She was.

16 Q -- in the establishment?

17 And did she tell you why she didn't have a license?

18 A She did tell me that she was in the process of reciprocity
19 from Texas, that she had sent her papers.

20 Q Did she have any license that was posted at her station?

21 A No Arkansas license.

22 Q Was her Texas license posted?

23 A No.

24 Q Did you ask her why she had not attempted to become licensed
25 in Arkansas?

1 A Yes, sir, I did. And she replied that she had sent her
2 reciprocity papers in, she just had not received them back.

3 Q All right. Well, let me take you to May 19th. I believe
4 you went back to City Nails?

5 A That's correct.

6 Q And what did you find on this occasion?

7 A On this occasion I -- I found Ms. Jennifer again working
8 without a license. I also found another male that was there that
9 went out the back door, he would not give me any identification
10 or speak to me. I found health and safety violations.

11 Q Can you go in a little bit -- before I ask you to go into
12 that, let me make sure. When you do an inspection report like
13 you did in March --

14 A Yes, sir.

15 Q -- did you leave a copy of that with Jennifer at that time?

16 A I did with Mr. Simon, the owner. I always leave a copy.

17 Q Do you think that they understood that it was a violation to
18 not have a license for Ms. Huong?

19 A One of the routine things I do is to always say, "It is
20 unlawful to practice in the state of Arkansas without a current
21 valid license."

22 Q And can you go into the health and safety violations that
23 you found in May when you went there?

24 A Yes, sir.

25 I found used files and buffer blocks in three of the

1 portable pedicure stations; I found all the block buffers, the
2 grit you could tell had been used on them, they had -- it was not
3 new.

4 Q Did you find anything else about the --

5 A On the health and safety, I did not -- I did. I'm sorry. I
6 did observe Ms. Huong going from one client to another without
7 first washing her hands.

8 Q I noticed with respect to the Barbicide, the jars were
9 filled and the liquid appeared to be clean, and that she said
10 that she did change the liquid once every week. Is that correct?

11 A That's correct.

12 I went back on a complaint May the 19th from an -- from
13 the office, that's why I returned so soon. And so one of those
14 complaints was that they did not have Barbicide jars, so that's
15 why I noted that they did have.

16 Q And the complaint you're referring to, there was an email, I
17 believe --

18 A Correct.

19 Q -- and it's stated in the email that this lady was a former
20 employee?

21 A Correct.

22 Q That there was problems with the health and safety or the
23 sanitation of the establishment?

24 A That -- that is correct.

25 Q Is there anything further, Pat, you need to make the

1 committee aware of at this time?

2 A No, sir.

3 I've already noted that one of the males that -- doing a
4 pedicure went out the back door without stopping, and when I
5 asked him to see his license he never did return.

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

7 MS. JENNIFER HUONG CAO: Could I ask that one more
8 thing?

9 HEARING OFFICER JONES: You get to -- yes, you can
10 ask Ms. Jackson questions now, as many as you want.

11 CROSS-EXAMINATION

12 BY MS. JENNIFER HUONG CAO:

13 Q On that day you say that I did not work on a person to go to
14 the next client. I wasn't working on her. I went over there to
15 ask her to wait for me, okay, I sat down to talk to her to ask
16 her to wait, I did not work on her.

17 Plus when I work on my first client I wear gloves. I took
18 off my gloves and I went to talk to my client and said will you
19 wait on me until I finish with my first, my other client, my
20 first client. It does not mean that I work on her, okay, I just
21 come ask her to wait for until I work on my first customer.

22 But when I work on the first client I wear my gloves. When
23 I took off my gloves I tell the next person I working on the
24 table, so that does not mean that I did not sanitize my hands or
25 wash because I wear gloves on my first customer, you know what I

1 mean?

2 HEARING OFFICER JONES: Well, Ms. Huong, do you
3 have a question for Ms. Jackson?

4 MS. JENNIFER HUONG CAO: Yes, I asked her.

5 HEARING OFFICER JONES: Okay. Ms. Jackson, did
6 you understand the question?

7 THE WITNESS: Yes, ma'am.

8 HEARING OFFICER JONES: Okay.

9 THE WITNESS: I observed, and I wrote that down in
10 my -- in my notes, "I observed Ms. Huong going from one
11 client to the other without washing her hands."

12 HEARING OFFICER JONES: Do you have any further
13 questions?

14 BY MS. JENNIFER HUONG CAO:

15 Q Yeah, that's -- that's the client that I -- I did not work
16 on her, I just go over to the table and say can you wait for me
17 until I finish my first client. But I did wear my glove, I took
18 off my glove, you know, but I did not wash my hand because I wear
19 the glove, I throw the glove away, because I'm still working on
20 my other client.

21 MR. HOGAN: Okay. I want to make -- Ms. Huong, I
22 want to make sure everybody hears you, because I can't
23 hear well. There is a teenager in the neighborhood
24 that's always firing guns and all that stuff that's
25 loud so I can't hear very good.

1 Can you move up here to this seat up here, maybe?

2 MS. JENNIFER HUONG CAO: Okay. Well, I can talk
3 louder then.

4 MR. HOGAN: Well, if you would like. I mean I'm
5 trying to make sure that you all hear her okay because
6 I didn't hear her very well.

7 MS. JENNIFER HUONG CAO: Ms. Jackson say I did not
8 wash my hands to go to my next client, okay, but I work
9 on my customer and I took off my glove, I go to throw
10 the glove in the trash, I work on that other second
11 customer. I ask her can you wait for me a little bit
12 until I finish my customer first. I wasn't working on
13 the second customer.

14 MR. HOGAN: I see.

15 I think that sounds more like testimony in terms
16 of a -- as opposed to a question. You dispute what
17 Ms. Jackson said about moving on to another client.

18 HEARING OFFICER JONES: And I will give you an
19 opportunity to have your full say and tell your full
20 side of the story, but if you don't have any more
21 questions, we're going to let Ms. Jackson sit down.

22 Oh, do the members of the commission have any
23 questions?

24 MS. COLLINS-BURROUGHS: Of who?

25 HEARING OFFICER JONES: Of Ms. Jackson.

1 MS. COLLINS-BURROUGHS: Pat, did you see the
2 gloves that she's talking about?

3 THE WITNESS: Yes.

4 MS. COLLINS-BURROUGHS: But you didn't see her
5 remove them?

6 THE WITNESS: Yes.

7 MS. COLLINS-BURROUGHS: Is that what she said?

8 THE WITNESS: Yes. But she also went to another
9 client after removing those and worked on that client.

10 MS. COLLINS-BURROUGHS: Okay.

11 HEARING OFFICER JONES: Any further questions?

12 REDIRECT EXAMINATION

13 BY MR. HOGAN:

14 Q So let me make sure I got that right. So if you're wearing
15 gloves and working on one client and you remove your gloves,
16 you're still required to wash your hands before you go on to the
17 next client?

18 A (Nodding head up and down.)

19 HEARING OFFICER JONES: Verbal answers.

20 BY MR. HOGAN:

21 Q Yes?

22 A Yes.

23 I'm sorry. Can't hear that rattle?

24 HEARING OFFICER JONES: Anything further? Any
25 clarification, Mr. Hogan?

1 MR. HOGAN: I have nothing of this witness.

2 HEARING OFFICER JONES: Thank you, Ms. Jackson.

3 (Witness excused.)

4 HEARING OFFICER JONES: Call your next witness,

5 Mr. Hogan.

6 MR. HOGAN: We call Kelli Ann Kersey.

7 WHEREUPON,

8 KELLI ANN KERSEY,

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 Kelli, would you state your name for the record?

15 A Kelli Ann Kersey, section chief.

16 Q And you have had occasion to review your records at the
17 department of health to determine if Ms. Huong is licensed
18 current in the state of Arkansas?

19 A Yes, sir.

20 She has not filed for reciprocity in the state of Arkansas.

21 Q Now, explain to everybody what the process would be if she
22 were licensed in Texas to do manicuring, would that necessarily
23 mean that that license would satisfy her Arkansas requirements?

24 A No, sir.

25 Q What would she have to do?

1 A She would have to fill out her reciprocity papers and send
2 it in to the office with \$150 and she would be required to take
3 our state law test.

4 She -- what she had -- what she has given us is a 15-dollar
5 money order, her Texas license, and a note to the Texas board,
6 which she would have to do that, Texas would have to directly
7 send it to our office, verification of her license there. But
8 sometime -- I mean I don't know if we've gotten these at our
9 office or not, but if she has not filed for reciprocity in
10 Arkansas then we have no record of her. So if we did get her
11 license from Texas we would not know who -- who or what it was
12 for.

13 MR. HOGAN: Just to make sure, these are the
14 documents, and I'll go ahead if it's okay to mark them
15 1 through 4, 1, 2, 3 and 4 that the respondent,
16 Ms. Huong, has admitted today.

17 BY MR. HOGAN:

18 Q And so I understand, the first document --

19 HEARING OFFICER JONES: Mr. Hogan, hold on just a
20 minute.

21 Let's, just for clarity of the record, let's label
22 those as Respondent's Exhibit 1 is the check,
23 Respondent Exhibit 2 is the Texas cosmetology license,
24 Respondent Exhibit 3 is a copy of the respondent's
25 driver's license and social, and exhibit -- Respondent

1 Exhibit 4 is her letter to the Texas Cosmetology Board.

2 (WHEREUPON, Respondent's Exhibits Nos. 1 through 4
3 were received in evidence.)

4 MR. HOGAN: Thank you.

5 BY MR. HOGAN:

6 Q Kelli, if I could, are you -- have you seen any of this
7 information prior to today?

8 A No, sir.

9 Q What is -- this Respondent's No. 1 appears to be a certified
10 check or -- is that what you call those things?

11 MR. BUTENSHOEN: Money order.

12 THE WITNESS: Yeah.

13 BY MR. HOGAN:

14 Q Oh, okay, money order?

15 A Yeah.

16 Q For \$15. Do you have any idea what -- what would this be
17 for? Do you have any --

18 A I would think that it was for her to send her verification
19 to Arkansas from Texas, that this went to Texas state board.

20 Q Okay. This is dated June the 10th of 2011. So that would
21 have been a little over a week ago. And the second, Respondent's
22 2 is a Manicurist License No. 129080 No. 9, that's 1290809, and
23 this appears to be a license which expired March the 31st of
24 2012 -- or would expire March 31, 2012, and that appears to be a
25 license issued by the State of Texas. Is that correct?

1 A Yes, sir.

2 Q And that's to Jennifer H. C-a-o, which --

3 MS. JENNIFER HUONG CAO: Yes, sir.

4 BY MR. HOGAN:

5 Q -- which is --

6 MR. HOGAN: I assume that's your name that you
7 were licensed under and you've gotten married since
8 then or --

9 MS. JENNIFER HUONG CAO: No. It's always like
10 that. But she didn't put my last name, she put my
11 middle name on there.

12 THE WITNESS: Huong is her middle name.

13 MR. HOGAN: Oh, okay. I'm sorry.

14 And then Respondent's 3 is, I see, your social
15 security card, Jennifer Huong -- how do you pronounce
16 your C-a-o?

17 MS. JENNIFER HUONG CAO: Cao.

18 MR. HOGAN: Cao?

19 MS. JENNIFER HUONG CAO: Yes.

20 MR. HOGAN: So, and on your driver's license in
21 Texas it has Jennifer Huong --

22 MS. JENNIFER HUONG CAO: Cao. Yes.

23 MR. HOGAN: -- Cao as well. So actually your last
24 name would be Cao?

25 MS. JENNIFER HUONG CAO: Cao, yes.

1 MR. HOGAN: Okay. And then this is a letter that
2 you wrote, I guess this is a letter, this Respondent's
3 No. 4 is a letter you sent to --

4 HEARING OFFICER JONES: Wait, Mr. Hogan.

5 MR. HOGAN: Okay. I'm sorry. I'm sorry.

6 HEARING OFFICER JONES: I'm just trying to keep
7 the record clear.

8 MR. HOGAN: You're right. You're right. I'm
9 sorry.

10 HEARING OFFICER JONES: We'll keep the questions
11 for Kelli.

12 BY MR. HOGAN:

13 Q Let me ask, Kelli, this appears to be a letter that was sent
14 to the Texas state board. Is that right?

15 A Yes, sir.

16 Q And that --

17 A That's what it appears to me.

18 Q That is a part of the process that would have to be complied
19 with in order to get a license in Arkansas. Right?

20 A Yes, sir.

21 Q And to date you have not received any application for
22 reciprocity from Ms. Cao, is that correct?

23 A Yes, sir. That's correct, we have not received it.

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

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

1 questions you would like to ask Kelli?

2 MS. JENNIFER HUONG CAO: No.

3 I just wanted to know how did you send the
4 information to Arkansas because nobody tell me that,
5 they ask me to send \$150 to Arkansas department. I had
6 no idea about these kind of stuff. All -- all -- all
7 they told me that all I have to do is send my money
8 order and send to my state to transfer the license,
9 that's all I know. I have no idea what's going on, how
10 to send stuff to you guys, you know.

11 THE WITNESS: Was that a question?

12 MR. BUTENSHOEN: Did you contact the --

13 HEARING OFFICER JONES: Wait, wait, wait.

14 THE WITNESS: You -- on our website, there is a --

15 CROSS-EXAMINATION

16 BY MS. JENNIFER HUONG CAO:

17 Q I don't have a --

18 A Did you contact the office?

19 Q No. I just call and look for a job, okay, and nobody told
20 me, even Pat, the inspector, didn't even tell me anything about
21 that. So I -- I'm assuming, I'm sorry, but that's all I know,
22 that they told me to buy money order, to send a letter to Texas
23 and tell the Texas at the Texas department to transfer my license
24 to Arkansas and then Arkansas receive, they going to contact me,
25 that's all I know. As far as the other I don't know anything.

1 And this is my first time work out of town.

2 A Okay.

3 Q I never work out of town in my life, so that's all I know.

4 And whatever I did mistake, I'm sorry, I don't know.

5 HEARING OFFICER JONES: Okay. Do you have any
6 questions for Kelli?

7 MS. JENNIFER HUONG CAO: That's the question I
8 asked Kelli.

9 MR. HOGAN: Was that a question?

10 I don't think she understood that that was a
11 question.

12 BY MS. JENNIFER HUONG CAO:

13 Q Oh, I say, when I come to Arkansas I have -- I don't know
14 anything about sending \$150 to your office, to state office.
15 Okay, nobody tell me that. All they do is they tell me that I
16 need to buy a 15-dollar money order and send to Texas and write a
17 letter to Texas and let them transfer my Texas -- my Texas
18 license to Arkansas and then Arkansas contact me. That's what
19 I've been waiting and waiting for this is the second time I sent
20 it to them. I've been waiting and nobody contact me.

21 A Okay.

22 Q So I have no idea what I'm supposed to do to get Arkansas
23 license.

24 A Okay. So you -- what you need to do is go to our website.

25 Q Uh-huh.

1 A And look under the reciprocity tab.

2 Q Uh-huh.

3 A Fill out the reciprocity papers, send in \$150, and I'm -- I
4 mean I'm assuming that you sent this to Texas and they will send
5 it to us.

6 Q Right.

7 A And then we will contact you after you've done that.

8 Did our office tell you that?

9 THE WITNESS: I'm sorry. Can I say that?

10 BY MS. JENNIFER HUONG CAO:

11 Q No. I have no idea. Nobody tell me anything.

12 A Okay.

13 Q Okay. So can you give me the information and I can process
14 it on there?

15 A I can give it to you. Uh-huh.

16 Q Okay.

17 HEARING OFFICER JONES: Any further questions?

18 Okay. Does -- does the board have any questions
19 for Kelli?

20 MS. AKARD: For Kelli?

21 HEARING OFFICER JONES: Yes.

22 If there are --

23 MS. AKARD: No, I don't.

24 (Witness excused.)

25 HEARING OFFICER JONES: Okay. If there are no

1 questions, Rick, do you have any --

2 MR. HOGAN: We rest.

3 HEARING OFFICER JONES: Okay. Okay. At this
4 time, Ms. Cao, you can tell the board your side of the
5 story or if you want to call any witnesses, and then I
6 will allow Mr. Hogan and the board to ask you any
7 questions. Okay?

8 MS. JENNIFER HUONG CAO: Yeah.

9 HEARING OFFICER JONES: Do you have any witnesses
10 you want to call?

11 MS. JENNIFER HUONG CAO: I can call him, Mr. --
12 the owner. I mean Mr. Vo.

13 MR. HOGAN: You will need to be sworn.

14 HEARING OFFICER JONES: Mr. Vo, were you sworn in?

15 MR. SIMON VO: Yes.

16 HEARING OFFICER JONES: Okay. Mr. Vo, please have
17 a seat.

18 WHEREUPON,

19 SIMON VO,

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 HEARING OFFICER JONES: Okay. Ms. Cao, if you can
24 ask your -- if you want you can make a statement and
25 tell your side of the story first or you can ask Mr. Vo

1 questions.

2 MS. JENNIFER HUONG CAO: I don't have any
3 questions.

4 HEARING OFFICER JONES: You can ask him questions.

5 MS. JENNIFER HUONG CAO: I don't have anything to
6 ask him.

7 THE WITNESS: I think I want to question some of
8 the questions that she answer earlier.

9 HEARING OFFICER JONES: We can't do that, that's
10 not the way -- she can ask you questions and you can
11 answer them, but you can't -- you can't just make a
12 statement. Okay?

13 So, Ms. Cao, if you would like to ask him
14 questions, that's fine.

15 DIRECT EXAMINATION

16 BY MS. JENNIFER HUONG CAO:

17 Q Mr. Vo, I want to ask you something. Okay?

18 When inspector come into our station, to our nail salon,
19 we -- we got -- we don't have any problem, right? And I work on
20 my --

21 A No.

22 Q I work on my first customer and I wear my glove and --

23 A (Nodding head up and down.)

24 Q And I went -- when I'm done with that -- I'm still not done
25 with that customer. I ask that customer to go wash her hand and

1 I took off my gloves, I went to my other station and I go talk to
2 my other client.

3 A Uh-huh.

4 Q Okay. That doesn't mean I work on that customer, right?

5 A Correct.

6 She -- that day I was there. She working on a first
7 customer, and I ask her about you be done and that customer
8 standing down washing her hand. And at that moment she walked to
9 the other table, took her gloves off and throw them in the trash
10 like the inspector say she did. And she went over there and
11 asked her other customer, could you wait for her a little bit
12 more, this customer is almost done, she needs to be polished, the
13 customer wash her hand. When she wash her hand and come back she
14 going to polish her and go wash and then go work on the other
15 one. She only come to that table to talk to her, ask her to wait
16 another five more minutes. She did not -- but she did not work
17 on the other customer at all at that moment. All she does is ask
18 her, can you wait for me five more minutes, wait for me to polish
19 that customer, I'll be right back. That's all that happened,
20 that happened that day. That's the truth.

21 HEARING OFFICER JONES: Ms. Cao, do you have any
22 further questions for Mr. Vo?

23 MS. JENNIFER HUONG CAO: No, ma'am.

24 HEARING OFFICER JONES: Okay. Mr. Hogan, do you
25 have any questions for Mr. Vo?

1 CROSS-EXAMINATION

2 BY MR. HOGAN:

3 Q Mr. Vo, you're the owner of the facility, is that correct?

4 A Yes, sir.

5 Q What kind of instruction, if any, do you provide to the
6 people that work for you about ensuring that your business is
7 clean and safe? Do you give any instructions about that?

8 A Yes, sir.

9 Q Do you have written instructions?

10 A We will just talk. We just, I just told.

11 She's -- she's new. I just open my nail salon in the
12 beginning of the year, and I'm very new to state of Arkansas and
13 there is a lot of things I'm -- I'm new. And I've just follow
14 along, bounce along like I tried to go by the book. And when she
15 coming in, I asked her, do you know how to do work like -- like a
16 nail, nail salon and she say she did. And I asked do you have a
17 license and she say she did. And I asked her, can you help me
18 transfer the licensure in -- to your state, Texas and transfer to
19 your state of Arkansas, Little Rock. And I said, they do all,
20 did all that, and they did not respond. And I say, we've been
21 waiting, waiting, and finally she bring it up today, you ask her,
22 and then I heard again, she did try it again. And at the state,
23 Texas is tried to transfer to the state of Arkansas.24 I thought as myself has a license here now, usually we do
25 mail money order and the state would have a license before, and

1 ask them to transfer our license, our file to State of Arkansas,
2 Little Rock, and all we do is just wait for them. The Little
3 Rock write a letter to send to us and then we go along from
4 there.

5 We do not know we have to come down here, pay \$150 and get a
6 license like that. She did not know about that part. She still
7 waiting for that, too.

8 Q I'll ask you about the license issue. But back to the
9 health and safety problems. Is it -- is it your position that
10 it's safe for a person that's working for you to not wash their
11 hands before --

12 A Yes, this --

13 Q -- they deal with another client?

14 A She wear gloves. We ask our customers -- each customer she
15 does have to wear glove and wash her hands or sanitize hands like
16 we do.

17 Q So if she did not wash her hands before dealing with a
18 different customer then that would be a violation?

19 A Oh, she did, she wash her hands if she work on that
20 customer. She do -- if she work on that customer she going to do
21 that and wear gloves, too.

22 Q Did you hear her testimony earlier? I understood her to say
23 that she took her gloves off and worked on another client? That
24 she didn't wash her hands, she took her -- she took her gloves
25 off and that was -- that was okay? I mean is that, is that okay

1 in your practice?

2 A No, sir. Let me -- let me appraise one more time.

3 She went to the -- let's say I went to her and I took my
4 glove off, I walk to her and I talk to her, I did not work on
5 her. That's what she is trying to say, she did not work on her.
6 Talking to her, waiting for the other, the first customer washing
7 her hand and come back to the table and she can polish her, then
8 she done with that customer. She did not finish the first
9 customer yet, she only go to that table and ask that that
10 customer wait for her a little bit longer. That's what we're
11 talking about all this time.

12 Q So you're saying --

13 A She did not work on that customer. She did not.

14 Q She didn't work on the second customer?

15 A No. She didn't. She just talk, ask her, can you just wait
16 five more minutes, let me polish my first customer, done
17 completely, then she come work on the other one. She did not
18 work on the second customer at all, she only talked.

19 Q Did you contact the state office here about helping Ms. Cao
20 become licensed in Arkansas? Did you make any inquiries here?

21 A She -- I was, I wait for -- I wait for the letters at home
22 so I can bring her up here --

23 Q Maybe you didn't understand the question. I asked you did
24 you make any contact with the Arkansas office?

25 A I waited for the letter from the Arkansas send home before

1 we do that.

2 Q So the answer would be no?

3 A The answer is I didn't know. I'm --

4 Q You didn't know that you should or --

5 A I didn't know -- I didn't know I had to do that. Because
6 usually I call to the state of Arkansas, they ask me, I have to
7 wait for the file to send to here before us, you know, anything.

8 Let's say --

9 Q Were you licensed in another state?

10 A Let's say -- another say of saying it is, if I call my form
11 to Washington state, I ask have you seen my name in there yet?
12 They say who are you? I say my name is Simon and I was waiting
13 for you to contact me and you didn't call me yet so I called and
14 asked you, do you know, do you see my name on there on the
15 computer? Whoever work in that state, they going tell me should
16 I know who I am, I'm waiting for my license transfer from another
17 state to that state. So I make a phone call, doesn't make any
18 sense, they don't know who I am. What am I going to do it from
19 there, I don't know.

20 Q So you're --

21 A I call. I do going to say that, too, I did call.

22 Q Let's see. Oh, you did call?

23 A Yeah.

24 Q You did call Arkansas cosmetology?

25 A I asked, have you seen my name and my license coming in from

1 another state or my name, something like that, I did. Have one
2 way at all time. We still, we don't see your name, your file
3 transfer here yet, we don't see you yet.

4 Q I don't want to get it confused with your case, I know
5 you're coming up next. But did you call on behalf of Ms. Cao to
6 inquire about --

7 A On behalf I called for my license, I remember now. I call
8 for my license and I wait for it. Understand I didn't call for
9 her because it happen to me before.

10 Q But you didn't call on behalf of Ms. Cao here?

11 A I call for me before in the beginning of 2010, end of 2010 I
12 called for me, the state board here, they telling me they don't
13 have my file send here yet so I have to keep on waiting. If they
14 receive it they going to notify to me.

15 Q Do you have access --

16 A So when that she came in --

17 Q Do you have access to the --

18 A One time I came in, she did that and the state for Arkansas
19 did not send a letter to her --

20 MS. JENNIFER HUONG CAO: Simon, listen to him.

21 THE WITNESS: -- and I didn't know.

22 BY MR. HOGAN:

23 Q Did you have access to the website? Have you gone on to
24 look at the cosmetology website here in Arkansas?

25 A No, sir. I don't have the access. I don't have an internet

1 now to do the access on the website.

2 MR. HOGAN: Okay. I'll pass the witness. I don't
3 have any other questions.

4 HEARING OFFICER JONES: Does the board members
5 have any questions of Mr. Vo?

6 MS. COLLINS-BURROUGHS: I do.

7 How long have you been licensed?

8 THE WITNESS: Just this year.

9 MS. COLLINS-BURROUGHS: And you moved here from
10 where?

11 THE WITNESS: Texas.

12 MS. COLLINS-BURROUGHS: Texas?

13 THE WITNESS: Yes, ma'am.

14 MS. COLLINS-BURROUGHS: And you opened your
15 business when?

16 THE WITNESS: Beginning this year.

17 MS. COLLINS-BURROUGHS: So January?

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

19 Yes.

20 MS. COLLINS-BURROUGHS: How many other employees
21 do you have?

22 THE WITNESS: I started with myself.

23 It's a little space, like 600 square foot room,
24 it's not that big. And I work by myself. Sometime I
25 got two customers coming in and one -- one wait too

1 long, I felt sorry for my customer, so I asked someone
2 coming in, come and help me, but I have a hard time
3 finding people in town have a license to do it. And I
4 have to hire advertising like I called my people from
5 out of state who have license come in and help me,
6 that's all. I just one.

7 MS. COLLINS-BURROUGHS: So how long have you been
8 licensed as a manicurist anywhere?

9 THE WITNESS: I think almost 10 year, but not in
10 this state, though. Yes, ma'am.

11 MS. COLLINS-BURROUGHS: Only Texas? Or did you go
12 to Texas from somewhere else?

13 THE WITNESS: Oklahoma, too.

14 MS. COLLINS-BURROUGHS: Where did you come to
15 Texas from?

16 THE WITNESS: Oklahoma.

17 MS. COLLINS-BURROUGHS: Okay. Okay. Thank you.

18 HEARING OFFICER JONES: Okay. Further questions
19 from the board members?

20 Mr. Hogan?

21 MR. HOGAN: You know, that question kind of --

22 RE CROSS EXAMINATION

23 BY MR. HOGAN:

24 Q I noticed from your records that you are licensed in
25 Arkansas. Did you go through reciprocity?

1 A Yes.

2 Q So you filed the appropriate papers here in Arkansas?

3 A Yes.

4 Q When did you do that?

5 A On -- I did on September 2010.

6 Q September 2010?

7 So you knew how to do it correctly, yet you didn't tell

8 Ms. Cao how to do it and she worked for you. Is that right?

9 A Wrong.

10 Q Okay. Tell me how I'm wrong.

11 A On September of '10, I file my paperwork. I didn't know
12 either I have to come down here, I have to learn how to do it.
13 And they told me to send money order like we did and to wait for
14 them to send it to -- to state, Little Rock, Arkansas. And I
15 wait until October and November, and December finally I got my
16 license, it took all that.

17 Q So you did it -- but you did it correctly. That's why I'm
18 having trouble understanding. You knew how to do it, you got
19 your license through reciprocity, yet you permitted Ms. Cao to
20 work for you --

21 A I try --

22 Q -- without a license and you, apparently, didn't tell her
23 how to do it correctly?

24 A That's why I tell you I explain to you, you didn't let me
25 finish it.

1 Q I'm sorry. Go ahead and finish.

2 A Thank you.

3 So I did, like I told you, in September I applied for my
4 license. And I -- I -- I didn't know at that moment, I went down
5 here, they told me to do, send money order in 15-dollar, call to
6 Dallas, ask them to send -- transfer licensure to state of
7 Arkansas, and I did from September. And I wait until October,
8 October, November, and December, and then finally they receive it
9 and they send a letter to me and they ask me to send in \$150,
10 come in and take a test, and I -- and I did come and do all that.
11 But that's why that Jennifer did same way that I did, send money
12 the order in to state of Arkansas and state of Arkansas to they
13 can contact, send her a letter. That's what the office is
14 telling.

15 If you need make a phone call in before that, they tell you
16 they don't have your file, they don't know who are you, they have
17 to wait for state of Texas to transfer the file to state of
18 Arkansas, and then they have a file on the computer and then you
19 schedule a \$150 send in and the day for you to test. That's what
20 they did and that's what I did and that's what Jennifer waiting
21 for the letter from the state of Arkansas to send to her and they
22 renew. They don't have the file from Texas yet, that's why I
23 waiting, waiting. Took over three months.

24 And I told them same way and she did it the same way I did,
25 and she been waiting for that, too. That's why you have a copy

1 up there, money order and a letter sent to Texas asking them to
2 send the file to the state of Arkansas.

3 HEARING OFFICER JONES: Mr. Hogan, anything else?

4 MR. HOGAN: No. I have nothing further.

5 HEARING OFFICER JONES: Okay. Thank you, Mr. Vo.

6 THE WITNESS: Yes, ma'am.

7 (Witness excused.)

8 HEARING OFFICER JONES: Ms. Cao, I'm sure that
9 Mr. Hogan and the board have questions for you. Is
10 there anything you would like to make in a statement
11 prior to me allowing them to ask you questions?

12 Is there anything you want to say?

13 MR. SIMON VO: No.

14 HEARING OFFICER JONES: No, Ms. Cao, not you --
15 Mr. Vo. I'm sorry.

16 MS. JENNIFER HUONG CAO: No.

17 HEARING OFFICER JONES: Okay. Well, I'm going to
18 allow Mr. Hogan to ask you some questions, then, and
19 then the board will be able to, as well. Okay?

20 MS. JENNIFER HUONG CAO: (Nodding head up and
21 down.)

22 HEARING OFFICER JONES: Okay. Mr. Hogan.

23 WHEREUPON,

24 JENNIFER HUONG CAO,

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

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

3 DIRECT EXAMINATION

4 BY MR. HOGAN:

5 Q I don't have but just a few.

6 It sounds like -- when did you actually start to work in
7 Arkansas for Mr. Vo?

8 A I start in March.

9 Q In March of this year?

10 A The first -- I don't remember -- yeah. First of -- I don't
11 remember which day but I did not come in the same morning the
12 inspector come in. That morning I start and that, that the day
13 that she come in and check, that's inspect the salon. Same day
14 the first time she come visit.

15 Q Between the March and May when the inspector came back, I
16 want the committee to get an idea about what you were doing to
17 try to get your license. You knew about it in March, obviously,
18 when they came in and cited you for not having a license in
19 Arkansas?

20 A Well, at first she come in, she ask for my license. I
21 haven't unpack all my stuff yet, so I say I have my license but I
22 haven't bring -- I have my Texas license but I haven't bring to
23 salon yet. Okay. And she told me that I need to check on that.
24 And that same day, same week, I went and buy a money order and
25 sent it in to Texas.

1 This is the second one, I lost my first one. This is the
2 second money order that I mailed it out to them.

3 Q Well, I notice this money order was dated in June?

4 A Yeah, that's what I say, I lost my first one. This is the
5 second one that I mailed it out.

6 Somehow they say they did not found my file or did not
7 receive my letter, so I ask Mr. Vo, can he buy me another \$15 so
8 I can mail it in. This is second, second money order I send in
9 to Texas.

10 MR. SIMON VO: That's true.

11 THE WITNESS: I lost my first money order.

12 HEARING OFFICER JONES: Mr. Vo.

13 BY MR. HOGAN:

14 Q So -- so you did -- what the record kind of looks like, that
15 you found out in March you needed an Arkansas license --

16 A Yes. And I --

17 Q -- and it wasn't until June the 10th, based on the
18 documents you've introduced, to -- before you sent in a money
19 order? You understand?

20 And, I guess, do you have any documents that show that you
21 made attempts before June 10th to send in your money order?

22 A I did make one but I lost that copy. I lost -- I don't know
23 where I replace somewhere, I could not find it. I meant to find
24 it but I couldn't find it, so I -- recently I found this one, so
25 this is second, second money order I mailed it in to Texas. The

1 first one I been waiting a month or two month, I call them, they
2 say they did not receive it. And they kept telling me to wait a
3 few more weeks, maybe they would receive it.

4 Q That -- when did you -- you say Texas contacted you or you
5 contacted --

6 A No. I contacted Texas because I wait too long so call them
7 and they say no, they haven't received it yet. They say wait a
8 little bit longer, maybe they lost it in the mail, it will come
9 later. Then I say, okay, so I wait a couple more weeks. And so
10 that's why I -- I call back and they said no, they haven't
11 received it yet, so I went ahead and asked Mr. Vo to buy me
12 another one.

13 Q So, I guess one thing that's kind of hard to understand, you
14 knew to contact Texas but you didn't make any contact with the
15 Arkansas --

16 A Because I don't know anything about Arkansas, that -- all I
17 hear, all I know is just send to Texas and Texas take care of,
18 transfer to Arkansas. That's all I know.

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

20 Jim has already looked at me twice wanting to ask
21 questions. I'll pass the witness.

22 HEARING OFFICER JONES: Okay. Does the board have
23 any questions of Ms. Cao?

24 MS. COLLINS-BURROUGHS: I do.

25 Where did you go to school?

1 THE WITNESS: I went to school in Texas.

2 MS. COLLINS-BURROUGHS: How long ago?

3 THE WITNESS: I graduated in '09, '08, I don't
4 remember, but I -- I go in Texas. Yeah.

5 MS. COLLINS-BURROUGHS: What was the name of the
6 school?

7 THE WITNESS: They called it United Beauty
8 College.

9 MS. COLLINS-BURROUGHS: Okay.

10 HEARING OFFICER JONES: Questions? Further
11 questions for the board?

12 MR. BUTENSHOEN: Did Mr. Vo --

13 MR. SIMON VO: No, sir.

14 HEARING OFFICER JONES: No, Mr. Vo. He's asking a
15 question.

16 MR. SIMON VO: I'm sorry.

17 MR. BUTENSHOEN: Did Mr. Vo explain to you the
18 process for getting a license in Arkansas?

19 THE WITNESS: No, he did not.

20 MR. BUTENSHOEN: Okay.

21 THE WITNESS: I don't think he know anything about
22 it either.

23 MR. BUTENSHOEN: Okay. Well, he just testified
24 that he went through the process to get his license in
25 Arkansas.

1 THE WITNESS: No, he --

2 MR. BUTENSHOEN: So he knew about the process --

3 THE WITNESS: No, he --

4 MR. BUTENSHOEN: -- but he didn't inform you?

5 THE WITNESS: No, he asked me the same thing he
6 telling me to do. He say send the information to
7 Texas, Texas send it to Arkansas and Arkansas inform
8 him.

9 MR. BUTENSHOEN: Well, were you aware of the fact
10 that you were operating in Arkansas without a license?

11 THE WITNESS: Yes. I know that, but I'm -- I
12 thought that -- you know, I didn't know, this is my
13 first time working out of town, I never worked anywhere
14 else. So I -- all he told me is to go ahead and buy
15 money order and send to Texas and Texas send whatever
16 state you work and that state going to inform you.

17 MR. BUTENSHOEN: I understand. But in the process
18 of waiting for that, you went ahead and operated as a
19 manicurist?

20 THE WITNESS: Yes.

21 MR. BUTENSHOEN: Okay.

22 HEARING OFFICER JONES: Further questions?

23 MR. BUTENSHOEN: Thank you.

24 MS. AKARD: The inspector said that you told her
25 that you have an aesthetician's license?

1 THE WITNESS: I'm in process again, I have it but
2 I did not -- I still have to go take a -- a --
3 demonstration test. I already pass my written test
4 already.

5 MS. AKARD: So are you waxing?

6 THE WITNESS: I'm not waxing, I'm not practicing
7 on that. I don't do any waxing.

8 MS. AKARD: So you are not waxing yourself?

9 THE WITNESS: No, I'm not waxing, no. I don't do
10 none of that stuff.

11 MS. AKARD: So you just have a Texas manicuring
12 license?

13 THE WITNESS: Yes.

14 MS. AKARD: Is your driver's license Texas?

15 THE WITNESS: Yes.

16 MS. AKARD: Are you planning on getting an
17 Arkansas driver's license?

18 THE WITNESS: I'm not driving. But, no, I don't
19 have a car so I'm not driving.

20 MS. AKARD: If you were to get an Arkansas
21 driver's license what would you do?

22 THE WITNESS: I would turn everything down here
23 because I'm not -- I -- I did not plan to stay here all
24 my life. I -- I go back to Texas because my childrens
25 back in Texas. Okay. I'm just coming here for

1 temporary.

2 MS. AKARD: But if you needed to get an Arkansas
3 driver's license, what would you do?

4 THE WITNESS: Go to Texas department and change my
5 license.

6 MS. AKARD: Okay. So why did you not come to the
7 Arkansas State Board of Cosmetology?

8 THE WITNESS: Because I didn't know the
9 information. I thought that's why I asked --

10 MS. AKARD: If you needed -- if you needed a
11 license, why did you not just come to the office to get
12 the information?

13 THE WITNESS: Because if I go to Texas -- I don't
14 know where to go at, first of all. I'm not driving, I
15 don't have a car, second of all. Okay?

16 If I go any state, I come down here, they, people
17 telling me, all you have to do is send a money order to
18 Texas driver's license -- to Texas and the Texas send
19 information to Arkansas and Arkansas receive it, they
20 would -- they will inform you.

21 MS. AKARD: Do you understand my question? If you
22 could have come to the office you could have gotten the
23 correct information.

24 THE WITNESS: Yes, if I understand it I will come
25 but I don't -- I don't know that because nobody telling

1 me that. Even inspector did not tell me that
2 information either.

3 If I know that long time ago I would do it. I
4 don't wait until this time.

5 HEARING OFFICER JONES: Okay. Thank you.

6 Further questions from the board?

7 (Witness excused.)

8 HEARING OFFICER JONES: If there are no further
9 questions, Mr. Hogan, anything in closing?

10 MR. HOGAN: No. We have none.

11 HEARING OFFICER JONES: Ms. Cao, is there anything
12 else you would like to tell the board in closing before
13 they make their decision?

14 MS. JENNIFER HUONG CAO: No, ma'am.

15 HEARING OFFICER JONES: Okay.

16 MS. JENNIFER HUONG CAO: I just say one thing.

17 HEARING OFFICER JONES: Okay.

18 MS. JENNIFER HUONG CAO: I say any information you
19 guys like to inform me, please tell me because I don't
20 know anything about this. I truly, I don't know that I
21 need to come to Arkansas department to file for it.

22 HEARING OFFICER JONES: Okay. Thank you, Ms. Cao.

23 At this time the record will be closed and made
24 complete except for the board's recess for
25 deliberations and a decision. Once a decision is

1 reached by the board, we will go back on the record for
2 that decision.

3 (WHEREUPON, the Committee retired to deliberate,
4 off the record, from 10:11 a.m. to 10:17 a.m., and
5 returned with the following motion.)

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

8 MS. COLLINS-BURROUGHS: Okay. Do we have a
9 motion?

10 MR. BUTENSHOEN: I make a motion that we find her
11 guilty of operating without a license.

12 MS. COLLINS-BURROUGHS: And which one?

13 MR. BUTENSHOEN: Okay. I got to read that?

14 Motion one, finding the allegations to be true --

15 MS. COLLINS-BURROUGHS: Three.

16 MR. BUTENSHOEN: Three.

17 Finding the allegations -- thank you -- being
18 true, I move to order the respondent to pay a fine in
19 the amount of \$500, payable within 30 days of receipt
20 of the board's order. Further, the respondent is
21 ordered to cease and desist from practicing cosmetology
22 and/or operating a cosmetology establishment until such
23 time as the respondent is properly licensed by the
24 board.

25 MS. HOPPER: Second.

1 MS. COLLINS-BURROUGHS: We have a first and a
2 second.

3 MS. AKARD: Second.

4 MR. BUTENSHOEN: Yep.

5 MS. COLLINS-BURROUGHS: All in favor, raise your
6 right hand.

7 (Hands raised.)

8 MS. COLLINS-BURROUGHS: Motion carried.

9 HEARING OFFICER JONES: Please let the record
10 reflect the decision of the board was unanimous, and
11 reduce that decision to writing and make or attempt
12 service upon all parties. If the respondent cares to
13 appeal the decision an appeal may be taken under
14 Arkansas Code Annotated 25-15-201, or any specific
15 provisions of this board.

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

18 (WHEREUPON, at 10:18 a.m., the above-entitled
19 proceedings were concluded.)

20 ---o---

21 HEARING OFFICER JONES: Ms. Cao, I have asked
22 Ms. Michelle of the cosmetology board to print you off
23 an application for reciprocity so you can fill out that
24 application and get this processed to get you squared
25 away.

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ADMINISTRATIVE HEARING

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

V.

CITY NAILS, OWNER, PHAT VO, RESPONDENT.

HEARING OFFICER JONES: Okay. At this time we're going to move on to next hearing, and it is Mr. Vo.

MR. PHAT 'SIMON' VO: Yes, ma'am.

HEARING OFFICER JONES: Very well, Mr. Vo. Everybody got their paperwork?

My name is Kendra Akin Jones, I'm the Hearing Officer today in the Matter of the Arkansas Department of Health versus City Nails, owner Phat Vo, to be heard before the Cosmetology Technical Advisory Committee. Today is Monday, July 18, 2011, and we're located in the conference room of the Freeway Medical Building.

Mr. Vo, please identify yourself fully for the record.

No. Just give her your name.

MR. PHAT 'SIMON' VO: Okay. My name is Vo. I'm the owner of the City Nails in El Dorado, Arkansas.

HEARING OFFICER JONES: Okay. Mr. Vo, do you have counsel with you here today?

MR. PHAT 'SIMON' VO: This is my first time. I don't know, do we need counsel or not?

1 HEARING OFFICER JONES: Okay. No, that's fine.
2 You're fine.

3 And you received a copy of the Order and Notice of
4 Hearing to be here today?

5 MR. PHAT 'SIMON' VO: Yes, I did.

6 HEARING OFFICER JONES: Okay. Department of
7 Health counsel?

8 MR. HOGAN: Rick Hogan. I'm general counsel for
9 the health department, board of health.

10 HEARING OFFICER JONES: Very well.

11 For the respondent's benefit, and the benefit of
12 anyone here today who may not have appeared before an
13 administrative hearing, I will explain that the board
14 will base its decision solely on the evidence presented
15 here today. This hearing is being conducted under the
16 Administrative Procedures Act so the strict rules of
17 evidence and the regular rules of the court do not
18 apply.

19 To ensure the efficiency of the proceedings, I
20 will only grant cautions and objections as necessary to
21 keep things moving.

22 Board members know of this case only as it appears
23 and is set forth in the Notice of Hearing. Anything
24 you would like to have them consider or see today you
25 will need to submit as evidence.

1 This hearing is open under the Freedom of
2 Information Act.

3 For those of you who are going to be witnesses for
4 this hearing, please raise your right hand and be sworn
5 in by the court reporter.

6 Mr. Vo, raise your right hand.

7 (WHEREUPON, the witnesses were sworn.)

8 HEARING OFFICER JONES: Very well.

9 Preliminary matters, Mr. Hogan?

10 MR. HOGAN: I would like the committee to be able
11 to take notice of its previous findings In The Matter
12 of Jennifer Cao, that there was a finding of violation
13 for failure to have an Arkansas license to practice as
14 a manicurist in the state. And also that the board be
15 able to take notice of the rules and the statutes for
16 cosmetology in Arkansas.

17 HEARING OFFICER JONES: Very well. Those will be
18 able to be noticed for the board's consideration.

19 Anything further?

20 MR. HOGAN: And I would just ask Mr. Vo, in light
21 of the previous hearing and the findings, you
22 understand you are cited for allowing Ms. Cao to work
23 in your business without having a proper license, do
24 you wish to proceed today with the hearing or do you
25 want to contest those allegations in your hearing or do

1 you want to go admit to the violations and ask the
2 board, after a statement, to make a ruling with respect
3 to your hearing?

4 MR. PHAT 'SIMON' VO: I don't know what you mean.
5 I -- I'm here for a hearing.

6 MR. HOGAN: Well, okay. You want to contest the
7 allegations?

8 MR. PHAT 'SIMON' VO: (Nodding head up and down.)

9 MR. HOGAN: All right, sir.

10 HEARING OFFICER JONES: Any exhibits you would
11 like to introduce?

12 MR. HOGAN: I would like to introduce the same
13 packet that we had in the previous hearing regarding
14 Ms. Huong Cao. It's 13 pages and 7 front and back,
15 total of 13 pages, we would ask that that be admitted
16 as Committee's Exhibit No. 1, noting that the Exhibits
17 A, B, and C for the -- under one that include the
18 notice, the inspector's report, and the certified mail
19 receipt.

20 HEARING OFFICER JONES: Very well. Those will be
21 admitted as such.

22 (WHEREUPON, Board's Exhibit No. 1 was received in
23 evidence.)

24 HEARING OFFICER JONES: Mr. Vo, do you have any
25 paperwork or anything you would like the board to look

1 at today?

2 MR. PHAT 'SIMON' VO: Well, like what kind of
3 paperwork?

4 HEARING OFFICER JONES: I don't know, I'm just
5 asking if you have anything you want the board to
6 consider and see today, where if so we could get some
7 copies made for you.

8 If you don't have anything, that's fine.

9 MR. PHAT 'SIMON' VO: Later on, if there is some
10 other caution coming up, like I can prove that I didn't
11 know anything to bring it in, I can bring it in, I
12 could bring up. But today I'm here for the hearing
13 about Jennifer and about the letter from me, I don't
14 know I need to bring this proof today.

15 HEARING OFFICER JONES: You didn't need -- you
16 don't have to bring anything, I'm just asking if you
17 did. Okay?

18 MR. PHAT 'SIMON' VO: Yeah.

19 HEARING OFFICER JONES: Very well.

20 Mr. Hogan, any opening statement?

21 MR. HOGAN: I'll waive any opening statement.

22 HEARING OFFICER JONES: Mr. Vo, would you like to
23 make an opening statement?

24 MR. PHAT 'SIMON' VO: Yeah.

25 HEARING OFFICER JONES: Go right ahead.

1 MR. PHAT 'SIMON' VO: My statement is, like the
2 other one about Jennifer didn't wash her hand and
3 working on another clientele and about the money, I got
4 a fine here, I have no -- I don't know how much -- what
5 kind of fine or how much I need to pay and why.

6 That's all I come up for.

7 HEARING OFFICER JONES: Okay. Thank you.

8 Mr. Hogan, you can call your first witness.

9 MR. HOGAN: Call Ms. Jackson.

10 WHEREUPON,

11 PAT JACKSON,

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 Pat, would you state your name for the record, please?

18 A Pat Jackson.

19 Q You're an inspector for the Arkansas Department of Health
20 committee?

21 A Yes.

22 Q And, Ms. Jackson, did you have occasion to visit the City
23 Nails in El Dorado, both in March of this year and again in May?

24 A Yes, I did.

25 Q And in the March 25th inspection report, can you tell for

1 the record officially what the findings you had on that date?

2 A The -- on that visit I found Ms. Jennifer Huang to have --
3 not have any current practitioner license for the state of
4 Arkansas.

5 Q And there was no license posted at her station, I guess?

6 A No, sir.

7 Q Did you talk to Mr. Vo at that time or have you talked to
8 him regarding Ms. Cao, Ms. Huang not having the proper license?

9 A Yes, sir.

10 Q What was the discussion? What was his response?

11 A I do not recall his response.

12 My response was, you know, in order to work in Arkansas, you
13 have to have a current valid Arkansas license.

14 Q And that was in March of this year?

15 A Yes, sir. That was in March, and that was again in May.

16 Q And what did you find, you went back in May, had -- had
17 she -- did she indicate at that time that -- either her or Mr. Vo
18 indicate that there had been efforts made for her to get
19 appropriately licensed in the state of Arkansas?

20 A Yes, sir. She did verbally tell me that -- that she had
21 applied for reciprocity from the state of Texas.

22 Q Did she give you any paperwork or did she submit any kind of
23 documentation as evidence that she had made those efforts?

24 A The only paperwork that she gave me were her driver's
25 license.

1 Q Now --

2 A She may have shown me her Texas license, I don't recall
3 that, but sometimes they will and I don't recall if she did but
4 it's a good possibility.

5 Q All right. She indicated in -- in the inspection report
6 that -- or you indicated that she told you she had a Texas
7 aesthetician's license and performs waxing services. Did she
8 provide you any evidence of that license from Texas?

9 A No, sir.

10 Like I said, she -- she may -- I did not list that, that she
11 showed me that. She did tell me, she stated that she was waiting
12 for Texas to send her certificate to Arkansas.

13 Q And, again for the record, just can you elaborate a little
14 bit about the safety, the general health concerns that you had
15 about the facility?

16 A On May the 19th, I did find used files and buffers at
17 three stations, three pedicure stations. And I also observed
18 Ms. Huong went from one client to another and did not wash her
19 hands between the two clients.

20 Q Now, did she just go talk to another client or was she
21 actually performing some type of services for this --

22 A No, sir. I would not have -- if she had not been performing
23 a service, whether it be polishing nails or beginning a nail
24 service, I would not have -- have -- I had no need to write that
25 down if she was just talking with a client.

1 Q Did you ask her --

2 A I mean it wouldn't matter to me if she was talking with a
3 client.

4 Q You actually observed her --

5 A Absolutely.

6 Q -- performing services on another client?

7 A Yes, sir.

8 Q Is there anything further you would like to make the
9 committee aware of at this time, Ms. Jackson?

10 A No, sir.

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

12 HEARING OFFICER JONES: Mr. Vo, do you have any
13 questions of Ms. Jackson?

14 MR. PHAT 'SIMON' VO: Let me see.

15 Yes, one.

16 HEARING OFFICER JONES: Okay. You can ask
17 Ms. Jackson.

18 CROSS-EXAMINATION

19 BY MR. PHAT 'SIMON' VO:

20 Q We all know, any customer that come in to get a nail done,
21 while you work on that customer, you're not done completely with
22 her, you cannot drop her off and go to work on another one.

23 Like I say earlier, I explain three times, Jennifer,
24 Ms. Jennifer, she just got there that day one and -- and she
25 started working in right away. And her boyfriend drop her off

1 and her -- her luggage -- her clothes and her license and all
2 stuff is in her luggage. It is not there so that's the reason
3 why the license was not there.

4 Once she work on the customer, she not done with that
5 customer, she cannot stand up and work on another one, she have
6 to wait until she done all. That's all technician do that.

7 HEARING OFFICER JONES: Mr. Vo --

8 BY MR. PHAT 'SIMON' VO:

9 Q She cannot just do one customer half way and walk to another
10 customer and work on another one. They have to wait for them.

11 HEARING OFFICER JONES: -- is there a question
12 that you have for Ms. Jackson? Because it sounds more
13 like a statement to me.

14 MR. PHAT 'SIMON' VO: Really?

15 I thought that was a question, too.

16 HEARING OFFICER JONES: Really.

17 Why don't you frame it as a question and we'll see
18 if Ms. Jackson can answer it.

19 BY MR. PHAT 'SIMON' VO:

20 Q Okay. Did you see her work on first customer?

21 A Yes.

22 Q And did you -- and at that moment did you see her work
23 another customer, work another -- on another customer at the same
24 time?

25 A I saw her go from one client to another.

1 Q Just answer me yes or no, ma'am.

2 A Yes.

3 Q You did?

4 A Yes.

5 Q And did you see her work on the customer, the second one?

6 The second one?

7 A Yes.

8 Q You did saw her?

9 A Yes.

10 MR. PHAT 'SIMON' VO: That's a -- that's not true.

11 That's all.

12 HEARING OFFICER JONES: Okay. Thank you, Mr. Vo.

13 Does the board have any questions for Ms. Jackson?

14 MS. COLLINS-BURROUGHS: I do.

15 Did you see a wax pot or any waxing materials

16 while you were there?

17 THE WITNESS: I did not list one so I'll have to

18 say no.

19 MS. COLLINS-BURROUGHS: Okay. And is this the

20 time that you saw the fellow leaving?

21 THE WITNESS: On May the 19th, yes.

22 MS. COLLINS-BURROUGHS: Okay. Okay. Thank you.

23 HEARING OFFICER JONES: Further questions for

24 Ms. Jackson?

25 If there are none, thank you, Ms. Jackson.

1 (Witness excused.)

2 HEARING OFFICER JONES: Mr. Hogan, you can call
3 your next witness.

4 MR. HOGAN: I would just like to call Mr. Vo as a
5 witness.

6 MR. PHAT 'SIMON' VO: Yes, sir.

7 WHEREUPON,

8 PHAT 'SIMON' VO,
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 again for the record, Mr. Vo.

15 A My name is Vo, Phat, and I owner of City Nails in El Dorado.

16 Q Mr. -- well, is it appropriate to call you Vo or Mr. --

17 A Simon.

18 Q Simon?

19 A Simon.

20 Q Simon, can you -- our records indicated that -- here at the
21 office, that you applied for reciprocity in September of last
22 year and you received your Arkansas license in October of last
23 year. That's what our records reflect. Does that sound right to
24 you?

25 A Yes.

1 Q All right. Now --

2 A Oh, I'm sorry.

3 I -- I apply in October -- in October, the -- on the records
4 saying that but I didn't, they didn't send it to me and it got
5 lost in the mail and it send back to you guys and it send back to
6 me again.

7 Q So --

8 A You know what, you hear? You following?

9 Q I'm trying to.

10 A Okay.

11 Q You're saying that --

12 A On a --

13 Q Our records indicate that you received --

14 A Okay. On October --

15 Q -- you received your licensure in October of last year?

16 A But they send in the mail it got lost and it send back to
17 you guys and you send back to me again.

18 Q Okay.

19 A Mail, send mail lost like that all time. That happened to
20 me like that, too.

21 Q Okay.

22 A Not new. It's old.

23 Q What is your procedure that you follow when someone comes to
24 work for you? Do you ask them to prove to you that they are
25 licensed in the state of Arkansas?

1 A That question should go with Jennifer today or just ask me
2 for everyone?

3 Q I'm asking you generally what your practice is in your
4 business.

5 A You asked her -- you asked that person do you have a
6 license.

7 Q And if they just say yeah, you accept that?

8 A Yeah.

9 Q You don't require them to post and --

10 A Later on, later on when we have a, like a, like a day, like
11 a, we have time, like we talk about it and say, you say you have
12 a license, what, can I have them.

13 Q After they have started to work for you?

14 A Like I say, all depending on the time. If I got busy, I
15 don't have time to look at or ask for it. If I'm free, I will.

16 Q Well, what I understand you saying, and correct me, is that
17 if someone came to you and wanted to go to work and you wanted to
18 hire them, you would ask them if they are licensed, and if they
19 said yes you would put them to work, and some later time you
20 would determine if they had in fact a written license?

21 A If I have time I ask those, show me the license, but I --
22 but by that time I'm busy I didn't ask. I asked them do you have
23 a license, they say yes, and then I believe they have a license.
24 No one come to another state or gone too far and don't have a
25 license can work there.

1 Q So you don't require them to give you a license or copy of
2 the license before they go to work in your business?

3 A If I'm free, I ask all that.

4 Q So it depends on how busy you are as to whether you're going
5 to require that or not? If you're busy, they go to work and you
6 require it at some later time?

7 A No.

8 I'm saying if I'm busy, I ask them do you have a license.
9 If they say yes, and then I let them start, pack up and start,
10 that's your table and clean up and organize it the way you want
11 to set up your table and then start work. When I'm free, I ask
12 them when we both free, like me and you not busy, I'm going to
13 come get, Rick, can I see your license, can you show it to me
14 right now. And you don't have to show me that, you don't have
15 that, I ask you that you not work there.

16 Q There was some indication in the inspection report by the
17 inspector that when she came in May, that one of the persons that
18 were working in your establishment went out the back door, that
19 they didn't want to be around when -- when the inspector talked
20 to them. Are you familiar, do you have anybody that -- anybody
21 else that -- do you know who that could be that was working for
22 you that --

23 A That's her boyfriend.

24 Q That was Ms. Cao's boyfriend?

25 A He -- yeah, he the one that drop her off and take her there,

1 and then he went back and forth.

2 See, I -- anybody come and work for, for one person to
3 another person or a company, they -- they come and see or talk or
4 things like that, that's just normal, I don't have this business
5 about it. And someone come in and see, somebody walk out, that's
6 normal, too. It's like if that -- that -- like by law you say
7 you're not allowed to come in to work and talk to someone and
8 walk out or walk away, something like that, law say no, and I
9 probably stop that, but I -- the state law didn't say nothing
10 like that.

11 Q Do you have any --

12 A So he come and see her and walk away, that's normal.

13 Q Do you have any written policies and written protocols that,
14 as a businessman that you enforce for your employees?

15 A No, sir.

16 I, like I say, I just opened this, this is like 6-700 square
17 foot big, and I'm not intend like have a regulation of rules,
18 like you're not allowed to come in here and you're not -- you
19 have nothing to do here or things like that, I don't have them.
20 It's just only me working there.

21 Q How many people do you have working for you now?

22 A Just she, she the first one, Jennifer right there, she's the
23 first one coming in and she just start there.

24 Q And she continues -- she continues to work for you today?

25 A I know she want to quit, she want to go back to Dallas

1 already. Plus she have a fine to -- to make me pay for.

2 Q Did she --

3 A She make me pay for the fine and say I'm not going to pay
4 for and we fight and argue and she upset about it.

5 Q Let me ask you this: Did she see any clients last week for
6 manicure services at your business?

7 A Not -- last week we not so busy like before, we slow.

8 Q Did she see any clients last week?

9 A Yes. She does.

10 Q And if you --

11 A We --

12 Q -- go back --

13 A -- we --

14 Q -- and open your shop today --

15 A We not that busy, though.

16 Q -- is it your intent to -- I'm sorry?

17 A We not that busy. I say we not that busy.

18 Q If you go back to open your shop up today, is it your intent
19 to have Ms. Cao see clients even after this committee has made
20 its ruling this morning that she's in violation of the Arkansas
21 law?

22 A Today? Come back, her go back to work?

23 Q Next week, this week, is it your intent to have her continue
24 to work for you?

25 A She can -- that's why I'm going to ask you that question

1 later on about -- about that one.

2 Q Well, I'm asking you now about your intent and what you plan
3 to do, do you plan for her --

4 A My answer to deal with her answer today, if that's okay with
5 the state board, she can come there and work on a client and wait
6 for her license to come to her or she can starve and that's all
7 up to --

8 Q So you're going to leave that up to the board? You're not
9 going to have her work for you --

10 A I'm scared, I can't --

11 Q -- until she gets her license? Is that what you're saying?

12 A I can't afford to pay the fine any more, I'm scared. I
13 guess I'll go by the board.

14 Because this is my first time coming to the state and my
15 first open right here. I didn't know about the fine like this
16 high, you know. And she make me pay for it and I can't afford
17 and I don't do -- I don't want to get any more fine like this
18 anymore. I can't afford it.

19 Q Again, for the record in this case I want to make sure, you
20 went through the reciprocity process, you received your license
21 from Arkansas after having filed the reciprocity application in
22 Arkansas last year. And it may have gotten lost in the mail but
23 eventually you got your license to practice in Arkansas.

24 And for the record, again, tell us why you did not instruct
25 Ms. Cao and make sure that she had gone through the same process

1 in March prior to Ms. Jackson coming back in May?

2 A I did, sir. I did. I told her, that's what she did.

3 Q But there is no evidence that a reciprocity application was
4 ever filed in Arkansas like you did. You filed one, you knew
5 that that had to be done?

6 A (Shaking head from side to side.)

7 Q Or you wouldn't have filed it, right?

8 A (Shaking head from side to side.)

9 I start out in September, I didn't know I needed to do all
10 that.

11 Q But you filed one, Mr. Vo?

12 A Yes.

13 Q You filed one?

14 A I filed. I send money order and \$15 in to Texas, and Texas
15 on a letter, I asked them please forward my file to state
16 Arkansas and they send back -- they send back they asked me the
17 city, so I said I don't know, Little Rock, Arkansas. And then
18 Arkansas informed me the letter asking me, telling me to send
19 the -- send money, the cashier's check \$150 and come take a test.
20 And I did told Jennifer.

21 But usually they come in new, new employee coming in, I ask
22 her, do you have a license, and they say yeah and I have to watch
23 her on how well she do the work. If she have a license and she
24 doesn't know how to do the work, I cannot let her sit there and
25 work on a customer. So it take like a week for me to know she

1 know what she doing before I hire her. And a week let her come
2 down and I have to look at the job and just, you know, I have to
3 do it.

4 Like I say, a lot of time when just open I don't want to
5 lose any clientele, someone just come to learn how to do it, and
6 I --

7 Q Let me ask you this: As far as the buffering stuff, the
8 sanding the nails and all of that, that equipment that they
9 talked about in here, what do you do every day you open your
10 business to ensure that anybody that walks in there has fresh,
11 safe products that they are going to be worked on with? What do
12 you do to ensure that?

13 A Throw away the used one, get -- use new one, sir.

14 Q If someone worked for you and didn't have, as Ms. Jackson
15 indicates, a safe or clean or fresh, what's it called, emery
16 board or --

17 HEARING OFFICER JONES: Buffer.

18 BY MR. HOGAN:

19 Q -- buffer, if they didn't have that you wouldn't let them
20 work for you?

21 A No. They have them.

22 Q They have them at their station?

23 A They have them. Yes.

24 Q Okay. Do you provide those to them?

25 A Yes.

1 It's hard to find a worker coming in that live there, a
2 salon like a small, they don't make -- it's not a lot of money so
3 they get bored, they want to move, go through bigger line of work
4 for big and make more money, and my nail salon is little so I
5 have to support all that, too, to -- to have someone stay and
6 help.

7 If I make her to buy all the stuff like a big nail salon,
8 then I just by myself all the way, work by myself, no one going
9 to work.

10 Q Okay.

11 A So I have to support all of that for her.

12 MR. HOGAN: Thank you, Mr. Vo.

13 I'll pass the witness.

14 THE WITNESS: Thank you.

15 HEARING OFFICER JONES: Does the board have any
16 questions for Mr. Vo?

17 (Witness excused.)

18 HEARING OFFICER JONES: Okay. Any further
19 witnesses, Mr. Hogan?

20 MR. HOGAN: I do have -- hold on, if I may just
21 have a second?

22 I will just have Kelli.

23 WHEREUPON,

24 KELLI KERSEY,

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

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

3 DIRECT EXAMINATION

4 BY MR. HOGAN:

5 Q State your name for the record, please.

6 A Kelli Kersey.

7 Q Have you searched your records to determine if Ms. Cao, who
8 worked for Mr. Vo, was licensed in the state of Arkansas?

9 A She is not licensed in the state of Arkansas.

10 Q Was there any evidence that she had applied for reciprocity
11 or any other application for licensure in the state of Arkansas?

12 A No, sir.

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

14 HEARING OFFICER JONES: Mr. Vo, do you have any
15 questions for Ms. Kersey?

16 MR. PHAT 'SIMON' VO: To who?

17 HEARING OFFICER JONES: For Kelli.

18 MR. HOGAN: Do you have any questions?

19 MR. PHAT 'SIMON' VO: Regarding about -- about?

20 HEARING OFFICER JONES: She keeps the records for
21 the board. Do you have any questions for her?

22 If not, that's fine but --

23 MR. PHAT 'SIMON' VO: At this -- at this moment, I
24 cannot scan or -- I don't have a, I think administrator
25 talk right, I don't have a question for her now, but

1 later if something comes up I will ask her if that's
2 okay.

3 HEARING OFFICER JONES: It has to be now, Mr. Vo.

4 MR. PHAT 'SIMON' VO: But my mind got blank.

5 HEARING OFFICER JONES: Okay. Did the board
6 members have any questions for Kelli?

7 MS. AKARD: I do.

8 Mr. Vo, did you take --

9 HEARING OFFICER JONES: No, no. For Kelli.

10 MS. AKARD: Oh, for Kelli?

11 No.

12 HEARING OFFICER JONES: Okay. No further
13 questions?

14 MR. HOGAN: We would rest.

15 HEARING OFFICER JONES: Kelli, we'll let you step
16 down.

17 (Witness excused.)

18 HEARING OFFICER JONES: Mr. Vo, now I'm going to
19 allow you to tell the board whatever you would like to
20 tell them and then give them an opportunity to ask you
21 any questions they may have.

22 MR. PHAT 'SIMON' VO: I'm --

23 HEARING OFFICER JONES: Do you want me to just let
24 them ask you questions and then you --

25 MR. PHAT 'SIMON' VO: I ask later.

1 HEARING OFFICER JONES: And then you can make a
2 statement later? Okay.

3 MR. PHAT 'SIMON' VO: Please.

4 WHEREUPON,

5 PHAT 'SIMON' VO,
6 having been called for examination, and having been first duly
7 sworn by the undersigned notary public, was examined and
8 testified, as follows:

9 MS. AKARD: Mr. Vo, did you take an exam over the
10 Arkansas rules and regulations?

11 THE WITNESS: I went and took a test somewhere
12 close by here, I think.

13 MS. AKARD: And what was the exam over?

14 THE WITNESS: Regulation 70.

15 MS. AKARD: And how did you prepare for that exam?

16 THE WITNESS: Come and took a test.

17 MS. AKARD: Yes. How did you prepare for that
18 test?

19 THE WITNESS: I bring driver's license so that's
20 all and I --

21 MS. AKARD: Did you read the --

22 THE WITNESS: A letter.

23 MS. AKARD: Did you read the law book before you
24 came and the rules and regs in order to take the test?

25 THE WITNESS: I don't remember.

1 MS. AKARD: Is that what was on the --

2 THE WITNESS: I got another -- I got another --

3 MS. AKARD: Is that what was on the exam?

4 THE WITNESS: Yes.

5 MS. AKARD: Okay.

6 HEARING OFFICER JONES: Further questions from the
7 board members for Mr. Vo?

8 If there are no further questions, Mr. Vo, is
9 there anything you would like to tell the board?

10 MR. PHAT 'SIMON' VO: Not -- not right now.

11 HEARING OFFICER JONES: Okay. Well, your
12 opportunity is getting pretty short, so I'm going to
13 allow Mr. Hogan, do you -- Mr. Vo, do you want to call
14 any witnesses?

15 (Witness excused.)

16 MR. PHAT 'SIMON' VO: I'm up by myself up here. I
17 don't have any witnesses right now that I can think of.

18 HEARING OFFICER JONES: Okay. Very well. We'll
19 move to closing statements.

20 Mr. Hogan, anything in closing?

21 MR. HOGAN: No. I don't have anything.

22 MS. JENNIFER HUONG CAO: Can I ask something,
23 please?

24 HEARING OFFICER JONES: No.

25 MR. HOGAN: I don't have anything.

1 HEARING OFFICER JONES: Okay. Mr. Vo.

2 MR. PHAT 'SIMON' VO: Yes.

3 HEARING OFFICER JONES: This is your last chance
4 for anything you want to tell the board before they
5 close and make their decision.

6 MR. PHAT 'SIMON' VO: I want to ask her one more
7 question before I make a -- I have a question for you
8 guys, if that's okay? Just one.

9 HEARING OFFICER JONES: Well, Mr. Vo, you were
10 supposed to call witnesses a while ago but I'll -- I'll
11 allow you to bring her up, as long as Mr. Hogan doesn't
12 object.

13 MR. HOGAN: I have no objection.

14 MR. PHAT 'SIMON' VO: This is my first time coming
15 here and first time doing something like that.

16 HEARING OFFICER JONES: Okay. Ms. Cao, you can
17 come up to the table, raise your right hand let the
18 court reporter swear you in.

19 MR. PHAT 'SIMON' VO: Thank you.

20 WHEREUPON,

21 JENNIFER CAO,

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 HEARING OFFICER JONES: Okay. Mr. Vo, you can ask

1 Ms. Cao any questions you want.

2 MR. PHAT 'SIMON' VO: Do you want to -- ask me
3 anything you want.

4 THE WITNESS: You ask me and I answer you.

5 HEARING OFFICER JONES: Correct.

6 THE WITNESS: Seeing he doesn't ask anything, can
7 I say anything to you guys, to the state board?

8 MR. HOGAN: It can be as simple as, do you have
9 anything further you want to make the commission or the
10 committee aware of.

11 DIRECT EXAMINATION

12 BY MR. PHAT 'SIMON' VO:

13 Q Okay. Do you have anything, is there anything further you
14 would like to say to the state board, Jennifer?

15 A Yeah. I do. I want to say something to the state board,
16 okay?

17 Q Thank you.

18 A Okay. Since he's the owner, he open the nail salon,
19 anything okay, does the state board of Arkansas send him
20 information, hire a new employee with a license, without a
21 license? Do they inform him that if the new hire don't have
22 state license they supposed to send \$150 to state of Arkansas?
23 Do the state of Arkansas send him that information to inform the
24 owner how to do with the new hire without license, state license?
25 Do they do that? No?

1 MR. HOGAN: Well, I'm not -- I think that was part
2 of the question one of the board members asked him if
3 he took the test. Part of the test that he would have
4 taken would have --

5 THE WITNESS: No, that's not why I'm asking.

6 MR. HOGAN: -- instructed him on how to --

7 THE WITNESS: That's not what I'm asking. Okay?

8 HEARING OFFICER JONES: Well, Ms. Cao --

9 MR. HOGAN: It's not a --

10 HEARING OFFICER JONES: Wait a minute, Mr. Hogan.

11 Ms. Cao, this is not an opportunity for you to ask
12 questions. This is an opportunity for Mr. Vo to ask
13 you questions. I said you can make a statement but you
14 can't ask the board and the employees questions right
15 now. If you have questions for them, then you can, you
16 know, afterwards I'm sure you can talk to one of them
17 and get some answers about how to get your licensing or
18 whatever you want, but now is not the appropriate time.

19 Mr. Vo?

20 MR. PHAT 'SIMON' VO: Yes, ma'am.

21 HEARING OFFICER JONES: Do you have any questions
22 for Ms. Cao?

23 MR. PHAT 'SIMON' VO: No, ma'am.

24 HEARING OFFICER JONES: Okay. Mr. Hogan, do you
25 have any questions you would like to ask Ms. Cao?

1 MR. HOGAN: No, that's all.

2 HEARING OFFICER JONES: Board members, questions
3 for Ms. Cao?

4 BOARD MEMBERS: No.

5 HEARING OFFICER JONES: Okay. Thank you.

6 Very well, thank you, Ms. Cao.

7 THE WITNESS: Thank you.

8 (Witness excused.)

9 HEARING OFFICER JONES: Mr. Vo, anything further?

10 MR. SIMON VO: I want to say thank you for you
11 guys. You taught me more, taught me more and I learned
12 more, a lot more today and I work from that. I will
13 learn from that and I will keep it up and I will spend
14 the time better.

15 Thank you.

16 HEARING OFFICER JONES: Very well.

17 Okay. Mr. Hogan, anything you would like to say
18 in closing?

19 MR. HOGAN: I have nothing.

20 HEARING OFFICER JONES: Okay. Thank you.

21 At this time we're going to close the record and
22 make it complete, except for the board's recess for
23 deliberations. Once the board reaches a decision we
24 will go back on the record.

25 (WHEREUPON, the committee retired to deliberate,

1 off the record, from 10:50 a.m. to 10:55 a.m., and
2 returned with the following motion.)

3 HEARING OFFICER JONES: Let's go back on the
4 record at this time.

5 Is there a motion?

6 MR. BUTENSHOEN: I make a motion, finding the
7 allegations to be true, I move to order the respondent
8 to pay a fine in the amount of \$500, payable within 30
9 days of the receipt of the board's order. Failure to
10 pay the fine as ordered will result in a suspension of
11 the respondent's operator's license.

12 Is that right?

13 MS. COLLINS-BURROUGHS: (Nodding head up and
14 down.)

15 MR. BUTENSHOEN: Beginning 30 days from the
16 receipt of the order and continuing for a period of 90
17 days from the date the respondent relinquishes he/his
18 license to the board.

19 MS. COLLINS-BURROUGHS: Okay. Have we got a
20 second?

21 MS. HOPPER: Second.

22 MS. COLLINS-BURROUGHS: All in favor, raise your
23 right hand.

24 (Hands raised.)

25 HEARING OFFICER JONES: Please let the record

1 reflect the decision of the board is unanimous. Please
2 reduce that decision to writing and make or attempt
3 service upon all parties and notify the respondent that
4 an appeal can be taken under the Administrative
5 Procedures Act under Arkansas Code Annotated 25-15-201,
6 or any specific provision of this board.

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

9 Thank you, Mr. Vo.

10 (WHEREUPON, at 10:46 a.m., the above-entitled
11 proceedings were concluded.)

12 ---o---

13 MR. PHAT 'SIMON' VO: So what's going on? So what
14 do I -- do I get a fine or I don't?

15 HEARING OFFICER JONES: Yes. You got a fine of
16 \$500.

17 MR. HOGAN: You will receive in the mail a written
18 order, it will be in writing, and then, you know, I'll
19 give you my phone number and you can call me or if, you
20 know, if you need any further instructions or whatever.
21 And, of course, you can call Kelli or the people here
22 at the department.

23 MR. PHAT 'SIMON' VO: Oh, can I get a waive that
24 first time I start out? It was minor, nothing major,
25 can I get a waive on this one, like a one-time waive?

1 Please?

2 MS. COLLINS-BURROUGHS: Now is not the time to do
3 that, it would be the next meeting, but -- because it
4 would be too late.

5 MR. PHAT 'SIMON' VO: If this is my first time,
6 minor, I just moved to the state and I'm start out with
7 it. I'm not that busy or that --

8 MS. COLLINS-BURROUGHS: I understand.

9 MR. PHAT 'SIMON' VO: And my first time --

10 MS. COLLINS-BURROUGHS: I understand, Mr. Vo.

11 MR. PHAT 'SIMON' VO: -- run into this problem,
12 you know.

13 MS. COLLINS-BURROUGHS: But your license, it's up
14 to you to know what's expected of you in order to carry
15 those license.

16 MR. PHAT 'SIMON' VO: But at least, you know, at
17 least give me a chance, you know, be -- be better, be
18 good.

19 MS. COLLINS-BURROUGHS: Well, when you pay your
20 fine and you will be, you'll never do it again.

21 MR. PHAT 'SIMON' VO: That's a high fine. That's
22 more than a speeding ticket.

23 MR. HOGAN: When you get it -- when you get it in
24 writing, give us a call to make that request.

25 MR. PHAT 'SIMON' VO: That's a high fine.

1 MR. HOGAN: I know.

2 HEARING OFFICER JONES: Okay, Mr. Vo, if you have
3 questions you can call Rick or Kelli, either one, and
4 they will try to help you out.

5 MR. HOGAN: Thank you.

6 MR. PHAT 'SIMON' VO: They will just hang me up,
7 too, that's all they want to do is hang me up, they
8 don't want to talk about it.

9 MS. KERSEY: I will not hang up on you.

10 MR. PHAT 'SIMON' VO: She will hang up on me --

11 MS. KERSEY: I won't.

12 MR. BUTENSHOEN: She hangs up on me.

13 MS. KERSEY: That's right. I just won't answer
14 him.

15 MR. PHAT 'SIMON' VO: How soon? I can call you
16 today?

17 MR. HOGAN: Wait until you get a written order and
18 then if you have questions about the written order you
19 can give us a call. Okay?

20 MR. PHAT 'SIMON' VO: Okay. Kelli and Rick.

21 MS. KERSEY: But we can't change the fine, we
22 cannot. If you call to try to get us to reduce the
23 fine, we cannot do that. That's their decision.

24 MR. PHAT 'SIMON' VO: Who?

25 MS. KERSEY: The committee that just made the

1 decision.

2 MR. PHAT 'SIMON' VO: Oh, good lord. Are you for
3 real? You won't even give me a chance.

4 MR. HOGAN: There is a way you can appeal this
5 decision to the Circuit Court.

6 MR. PHAT 'SIMON' VO: Okay.

7 MR. HOGAN: There is -- I'll explain that to you.
8 It will be in the order but I'll explain all of that to
9 you.

10 MR. PHAT 'SIMON' VO: Thank you.

11 HEARING OFFICER JONES: Okay. We're going to take
12 a very, very short five minute recess.

13 (WHEREUPON, a break was held from 10:59 a.m. to
14 11:08 a.m.)

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

4 V.

5 COSMETIC & PAMPERING SALON SPA, OWNER, WILMA

6 YOUNG, RESPONDENT.

7 HEARING OFFICER JONES: At this time we're going
8 to move on with the hearing, Cosmetic and Pampering
9 Salon, Wilma Young.

10 Come right on up, Ms. Young, and have a seat up
11 here and we'll get started.

12 My name is Kendra Akin Jones and I'm the Hearing
13 Officer today In The Matter of the Arkansas Department
14 of Health versus Cosmetic & Pampering Salon Spa, Wilma
15 Young. It's to be heard before the Cosmetology
16 Technical Advisory Committee. Today is July 18, 2011,
17 and we're in the conference room of the Freeway Medical
18 Building.

19 Ms. Young, if you would, please identify yourself
20 for the record.

21 MS. WILMA YOUNG: Yes. First of all I would like
22 to say good morning.

23 My name is Wilma Young. I am the owner of
24 Cosmetic & Pampering Salon Spa.

25 HEARING OFFICER JONES: Very well.

1 And did you bring counsel with you today,
2 Ms. Young?

3 MS. WILMA YOUNG: No, I did not.

4 HEARING OFFICER JONES: Okay. And you received a
5 copy of the Order and Notice of Hearing about today's
6 matter?

7 MS. WILMA YOUNG: I did.

8 HEARING OFFICER JONES: Very well. State's
9 counsel?

10 MR. HOGAN: Rick Hogan. I'm general counsel with
11 the health department and board of health.

12 HEARING OFFICER JONES: For the respondent's
13 benefit, and the benefit of anyone present who may not
14 appeared in an administrative hearing, the board will
15 base its decision solely on evidence presented here
16 today. This hearing is being held under the
17 Administrative Procedures Act, which means the strict
18 rules of evidence do not apply and the strict rules of
19 a courtroom do not apply. To ensure the efficiency of
20 the proceedings I will grant objections and caution
21 parties as necessary to ensure the hearing moves
22 forward.

23 The board knows of this case only as it appears
24 and is set forth in the Order and Notice of Hearing.
25 Anything you want to have the board consider must be

1 presented to them today. This hearing is open to the
2 public under the Freedom of Information Act.

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

6 (WHEREUPON, the witnesses were sworn.)

7 HEARING OFFICER JONES: Mr. Hogan, preliminary
8 matters?

9 MR. HOGAN: We would just ask that the committee
10 be able to take notice of the rules and of the statutes
11 of the board.

12 HEARING OFFICER JONES: Very well. The committee
13 will be able to take notice of the rules and statutes
14 concerning this board.

15 Any further preliminary matters, exhibits?

16 MR. HOGAN: I would like to ask that I be able to
17 introduce Exhibit No. 1, which is the Order and Notice
18 of Hearing, the inspection report, and a violation
19 notice letter of June 17, 2011, as well as the return
20 receipt where those documents have been signed for by
21 Ms. Young as Exhibit No. 1 in total.

22 HEARING OFFICER JONES: Very well, that will be
23 introduced as a compilation exhibit as Board's Exhibit
24 No. 1.

25 (WHEREUPON, Board's Exhibit No. 1 was received in

1 evidence.)

2 HEARING OFFICER JONES: Ms. Young, do you have
3 anything that you want the board to be able to take a
4 look at today?

5 MS. WILMA YOUNG: I do, I have all of my evidence
6 here.

7 Also, I did not -- you were saying that I signed
8 for the certified letter. I don't work at my business.
9 Tracy Dunn is the one that signed for it, that received
10 it.

11 HEARING OFFICER JONES: Okay.

12 MS. WILMA YOUNG: She is the one that worked in
13 that building.

14 HEARING OFFICER JONES: Okay. And do you have
15 copies of the information that you have with you today
16 or do we need to make you copies?

17 MS. WILMA YOUNG: I don't have copies, I was just
18 going to present it to you because it's just my records
19 where I always -- I always -- well, I've been in
20 business since 2004 and it's just all my records
21 showing in here that -- it's just that I'm aware of
22 cosmetology rules.

23 HEARING OFFICER JONES: Well, we need to get a
24 copy of them so the board can take a look, I mean
25 unless the board --

1 MS. WILMA YOUNG: Well, unless y'all -- I was just
2 going to pass it around. That's all I was going to do.

3 HEARING OFFICER JONES: Okay. Well, if the board
4 is okay with just passing them around, that's fine with
5 me, too, so let's just pass them around and we'll
6 introduce them and label them as they come around.

7 MS. WILMA YOUNG: Okay. So you want me to hand
8 them around?

9 HEARING OFFICER JONES: What all do you have with
10 you?

11 MS. WILMA YOUNG: Okay. What I have, I am a
12 barber stylist and I have my establishment license, I
13 have my license to practice, and I also have my safety
14 license, and I guess --

15 HEARING OFFICER JONES: Okay. Let's introduce the
16 licensure documents as Exhibit 1 for the respondent,
17 and then you can start passing those around, unless you
18 have objection?

19 MR. HOGAN: No objection.

20 HEARING OFFICER JONES: Okay. You can start those
21 around so they can start taking a look at them.

22 (WHEREUPON, Respondent's Exhibit No. 1 was
23 received into evidence.)

24 HEARING OFFICER JONES: And what else do you have
25 with you that you want --

1 MS. WILMA YOUNG: And I, well, just evidence where
2 every time that -- well, I don't get cosmetology
3 license unless I have a cosmetology person in there
4 because I'm a barber stylist. And this shows every
5 year that I have, and Ms. Morgan come to inspect my
6 salon, that I have passed it successful.

7 And then the barber stylist inspection just
8 showing that inspection. This is all my records
9 showing that she always came into my business and
10 inspected my establishment.

11 HEARING OFFICER JONES: Okay. We'll --

12 MS. WILMA YOUNG: And that I did have cosmetology
13 license.

14 HEARING OFFICER JONES: Mr. Hogan, do you have any
15 objection?

16 MR. HOGAN: No, I do not.

17 HEARING OFFICER JONES: Okay. I'm going to let
18 you pass those around. We are going to have to make at
19 least one copy for the record of these, so after the
20 board has taken a look we can or before, either way,
21 because we will have to at least have one copy to
22 attach to the record.

23 If you want, just go ahead and let them take a
24 look at it, let the board take a look at it and then
25 you can make a copy of it. The record will be admitted

1 as Respondent's Exhibit No. 2 and we will get you
2 copies.

3 Okay. Mr. Hogan, opening statement?

4 MR. HOGAN: No. I have none. But we may be able
5 to stipulate to those documents --

6 HEARING OFFICER JONES: Okay.

7 MR. HOGAN: -- and it wouldn't be necessary that
8 you have them.

9 MS. WILMA YOUNG: It's just showing I have a clear
10 understanding about the license and, you know, what's
11 required of me as a business owner.

12 HEARING OFFICER JONES: Okay.

13 MS. WILMA YOUNG: Because, like I say, I've been
14 in business ever since 2004, but I hadn't been in
15 business every year since 2004 because every place I
16 worked at they tore it down. I was at University Mall
17 until 2007. Then I was over on 12th Street, which was
18 by St. Mark Baptist Church, they tore it down. And I
19 had just opened -- I hadn't opened it yet but I just
20 put that new salon there last year, last part of last
21 year.

22 HEARING OFFICER JONES: Well, if the board will
23 stipulate to the reports and stuff, we won't have to
24 make a copy of them.

25 MS. WILMA YOUNG: Okay.

1 HEARING OFFICER JONES: We will just let them take
2 a look and they will stipulate to that.

3 MR. HOGAN: We will stipulate to as far back as
4 March of '05 that --

5 MS. WILMA YOUNG: It should be '04, '05, '06, and
6 '07. I didn't have a salon in '08.

7 MR. HOGAN: I've got '05, '06 --

8 MS. WILMA YOUNG: '07.

9 MR. HOGAN: -- '07.

10 MS. WILMA YOUNG: See, University Mall closed and
11 then the other one --

12 MR. HOGAN: That's in '09?

13 MS. WILMA YOUNG: That's in '09.

14 MR. HOGAN: That's the barber?

15 MS. WILMA YOUNG: Barber stylist, yeah, because I
16 didn't have any cosmetology. When I don't have a
17 cosmetologist in there, I don't have to have a license,
18 so that was only barber stylist there.

19 MR. HOGAN: I was just going to say, we stipulate
20 to the documents indicating there was no violation back
21 to March of '05.

22 MS. WILMA YOUNG: Right. Because I didn't want to
23 lose them and have --

24 MR. HOGAN: That way we won't have to copy and
25 introduce those.

1 MS. WILMA YOUNG: Okay.

2 HEARING OFFICER JONES: Okay. Very well. Then
3 those will be entered as just stipulated to by the
4 board and we will not have to introduce them as
5 Exhibit 2, so we don't get a copy. Just the
6 licensures.

7 Okay. Opening statement, Mr. Hogan?

8 MR. HOGAN: I'll waive that.

9 HEARING OFFICER JONES: Ms. Young, is there
10 anything you would like to say in opening?

11 MS. WILMA YOUNG: I guess in my opening I want to
12 remind the board that -- that it's a new establishment,
13 I renovated it, I signed a lease there with the
14 listing, leasing company in July of last year, I
15 renovated it and I didn't open it until the latter part
16 of February. It was the --

17 And but I noticed also on here, I guess you'll
18 give me an opportunity, that they had some statements
19 here saying that February 25th they entered into my
20 salon. No one came to my salon on February 25th,
21 there was no one there. Mrs. Morgan came on May the
22 12th.

23 HEARING OFFICER JONES: Okay.

24 MS. WILMA YOUNG: But they have other citations on
25 here that does not apply to my business because that

1 business was not really open. There was a young lady
2 working there but it was not officially open.

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

5 MR. HOGAN: We will call Ms. Morgan.

6 WHEREUPON,

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

11 DIRECT EXAMINATION

12 BY MR. HOGAN:

13 Q Can you state your name, please?

14 A Brenda Morgan.

15 Q Brenda, how long have you worked for the cosmetology board
16 as an inspector?

17 A September will be 11 years.

18 Q Did you have occasion to enter the Cosmetic & Pampering
19 Salon Spa on May 12 of this year?

20 A Yes, sir. I did.

21 Q And you performed an inspection at that time?

22 A Yes, sir. I did.

23 Q In the documents that have been introduced, that's at
24 actually Page 3 is an inspection report. Did you prepare that
25 report?

1 A Yes, sir. I did.

2 Q Tell the members of the committee and for the record what
3 you found at this time.

4 A The lines that I found and I marked was there was no salon
5 license current, there was no practitioner license, Arkansas
6 license current, or I didn't -- there was none, no health and
7 safety rules, salon was not posted, and practitioner license were
8 not posted.

9 Q So on May the 12th, going back to the Order and Notice of
10 Hearing, then, Paragraphs 3, 4, and 5, that should be May 12,
11 2011, as --

12 A I don't have a copy of that.

13 Q Let me give it to you here.

14 A Yeah.

15 Q Is that --

16 A Do you need it back?

17 Q No, I got one.

18 A I don't know about the -- why February 25th was on there.

19 MS. KERSEY: That was just a typo.

20 BY MR. HOGAN:

21 Q But according to your -- according to your information you
22 provided to the committee, that should be May 12 of 2011?

23 A Yes, sir. That's the only time I've been there this year.

24 Q All of those paragraphs 3, 4, and 5 are things that you
25 found as a result of your May 12, 2011 inspection?

1 A Yes, sir. That is correct.

2 Q Is there anything further, Brenda, you need to make the
3 committee aware of at this time?

4 A No, sir.

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

6 HEARING OFFICER JONES: Very well.

7 Ms. Young, do you have any questions for
8 Ms. Morgan?

9 MS. WILMA YOUNG: I do.

10 HEARING OFFICER JONES: Go right ahead.

11 CROSS-EXAMINATION

12 BY MS. WILMA YOUNG:

13 Q Ms. Morgan, on here you said that it wasn't any health and
14 safety rules posted in the receptionist area?

15 A Yes, ma'am.

16 Q Which rules and regulations are you talking about?

17 A Cosmetology.

18 Q Cosmetology?

19 Okay. Of course it wouldn't have been, because I did not
20 know she was a cosmetologist, she told me she was a hair stylist.
21 So I was already a licensed establish for a hair stylist
22 business, so --

23 A But she has a --

24 Q But I had my -- all of my safety and health rules posted
25 because that's what I knew that I had to abide by.

1 And then I guess it's you all, you're referring to all of
2 the cosmetologists, furthermore, in the posted salon license in
3 the safety, and apparently Tracy didn't have her cosmetologist
4 license, is that --

5 A I'm not sure of your question.

6 Q Okay. I said I suppose that everything you're -- you're not
7 referring to any -- you're referring to cosmetology?

8 A Yes, ma'am.

9 Q Because I had the barber stylist.

10 A That's all we have jurisdiction over.

11 MS. WILMA YOUNG: Okay. That was it.

12 HEARING OFFICER JONES: Is that all your
13 questions, ma'am?

14 MS. WILMA YOUNG: Uh-huh. That's my question.

15 HEARING OFFICER JONES: Okay. Very well.

16 Then does the board have any questions for
17 Ms. Morgan?

18 If not --

19 MS. WILMA YOUNG: Oh, I did have another question.

20 HEARING OFFICER JONES: Okay. Ms. Young.

21 MS. WILMA YOUNG: I did have other questions I
22 would like to --

23 HEARING OFFICER JONES: For Ms. Morgan?

24 MS. WILMA YOUNG: For Ms. Morgan.

25 HEARING OFFICER JONES: Yes.

1 BY MS. WILMA YOUNG:

2 Q Okay. Ms. Morgan, you are aware that my license was posted
3 there?

4 A Your barber license.

5 Q My barber stylist, my barber stylist license was posted
6 there, my Little Rock city practice --

7 A Okay. At the very bottom of my inspection it says,
8 "Ms. Young is a barber and there is a barber license posted and
9 current today."

10 Q Okay. Are -- okay, I want to ask you this, do you know
11 Tracy? Do you know Tracy Dunn?

12 A Yes, I do.

13 Q Do you know what salon she was at last year?

14 A Lois & Ray.

15 Q She was at Lois & Ray. Were you aware that she had just
16 moved in there when you got there?

17 A I wasn't aware of anything about --

18 Q Okay.

19 A I had seen that sign and I knew it had been there for quite
20 some time.

21 Q There that's what -- my salon was not the only one, there
22 was Just Hair Unlimited in that shopping center and H20, is that
23 not correct?

24 A First time I saw that sign was on this day.

25 Q What --

1 A And that's the day that I was inspecting it.

2 Q Well, so you weren't aware of salons that were in that
3 shopping center?

4 A Oh, yeah. I've been there lots of time.

5 Q Okay. So you've been in that area before, right? Am I
6 correct?

7 A Yes, ma'am. Is that correct.

8 COURT REPORTER: Wait a minute.

9 Slow down, please.

10 MS. WILMA YOUNG: I'm sorry.

11 BY MS. WILMA YOUNG:

12 Q Was you aware that my salon wasn't there last year?

13 A I don't think it was there last year.

14 MS. WILMA YOUNG: Okay. Thank you. That's what I
15 wanted to ask you.

16 THE WITNESS: Uh-huh.

17 MS. WILMA YOUNG: Okay.

18 HEARING OFFICER JONES: Thank you.

19 Any further questions?

20 MS. WILMA YOUNG: No. That will be all.

21 HEARING OFFICER JONES: Does the board have any
22 questions for Ms. Morgan?

23 Go right ahead.

24 MS. AKARD: You -- did you have a cosmetologist
25 working for you in --

1 HEARING OFFICER JONES: No, no. For Ms. Morgan.

2 THE WITNESS: For me.

3 MS. AKARD: Oh, no. No, ma'am.

4 HEARING OFFICER JONES: Okay.

5 MS. COLLINS-BURROUGHS: Jim, did you have --

6 HEARING OFFICER JONES: Did you have a question
7 for Ms. Morgan?

8 MR. BUTENSHOEN: Okay. I guess I'm a little
9 confused. You're a barber and you had all your stuff
10 posted, correct?

11 MS. WILMA YOUNG: Right.

12 THE WITNESS: Yes, sir.

13 MR. BUTENSHOEN: You found a cosmetologist there.
14 Was their license posted?

15 THE WITNESS: No, sir.

16 MR. BUTENSHOEN: Or the cosmetology safety rules
17 posted?

18 THE WITNESS: No, sir.

19 MR. BUTENSHOEN: Is that true?

20 MS. WILMA YOUNG: My question is --

21 THE WITNESS: Nor a salon license.

22 HEARING OFFICER JONES: You can ask her in a
23 minute.

24 MR. BUTENSHOEN: I can ask her in a minute.

25 Okay. All right. So this is related to the

1 Q It indicates that the salon license was not current and also
2 this practitioner, which was Tracy Dunn, did not have a current
3 Arkansas license?

4 MS. MORGAN: Yes, she did have a --

5 BY MR. HOGAN:

6 Q -- that was posted in the area. Is that correct?

7 A Part of it.

8 Q Okay.

9 A The salon does not have a current license but Ms. Dunn does
10 have a current license that was not posted.

11 Q All right.

12 A That's the only violation I found for her is that it wasn't
13 posted, because it is current.

14 Q Okay. So as far as not having -- Ms. Dunn not having a
15 license, she wasn't cited for that?

16 A Right.

17 Q Now, it mentions also the salon license was not current.
18 Did you examine your records about that?

19 A Yes.

20 I could not find a salon license at all, any record for
21 Cosmetic & Pampering Salon Spa.

22 Q All right. Anything further you want to make the committee
23 aware of?

24 A No, sir. No, sir.

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

1 HEARING OFFICER JONES: Ms. Young?

2 MS. WILMA YOUNG: Yes. All right.

3 HEARING OFFICER JONES: You may ask Ms. Kersey
4 questions.

5 CROSS-EXAMINATION

6 BY MS. WILMA YOUNG:

7 Q Yes, Ms. Kersey?

8 A Uh-huh.

9 Q You're saying, okay, it wasn't going to be a license there
10 because I hadn't officially opened my business. So with Tracy
11 being a hair stylist, I assumed that she was under the same
12 license I was under. I did not know Tracy because her license
13 hadn't posted, I didn't ask her about it. I don't work over in
14 my business, she does. But you have never found a license for me
15 in the cosmetology log?

16 A Not under this name, no, ma'am.

17 Q Cosmetic & Pampering Salon Spa?

18 A Not under this name, no, ma'am.

19 Q You've never find any type of a license that I've ever had a
20 cosmetology establishment license with the cosmetology of
21 Arkansas?

22 A Not under this exact name. No, ma'am.

23 MR. HOGAN: What is the --

24 BY MS. WILMA YOUNG:

25 Q Well, I just added that spa to it.

1 MR. HOGAN: What is the name?

2 MS. WILMA YOUNG: It's Cosmetic & Pampering Salon,
3 that's what it always been. No, it was Cosmetic &
4 Pampering Studio.

5 MS. MORGAN: Studio.

6 MS. WILMA YOUNG: That's what it was up under.

7 THE WITNESS: Not this name.

8 BY MS. WILMA YOUNG:

9 Q But the new name --

10 A It's not this name.

11 Q It's because we just got there in last -- or this year?

12 A So we don't have a license --

13 Q So when did you all get a license, because I hadn't applied
14 for one. And I didn't know I had to apply for one because I
15 assumed that she -- her being the same as I was, a hair stylist,
16 that -- I mean a barber stylist, I assumed that's what she said,
17 but her license wasn't hung so there was no way I knew the
18 difference.

19 A Okay. Well, when I looked her up, is she is a
20 cosmetologist.

21 Q Yeah. I found that out later.

22 A Uh-huh.

23 HEARING OFFICER JONES: Okay. Do you have any
24 further questions for Ms. Kersey?

25 MS. WILMA YOUNG: No.

1 HEARING OFFICER JONES: Okay. Does the board have
2 any other questions?

3 MR. HOGAN: No.

4 (Witness excused.)

5 HEARING OFFICER JONES: Okay. Mr. Hogan?

6 MR. HOGAN: I would like to call Ms. Young to
7 testify.

8 HEARING OFFICER JONES: Okay.

9 WHEREUPON,

10 WILMA YOUNG,

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 Ms. Young, state your name and your business name for the
17 record.

18 A Yes. My name is Wilma Young and my business is Cosmetic &
19 Pampering Salon Spa.

20 Q And now just to clear up, there was some evidence --
21 testimony about a business by the name of Cosmetic --

22 A And Pampering Studio.

23 Q -- Studio?

24 A That's where my previous -- when I first opened my business
25 that was the name of it. This is a new location and I added

1 other services to it so it became a spa.

2 Q Do you still have the business, the studio business? Do you
3 still have that --

4 A No.

5 Q -- in a separate location?

6 A No, it was torn down. All of those buildings was torn down.
7 It was in '07 and then the other one was in '10.

8 Q Did you inquire with the staff or the inspector about
9 transferring the name of that on to -- that license on to your
10 new business, the salon and spa business?

11 A That's what I'm saying, I didn't have to because I'm under
12 barber exam, I have my license with the Arkansas College of
13 Barber Examination. I wasn't even in cosmetology. I didn't
14 know -- the young lady that was -- is in there, I didn't know she
15 was up under cosmetology, I assumed that she was the same as a
16 barber stylist as I was. So you don't have to purchase a
17 establishment license for both unless you have a cosmetology
18 person or a barber stylist in there. I had my establishment
19 license for cosmetology -- for barber and hair stylist.

20 Q That's what I'm having trouble understanding. Apparently
21 you had a license for the studio business --

22 A Well that's --

23 Q -- or cosmetology --

24 A Okay.

25 Q -- a cosmetology license for that business?

1 A Right. But see --

2 Q And --

3 A But, see, unless you carry a cosmetologist in there, I ain't
4 always had a cosmetologist in my business, it's always just been
5 me.

6 Q So you didn't know Ms. Dunn was a cosmetologist?

7 A No. She just came there, she came from Lois & Ray. I did
8 not know, when she told me -- I asked her, she just said she was
9 a hair stylist, so if a hair stylist to me is barber, a
10 cosmetology is totally different to me. She --

11 Q Did -- did Ms. Dunn have a barber's license?

12 A I didn't know any kind of license she had because I'm not
13 there, she's there and she hadn't hung it on the wall so I didn't
14 know which license she had.

15 Q Did you ask her for a barber's license, understanding that
16 you were operating a barber's business?

17 A I didn't ask -- she -- she was the one that -- she's really
18 actually the one working my business, I don't even see here. I
19 go to school full time and she is mostly there, so, no, I did not
20 ask her.

21 Q Do you perform any procedures or services in the business
22 that's now known as Cosmetic & Pampering Salon Spa?

23 A No. I do not. It's not even really work -- I mean I have
24 the nail service there, all this stuff is brand new, never been
25 used, so you -- I'm pretty sure you can ask Ms. Morgan that, it's

1 all brand new in there. I never even opened it yet. Ms. Tracy
2 Dunn asked me could she work in there because of the change that
3 took place at Lois & Ray, and she had just -- I just allowed her
4 to come in there and, you know, work until I open it up, so she
5 asked me could she do it and I did. But I didn't, like I say,
6 I'm not there every day, she is. I'm not sure if she there every
7 day, I just allowed her to use my facility.

8 Q Do you pay her or is there a --

9 A No.

10 Q -- some contractual arrangement you have with her or how
11 does it work?

12 A No, she -- no, she pays -- what she actually does, she helps
13 pay my lease. Since I haven't opened and she is working there,
14 so she actually pay it. I don't generate any income from her.

15 Q So as part of your lease every month, she pays for that --

16 A Uh-huh.

17 Q -- in order to be able to operate in your establishment?

18 A Right.

19 Really she just help me, yeah, in a way she help me pay my
20 lease because I don't work there. And I know I was in the
21 process of applying for a loan for Arkansas Small Business to get
22 my store opened and operating, so --

23 Q Would you agree that if she said, I'm not going to pay
24 toward your lease, you would ask her to leave?

25 A She will -- that's what she offered when she moved, because

1 she moved all of a sudden from the establishment she was at, down
2 the street from where I live, and she wanted to stay, I mean
3 where my business at, she wanted to stay in that area. She
4 was -- that's right down the street at Lois & Ray, so she asked
5 me, could she come in there and that's what I offered her to do.

6 Q She was working at Lois & Ray?

7 A She was there seven years, uh-huh, and they went to
8 commission and she didn't want to pay commission. So she asked,
9 I said, well, Tracy, you know my business not open yet
10 officially, because I was waiting on my business loan, I mean do
11 my business plan so I can do my business loan to open and to
12 operate it. And so she asked me. Well, she said, well, I can --
13 I said, well, it will help me pay toward my lease since I'm not
14 there, and so that's what she asked to do, so that's what I did.

15 Q What kind of work -- what kind of work did Ms. Dunn do?
16 What did she offer?

17 A She just do hair.

18 Q I'm sorry?

19 A You say what does she do?

20 Q What was she offering to do? I mean what kind of services
21 did she offer to provide?

22 A She doesn't provide anything, really. The persons at
23 several of my businesses, plan in my business, they going to be
24 independent contract workers, they just lease the space.

25 Q But --

1 A She won't work for me or she always worked -- Tracy have
2 been a cosmetology -- I mean Tracy have done hair for 25 years.

3 Q And I'm trying to, it's been a while, I used to represent
4 the barber board, unfortunately, years ago. I'm trying to
5 remember the -- but, I mean --

6 A What Tracy --

7 Q I mean I know that there is a bright line in terms of
8 services --

9 A Yeah. What we --

10 Q -- and I'm trying to understand what she told you that she
11 was going -- I mean you wouldn't let anybody just operate out of
12 your building there that's your lease?

13 A Well, I knew she was a hair stylist, but whether she was a
14 cosmetologist or a barber stylist, that I didn't know that she
15 wasn't a barber -- a barber stylist, she was a cosmetologist. It
16 was no way I knew because she didn't have her license up there.
17 She was going to have to mention it to her and she say, I'll get
18 it, but I don't go over there, she's over there. She goes and
19 does service there. I'm not there. I go to school full time.

20 Q And do you intend to have your studio license --

21 A Of course.

22 Q -- either transferred or do you intend to get a license?

23 A It's not a transfer. Because with the cosmetology, I
24 understood it's a new establishment when you move. See where
25 the -- the year, in 2009 where I was at, I was strictly barber

1 stylist, so I didn't have to transfer anything. I didn't even
2 have -- no cosmetology ever worked in my business, no more than
3 when I was in the mall in 2007 and 2008, or whatever the
4 inspection sheet shows where Ms. Morgan came. Ms. Morgan always
5 came by and inspected my shop.

6 So when I went in 2008, I didn't have a barber -- a
7 cosmetologist, so it was no transferring was to be -- I had to
8 purchase, I knew that I had to purchase new license when I got
9 ready to open my establishment if I'm going to do nails, massages
10 and, you know, hair, cosmetology -- even if it was -- I know the
11 person going to be a cosmetology, that's what I knew I need to
12 purchase a cosmetology license for my business.

13 Q And have you done that?

14 I mean how long have you known that, that you had to do
15 that?

16 A I mean I just opened it in the last -- Tracy just moved in
17 there the last February, I hadn't opened it yet. So my -- August
18 the 1st, which is next month, is when I'm going to officially
19 open it, so that's when I was going to purchase the license for,
20 the cosmetology license for the nail tech, the massage, because I
21 know that consists of cosmetology and not barber stylist.

22 Q So you clearly intend to --

23 A Oh, yes, intend.

24 Q -- open this business for cosmetology?

25 A In August, right. I was just waiting for my business loan

1 to go through and, I mean I was -- I had to do my business plan
2 in order to project my plan to the financial committee to get a
3 loan to open it and operate it.

4 It's a new location. It's -- everything is in there, it's
5 brand new, it's never been used.

6 Q There is an indication in the inspector's report that --
7 that this place opened for business on January 20th?

8 A No. It did not.

9 Q And why would she put that in the report if it didn't open
10 yet?

11 Do you have any idea where she would have gotten --

12 A Well, if she -- if Tracy, if she told her that, that was
13 her. Well, she didn't talk to the owner because it's not opened.
14 I allowed Tracy to go in there and work because she needed a
15 place to work because she left Lois & Ray.

16 MS. COLLINS-BURROUGHS: Then it is open.

17 MR. HOGAN: If Ms. Dunn -- I'm sorry?

18 HEARING OFFICER JONES: No, wait. Y'all can't
19 comment.

20 THE WITNESS: Well, I understand Ms. Morgan
21 explained it to me, any time somebody work in there
22 it's considered open. But officially open for my
23 perspective as a business owner, I haven't opened, I
24 just allowed Tracy to work in there.

25 BY MR. HOGAN:

1 Q How long has she been paying part of the lease?

2 A Since the middle of February.

3 Q Is her name anywhere attached on the lease agreement that
4 she contract with the lessor, or is it just you that --

5 A It's just me.

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

7 HEARING OFFICER JONES: Does the board have any
8 questions for Ms. Young?

9 (Witness excused.)

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

12 MR. HOGAN: I have nothing further. We rest.

13 HEARING OFFICER JONES: Okay. Ms. Young, I'm
14 going to allow you to tell anything that you haven't
15 said or you want the board to know before they make any
16 decisions, and then I'll give them another opportunity
17 in case you say anything that leads to questions.

18 WHEREUPON,

19 WILMA YOUNG,

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 TESTIMONY

24 THE WITNESS: Well, all I can say, I knew that,
25 I'm aware of the licensing and I always abide by the

1 state of Arkansas rules and regulations. And my
2 license, my establishment license, I know that you have
3 to have an establishment license to practice. But not
4 understanding that Tracy did not have, she wasn't a
5 barber stylist, when I found out when she put her
6 license up, she was a cosmetologist and she never told
7 me that. There was no way I would have known, even
8 though I asked her, she just said she was going to
9 bring it. I asked her about her license being posted
10 up there because I noticed that when I come over there
11 to clean the store on the weekends, she's not there,
12 and then I asked her about the license. And she said,
13 kept saying, I'm going to bring them. Even when
14 Ms. Morgan came that day she said, I had them yesterday
15 but she didn't post -- you know, I took them home. But
16 I do know she been doing hair for 25 years so I know
17 she was a licensed something, but so I take her word
18 that she is a licensed person. But I wasn't aware of
19 the fact that she wasn't a hair stylist, which I
20 assumed that falls under the establishment of a barber
21 stylist examiner -- I mean, examiner.

22 So, I mean, if I wasn't aware of it and had no
23 knowledge of it, I just know that I didn't let her
24 practice in my store and never have without a practice
25 license and applied and a -- a governor self according

1 to the laws, bylaws and the regulation of the state of
2 Arkansas. I would never let her do that. If I didn't
3 do that, I would have got her a cosmetology license if
4 I knew that she was a cosmetologist -- I mean I would
5 have gotten me an establishment license if I knew that
6 she was cosmetologist.

7 And also, I want to also integrate that when
8 Ms. Morgan came by, only Tracy had been there but a
9 couple of months. So in the process, those couple of
10 months I had been asking her about her license. But I
11 don't, like I say, I don't work in the store and I just
12 go over to the store and clean it on the weekends, some
13 weekends.

14 HEARING OFFICER JONES: Mr. Hogan, do you have any
15 questions?

16 MR. HOGAN: Just one.

17 CROSS-EXAMINATION

18 BY MR. HOGAN:

19 Q On this Lois & Ray, where Ms. Dunn worked previously and the
20 commission, do you know is that a barber shop or a beauty shop?

21 A I don't know. She's a cosmetologist, I really don't know.
22 I really don't know what Ms. Lois is. I know she's been in
23 business for years --

24 Q Okay.

25 A -- but I don't know if she's called a cosmetologist or

1 barber stylist. Because a lot of shop does because they do both,
2 but they put the walls down where cosmetology can practice with
3 barber stylist, so I don't know on her.

4 MR. HOGAN: That's all I have.

5 HEARING OFFICER JONES: Okay. Questions from the
6 board for Ms. Young?

7 If there are no -- okay. If there are no
8 questions from the board, we'll move to closing
9 statements.

10 (Witness excused.)

11 MR. HOGAN: I would waive my closing statement.

12 HEARING OFFICER JONES: Okay. Ms. Young, anything
13 else in closing before the board recesses for
14 deliberations?

15 MS. WILMA YOUNG: Huh-uh.

16 HEARING OFFICER JONES: Okay. At this time the
17 record will be closed and made complete except for the
18 board's recess for deliberation. Once the board has
19 reached a decision on the matter we'll go back on the
20 record for that decision.

21 (WHEREUPON, the Commission retired to deliberate,
22 off the record, from 11:38 a.m. to 11:39 a.m., and
23 returned with the following motion.)

24 HEARING OFFICER JONES: Okay. We'll go back on
25 the record.

1 MR. BUTENSHOEN: I make a motion, finding the
2 allegations being true, I move to order the respondent
3 to pay a fine in the amount of \$475 --

4 MS. WILMA YOUNG: What?

5 MR. BUTENSHOEN: -- payable within 30 days of
6 receipt of the board's order. Further, respondent is
7 ordered to cease and desist from practicing cosmetology
8 or operating a cosmetology establishment until such
9 time as the respondent is properly licensed by the
10 board.

11 MS. COLLINS-BURROUGHS: I have a first. Do I have
12 a second?

13 MS. AKARD: Second.

14 MS. COLLINS-BURROUGHS: I have a second. All in
15 favor raise your right hand.

16 (Hands raised.)

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

24 If there are no other questions or comments this
25 hearing is concluded and the record is closed.

1 Thank you very much.

2 (WHEREUPON, at 11:40 a.m., the above-entitled
3 proceedings were concluded.)

4 ---o---

5 MR. HOGAN: Okay. Thank you.

6 MS. WILMA YOUNG: Okay. I do have a right to file
7 an appeal, right?

8 HEARING OFFICER JONES: Yes.

9 MS. WILMA YOUNG: You already said that, right?

10 HEARING OFFICER JONES: Yes. It should be in the
11 order when it is served upon you. If you have any
12 questions, I'm sure you can call Mr. Hogan. I'm not
13 sure if they --

14 MS. WILMA YOUNG: Where would it be served,
15 because I'm not there at the business at the time, so
16 do you know where they will serve that paperwork to?

17 MR. HOGAN: If you've got an address you want us
18 to send it to, just tell the members of the staff and
19 they will send it to you there.

20 MS. KERSEY: Yeah. Michelle should be sitting
21 right out there, you can tell her your address.

22 MS. WILMA YOUNG: Okay.

23 MR. HOGAN: Tell her where you want it to be sent.

24 MS. WILMA YOUNG: Okay.

25 ---o---

1 HEARING OFFICER JONES: Okay. Let's move on to
2 About You Color Salon.

3 ADMINISTRATIVE HEARING

4 IN THE MATTER OF: ABOUT YOU COLOR SALON,
5 OWNER, DEANA OIE

6 HEARING OFFICER JONES: Okay. At this time we're
7 going to proceed with the hearing on About You Color
8 Salon.

9 My name is Kendra Akin Jones and I'm the Hearing
10 Officer today in the matter of the Arkansas Department
11 of Health versus About You Color Salon, Owner Deana
12 Oie.

13 MS. DEANA OIE: Deana Oie.

14 HEARING OFFICER JONES: Deana Oie -- sorry about
15 that -- to be heard before the Cosmetology Technical
16 Advisory Committee. Today is July 18, 2011, we are
17 located in a conference room at the Freeway Medical
18 Building.

19 Would you please identify yourself for the record?

20 MS. DEANA OIE: Uh-huh.

21 I'm Deana Oie. I'm the owner of About You Color
22 Salon in Conway, Arkansas.

23 MR. HOGAN: Rick Hogan, general counsel for the
24 Arkansas board and department of health.

25 HEARING OFFICER JONES: Okay. And, Ms. Oie, you

1 received the Order and Notice of Hearing on this matter
2 today?

3 MS. DEANA OIE: Yes.

4 HEARING OFFICER JONES: Very well.

5 For the respondent's benefit and the benefit of
6 anyone present today who may not have appeared before
7 an administrative hearing, the board will base it's
8 decision solely on the evidence presented here today.
9 This hearing is being held in accordance with the
10 Administrative Procedures Act. To ensure the
11 efficiency of the proceedings I will grant objections
12 and caution parties only as is necessary.

13 Board members know of the case only as it is
14 presented and set forth in the Order and Notice of
15 Hearing. Anything to be considered by them that you
16 have in your possession will need to be presented as
17 evidence. All participants to the hearing should be
18 aware that these proceedings are subject to the Freedom
19 of Information Act, and that does include the hearing
20 and deliberations of the board.

21 For those of you who may be witnesses in this
22 matter today, please raise your right hand to be sworn
23 in by the court.

24 MS. DEANA OIE: All of those people back there
25 also. Could you all stand just so they see who's back

1 there?

2 (WHEREUPON, the witnesses were sworn.)

3 HEARING OFFICER JONES: Okay. Preliminary
4 matters, Mr. Hogan?

5 MR. HOGAN: Is there anything I can do to keep all
6 of those people from testifying?

7 No, I don't have anything, except to ask that the
8 board's rules and stats be -- that the board be able to
9 take notice of them.

10 HEARING OFFICER JONES: The board will be able to
11 take notice of the rules and statutes pertaining to
12 this board.

13 Any exhibits?

14 MR. HOGAN: I would ask that this one document, I
15 believe it's a total of four pages, including the Order
16 and Notice of Hearing and the investigative report and
17 the March 28th violation letter and the signed return
18 receipt be admitted as Board's Exhibit No. 1.

19 HEARING OFFICER JONES: Very well. Those will be
20 admitted as Board's Exhibit No. 1.

21 (WHEREUPON, Board's Exhibit No. 1 was received in
22 evidence.)

23 HEARING OFFICER JONES: Ms. Oie, do you have
24 anything you would like to have introduced?

25 MS. DEANA OIE: Well, I would but I couldn't get

1 it printed off today, but it's pictures of our salon.
2 I have it on a camera, but that's -- we were trying to
3 hopefully break for lunch and go get them printed
4 because we couldn't do it this morning.

5 They just show the salon's integrity, the
6 stations. I mean we're not a salon that would be
7 considered dirty, so I just wanted to present that and
8 show that. They are in a camera and have to be passed
9 around.

10 MR. HOGAN: Yeah. If you want to pass the camera
11 around, and I don't have any objection.

12 HEARING OFFICER JONES: Okay. As long as there is
13 no -- no problem with the board --

14 MR. HOGAN: These are all taken on the same date?

15 MS. DEANA OIE: They are. They are just, well
16 these were taken right before -- I don't know how to
17 move this. There we -- that's how you move it back and
18 forth. This is our salon. And that's just the
19 reception area, which is just to show you -- there is
20 our stations.

21 COURT REPORTER: You need to speak up, please.

22 HEARING OFFICER JONES: You're going to need to
23 speak up if you're going to explain them.

24 MS. DEANA OIE: Okay.

25 HEARING OFFICER JONES: And can you tell us what

1 date these pictures were taken on?

2 MS. DEANA OIE: They were actually not taken --
3 they were taken in July 2010.

4 MS. HOPPER: Then we don't need to see them.

5 MS. DEANA OIE: Okay.

6 MR. HOGAN: Okay. If they were made before the
7 date of the --

8 MS. DEANA OIE: Yes.

9 MR. BUTENSHOEN: So that doesn't matter.

10 MS. DEANA OIE: So that doesn't matter?

11 MR. BUTENSHOEN: This was done in March of '11.

12 MS. DEANA OIE: Okay. And the date on this says
13 March 29th and this was actually March 28 that she
14 came in. It was a Monday that she came to the salon
15 and there was two stylists working and they are both
16 here.

17 MR. HOGAN: It would be -- the letter is dated
18 March 28th, but we'll get the investigator to clear
19 that up.

20 MS. KERSEY: Oh, I see what you're saying.

21 MS. COLLINS-BURROUGHS: Make sure the report is
22 correct.

23 MR. HOGAN: Yeah. The report is dated the 29th
24 and the --

25 HEARING OFFICER JONES: We'll try to clarify that

1 with testimony and we'll let you as well.

2 MS. DEANA OIE: Okay. Okay.

3 HEARING OFFICER JONES: Okay. Let's move on. The
4 pictures will not be admitted.

5 So, Mr. Hogan, you can call your -- opening
6 statement?

7 MR. HOGAN: I have no statement in opening.

8 HEARING OFFICER JONES: Do you have anything you
9 would like to say in opening?

10 MS. DEANA OIE: I do.

11 HEARING OFFICER JONES: Okay.

12 MS. DEANA OIE: I've been a stylist for 23 years.
13 This is my first salon -- fourth salon that I've
14 actually owned. I've been in business for five years,
15 we've just celebrated our five year anniversary. We're
16 a very busy salon, we're very established. There is
17 eight stations and we had at that time only six
18 stylists working. That was a Monday, there was only
19 two stylists working that Monday and they were working
20 out of four stations, taking turns working on color and
21 haircut and that kind of thing and they are both here
22 to testify to that.

23 We -- I've never been written up before prior to
24 the time before this time. There was a couple of
25 things they wrote us up for, for dirty clippers and

1 Barbicide, which we have worked on, I've been working
2 with stylist to make sure. We have a duty list we do
3 every single week. We clean our salon spotless, even
4 our baseboards get cleaned. You can come any time, any
5 day, we take a lot of pride in our salon. I take a lot
6 of pride in the industry. I'm very, very thankful to
7 be a cosmetologist and I work hard to have an awesome
8 salon that represents our industry well. So, I mean,
9 that's the reason I'm here today. I just can't see
10 getting fined for some dirty clippers and Barbicide
11 when, you know, we -- we work hard at this.

12 So that's all I have to say.

13 HEARING OFFICER JONES: Thank you.

14 Mr. Hogan, you can call your first witness.

15 MR. HOGAN: Call Ms. Wood.

16 WHEREUPON,

17 VERA WOOD,

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 Would you state your name, please.

24 A Vera Wood.

25 Q And, Vera, did you have an occasion to visit the About You

1 Color Salon in Conway on March, and can you, should it be March
2 28th or 29th? What do your records reveal?

3 A Without looking at my book to be sure, it could have been
4 misdated, so...

5 Q Okay. Safe to say you visited the salon?

6 A Yes, I did.

7 Q And this is your inspection report?

8 A Yes, sir.

9 Q Can you tell the members of the committee what you found
10 there?

11 A On the inspection, I found that we had dirty clippers, I
12 noted three pair. I also found that we had dirty Barbicide jars,
13 either not totally filled to where they were totally emersed or
14 visibly dirty.

15 Q I'm just thinking that this later on -- but I -- I'm trying
16 to get a picture in my head about, you know, if somebody has a
17 bad day and they are, it just looks like it's not kept or if this
18 is something that's a safety or health and safety kind of
19 problem. Can you kind of explain what you -- a little bit more
20 about what you found that day?

21 A Well, when I -- when I went in, if my memory serves me
22 correctly, when I went into the salon I do your initial
23 inspection. I believe on the first station to my left I found a
24 pair of clippers that had not been cleaned and were stored
25 unclean with hair in them.

1 Q So was hair on the clippers and that --

2 A Yes, sir.

3 Q What if I said, well, I'll clean them when I start on

4 somebody else?

5 A Well, the -- the rules and regs state that they must be

6 cleaned before they are stored.

7 Q Okay. Okay. Now, what else were you able to find?

8 A The Barbicide jars were either visibly dirty -- when you

9 lift the little comb holder, you can see floaties in it.

10 Q Okay.

11 A It's either visibly dirty or it was not totally filled to

12 the top to cover the combs and whatever else was in there.

13 Q I'm having a busy day, a lot of people coming in, I mean how

14 do you deal with that as a practical matter with it not being

15 clean like that? I mean is it their responsibility to have it --

16 A Yes, sir.

17 Q So they should empty out the Barbicide and fill it back up

18 or --

19 A It should be changed, yes, sir. When it becomes visibly

20 cloudy or it's not filled, it should be changed.

21 Q Was this at the same station that you talked about with the

22 clippers or a different station?

23 A (Shaking head from side to side.)

24 Q Don't recall?

25 A No.

1 Q Do you remember talking to any of the folks that were there
2 about the problems that you found, the clippers --

3 A Yes, sir.

4 Q -- and Barbicide?

5 A Yes, sir.

6 Q What was their response?

7 A Okay. We'll do better.

8 And I hadn't had any problems with this salon. I did write
9 a verbal warning the inspection before, or a written warning the
10 inspection before.

11 Q Did they say that they would get on it and correct it right
12 then?

13 A (Nodding head up and down.)

14 Q To your knowledge did they do that?

15 A (Indicating.)

16 Q As far as you know they did?

17 A I couldn't tell you, I do not remember.

18 Q All right. Tell me about the closed receptacles. As I
19 understand it, these are receptacles where you put clean towels
20 or clean equipment into, right?

21 A (Nodding head up and down.)

22 A closed receptacle can be a drawer, a cabinet with doors, a
23 box with a lid. You could even consider as Ziploc bag if it's
24 zipped and has no holes as a clean, closed place.

25 Q And if you are busy, of course, something that's open is

1 likely to get -- it may get Barbicide, it may get some other
2 items spilled on it if it's not closed and properly stored,
3 right?

4 As a practical matter that's why you would want this to be
5 clean and stored away in a closed receptacle, is that right?

6 A Yes, sir.

7 Q Okay. What did they say when you told them that that needed
8 to be properly closed?

9 A We'll take care of it.

10 Q Okay. And as far as you know they did?

11 A (Nodding head up and down.)

12 HEARING OFFICER JONES: Verbal answers, please.

13 THE WITNESS: Yes, sir.

14 MR. HOGAN: You have to say yes.

15 I'm sorry.

16 THE WITNESS: Yes.

17 I'm sorry. I'm sorry.

18 BY MR. HOGAN:

19 Q Was there anything else that you found at this facility?

20 A Those -- those two things is what I have marked. Yes, sir.

21 Q As far as you know, in times you've inspected this facility,
22 they have always -- for the most part you said they have done
23 things right. Correct?

24 A Yes, sir.

25 Q And as far as you know, they have corrected it this time,

1 but --

2 A That's -- that -- they told me they would take care of it.

3 MR. HOGAN: All right. That's all I have. I'll
4 pass the witness.

5 HEARING OFFICER JONES: You may ask Ms. Wood any
6 questions.

7 CROSS-EXAMINATION

8 BY MS. DEANA OIE:

9 Q Okay. All right. When our clippers, we use our clippers,
10 we have open stations that I custom built, and when we get
11 through cutting a haircut, we'll lay them down on that shelf.
12 And in between clients they might move from one station and
13 cut -- cut someone's hair and then move to another station and do
14 color. And this particular day there was only two stylists
15 working out of four stations, so they are here to testify that
16 they did lay down the clippers but they weren't stored, they were
17 just -- they would lay on a shelf in between clients.

18 Did they not, I mean were they not laying on an open shelf
19 right there?

20 A I -- I believe I had one pair that I took out of the stored
21 place.

22 Q Okay. We had not -- not that I know of, we don't store them
23 like inside the cabinet, we leave them on the cabinet. So maybe
24 you did, I don't know that.

25 A Well, they have roll-abouts also and they have the cabinets

1 that's on the --

2 Q Well, our roll-abouts are only used for color, we don't keep
3 any instruments in the roll-abouts. We pull them out and use for
4 color and to keep our paper and our highlights in our
5 roll-abouts, not any of our equipment.

6 HEARING OFFICER JONES: Do you have any further
7 questions?

8 MS. DEANA OIE: No.

9 HEARING OFFICER JONES: Okay. Does the board have
10 any questions of this witness?

11 MS. COLLINS-BURROUGHS: How many times have you
12 been to the salon roughly over the last two years?

13 THE WITNESS: Two to three, because I've only been
14 here two and a half years. And when I went the first
15 round it was more as a, I am your new inspector, I know
16 you haven't had one in a very long time, these are some
17 things that I would like for you to bring up to where
18 we're all on the same page.

19 MS. COLLINS-BURROUGHS: And you say you had given
20 her a verbal --

21 THE WITNESS: Uh-huh.

22 MS. COLLINS-BURROUGHS: -- warning?

23 What does that consist it?

24 THE WITNESS: Well, it's -- it's, like I said, if
25 it's your first time out, you're kind of introducing

1 yourself, I'm your new inspector, this is what we
2 expect, I know you haven't had an inspector in a while
3 and my territory was lax.

4 MS. COLLINS-BURROUGHS: So you gave her the verbal
5 warning on your initial inspection, is that what you're
6 saying?

7 THE WITNESS: Yes. Yes, ma'am.

8 MS. COLLINS-BURROUGHS: And then you had another
9 one in between that one and this one?

10 THE WITNESS: Possibly. Yes, ma'am.

11 MS. COLLINS-BURROUGHS: Okay.

12 THE WITNESS: Until I look at my territory book, I
13 can't tell you.

14 MS. COLLINS-BURROUGHS: Okay. Thank you.

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

17 MR. BUTENSHOEN: Can we ask her a question?

18 MS. COLLINS-BURROUGHS: Not yet.

19 HEARING OFFICER JONES: Not right now.

20 If there are no further questions for Ms. Wood --
21 (Witness excused.)

22 MR. HOGAN: I'll rest. That concludes our case.

23 HEARING OFFICER JONES: Okay. Very well.

24 Ms. Oie, you can call your first witness.

25 MS. DEANA OIE: Okay. I'm going to call Autumn.

1 MR. HOGAN: Are you going to go through every
2 season?

3 MS. DEANA OIE: Yeah. I've got Summer and April.
4 No.

5 MR. HOGAN: Okay.

6 HEARING OFFICER JONES: Have a seat, please.
7 And you were sworn in earlier?

8 MS. AUTUMN DALE: Yes.

9 HEARING OFFICER JONES: Okay. Go right ahead.

10 WHEREUPON,

11 AUTUMN DALE,
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 MS. DEANA OIE:

17 Q Autumn, you were working on the day that she came in,
18 correct?

19 HEARING OFFICER JONES: Just a minute.

20 Would you state your name for the record?

21 THE WITNESS: Okay. Autumn Dale. I work at About
22 You Color Salon in Conway.

23 HEARING OFFICER JONES: Now go ahead.

24 BY MS. DEANA OIE:

25 Q Okay. Were you working that day that Vera came in?

1 A I was.

2 Q Okay. Did you have -- did you use the clippers?

3 A Uh-huh. I used them prior to her coming in.

4 HEARING OFFICER JONES: Please be sure that the
5 court reporter can hear you, she had that look.

6 BY MS. DEANA OIE:

7 Q Okay. Did you use the clippers?

8 A Yes. I used the clippers prior to her coming in.

9 Q Okay. Can you explain to them if they were in a closed
10 cabinet after they -- because like you wouldn't have used the
11 clippers again without cleaning them, would you --

12 A No.

13 Q -- on another customer?

14 A No.

15 We have open cubicles and that's where we keep our clippers.
16 And at the time that she came in I was actually working on a
17 client with my roll-about. Yes, I did have my roll-about out,
18 but it was the highlighter. But I had used, like I said, I had
19 used clippers prior to her coming in, so --

20 Q Okay. And you wouldn't have reused them on the next
21 clipper --

22 A Huh-uh.

23 Q -- haircut --

24 A Right. No.

25 Q -- without cleaning them and making sure?

1 A Right.

2 MS. DEANA OIE: Okay. That's all I have for her.

3 HEARING OFFICER JONES: Okay. Mr. Hogan, any
4 questions?

5 CROSS-EXAMINATION

6 BY MR. HOGAN:

7 Q You don't think you could have forgotten? I mean it's busy
8 and everything --

9 A Right.

10 Q -- and just possibly put it in there without thinking?

11 A Right.

12 Q I found the remote control in the refrigerator the other
13 night. I blame my wife, she blames me, but one of us put the
14 remote in the refrigerator.

15 But, you know, when you don't think, you don't think it's
16 possible that you could have just put it in and closed it up in
17 there without thinking?

18 A Not really. I mean the -- are you saying the --

19 MS. DEANA OIE: Would you have put the clippers up
20 without cleaning them?

21 BY MR. HOGAN:

22 Q Not the remote.

23 MS. DEANA OIE: Would you have --

24 HEARING OFFICER JONES: Ms. Oie.

25 MS. DEANA OIE: I'm sorry.

1 BY MR. HOGAN:

2 Q I'm just talking about the clippers. I'm not blaming you
3 for the remote.

4 A When I was attending to my other client?

5 Q You could have or you didn't or what?

6 A Are you saying -- I'm just trying --

7 Q Is it possible --

8 A -- to understand the question.

9 Q I'm just saying is it possible you're working --

10 A Yes.

11 Q -- different clients --

12 A Yes.

13 Q -- you've got a lot of things going on, you could have put
14 it in there just by mistake?

15 A Right.

16 Q It's possible you could, but you're saying it's not your
17 regular practice, you don't do that?

18 A That's right.

19 MR. HOGAN: Okay. That's all I have.

20 HEARING OFFICER JONES: Okay. Does the board have
21 any questions for Autumn?

22 If there are none, thank you.

23 (Witness excused.)

24 HEARING OFFICER JONES: You can call your next
25 witness.

1 MS. DEANA OIE: Okay. Would Tara because she was
2 working that day also. That's Tara Wheeler, she had
3 had --

4 HEARING OFFICER JONES: Tara, you were sworn in
5 previously?

6 MS. TARA WHEELER: Yes, ma'am.

7 HEARING OFFICER JONES: If you would before you
8 start, state your name for the record.

9 MS. TARA WHEELER: Tara Wheeler, I work at About
10 You Color Salon, Conway, Arkansas.

11 HEARING OFFICER JONES: You may proceed with your
12 questions.

13 WHEREUPON,

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

18 DIRECT EXAMINATION

19 BY MS. DEANA OIE:

20 Q Okay. Tara, that day you were working?

21 A Uh-huh.

22 Q Had you used Emily's clippers or used that station or
23 another station to cut hair on a client before you went to your
24 next client?

25 A No.

1 Q No?

2 Okay. Did you -- let's see.

3 Did you have dirty Barbicide in your Barbicide jar?

4 A Yeah. I had just taken my combs out of there, too, so --

5 Q Okay. All right.

6 A Because I was cleaning as soon as I got there, so I had just
7 taken my combs out from Saturday.

8 Q They need to hear you.

9 MR. HOGAN: Sorry, we can't hear you.

10 HEARING OFFICER JONES: Yeah. You're going to
11 have to speak up.

12 MR. HOGAN: Speak up.

13 THE WITNESS: I had just took my combs out of my
14 Barbicide that morning because I was cleaning the salon
15 that morning, and I had just taken my combs out of my
16 Barbicide from Saturday.

17 BY MS. DEANA OIE:

18 Q Okay. So your intentions were to clean your Barbicide
19 out --

20 A Right.

21 Q -- as soon as you got a chance, right?

22 A Yep.

23 MS. DEANA OIE: Okay. That's my only question.

24 HEARING OFFICER JONES: Mr. Hogan, questions?

25 CROSS-EXAMINATION

1 BY MR. HOGAN:

2 Q So, as I understand it, then what Ms. Wood found was
3 correct --

4 A Right.

5 Q -- I mean it had not been cleaned but your -- your intent
6 was to clean it as soon as you --

7 A Yes.

8 Q -- as soon as you could?

9 A (Nodding head up and down.)

10 MR. HOGAN: I've got nothing further.

11 HEARING OFFICER JONES: Questions from the board?

12 Board has no questions.

13 MS. DEANA OIE: Okay. Do you need another
14 witness?

15 HEARING OFFICER JONES: Thank you.

16 (Witness excused.)

17 MS. DEANA OIE: Do I need keep going through my
18 witnesses?

19 MR. HOGAN: Oh, that's up to you.

20 HEARING OFFICER JONES: That's up to you.

21 MS. DEANA OIE: Okay. All right. I want to
22 call -- well, actually I want to call, I have a
23 customer that came all the way here.

24 MR. HOGAN: Wow.

25 MS. DEANA OIE: And she's a twice-a-week customer

1 A They are always cleaning, always doing probably more than I
2 would if I were there.

3 Q Okay. And what do they say about me before I get there, if
4 they are not --

5 A Deana will be here, we need to get this on the roll, we need
6 to get this straightened up.

7 Q Right. Right. Okay.

8 A And they -- and I am impressed because they, if somebody is
9 busy and hair is left there, they will sweep it up themselves for
10 somebody else that is busy. I was impressed with that.

11 MS. DEANA OIE: That's all I have to say or ask
12 her.

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

15 MR. HOGAN: Your hair looks great.

16 Thank you for coming.

17 THE WITNESS: Thank you. Just a little trim here.

18 HEARING OFFICER JONES: Does the board have any
19 questions?

20 MS. COLLINS-BURROUGHS: Thank you for coming.

21 HEARING OFFICER JONES: Okay. Thank you.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 MS. DEANA OIE: That's going to be all I'm going
25 to call.

1 HEARING OFFICER JONES: Okay. Thank you.

2 MS. DEANA OIE: You're welcome.

3 I'm sure everybody is hungry.

4 HEARING OFFICER JONES: I am going to allow the
5 board to have an opportunity in case they have any
6 questions for you, if that's okay.

7 MS. DEANA OIE: Okay.

8 HEARING OFFICER JONES: Board members, any
9 questions?

10 MS. AKARD: I do.

11 WHEREUPON,

12 DEANA OIE,

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

16 MS. AKARD: You did not bring a copy of what you
17 say you have a list of your duties?

18 THE WITNESS: I didn't bring that, I'm sorry, I
19 didn't. I wish I would have.

20 They probably know, I could bring one up here and
21 ask them what they are and they could tell you better
22 than I could.

23 MS. AKARD: When do they change their Barbicide?

24 THE WITNESS: Once a week. That --

25 MS. AKARD: And what day is that?

1 THE WITNESS: They are supposed to, and sometimes
2 we're so busy on Saturday evenings I hate to make them
3 do that on the evenings. But on the Monday they come
4 back to work, they have to clean their Barbicide, they
5 have to wipe down their mats, their chairs, their
6 mirrors, if they don't do it that Saturday evening.
7 But I'm trying to -- I really -- we work hard at when
8 we shut down on Saturdays we don't leave until
9 everything is done, everything is ready in order for
10 the next week to start.

11 MS. AKARD: So they are supposed to do it on
12 Saturday?

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

14 MS. AKARD: And if you were not at work on Monday
15 then it might have been Tuesday?

16 THE WITNESS: Then it would be Tuesday morning
17 they have to. They know that, too. When you come back
18 to work, we have three stylists that work on Monday and
19 then they are off Tuesday by and Wednesday, and so we
20 have another --

21 MS. AKARD: So if you had not done it Saturday
22 night, there is some possibility there could have been
23 some dirty Barbicide jars?

24 THE WITNESS: Yes. That is true. There could be
25 some, because the Tuesday staff would come in Tuesday

1 morning and they change their Barbicide and they clean
2 their station up from the Saturday.

3 But we are aware, and I will admit that we -- and
4 can I make this statement or am I being asked a
5 question? I mean -- okay.

6 I mean, she did give us a verbal warning on that,
7 we have worked on that. I mean they know that, we know
8 that, we are working on keeping the Barbicide. It's
9 not like they are ever filthy. They get changed every
10 week. Everything, the mats, chairs, everything gets
11 wiped down by the stylists themselves every single
12 week. There is a Barbicide jar at every station and,
13 you know.

14 HEARING OFFICER JONES: Okay. Further questions
15 from the board?

16 MS. COLLINS-BURROUGHS: Do you monitor the duty
17 roster yourself?

18 THE WITNESS: No. Actually Emily does. Emily
19 couldn't be here today. I don't -- Emily Settle, she's
20 our manager and she monitors it. And I monitor, if I
21 come in I will ask, you know, whose duty is this that's
22 not being done, but that's really all I ever keep up
23 with.

24 MS. COLLINS-BURROUGHS: How many stylists do you
25 have there at any given time?

1 THE WITNESS: We have eight. We have eight
2 stylists, we have eight booths.

3 MS. COLLINS-BURROUGHS: Okay. Thank you.

4 HEARING OFFICER JONES: Further questions?

5 If there are no further questions, thank you.

6 (Witness excused.)

7 HEARING OFFICER JONES: Mr. Hogan, anything in
8 closing?

9 MR. HOGAN: I have nothing.

10 HEARING OFFICER JONES: Ms. Oie, anything in
11 closing?

12 MS. DEANA OIE: I just think that we have a
13 wonderful salon and it's usually normally always clean
14 and cleaned up, and I just couldn't see getting this
15 fine and not coming and having a hearing about it.

16 So that's really all I have to say.

17 HEARING OFFICER JONES: Very well. Thank you.

18 At this time the record will be made closed and we
19 will -- and complete, except for the board's recess for
20 deliberations and a decision. Once a decision is
21 reached we will go back on the record.

22 (WHEREUPON, the Commission retired to deliberate,
23 off the record, from 12:06 p.m. to 12:09 p.m., and
24 returned with the following motion.)

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

1 go back on the record for the motion.

2 MS. HOPPER: I make a motion, finding the
3 allegations being true, I move to order the respondent
4 to pay a fine in the amount of \$200, payable within 30
5 days from receipt of the board's order. Failure to pay
6 the fine as ordered will result in the suspension of
7 the respondent's license 30 days from receipt of the
8 order and continuing for a period of 90 days from the
9 date the respondent relinquishes his/her license to the
10 board.

11 MS. COLLINS-BURROUGHS: Do I have a second?

12 MR. BUTENSHOEN: I second.

13 MS. COLLINS-BURROUGHS: All in favor, raise your
14 right hand.

15 (Hands raised.)

16 MS. COLLINS-BURROUGHS: Motion carried.

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

25 If there are no other questions or comments this

1 hearing is concluded and the record is closed.

2 (WHEREUPON, at 12:11 p.m., the above-entitled
3 proceedings were concluded.)

4 ---o---

5 MS. AKARD: Can I make a comment?

6 HEARING OFFICER JONES: Sure.

7 MS. AKARD: I was very impressed with you coming
8 all this way and bringing your staff. It happens to
9 all of us.

10 I like very much what you had to say, that you had
11 pride in the industry and I can tell that you do try.
12 It just, it just happens. You can be on your toes 100
13 percent of the time, but it, it's just going to -- it's
14 going to happen. It's -- it just happens. But I was
15 very impressed with your staff and your customer
16 coming. And then that does say -- it does say a whole
17 lot. I wish we had more salons like yours.

18 MS. DEANA OIE: Okay. Thank you.

19 MS. AKARD: Thank you.

20 HEARING OFFICER JONES: We're going to take a
21 recess for lunch at this time.

22 (WHEREUPON, a lunch break was held from 12:12 p.m.
23 to 1:03 p.m.)

24 ---o---

25

1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

4 V.

5 MADE U LOOK, OWNER, VENIKIKA HARRISON

6 IN THE MATTER OF:

7 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

8 V.

9 VENIKIKA HARRISON, RESPONDENT

10 HEARING OFFICER JONES: Ms. Harrison, if you will
11 come to the table, we'll get started.

12 MS. KERSEY: Y'all, it's two in there, salon and
13 the --

14 HEARING OFFICER JONES: Okay. We're going to do
15 both the hearings at the same time, just to make it
16 easier and quicker for everybody and it will be
17 hopefully clear.

18 MS. VENIKIKA HARRISON: Okay.

19 HEARING OFFICER JONES: My name is Kendra Akin
20 Jones and I'm the Hearing Officer today In The Matter
21 of the Arkansas Department of Health versus Made You
22 Look, Owner Venikika Harrison, and the Arkansas
23 Department of Health versus Venikika Harrison,
24 individually. We'll hear these two hearings together.
25 And they are to be heard before the Cosmetology

1 Technical Advisory Committee. Today is Monday,
2 July 18, 2011. We're located in the conference room at
3 the Freeway Medical Building.

4 If the respondent would, please identify yourself
5 for the record.

6 MS. VENIKIKA HARRISON: My name is Venikika
7 Harrison, owner of Made You Look Salon.

8 HEARING OFFICER JONES: And, Ms. Harrison, you do
9 not have counsel with you here today?

10 MS. VENIKIKA HARRISON: No, I don't.

11 HEARING OFFICER JONES: And you received an
12 order -- a copy of the Order and Notice of Hearing
13 concerning today's matter?

14 MS. VENIKIKA HARRISON: Yes, I did.

15 HEARING OFFICER JONES: Very well.

16 State's counsel, if you would identify yourself
17 for the record.

18 MR. HOGAN: Rick Hogan, general counsel for the
19 health department.

20 HEARING OFFICER JONES: For the respondent's
21 benefit and for the benefit of anyone here who may not
22 have appeared before an administrative hearing, I will
23 tell you that the board will base its decision solely
24 on the evidence presented here today.

25 This hearing is being held in accordance with the

1 Administrative Procedures Act, which means the strict
2 rules of evidence do not apply. To ensure the
3 efficiency of the proceedings, I will grant objections
4 and caution parties as necessary to ensure the
5 proceedings move along. Board members know of the case
6 only as it appears and is set forth in the notice of
7 hearing. Anything that you want to have considered by
8 the board for today must be presented as evidence.

9 This hearing is open to the Freedom of -- under
10 the Freedom of Information Act, and that includes the
11 hearing and deliberations of the board.

12 For those of you who are going to be witnesses in
13 this matter today, please raise your right hand and be
14 sworn in by the court reporter.

15 (WHEREUPON, the witnesses were sworn.)

16 HEARING OFFICER JONES: Thank you.

17 Preliminary matters, Mr. Hogan?

18 MR. HOGAN: I would like to ask the board be able
19 to take notice of the rules and the statutes. And also
20 that we would be able to admit as Board's Exhibit No. 1
21 this document that contains the Order and Notice of
22 Hearing for the establishment and the Order and Notice
23 of Hearing for the license for the cosmetologist, and
24 as well as the violation letter of June 13th and the
25 return receipt requested be marked as Exhibit No. 1.

1 HEARING OFFICER JONES: Very well. That will be
2 introduced as Board's Exhibit No. 1.

3 (WHEREUPON, Board's Exhibit No. 1 was received in
4 evidence.)

5 HEARING OFFICER JONES: Ms. Harrison, do you have
6 anything you want the board to look at today for
7 consideration?

8 MS. VENIKIKA HARRISON: Yes, I do.

9 HEARING OFFICER JONES: And do you have copies of
10 those or can we --

11 MS. VENIKIKA HARRISON: No, I don't have copies.

12 HEARING OFFICER JONES: -- let's get the copies
13 made for the board members, please. And we'll make
14 those for you, and then we'll get those handed around.
15 And the board will go ahead and proceed.

16 MR. HOGAN: If anybody here for later hearings as
17 well, if you have anything we need to copy, go ahead
18 and --

19 HEARING OFFICER JONES: If you will see Michelle
20 right here.

21 MR. HOGAN: -- see Michelle and she will copy it
22 for you.

23 HEARING OFFICER JONES: Okay. At this time,
24 opening statement, Mr. Hogan?

25 MR. HOGAN: I'll waive that.

1 HEARING OFFICER JONES: Ms. Harrison, opening
2 statement?

3 MS. VENIKIKA HARRISON: I would like to start off
4 by saying that I am a licensed cosmetologist, I have
5 been practicing cosmetology for 10 years. I've been
6 the owner of my salon for four and a half years. And
7 up until last year I have not received any reprimand of
8 any kind. I obey the law, I know what the law is
9 concerning cosmetology. I'm not a dishonest person,
10 and I really just want this rectified.

11 HEARING OFFICER JONES: Thank you.

12 Mr. Hogan, you can call your first witness.

13 MR. HOGAN: Call Ms. Morgan.

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, please, for the record.

22 A Brenda Morgan.

23 Q Brenda, I know you've been an inspector for the board for
24 several years.

25 And you had occasion, I believe, on May the 13th to

1 inspect Made You Look --

2 A Yes, sir. I did.

3 Q -- Salon or --

4 A (Nodding head up and down.)

5 Q Okay. Tell the members of the committee what you found on
6 that day.

7 A Okay. On May the 13th, it looks like is what I have
8 there, Ms. Harrison was in her salon, and her salon is where you
9 have to -- you know, we knock, she's -- you know, she's
10 protecting herself and her clients in there, and she answered the
11 door and let me in. And she had a couple of customers, she
12 was -- I don't think that there were -- there were two barbers
13 there or two barber licenses posted but they were not working
14 that particular time of day.

15 And Ms. Harrison and I had a lengthy conversation that she
16 never received her practitioner license from -- for renewal or
17 the salon either. I think both of them she didn't receive them.
18 I said salon and practitioner, there were none posted and she
19 said she had never received practitioner license. And that's
20 what I found the violation for that day.

21 Q And when discussing with her why they were not posted or
22 were not current, she said that she had just not received a --
23 what was her statement?

24 A Just that she had never received her practitioner license.

25 Q But she had applied or renewed that license, according to

1 what she told you?

2 A I have no idea.

3 Q Okay. It's mentioned and I'm not sure, it says barbers not
4 working. Why was that --

5 A That is there because she does have barbers also working in
6 her establishment, and the barbers were not at their station at
7 the time that I was there.

8 I do think -- I think one came in before I left.

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

10 HEARING OFFICER JONES: Ms. Harrison, do you have
11 any questions for Ms. Morgan?

12 MS. VENIKIKA HARRISON: Yes, I do.

13 First of all I would like -- can I state something
14 before I start asking her questions? I mean concerning
15 what she just said?

16 HEARING OFFICER JONES: I'll -- I'll allow it.

17 MS. VENIKIKA HARRISON: Okay. I did -- Ms. Morgan
18 did knock on the door and I opened the door. And when
19 I let her in I proceeded to tell her that my license
20 was not current.

21 I don't know if this is the time -- this is the
22 time that I should tell why.

23 HEARING OFFICER JONES: I'll give you a chance to
24 tell all that.

25 MS. VENIKIKA HARRISON: Okay. I do have some

1 questions for her though, also.

2 HEARING OFFICER JONES: Okay.

3 CROSS-EXAMINATION

4 BY MS. VENIKIKA HARRISON:

5 Q Ms. Morgan, how many stations are in my salon?

6 A There are three.

7 Q How many people were working the day in question?

8 A The last day -- the last time on May 13th?

9 Q Yes.

10 A You were working.

11 Q Okay. How did you first learn that my license wasn't
12 current, where you said you didn't know, but I just said that I
13 told you?

14 A You told me.

15 Q Right.

16 How many licenses were posted in my salon?

17 A I recall that the barber license were posted but there was
18 no salon license and no practitioner license for you.

19 Q How did you know how many people were working in my salon?

20 A I don't really know how many people are working in your
21 salon until I go into a salon. That changes sometimes daily in
22 salons. That day you were the only person working.

23 Q Okay. And what --

24 MS. VENIKIKA HARRISON: Okay. That's all, those
25 are all the questions that I have for her right now.

1 HEARING OFFICER JONES: Okay. Very well.

2 Does the board have any questions for Ms. Morgan?

3 Okay. Seeing none, Mr. Hogan, you can call your
4 next witness.

5 Thank you, Ms. Morgan.

6 (Witness excused.)

7 MR. HOGAN: I'll call Kelli Kersey.

8 WHEREUPON,

9 KELLI KERSEY,

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 Kelli, state your name and position with the board.

16 A Kelli Kersey, section chief.

17 Q Kelli, have you had occasion to look at the records of the
18 board to determine if there is an establishment license for Made
19 You Look or a current operator license for Ms. Harrison?

20 A Yes, sir. I did. I looked up her salon license, which is
21 56310, and it was not renewed as of 7/13/11. And I also looked
22 up her personal license 38844, and it was also not renewed as of
23 7/13/11.

24 Q Now, would -- typically would they receive some type of
25 license in the mail after it's renewed, a card or a license to

1 put up on the wall?

2 A In 2008 when she renewed she should have received a license
3 for herself, a little card license with her picture on it, and
4 one for her salon also.

5 Q Okay. She, Ms. Harrison, is --

6 HEARING OFFICER JONES: Mr. Hogan, let me, just so
7 we can clarify the record. I'm going to introduce this
8 as Respondent's Exhibit 1, it is the document that she
9 had us copy and it is an -- looks like an inspection
10 report from May 13, 2011 and a copy of her license for
11 the shop owner, 56310.

12 (WHEREUPON, Respondent's Exhibit No. 1 was
13 received in evidence.)

14 BY MR. HOGAN:

15 Q It appears, based on the respondent's exhibit, that she has
16 introduced her -- a license as a shop owner. Is that correct?

17 A Yes, sir. That would be her salon license.

18 Q And that indicates that it expired back in October, right?

19 A Yes, sir.

20 Q And, to your knowledge, based on your search of the records
21 last week, that there is no evidence that she has attempted to
22 renew that license, is there?

23 A Yes, sir.

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

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

1 any questions for Ms. Kersey?

2 MS. VENIKIKA HARRISON: Yes.

3 CROSS-EXAMINATION

4 BY MS. VENIKIKA HARRISON:

5 Q Yes. I don't know Ms. Kersey personally, but I did, when I
6 received the first letter stating that I had been in violation,
7 it said that I should contact your office by July 8th.

8 A Okay.

9 Q Which was on a Friday. I called on July 7th and I didn't
10 get an answer, I left a message. The same day I went to go and
11 visit that office because I know how it can be sometimes when,
12 you know, people can say you didn't follow up or whatever. They
13 said that you were on vacation?

14 A Yes, ma'am, I was.

15 Q I said, well, is there anyone else here that I can speak to.
16 They told me that everybody that I could speak to about that
17 letter was on vacation.

18 A Yes, ma'am.

19 Q So I just want that to go on record, you know, that I did
20 try to contact and I did make contact with that office, but I
21 mean no one got back with me concerning this.

22 And the reason that I contacted you was because I wasn't
23 sure of the break down on what these fines were. I mean, and
24 I -- I am guilty of not having a current license.

25 A Uh-huh.

1 Q But in the matter of the no license being posted or current
2 or whatever on parts of the people who work in my salon, as I
3 understand, I had a lot of questions about that. And I don't
4 know if I'm ill prepared now because all those questions weren't
5 really answered.

6 A Okay.

7 Q I mean I -- I wasn't clear, if you all understand what I'm
8 saying. I wasn't clear on exactly what, you know --

9 A Okay. The violations that I'm looking at -- did you get a
10 violation notice?

11 Q I got a violation notice also.

12 A Okay. So it's \$278.

13 Q Well, yeah. Yes.

14 A Okay.

15 Q So but I didn't --

16 A Okay. The only violations that I see is on you.

17 Q Okay. So what is the \$278 for?

18 A It's \$25 a day -- \$25 plus a dollar a day every day you're
19 late.

20 Q For -- okay. So \$278 plus, I mean what is the \$150 for?

21 A To renew your license.

22 Q So --

23 A So a violation and a late -- and a to renew your license are
24 two different things.

25 Q Okay. So because, you know what, with that said, I

1 shouldn't have even come here. I was thinking that I was being
2 fined \$150 for my license not being renewed and in that it being
3 late. I had no idea that the \$278 was also an incurment of me
4 not paying the license. I mean so you said it's \$25 a day plus a
5 dollar?

6 A It's \$25 plus a dollar a day.

7 Q From October of --

8 A From your birthday until when you --

9 Q So May 13th?

10 A Uh-huh. That's right.

11 Q I would also like to say, just for future reference to this
12 counsel, that on the -- on the -- this thing that I received, I
13 actually received two things where people come and you have to
14 sign for.

15 HEARING OFFICER JONES: Certified mail.

16 THE WITNESS: Certified.

17 BY MS. VENIKIKA HARRISON:

18 Q And on here it did have the address where I was supposed to
19 come to see you guys and it had the date but it did not have a
20 time.

21 A Yeah. We recognize that.

22 Q So this morning -- yeah. I just want you to know this so,
23 you know. And I did call this morning, I didn't get any answer.
24 I called back and at like 8:25 I was told I was supposed to be
25 here at 9 o'clock.

1 If I may -- well, it doesn't really matter, but I would like
2 to -- is it time for me to talk again or should I stop now?

3 HEARING OFFICER JONES: Go ahead.

4 MS. VENIKIKA HARRISON: Okay.

5 MR. BUTENSHOEN: I think you're talking.

6 WHEREUPON,

7 VENIKIKA HARRISON,

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

9 sworn by the undersigned notary public, was examined and

10 testified, as follows:

11 DIRECT TESTIMONY

12 MS. VENIKIKA HARRISON: In my being delinquent and
13 getting my license renewed, Ms. Morgan came by my salon
14 in 2010 and I wasn't there, it was on a day off. The
15 person, one of the people who worked in my salon at the
16 time let her in. I got one of these yellow slips and I
17 had been reprimanded for not having my salon -- my
18 salon license posted. When I received this two years
19 prior to 2010, before then we always received a paper
20 license and I would also receive a separate paper
21 stating that I was -- it was a business, that I was the
22 owner of the business.

23 Ms. Morgan, she informed me that this was not
24 sufficient, that it was only -- I don't know if it's
25 only for me to practice licensing or for my business.

1 This was all that I got from the cosmetology board.

2 I'm sure that they have on record that I'm not
3 only a cosmetologist but I also own the business,
4 because I had been getting license renewed four years
5 prior to that, or maybe three years prior to that.

6 She didn't write me up for that because I told her
7 what my situation was and that, I mean, of course, if
8 you don't tell me what I need, I don't know what I
9 need. That time I was written up because my license
10 wasn't posted.

11 When I went to go and get my license renewed and I
12 received that card, my question to the person who
13 renewed my license or gave me my paper, my card was,
14 before now we -- I mean I will put my license in a
15 certificate holder, so to speak, how do you post a
16 license like that? I was told you don't have to post
17 it, leave it in your purse. When an inspector comes,
18 you can just take it out. Now that's what I was told.
19 That's what I told Ms. Morgan when she came.

20 I did not have my license in my salon when she
21 came up there, it was in my purse, because I don't take
22 my purse in my salon, I leave it in the car. She
23 allowed me to go out and get this license. And I told
24 her before I even went that it wasn't current.

25 When I got that letter I went to the cosmetology

1 board to rectify that situation a year before. The
2 person -- the people there told me that there had been
3 a lot of mishaps with these, it wasn't really working,
4 that it was just -- it was a mess, it really didn't
5 work. And when I asked to contact Ms. Morgan, they
6 would not give me her number nor give me any means to
7 contact her. They further told me that that's --
8 that's against policy, they don't do that. But then I
9 asked, well, will you give Ms. Morgan my number so she
10 can contact me. I never heard from Ms. Morgan, and I'm
11 not saying it's her fault, but what I'm -- what I'm
12 getting to is I have never been late on getting my
13 license renewed. I'm not that type of person. But I
14 was so disheartened with the way I was talked to when I
15 went to the cosmetology board and the way that they
16 handled me and the way that they didn't handle my
17 situation, I really just, like I told her, I just
18 didn't -- I didn't -- I didn't go back down there to
19 get my license renewed because I just, I don't like
20 conflict, so to speak. That's no excuse. I mean I'm
21 guilty, I will pay, I am -- I mean, yeah, I will pay
22 because I have -- that's my livelihood. But I just
23 want you all to know that I wish that you would do
24 better. I don't know if all of you work for the
25 cosmetology board, you know, or whatever, but it's --

1 it's a mess. And -- and I wouldn't be here today if I
2 had of paid it, but if I had have been handled better,
3 you know what I mean, I wouldn't have such frustration
4 at going down there.

5 Even now, you know, when this happened, and my
6 going to try and rectify the situation, I had no help.
7 I mean everybody looking at me like, all of y'all
8 looking at me kind of like still faced or whatever, but
9 this is, I mean, in sincerity just to keep problems
10 like this from happening, please fix it. I mean, some
11 of us this is all that we do, this is our jobs, you
12 know what I mean. And I don't like -- I just don't
13 want to go down there and have to feel like I have to
14 be angry when people are talked at them. I'm a person.
15 I know I look young, probably don't even look like I
16 own a business but I'm a grown woman, you know what I
17 mean, and I hate this happen because I have to pay
18 400-and-something dollars just because I didn't go but,
19 I mean, I will pay that because I do intend to continue
20 doing hair.

21 And I'm sorry for your time. Had I known that,
22 and had I been contacted and I known that all of this
23 was on me, I thought that I was also being fined for
24 the people who worked in my salon. So if I would have
25 known it, I wouldn't even have wasted these hours that

1 I've been down here. So that's all I have.

2 HEARING OFFICER JONES: So are you wanting to just
3 be able to pay your fine and with --

4 MS. VENIKIKA HARRISON: Well actually I wanted --
5 I came, I wanted to pay the \$150 because I thought that
6 was all I had to pay to renew my license. I was coming
7 here to contest the \$278 thinking that it was because
8 of the people who worked in my salon not having a
9 current license posted.

10 HEARING OFFICER JONES: But now with an
11 understanding of what -- how the fine breaks down and
12 for the salon license, do you want us to proceed and
13 let the board make a decision on that, the hearing, or
14 do you want to see if they will just let you pay the
15 stated 428-dollar amount or whatever it is, the
16 violation?

17 MS. VENIKIKA HARRISON: I know it's -- I'm sorry.

18 I know it's asking a lot. I really do not have
19 that \$278. If I have to pay it, I mean, but seriously,
20 I have never been delinquent. I know that, you know,
21 you're -- I know if I had been a habitual delinquent
22 person, I could see you just saying, you know, give her
23 the full extent or whatever, but I don't want to blame
24 anyone else for me not doing it. But sincerely, I
25 mean, I haven't really had any help with this

1 situation, and I just really didn't want to go down
2 there and face all these people. I didn't, I really
3 didn't. I told Ms. Morgan when she come, I have every
4 intention to get my license renewed and to do this.

5 When I went to Ms. Kersey's office, I was going to
6 pay then for the \$150 but I didn't -- I still had
7 intentions on coming here to contest the \$278 thinking
8 that it was because of the people who worked in my
9 salon.

10 So, yes, I do want you to deliberate.

11 HEARING OFFICER JONES: Okay. That's all I was
12 trying to figure out.

13 Where are we?

14 MR. HOGAN: We're done with our part.

15 HEARING OFFICER JONES: Mr. Hogan, do you have any
16 questions for Ms. Harrison?

17 MR. HOGAN: No.

18 HEARING OFFICER JONES: Does the board have any
19 questions they would like to ask Ms. Harrison?

20 Mr. Hogan, you have no further witnesses?

21 MR. HOGAN: No, we have nothing further.

22 HEARING OFFICER JONES: Ms. Harrison, do you have
23 any witnesses you would like to call?

24 MS. VENIKIKA HARRISON: (Shaking head from side to
25 side.)

1 HEARING OFFICER JONES: Closing statement?

2 MR. HOGAN: I'll waive.

3 HEARING OFFICER JONES: Okay. Ms. Harrison,
4 anything in closing before they deliberate?

5 MS. VENIKIKA HARRISON: Y'all have a great day
6 after you leave here. I don't know.

7 HEARING OFFICER JONES: Okay. At this time the
8 record is going to be closed and made complete except
9 for the board's recess for deliberation and a decision.
10 Once a decision has been made we will go back on the
11 record.

12 (WHEREUPON, the committee retired to deliberate,
13 off the record, from 1:24 p.m. to 1:26 p.m.)

14 HEARING OFFICER JONES: If you have no objection,
15 we'll go back on the record and let you make a
16 statement to the board.

17 MS. VENIKIKA HARRISON: Okay. Before -- before
18 this license came about, we did receive a reminder
19 saying your license is -- it needs to be renewed. I
20 have not received -- I mean of course I didn't want to
21 go back down there, but had I received something in the
22 mail saying it's time for you to renew your license, I
23 would have. So I have not received anything stating
24 that my license was up for renewal. I haven't. I mean
25 Ms. Morgan, I don't know if she can still talk but she

1 can tell you that we used to receive renewal things and
2 I always went and renewed it on time.

3 HEARING OFFICER JONES: Okay. Is that it?

4 MS. VENIKIKA HARRISON: That's it.

5 HEARING OFFICER JONES: Okay. We'll close the
6 record again and let the board deliberate.

7 (WHEREUPON, the committee retired to deliberate,
8 off the record, from 1:26 p.m. to 1:27 p.m., and
9 returned with the following motion.)

10 HEARING OFFICER JONES: Okay. At this time we'll
11 go back on the record for a decision.

12 MR. BUTENSHOEN: I make a motion, finding the
13 allegations to be true, move to order the respondent to
14 pay a fine in the amount of 578, payable within 30 days
15 of receipt of the board's order. Further respondent is
16 ordered to cease and desist from practicing cosmetology
17 and/or operating a cosmetology establishment until such
18 time as respondent is properly licensed by the board.

19 MS. VENIKIKA HARRISON: 578?

20 MR. BUTENSHOEN: Yes.

21 MS. VENIKIKA HARRISON: That's not even the amount
22 that I have on this paper.

23 MS. KERSEY: That's for your salon and --

24 HEARING OFFICER JONES: Clarify the motion. If
25 you would clarify the motion.

1 MR. BUTENSHOEN: Clarify the motion, it's for both
2 the license and the salon, individual license and --
3 practitioner's license and the salon license.

4 MS. COLLINS-BURROUGHS: Practitioner's and the
5 establishment.

6 MS. VENIKIKA HARRISON: So it's more than what I
7 came in here?

8 MS. KERSEY: It's less.

9 MS. COLLINS-BURROUGHS: It could be 956.

10 MS. VENIKIKA HARRISON: This says 428.

11 MS. COLLINS-BURROUGHS: Twice.

12 MR. BUTENSHOEN: Twice. There is two letters.

13 MS. HOPPER: We dropped one of the 278.

14 MS. COLLINS-BURROUGHS: Okay. There is a motion
15 on the floor.

16 MS. HOPPER: Second.

17 MS. COLLINS-BURROUGHS: Okay. All in favor, raise
18 your right hand.

19 (Hands raised.)

20 MS. COLLINS-BURROUGHS: Motion carried.

21 HEARING OFFICER JONES: Please let the record
22 reflect the decision of the board is unanimous, please
23 reduce that decision to writing and make or attempt
24 service upon the respondent, and please inform the
25 respondent in that writing that there is a right of

1 appeal under the Administrative Procedures Act found at
2 Arkansas Code Annotated 25-15-201, et seq., or under
3 any specific provisions of this board.

4 Any questions or comment?

5 MS. VENIKIKA HARRISON: Yes. I think I heard you
6 tell one of the other people who were up here that when
7 I receive the letter in the mail it's due within 30
8 days, is that correct?

9 MR. HOGAN: No. What --

10 HEARING OFFICER JONES: The amount is due within
11 30 days?

12 MS. VENIKIKA HARRISON: Yes. After receiving
13 whatever you said.

14 MR. HOGAN: You can appeal it within 30 days.

15 HEARING OFFICER JONES: But the payment is what
16 you're asking about?

17 MS. VENIKIKA HARRISON: Right.

18 MR. HOGAN: And you can work with the staff to,
19 like, pay it out.

20 MS. KERSEY: Yeah, we have payment plans.

21 MR. HOGAN: Installment things.

22 MS. KERSEY: Yeah.

23 MS. VENIKIKA HARRISON: All right. I was going
24 say god bless all of y'all, but -- no, I'll say it
25 anyway. God bless y'all.

1 HEARING OFFICER JONES: We'll close this record
2 and move on to the next hearing.

3 (WHEREUPON, at 1:30 p.m., the above-entitled
4 proceedings were concluded.)

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

4 V.

5 TOMMY MILTON, RESPONDENT.

6 HEARING OFFICER JONES: Tommy Milton. Tommy
7 Milton is the next one.

8 MS. TOMMY MILTON: Here I am.

9 HEARING OFFICER JONES: Okay. My name is Kendra
10 Akin Jones and I'm the Hearing Officer today in the
11 matter of the Arkansas Department of Health versus
12 Tommy Milton, to be heard before the Cosmetology
13 Technical Advisory Committee. Today is Monday,
14 July 18, 2011, and we're located in the conference room
15 of the Freeway Medical Building.16 Would the respondent please identify yourself for
17 the record?

18 MS. TOMMY MILTON: Tommy Milton.

19 HEARING OFFICER JONES: Okay. And, Ms. Milton,
20 you don't have counsel with you today?21 MS. TOMMY MILTON: (Shaking head from side to
22 side.)23 HEARING OFFICER JONES: Okay. And you received an
24 order, a copy of the Order and Notice of Hearing
25 concerning today's matter?

1 MS. TOMMY MILTON: Yes, ma'am.

2 HEARING OFFICER JONES: And please give verbal
3 answers for the court reporter.

4 MS. TOMMY MILTON: Yes, ma'am.

5 HEARING OFFICER JONES: Thank you.

6 State's counsel, please identify yourself for the
7 record.

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

10 HEARING OFFICER JONES: For the respondent's
11 benefit and the benefit of anyone present here who may
12 not have appeared before an administrative hearing, I
13 will explain that the board will base its decision
14 today solely on the evidence that's presented here.
15 This hearing is being held in accordance with the
16 Administrative Procedures Act, so the strict rules of
17 evidence do not apply. To ensure the efficiency of the
18 proceedings, I will grant objections and caution
19 parties only as necessary for the efficiency of the
20 hearing.

21 The board only knows of this case as it is
22 presented and set forth in the notice of hearing.
23 Anything to have them consider today must be presented
24 as evidence.

25 This hearing is open under the Freedom of

1 Information Act and that includes the hearing and
2 deliberations of the board.

3 For those of you who are present today and will be
4 a witness in this matter, please raise your right hand
5 and we'll have the court reporter swear you in.

6 (WHEREUPON, the witnesses were sworn.)

7 HEARING OFFICER JONES: Very well. Mr. Hogan,
8 preliminary matters?

9 MR. HOGAN: Take notice of the rules and the
10 statute and we would admit as Exhibit No. 1 the Order
11 and Notice of Hearing, the inspection report, and the
12 violation letter of May 18th, and the return receipt
13 requested as Exhibit No. 1 for the record, please.

14 HEARING OFFICER JONES: Very well. The rules and
15 regulations will be so noted by the board and the
16 packet will be Exhibit -- will be admitted as Board's
17 Exhibit 1.

18 (WHEREUPON, Board's Exhibit No. 1 was received in
19 evidence.)

20 HEARING OFFICER JONES: Ms. Milton, is there
21 anything you would like the board to consider today
22 that we need to have copies made of or anything?

23 MS. TOMMY MILTON: (Shaking head from side to
24 side.)

25 HEARING OFFICER JONES: Okay.

1 MR. HOGAN: Can I ask, are you here to contest
2 these allegations or to agree or what -- I didn't get a
3 chance to talk to you beforehand and I didn't know what
4 your position was.

5 MS. TOMMY MILTON: Okay. Well, I guess, I've been
6 in business for 23 years and this is the first time
7 I've ever had anything. And I even went to the class
8 in the EACC when they had the new laws and stuff, which
9 is really ironic. But, you know, and I even took other
10 copies for people because there weren't but three
11 people from our area that showed up, so I took copies
12 for my fellow friends that have shops so they could be
13 legal.

14 But it was all a misunderstanding. And I know
15 that that sounds lame but it really truly was.

16 MR. HOGAN: I guess what I'm asking is the
17 allegations are that you didn't have a current salon
18 license or practitioner's license nor were they posted
19 and --

20 MS. TOMMY MILTON: Exactly.

21 MR. HOGAN: And if you're here to contest that,
22 that's one thing, but if you're here just to explain
23 why that was not the case, then that's another. If
24 you're not going to contest it then we can just go
25 forward with your explanation, but if you are here to

1 contest it, then we can put on a witness.

2 MS. TOMMY MILTON: No. I'm not going to contest
3 it, I am guilty.

4 MR. HOGAN: Okay. Well then I would --

5 MS. TOMMY MILTON: But there is a great reason for
6 it.

7 MR. HOGAN: Okay. Well then that's where I think
8 we want to get to now --

9 MS. TOMMY MILTON: Sure.

10 MR. HOGAN: -- is the reason.

11 MS. TOMMY MILTON: Sure.

12 MR. HOGAN: And maybe given your acknowledgment
13 that you agree with or you're not contesting the
14 allegations --

15 MS. TOMMY MILTON: No, I'm not. I'm not.

16 MR. HOGAN: -- then we'll just go to your
17 explanation.

18 MS. TOMMY MILTON: It's very accurate.

19 HEARING OFFICER JONES: Well, then I'll just let
20 you explain to the board, if you're not here to
21 contest, we'll let you give your explanation and we'll
22 allow them to ask any questions that they may have
23 afterwards, if that's okay.

24 MS. TOMMY MILTON: That's great.

25 WHEREUPON,

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

5 DIRECT TESTIMONY

6 THE WITNESS: Okay. When -- when the health
7 department took over cosmetology and started every two
8 years, I got confused. In my mind I had set that I was
9 good until November of this year for my license and my
10 shop. I was just, you know, set that was in my mind,
11 I -- and that I know was stupidity on my part, I should
12 have read but I thought I did. But, anyway, the little
13 license things were posted in a picture frame on my
14 shop, and one of my clients came in and as she was
15 waiting on me to finish with someone else, she said,
16 Did you know your license are expired? And I said, No,
17 ma'am, they are not. They are good until November of
18 this year. And she said, Well that's not what the
19 license said. And I said, well, let me see.

20 So I looked at them, I said, oh, holy cow. I
21 said, oh, I better call them. So I got on the phone
22 and I called, and I don't remember who I talked to,
23 I've got a bad memory, but anyway I talked to somebody
24 and they said, yes, ma'am, you are out of license,
25 you're expired. I said, well, I am so terribly sorry,

1 I thought I was good until November. What's it going
2 to take to get me back current and I'll put a check in
3 the mail. And they said it was \$300. So I wrote a
4 check for \$300 and I sent it in.

5 And in the mean while, my sweet little inspector
6 came, I was at the doctor's office in Jonesboro, and
7 the little girl that works for me called. She knew
8 that the license should be in transit somewhere, and so
9 she called me on the phone, she said, Ms. Tommy, she
10 said, the state board lady is here. Do you have those
11 license over at your house yet? I said, No, honey, not
12 the last time I looked I didn't but, I said, they may
13 be in the mailbox, so I asked to speak to her. And so
14 I spoke to the inspector and I just explained to her
15 very truthfully, I mean, you know, I was guilty, but I
16 was thinking I -- you know, anyway, and she said,
17 that's okay, I'll catch you next time.

18 So, in my mind's eye I was okay, and then I get
19 this letter with fines in it and I'm like, holy cow, I
20 paid the late fees and everything they told me to. I
21 asked them what it would take to make me good, they
22 said \$300, and I said well there it is.

23 So, I mean, I was -- I'm just at y'all's mercy. I
24 don't really want to have to pay any more money,
25 because I just had the knee surgery, I can't really

1 afford it, but if I have to I will, but I'm just at
2 y'all's mercy.

3 MR. HOGAN: Just to elaborate on the record, too,
4 apparently the investigation or inspection was on April
5 the 1st. She did -- our records reflect that
6 March 28th she was -- she had done everything
7 necessary to get her license renewed but it had not
8 gotten back to her establishment yet. So there -- this
9 is a very extraordinary situation.

10 THE WITNESS: And I might add that very afternoon
11 when I got back from the doctor's the things was in the
12 mail.

13 MR. HOGAN: Yeah, it looks like this is
14 April 1st, so this may just be an April fool's joke.

15 THE WITNESS: Oh, hallelujah. Thank you, all.

16 MR. HOGAN: We were just kidding.

17 THE WITNESS: This is just a joke. All right.

18 MR. HOGAN: Sorry.

19 HEARING OFFICER JONES: Does the board have any
20 questions for Ms. Milton or -- or -- board members,
21 questions?

22 Anything else you want to say in closing,
23 Mr. Hogan?

24 MR. HOGAN: No. I have nothing further.

25 HEARING OFFICER JONES: Anything else you would

1 like to tell the board, Ms. Milton?

2 MS. TOMMY MILTON: (Shaking head from side to
3 side.)

4 HEARING OFFICER JONES: Okay.

5 MS. TOMMY MILTON: Other than I have a new respect
6 for y'all, all of y'all on the board.

7 HEARING OFFICER JONES: At this time the record
8 will be closed and made complete except for the board's
9 recession for deliberations. Once the board reaches a
10 decision, we will go back on the record.

11 (WHEREUPON, the committee retired to deliberate,
12 off the record, from 1:38 p.m. to 1:40 p.m., and
13 returned with the following motion.)

14 HEARING OFFICER JONES: Back on the record.

15 MR. BUTENSHOEN: Is it No. 1?

16 MS. AKARD: I believe.

17 MR. BUTENSHOEN: Okay. Finding the allegations to
18 be true, I move to order the respondent pay a fine in
19 the amount of \$65, payable within 30 days of receipt of
20 the board's order. Failure to pay the fine as ordered
21 will result in suspension of the respondent's
22 practitioner's license, beginning 30 days from receipt
23 of the order, continuing for a period of 90 days from
24 the date the respondent relinquishes her license to the
25 board.

1 MS. COLLINS-BURROUGHS: Do I have a second?

2 MS. HOPPER: Second.

3 MS. TOMMY MILTON: Thank you so much.

4 MS. COLLINS-BURROUGHS: I have a second. All in
5 favor, raise your right hand.

6 (Hands raised.)

7 HEARING OFFICER JONES: Let the record reflect the
8 decision of the board is unanimous, please reduce the
9 decision to writing and make or attempt service upon
10 all parties. If the respondent cares to appeal the
11 decision, an appeal may be taken under the
12 Administrative Procedures Act, found at Arkansas Code
13 Annotated 25-15-201, or any specific provision of this
14 board.

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

17 Thank you.

18 (WHEREUPON, at 1:41 p.m., the above-entitled
19 proceedings were concluded.)

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21 HEARING OFFICER JONES: Next we'll have Lois Cook.

22 MS. LOIS COOK: If it's okay, I'm going to sit up
23 here because you talk so fast and I can't hardly hear.

24 HEARING OFFICER JONES: I talk so fast because I
25 have most of this memorized. Just make sure that the

1 court reporter, since she's behind you, can hear you.
2 After Ms. Cook we're moving on with Lou's Beauty Salon,
3 5 Star Unisex and Diva Nails, just so we know the order
4 from here on out.

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

4 V.

5 LOIS COOK, RESPONDENT.

6 HEARING OFFICER JONES: My name is Kendra Akin
7 Jones. I'm the Hearing Officer today in the matter of
8 the Arkansas Department of Health versus Lois Cook.
9 This matter is to be heard before the Cosmetology
10 Technical Advisory Committee. Today is Monday,
11 July 18, 2011. We're located in the conference room of
12 the Freeway Medical Building.

13 Ms. Cook, if you would, identify yourself for the
14 record.

15 MS. LOIS COOK: My name is Lois Cook. I live in
16 Magnolia, Arkansas, 1520 Colquith Street.

17 HEARING OFFICER JONES: Okay. And, Ms. Cook, you
18 don't have counsel here with you today?

19 MS. LOIS COOK: No.

20 HEARING OFFICER JONES: And you received a copy of
21 the Order and Notice of Hearing?

22 MS. LOIS COOK: Yes.

23 HEARING OFFICER JONES: Okay. And state's
24 counsel, please identify yourself for the record.

25 MR. HOGAN: Rick Hogan. I'm the attorney for the

1 health department.

2 MS. LOIS COOK: But first may I say there is a
3 discrepancy, and I'm like that lady, about the time and
4 everything and all that I was supposed to be here.

5 MR. HOGAN: Okay.

6 MS. LOIS COOK: I received this letter, the -- you
7 know, the thing, and it's, you know, it said notify you
8 by July the 8th, which I immediately went to the
9 phone but my mail didn't come until about 3:30 or four,
10 left a message. The girl called me back the next day
11 and I told her that I wasn't running a beauty shop.
12 But I said -- she said, well, you have two options, you
13 can either pay the fine come before the board. And I
14 said, well, I want to go before the board. And she
15 said, you will be getting a letter in two or three days
16 or a -- immediately about where to come and what have
17 you, a certified letter that I would have to sign for.

18 Well, I didn't get it and I waited and waited, and
19 finally last week, last Monday I believe it was I
20 called back and talked to the lady. And she said, you
21 didn't get one? I said no. So she -- I said just tell
22 me where it is. She had told me July the 18th,
23 because that's my day -- daughter's birthday today, I'm
24 up here. And I said, well, tell me where it is and the
25 address and what time, because there is nowhere on any

1 of this the time.

2 MS. KERSEY: We realize that.

3 MR. HOGAN: That's a mistake on our part.

4 MS. KERSEY: Yeah, we realize that.

5 MS. LOIS COOK: And she told me, she gave me the
6 5800 West 10th Street, 9th floor, Suite 906. This that
7 I got in my letter says Room 801 of the Freeway Medical
8 Building, 5800 West 10th Street, Little Rock, no time
9 or no nothing. So this says 8th floor, this says
10 9th floor.

11 HEARING OFFICER JONES: Okay.

12 MS. LOIS COOK: But I did call last week and got
13 all of the information, where it was going to be,
14 because I didn't know where it was going to be --

15 MS. KERSEY: Okay.

16 MS. LOIS COOK: -- according to this letter.

17 HEARING OFFICER JONES: Ms. Cook, let me go ahead
18 with --

19 MS. LOIS COOK: Okay.

20 HEARING OFFICER JONES: -- kind of the explanation
21 of the proceedings that we always put on the record.

22 MS. LOIS COOK: Okay.

23 HEARING OFFICER JONES: And then it -- we'll move
24 on with the testimony.

25 MS. LOIS COOK: Okay.

1 HEARING OFFICER JONES: Okay. For the benefit of
2 anyone present today who may not have appeared before
3 an administrative hearing, the board will base its
4 decision solely upon the evidence that is presented
5 here today. The hearing is being held in accordance
6 with and under the Administrative Procedures Act, which
7 means the strict rules of evidence do not apply as they
8 would in a regular court of law. To ensure the
9 efficiency of the proceeding I will caution parties and
10 grant objections as necessary to keep the hearing
11 moving along.

12 The board members know of this case only as it
13 appears and is set forth in the notice of hearing. If
14 there is anything that you have submitted, that you
15 want submitted to them for consideration it must be
16 presented today as evidence. And everybody should be
17 aware that these hearings, including the deliberations,
18 are open to the public under the Freedom of Information
19 Act.

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

23 (WHEREUPON, the witnesses were sworn.)

24 HEARING OFFICER JONES: Thank you very much.

25 Preliminary matters, Mr. Hogan?

1 MR. HOGAN: I would just ask that this document
2 that includes the Order and Notice of Hearing and
3 investigative report and the violation letter and
4 return receipt be admitted as Board's Exhibit No. 1 for
5 the record, and also that the board be able to take
6 notice of the regulations or rules and the statutes
7 that control the cosmetology at this time.

8 HEARING OFFICER JONES: That packet will be
9 admitted as Board's Exhibit No. 1, and the board will
10 be able to take notice of the statutes and regulations
11 regarding this board.

12 (WHEREUPON, Board's Exhibit No. 1 was received in
13 evidence.)

14 HEARING OFFICER JONES: Anything in opening,
15 Mr. Hogan?

16 MR. HOGAN: No, ma'am.

17 HEARING OFFICER JONES: Okay. Ms. Cook, anything
18 you would like to say in opening?

19 MS. LOIS COOK: About -- about the situation?

20 HEARING OFFICER JONES: Yes, ma'am.

21 MS. LOIS COOK: I do not run a beauty shop.

22 HEARING OFFICER JONES: Okay.

23 MS. LOIS COOK: I haven't --

24 MR. BUTENSHOEN: That doesn't mean you can't pay a
25 license fee.

1 MS. LOIS COOK: I -- I have -- I have paid a
2 license --

3 MR. BUTENSHOEN: I'm joking.

4 MS. LOIS COOK: -- for 50 years. I've been in
5 this business since I was -- '54, in 1954. And I've
6 worked, oh, I worked regular until I married and had
7 children and then I had raised my children so I just
8 worked part time off and on, but I have worked all
9 as -- but I got health reasons keep me from working
10 anymore. I'm 76 years old, I have COPD, I have to use
11 an inhaler and I just can't be in all the stuff, you
12 know, that it -- in fact my nose runs when I do a
13 haircut, I guess I'm allergic to it. It does, it just
14 starts running.

15 And but there are two ladies that are my friends,
16 one of them is 89 and one of them is 93, and they could
17 not find any -- do you know that there is very few
18 beauty shops that have rollers in them? That roll
19 hair? They cut, they curl -- I mean, yeah, some of
20 them even don't like to curl, they color. It's mostly
21 color and blow. Well, can you see a 93-year-old woman
22 that uses a tank.

23 And she -- they asked me if I could do it because
24 I did them years ago, you know. And I told them I
25 would. I said, now I cannot charge for you, I'm not --

1 I'm not working, I haven't had a license since '08, I
2 believe it is, isn't it? It's something like that.
3 Because I had to quit. As you see, I'm getting out of
4 breath talking.

5 But I said if you roll your -- wash your hair and
6 you come over to my house -- one of them for a while
7 wasn't even able to get her daughter to bring her, I
8 went to her house and rolled up her hair and dried it.

9 What Ms. Pat saw in my house, you saw two ladies,
10 didn't you?

11 MS. JACKSON: Uh-huh.

12 MS. LOIS COOK: I had my daughter's hooded dryer
13 setting on the table, I had a make up mirror that she
14 used back when she was in high school on my bar and a
15 chair sitting there, and I had some -- a water bottle
16 and I had some -- I used -- the spray I use is not the
17 aerosol kind, it's that pump, you know, stuff is what.

18 I -- I told them that I would roll it and do, and
19 comb their -- that's what I do, I roll and comb their
20 hair. I don't do it on a regular basis.

21 After Ms. Pat was there the 29th of April, I
22 believe it is, I went to South Carolina to visit my
23 son, they give me a ticket at Christmas, that's my
24 Christmas present, go see them in the spring. I was
25 gone three weeks.

1 So I'm not running a beauty shop. I do their hair
2 occasionally. And when they die, that will probably be
3 it. And it don't look like it's going to be much
4 longer. But and I don't have a license so I don't -- I
5 mean I'm not a beauty operator anymore. I know I once
6 was, lord knows it cost me my lungs but -- because I'm
7 not a smoker, I'm not. I just -- I'm just not running
8 a beauty shop.

9 And Pat -- Pat will tell you what -- what -- I
10 told you exactly that.

11 I do not charge them, either. Once in a while
12 they put money down but I get more -- this year I have
13 not had to buy a tomato or a cucumber or a squash or
14 anything like that, I get paid other ways. They are
15 friends of mine. And one of them even bakes zucchini
16 squash bread and I get a loaf of that, a little loaf,
17 just a little loaf. And I just can't see -- and I live
18 on social security, so there is no way I could even pay
19 that fine.

20 And if the government don't pass that bill about
21 raising the, what, medicare, medicaid, all of that is
22 going to be cut off August the 2nd.

23 HEARING OFFICER JONES: Okay.

24 MS. LOIS COOK: I can't -- I can't live.

25 HEARING OFFICER JONES: Okay. Mr. Hogan, call

1 your first witness.

2 MR. HOGAN: I would call Ms. Jackson.

3 WHEREUPON,

4 PAT JACKSON,

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

6 sworn by the undersigned notary public, was examined and

7 testified, as follows:

8 DIRECT EXAMINATION

9 BY MR. HOGAN:

10 Q State your name for the record, please, and your position
11 with the department.

12 A Pat Jackson, I'm an inspector for the cosmetology section.

13 Q Now, Pat, let me -- looking through the document that we've
14 admitted, it indicates that on April 29th of this year, you
15 visited Ms. Cook's house where she was -- had two clients there
16 at the time, I believe.

17 Can you, for the record at least, state what you found on
18 that occasion?

19 A Yes, I did. I went to -- to Ms. Cook's house and knocked on
20 the door and I identified myself and --

21 MS. LOIS COOK: I knew who she was.

22 THE WITNESS: -- and she told me -- I said, may I
23 come in and she said yes.

24 MS. LOIS COOK: Because I didn't think I was doing
25 anything wrong --

1 HEARING OFFICER JONES: All right, Ms. Cook.

2 THE WITNESS: -- and so I went right in. And she
3 had -- there were two ladies there. One lady was under
4 the dryer and one lady was just, she was just beginning
5 to comb the other little lady's hair out.

6 BY MR. HOGAN:

7 Q Okay. And, of course, that -- I know Ms. Cook has already
8 stated that she didn't have a license or --

9 A No, sir. I asked her if she did and she said no. She
10 did -- as a -- as the conversation progressed, she did show me
11 her expired cosmetology license --

12 MS. LOIS COOK: Uh-huh. Uh-huh.

13 THE WITNESS: -- and I wrote the license number
14 down. It expired in 2010, I believe.

15 MS. LOIS COOK: '08, I believe.

16 HEARING OFFICER JONES: Ms. Cook, you can't --

17 THE WITNESS: '10. 12 --

18 BY MR. HOGAN:

19 Q Okay. You went and you put down several things there,
20 Pat --

21 A Okay.

22 Q -- in your inspection report. Can you kind of briefly
23 outline those?

24 A Yes. Yes.

25 I did not see a current shop license, practitioner, current

1 practitioner license posted. I asked Ms. Cook about doing --
2 doing hair in her home. She said that -- that she has two
3 customers and they come with their hair shampooed, and she only
4 rolls and dries and combs them out. And she also stated that
5 occasionally she did a perm and a haircut for some folks down the
6 road.

7 Ms. Cook also told me she did not charge anyone but if they
8 left some money there on her bar or table, well that was their
9 privilege, and that was what she said. There wasn't a shampoo
10 bowl; no wet disinfectant sanitizer mixed up; she went from one
11 client to another without washing her hands.

12 She did tell me and she did show me her Barbicide that she
13 had, and she said she did clean her instruments up after -- after
14 those ladies left with her brushes and combs.

15 Q Was -- how did you find out about this? Was there a
16 complaint?

17 A I had a complaint from the office.

18 MS. LOIS COOK: May I say I --

19 HEARING OFFICER JONES: Not right now. I'm going
20 to give you a chance.

21 MS. LOIS COOK: Okay.

22 HEARING OFFICER JONES: I'll give you a chance to
23 say everything you want to say --

24 MS. LOIS COOK: Okay.

25 HEARING OFFICER JONES: -- but right now is not

1 the time.

2 MS. LOIS COOK: Okay.

3 BY MR. HOGAN:

4 Q Did she say, Ms. Cook say whether or not she only performed
5 these services on certain days of the week or for her friends or
6 ladies on Thursday or Fridays or anything like that, to your
7 recollection?

8 A Ms. -- I believe that she -- she told me the very same thing
9 that -- that she spoke of. She said that she only has a couple
10 of clients. She didn't even say clients, she said elderly
11 ladies, I believe, or older ladies that she does. And there
12 again she told me that they come with their hair shampooed and
13 she had been doing them forever and ever. And she stated, you
14 know, like I said that occasionally she would give a perm and
15 a -- and a haircut to some other folks.

16 MR. HOGAN: I'll pass the witness. I don't have
17 any further questions.

18 HEARING OFFICER JONES: Okay. Do you have any
19 questions you would like to ask Ms. Jackson?

20 CROSS-EXAMINATION

21 BY MS. LOIS COOK:

22 Q The only thing I noticed on that thing it said I didn't wash
23 my hands in between.

24 A (Nodding head up and down.)

25 Q But you didn't see in between.

1 You know, I -- I was combing one?

2 A Uh-huh.

3 Q Uh-huh. And you left before I combed the other one. See,
4 the other one was still under the dryer.

5 A Now, you -- she got out from under the dryer while I was
6 there.

7 Q Oh, did she?

8 A Yes, ma'am.

9 Q Okay.

10 A Uh-huh. And you started taking her rollers out.

11 Q But I didn't comb her. I didn't comb her until after you
12 left, did I?

13 A But you had started taking her rollers and all out.

14 MS. LOIS COOK: Okay. Okay. All right. Thank
15 you.

16 HEARING OFFICER JONES: Okay. Thank you.

17 Any further questions for Ms. Jackson?

18 MS. LOIS COOK: No. She said --

19 HEARING OFFICER JONES: Okay.

20 MS. LOIS COOK: She said -- like I said, she asked
21 me could she come in the door. I knew who she was. I
22 never dreamed that I -- I can't think of who dislikes
23 me enough that they would turn me in for doing just two
24 people's hair. And she asked me, she said, may I come
25 in, and I said, yes, ma'am, you sure can, because I

1 didn't think I was doing anything wrong. I mean I
2 know, I worked long enough, I know I could not have a
3 beauty shop in my house. I know that. But I was just
4 doing two friends.

5 HEARING OFFICER JONES: Okay. Does the board have
6 any questions for Ms. Jackson?

7 (Witness excused.)

8 HEARING OFFICER JONES: If there are none,
9 Mr. Hogan, you can call your next witness.

10 MR. HOGAN: I call Ms. Kersey just briefly, just a
11 couple of questions.

12 WHEREUPON,

13 KELLI KERSEY,
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 State your name for the record and your position with the
20 department.

21 A Kelli Kersey, section chief.

22 Q Have you checked your records to determine if there were any
23 license, current license, either as practitioner or a salon for
24 Ms. Cook?

25 A Yes, sir. There is none.

1 MR. HOGAN: Okay. That's all I have.

2 HEARING OFFICER JONES: Ms. Cook, do you have any
3 questions for Ms. Kersey?

4 MS. LOIS COOK: No.

5 HEARING OFFICER JONES: Okay. Board members,
6 questions for Ms. Kersey?

7 (Witness excused.)

8 HEARING OFFICER JONES: Very well. Mr. Hogan, any
9 other witnesses?

10 MR. HOGAN: That's all we have on this.

11 HEARING OFFICER JONES: Ms. Cook, you can tell the
12 board whatever you want right now, and then I'm going
13 to let Mr. Hogan -- and that little boy is really happy
14 that you can.

15 MS. LOIS COOK: I'm sorry I got my back to you.

16 MS. REYNOLDS: That's okay. I'm listening.

17 HEARING OFFICER JONES: And then I'll let
18 Mr. Hogan and the board members ask you any questions
19 if they have any. Okay?

20 WHEREUPON,

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

25 DIRECT TESTIMONY

1 THE WITNESS: Okay. As I said, I'm 76 years old
2 and I live on social security. If I didn't have two
3 children, one of them a nurse and one of them lives in
4 South Carolina, if they didn't help me I couldn't make
5 it, and there is no way I could pay that.

6 And like I said, when those two ladies die, that
7 will be it because I don't -- I can't work.

8 So that's all I have to say.

9 HEARING OFFICER JONES: Okay. Mr. Hogan, any
10 questions?

11 MR. HOGAN: I don't have anything.

12 HEARING OFFICER JONES: Okay. Board members, any
13 questions?

14 If there are no questions --

15 MS. COLLINS-BURROUGHS: How long have you been
16 doing your little ladies? Roughly, how long?

17 THE WITNESS: Oh, a couple of years.

18 MR. BUTENSHOEN: And you said you did some
19 haircuts for neighbors?

20 THE WITNESS: Yes, uh-huh. Once in a while my
21 next door neighbor who's a friend of mine, I have done
22 her hair.

23 MR. BUTENSHOEN: Okay.

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

1 (Witness excused.)

2 HEARING OFFICER JONES: Okay. Mr. Hogan, anything
3 in closing?

4 MR. HOGAN: I have nothing further.

5 HEARING OFFICER JONES: Ms. Cook, anything else
6 you want to say before the board deliberates?

7 MS. LOIS COOK: Just that I don't know how I would
8 pay them.

9 HEARING OFFICER JONES: Okay.

10 MS. LOIS COOK: And if the social security goes
11 out, I will have to sell all I have and go and live
12 with my kids.

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

18 (WHEREUPON, the committee retired to deliberate,
19 off the record, from 1:59 p.m. to 2:03 p.m., and
20 returned with the following motion.)

21 HEARING OFFICER JONES: Let's go back on the
22 record.

23 Is there a motion?

24 MR. BUTENSHOEN: Motion three?

25 Finding the allegations to be true, I move to

1 order the respondent to pay a fine in the amount of
2 \$300, payable within 30 days of receipt of the board's
3 order. Further respondent is ordered to cease and
4 desist from practicing cosmetology and/or operating a
5 cosmetology establishment until such time the
6 respondent is not -- is properly licensed by the board.

7 MS. AKARD: Second.

8 MS. COLLINS-BURROUGHS: Okay. We have --

9 MS. LOIS COOK: I can't work. I can't work and I
10 had to let my license go because I can't work.

11 MS. COLLINS-BURROUGHS: We have a motion on the
12 floor and a second.

13 MS. LOIS COOK: I had to let my license go because
14 I can't work. I have enough trouble breathing as it
15 is.

16 MS. COLLINS-BURROUGHS: We got a motion on the
17 floor -- just a second.

18 We have a motion on the floor and a second. All
19 in favor, raise your hand.

20 (Hands raised.)

21 MS. COLLINS-BURROUGHS: Okay. Motion carries.

22 HEARING OFFICER JONES: Let the record reflect the
23 decision is unanimous. Please reduce the decision to
24 writing and make or attempt to serve upon all parties.
25 If the respondent cares to appeal the decision, appeal

1 can be taken under the Administrative Procedures Act
2 found at Arkansas Code Annotated 25-15-201, or any
3 specific provisions of this board.

4 Any questions or comments?

5 MS. LOIS COOK: How am I going to pay -- how am I
6 going to pay this? How am I going to pay \$300? I
7 don't have \$300.

8 MS. COLLINS-BURROUGHS: Well, you can set up a
9 payment plan with the office, I understand.

10 MS. LOIS COOK: Well, if they cut off my -- if
11 they cut off my social security, I can pay nothing,
12 because I'm living on social security.

13 HEARING OFFICER JONES: If there are no other
14 questions or comments, the record will be closed.

15 MS. COLLINS-BURROUGHS: You're eligible for a life
16 time license, are you not?

17 MS. LOIS COOK: Ma'am?

18 MS. COLLINS-BURROUGHS: You're eligible for a life
19 time license, are you not?

20 MS. LOIS COOK: What would I want with a life time
21 license if I can't work?

22 MS. COLLINS-BURROUGHS: Well, why not?

23 MS. LOIS COOK: Because I don't have \$150 to.

24 MS. COLLINS-BURROUGHS: Well, they are a life
25 time, though. Then you can go to somebody's shop and

1 do your little friends. That's the problem, you can't
2 have your little friends coming to your house, as sad
3 as it is.

4 MS. LOIS COOK: Well, that's what I can't
5 understand, there is people -- I fixed hair all my
6 life. I gave permanents before I ever became a beauty
7 person. How can -- how can you all come into my home
8 and tell me I can't do something?

9 MS. COLLINS-BURROUGHS: Because it's against the
10 statutes.

11 MS. LOIS COOK: Are you going to go into
12 everybody's home in Magnolia that does --

13 MS. COLLINS-BURROUGHS: We do if we find it, we do
14 when we hear about it.

15 MS. LOIS COOK: And I also know that there are
16 girls that's working that hasn't past state boards yet.
17 They are working on weekends right there in town.

18 MS. COLLINS-BURROUGHS: Okay. Well, when you get
19 your papers from the office, then appeal or call and
20 talk to them about a little payment plan or whatever.

21 MS. LOIS COOK: Well, that's something I just
22 can't pay.

23 Uh-huh. Are you all aware of what's going on
24 about social security?

25 MS. COLLINS-BURROUGHS: I work in a shop every day

1 and it's slow. Slow, slow, slow.

2 MS. LOIS COOK: Uh-huh. But I'm talking about the
3 government, unless by August the 2nd --

4 MS. COLLINS-BURROUGHS: Uh-huh.

5 MR. BUTENSHOEN: They'll do something.

6 MS. LOIS COOK: They better because I can't live
7 if they don't.

8 MR. BUTENSHOEN: They're not going to stop the
9 government.

10 MS. COLLINS-BURROUGHS: We appreciate your coming.
11 And we care. We absolutely care about your
12 situation.

13 HEARING OFFICER JONES: Okay. We will now close
14 the record.

15 You'll get this in writing.

16 (WHEREUPON, at 2:07 p.m., the above-entitled
17 proceedings were concluded.)

18 ---o---

19 HEARING OFFICER JONES: Okay. We will take a
20 short five minute break and then we'll do Lou's Beauty
21 salon.

22 (WHEREUPON, a break was held from 2:07 p.m. to
23 2:17 p.m.)

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ADMINISTRATIVE HEARING

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH, PETITIONER,

V.

LOU'S BEAUTY SALON, OWNER, LUTRICIA GREEN,

RESPONDENT.

HEARING OFFICER JONES: Okay. Let's get started with Lou's Beauty Salon. My name is Kendra Akin Jones and I'm the Hearing Officer today In The Matter of the Arkansas Department of Health versus Lou's Beauty Salon, owner Lutricia Green, to be heard before the Cosmetology Technical Advisory Committee. Today is Monday, July 18, 2011, and we're located in the conference room of the Freeway Medical Building.

Ms. Green, would you please identify yourself for the record?

MS. LUTRICIA GREEN: I'm Lutricia Green.

HEARING OFFICER JONES: Okay. And you don't have counsel with you today, Ms. Green?

MS. LUTRICIA GREEN: No, ma'am.

HEARING OFFICER JONES: Okay. And you received a copy of the Order and Notice of Hearing concerning today's matter?

MS. LUTRICIA GREEN: Yes, ma'am.

HEARING OFFICER JONES: Okay. State's counsel,

1 please identify yourself.

2 MR. HOGAN: Rick Hogan, general counsel for the
3 health department.

4 HEARING OFFICER JONES: For the benefit of the
5 respondent or anyone here who has not appeared in an
6 administrative hearing the committee will base its
7 decision solely on the evidence presented here today.
8 This hearing is being held in accordance with the
9 Administrative Procedures Act, which means the strict
10 rules of evidence do not apply. To ensure the
11 efficiency of the proceeding, I may grant some
12 objections and caution the parties as necessary to keep
13 the hearing moving along. Board members know of this
14 case only as it appears and is set forth in the Order
15 and Notice of Hearing. Anything to be considered must
16 be submitted as evidence today.

17 This hearing is open to the public under the
18 Freedom of Information Act, and this includes the
19 board's recess for deliberations.

20 For those of you who are going to be witnesses in
21 today's matter, please raise your right hand and the
22 court reporter will swear you in.

23 Ms. Green, if you would, raise your right hand.

24 (WHEREUPON, the witnesses were sworn.)

25 HEARING OFFICER JONES: Okay. Preliminary

1 matters, Mr. Hogan?

2 MR. HOGAN: I do ask that this document that
3 includes the Order and Notice of Hearing, the
4 violation -- investigative report, violation letter,
5 and the return receipt be admitted as Board's Exhibit
6 No. 1. And then also that the board be able to take
7 notice of the rules and their statutes.

8 HEARING OFFICER JONES: Very well. The board can
9 take notice of the rules and statutes that are related
10 to this board, and the packet will be admitted as
11 Board's Exhibit No. 1.

12 (WHEREUPON, Board's Exhibit No. 1 was received in
13 evidence.)

14 HEARING OFFICER JONES: Ms. Green, is there
15 anything that you have that you want the board to see
16 today?

17 MS. LUTRICIA GREEN: I have a bill of sales where
18 I sold my shop.

19 HEARING OFFICER JONES: Okay.

20 MS. LUTRICIA GREEN: I don't have it anymore. I
21 can't work any -- I went through another surgery,
22 retinal surgery. I've had four. But, anyway, I'm
23 legally blind, had to give it up, retire. So I've sold
24 my shop and I have a bill of sale, if that will mean
25 anything to you, and I sent in a letter from my --

1 Landers that I'm legally blind and that I can't work.

2 I was in my shop and my girlfriend, this is
3 another blackmail, she would do my hair so I could go
4 to Dr. Farland, if I would do hers, and did, I put in a
5 perm, I said let me do yours first and then I rest and
6 you can do mine. And I was in my shop but I hadn't
7 been in it in several years. And that's the truth.
8 And I am on social security also.

9 HEARING OFFICER JONES: Would the board like to
10 see a copy of the bill of sale? If so we'll have
11 Michelle make a copy.

12 MS. COLLINS-BURROUGHS: We don't need to.

13 MR. HOGAN: Okay. We can stipulate that you've
14 sold your business.

15 HEARING OFFICER JONES: Okay. That's fine then.

16 MS. LUTRICIA GREEN: I had that, too. And I had
17 my license, I've had my license, which I was proud of
18 that, but I did send in -- can I still talk?

19 HEARING OFFICER JONES: We'll let you.

20 MR. HOGAN: Go ahead.

21 WHEREUPON,

22 LUTRICIA GREEN,

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

1 DIRECT TESTIMONY

2 THE WITNESS: I sent in both checks, separate
3 envelope, and then they sent me back for the lifetime
4 license, I had to fill -- fill out another application
5 or another piece of paper and I sent it back in. Then
6 I got the lifetime license and they were posted in the
7 shop. But I told my inspector, I said, I hadn't got my
8 license yet, which my daughter tends to some of my mail
9 but she swore I hadn't gotten anything. So I called
10 the state board, they called me back and said that she
11 would check, but if I hadn't gotten by now the check
12 was a wash.

13 So I waited, I said I'm going to wait 30 days and
14 check with the bank. I called them, they said it
15 hadn't come through. Well, it wasn't in my bank
16 statement, I knew that much. And I said, well, what
17 should I do? She said, stop payment on it if you want
18 to, 25 bucks, stop payment. And my check hadn't showed
19 up here and it hadn't showed up through the bank. But
20 I sent them in at the same time and I got my lifetime
21 license, which I keep -- keep hoping that I could go
22 back to work but I can't.

23 And there is two people that will fix my hair.
24 There's Betty Lathum in Warren, but I have to drive
25 7 miles and I can't drive, somebody has to take me. So

1 Betty Brown said she would come out to my house if I
2 would do her hair, and that's what we were doing. And
3 I was in there. And that's all I have.

4 MR. HOGAN: Sounds like -- I'm sorry. Was there
5 something else?

6 THE WITNESS: Huh-uh.

7 CROSS-EXAMINATION

8 BY MR. HOGAN:

9 Q Sounds like, based on what you're saying is that you're
10 not -- you're not contesting that you did not have a current
11 salon license, that you had put the money in the mail?

12 A Yes, sir.

13 Q And the check got lost and so inspection showed up, you
14 weren't current, and then you --

15 A I had them every year until this year.

16 Q And since you sold your business --

17 A I wasn't even working.

18 Q When you sold your business there was no need for you to get
19 a salon license after?

20 A Well, won't be because I -- you know, but after this last
21 surgery he said give it up, you can't work, you're blind. So I
22 sold my shop. I needed the money to pay the doctor bills. It
23 wasn't no good to me.

24 Q Just to make sure, though, you're not charged with, I don't
25 believe, with not having a, what do you call it?

1 MS. COLLINS-BURROUGHS: Practitioners.

2 BY MR. HOGAN:

3 Q Practitioners license. You've had a lifetime license?

4 A Yes, sir. I've had these. I'm so proud of them.

5 Q You're not charged with that, it's only about the salon --

6 A My shop.

7 Q -- and you're not contesting that you didn't have it, it's
8 just that you tried and you didn't get them?

9 A I tried and I even told my inspector.

10 MR. HOGAN: Okay. Well, given that testimony, I
11 think we can shorten this. There is no need to go
12 into --

13 MR. BUTENSHOEN: No.

14 HEARING OFFICER JONES: Okay. Mr. Hogan, if
15 you --

16 MR. BUTENSHOEN: Motion for --

17 MR. HOGAN: I'm comfortable with this, we're
18 tendering it on the record, and if there is anything
19 else that Ms. Green would like to say, that's fine.

20 HEARING OFFICER JONES: Ms. Green, I'm going to
21 allow you to say anything else you would like. Board
22 members, if you have any questions I will also allow
23 any questions from you as well.

24 THE WITNESS: There is nothing else I can tell
25 you, that's the truth, and I -- I would like to say, I

1 can't work anymore.

2 HEARING OFFICER JONES: Okay.

3 THE WITNESS: So I got rid of it, when I finally
4 learned I couldn't.

5 HEARING OFFICER JONES: Questions from the board
6 members?

7 MS. COLLINS-BURROUGHS: When did you sell your
8 shop?

9 MR. BUTENSHOEN: July 1st.

10 THE WITNESS: July 7th. Wasn't it the 7th?

11 MS. COLLINS-BURROUGHS: So a few weeks ago?

12 THE WITNESS: A month ago. A little over a month
13 ago.

14 MS. AKARD: When did you renew your shop license?

15 THE WITNESS: I received my operator's license on
16 the 2nd and 2nd. And I sent both checks in but in
17 separate envelopes, see, one for my license and one for
18 my shop license.

19 MS. AKARD: When did you --

20 THE WITNESS: I never --

21 MS. AKARD: When did you do the bank stop payment?

22 THE WITNESS: About -- let me think a minute.

23 Four weeks ago.

24 MS. AKARD: You wouldn't have proof of that, would
25 you?

1 THE WITNESS: Not with me. I'll send it to you.
2 It might be in the back of my checkbook, but they will
3 give me a thing saying that they stopped payment on it,
4 I know.

5 MS. COLLINS-BURROUGHS: So you waited until
6 February?

7 THE WITNESS: Yes, ma'am.

8 MS. COLLINS-BURROUGHS: To four week ago, correct?

9 THE WITNESS: Four weeks?

10 MS. COLLINS-BURROUGHS: You stopped payment?

11 THE WITNESS: Yes.

12 I'm sorry.

13 MS. COLLINS-BURROUGHS: Is that right?

14 THE WITNESS: Well, I didn't know, you know, that
15 they may find it later and send it through, I didn't
16 know what to do. So they suggested I just stop payment
17 and write another one. And I said, well, I can't work
18 in it, I don't want to pay for something I can't
19 benefit from it. And I've been in it 50 years like
20 that other lady and I have never paid a fine or been
21 late.

22 HEARING OFFICER JONES: Does the board have any
23 further questions for Ms. Green?

24 MS. COLLINS-BURROUGHS: No.

25 HEARING OFFICER JONES: If there are none,

1 Mr. Hogan, anything in closing?

2 MR. HOGAN: No.

3 HEARING OFFICER JONES: Ms. Green, anything else
4 before the board deliberates to make their decision?

5 MS. LUTRICIA GREEN: No, ma'am.

6 HEARING OFFICER JONES: Okay. At this time we'll
7 close the record, except for the board's recess for
8 deliberations. Once a decision is reached, we'll go
9 back on the record.

10 (WHEREUPON, the committee retired to deliberate,
11 off the record, from 2:27 p.m. to 2:29 p.m., and
12 returned with the following motion.)

13 HEARING OFFICER JONES: Okay. Let's go back on
14 the record.

15 MR. BUTENSHOEN: Finding the evidence regarding
16 the charges, the board or the committee move that this
17 matter be dismissed.

18 MS. COLLINS-BURROUGHS: Second.

19 MS. REYNOLDS: Second.

20 MS. COLLINS-BURROUGHS: Okay. We got a first and
21 we got a second. All those in favor, please raise your
22 right hand.

23 (Hands raised.)

24 HEARING OFFICER JONES: Please let the record
25 reflect the decision of the board is unanimous, please

1 reduce the decision to writing and make or attempt
2 service upon all parties, and notify the respondent
3 that an appeal can be taken under Administrative
4 Procedures Act 25-15-201, or any specific provision of
5 this board.

6 Any other questions or comments can be made to the
7 director, and we'll close the record.

8 Thank you, Ms. Green.

9 (WHEREUPON, at 2:29 p.m., the above-entitled
10 proceedings were concluded.)

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ADMINISTRATIVE HEARING

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH, PETITION

V.

5 STAR UNISEX, OWNER, RESPONDENT

HEARING OFFICER JONES: Okay. 5 Star Unisex.

Cynthia, I will try to go slow so you can translate everything for your mother. If you need me to slow down, please let me know. Okay?

Is the board ready?

COURT REPORTER: Do you need me to swear in your interpreter?

HEARING OFFICER JONES: Yes. Please swear in the interpreter.

CYNTHIA MONCADA,

serving as an interpreter, was duly sworn in to interpret in the Spanish language to the witness, Lurvin Moncada, the oath to be administered to her, the questions asked her, and the answers she gave to such questions into the English language.

HEARING OFFICER JONES: My name is Kendra Akin Jones, I'm the Hearing Officer in the matter of 5 Star Unisex versus the Arkansas Department of Health, to be heard before the Cosmetology Technical Advisory Committee. Today is Monday, July 18, 2011. We're

1 located in the conference room of the Freeway Medical
2 Building.

3 Ms. Moncada, can you state your name for the
4 record, please?

5 MS. LURVIN MONCADA: Lurvin Moncada.

6 HEARING OFFICER JONES: Okay. And you don't have
7 counsel with you today? Just your interpreter?

8 MS. LURVIN MONCADA: No, just me.

9 HEARING OFFICER JONES: And you received a copy of
10 the Order and Notice of Hearing for today?

11 MS. LURVIN MONCADA: Yes. She give me the letter.

12 HEARING OFFICER JONES: Okay. Very good.

13 Mr. Hogan, please identify yourself.

14 MR. HOGAN: Rick Hogan, general counsel for the
15 health department.

16 HEARING OFFICER JONES: For the respondent's
17 benefit and the benefit of anyone present who may not
18 have appeared for an administrative hearing, the board
19 will base its decision solely on the evidence presented
20 here today.

21 This hearing is being held in accordance with the
22 Administrative Procedures Act, which means the strict
23 rules of evidence do not apply.

24 MS. CYNTHIA MONCADA: Hold on. Let me get the
25 baby.

1 HEARING OFFICER JONES: To ensure the efficiency
2 of the proceeding, I will grant objections and caution
3 the parties only as necessary.

4 The board knows of this case only as it is
5 presented in the Order and Notice of Hearing. Anything
6 you want them to consider must be presented today.

7 The hearing and deliberations are open under the
8 Freedom of Information Act to the public.

9 For those of you that are going to be witnesses
10 today, if you will all raise your right hand, and,
11 Ms. Moncada, we'll have your daughter translate for
12 you. We'll have the court reporter swear the witnesses
13 in and then we'll do Ms. Moncada.

14 (WHEREUPON, the witnesses were sworn.)

15 HEARING OFFICER JONES: Okay. And then if we can
16 have the translator, if you will translate for your
17 mother and we'll let the court reporter swear her in.

18 (WHEREUPON, the witness was sworn.)

19 HEARING OFFICER JONES: Preliminary matters,
20 Mr. Hogan?

21 MR. HOGAN: If we could ask that this document be
22 marked as Exhibit No. 1, and it contains the Order and
23 Notice of Hearing for the owner as well as the
24 practitioner for failure to have a license, and also
25 the violation letter and that that be marked as Board's

1 Exhibit No. 1.

2 HEARING OFFICER JONES: Those will be admitted as
3 Board's Exhibit No. 1.

4 (WHEREUPON, Board's Exhibit No. 1 was received in
5 evidence.)

6 MR. HOGAN: And that the board be able to take
7 notice of its rules and the statute.

8 HEARING OFFICER JONES: Those will be so noted by
9 the board.

10 Ms. Moncada, is there anything that you have with
11 you today that you want the board to see?

12 MS. LURVIN MONCADA: No. No. I don't have
13 anything.

14 HEARING OFFICER JONES: Okay. Thank you.
15 Anything in opening, Mr. Hogan?

16 MR. HOGAN: I'll waive the opening.

17 HEARING OFFICER JONES: Ms. Moncada, anything you
18 want to say in opening?

19 MS. CYNTHIA MONCADA: She wants to know actually
20 what the charges that you have against her.

21 HEARING OFFICER JONES: I will defer to Mr. Hogan
22 or Ms. Kersey to tell you what the charges are.

23 Let's go off the record for just a minute and let
24 Mr. Hogan discuss with Mrs. Moncada what the charges
25 are real quickly.

1 (WHEREUPON, a brief discussion was held off the
2 record.)

3 HEARING OFFICER JONES: Very well. We'll go ahead
4 and go back on the record.

5 At this time, Mrs. Moncada, I wanted to clarify
6 the interpreter's situation, just so the record is good
7 and clear.

8 So you understand most of what is said?

9 MS. LURVIN MONCADA: Yeah, some words. Yeah, some
10 words, yeah, I don't understand, some words I don't
11 know or I don't understand and some words I do.

12 HEARING OFFICER JONES: Okay. And if you don't
13 understand, your daughter is going to interpret for
14 you?

15 MS. LURVIN MONCADA: Yeah.

16 HEARING OFFICER JONES: Okay. Very well.

17 At this time, Mr. Hogan, I'll let you call your
18 first witness.

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

20 WHEREUPON,

21 ROSE HORNER,

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

25 DIRECT EXAMINATION

1 BY MR. HOGAN:

2 Q Will you state your name for us?

3 A Rose Horner.

4 Q Rose, did you -- I believe you inspected this place in
5 Springdale a couple of times, is that right?

6 A Yes, sir.

7 Q Okay. Maybe more than that.

8 Is your first visit to 10 -- is it 106 or 109?

9 A It's 109, I believe. 109.

10 Q 109 West Emma?

11 A Yes.

12 MR. BUTENSHOEN: Yes.

13 BY MR. HOGAN:

14 Q And that was on March the 16th. Is that right?

15 A Yes, sir.

16 Q Tell the members of the committee what you found at that
17 time?

18 A The salon license had the old address from her previous
19 location.

20 Q How long had it been since she had moved from her old
21 location? Do you have any idea?

22 A At least a year, maybe longer. I'm not sure.

23 MS. LURVIN MONCADA: (Indicating.)

24 THE WITNESS: One year.

25 MS. LURVIN MONCADA: (Nodding head up and down.)

1 BY MR. HOGAN:

2 Q So you -- yeah, please, I --

3 A That's okay.

4 Q You did not find a current salon license at that time?

5 A The -- the address on the license was from the previous
6 location.

7 Q It was -- was it still good but not at the --

8 A It was a current, it was, I believe, the 2011 license, but
9 it was for the previous location.

10 Q And what about, I understand was her daughter working there
11 in the salon as well?

12 A Yes.

13 Q And was her daughter licensed in the state of Arkansas?

14 A No.

15 Q And there was no license posted, of course, by her at the
16 facility or --

17 A Right. Just -- just for her mother.

18 Q Now, you also listed other physical facilities and salons.
19 In your report you listed the plumbing. Can you go into that a
20 little please?

21 A The shampoo bowl, the -- was leaking, the plumbing. There
22 was a bucket, I believe, under the plumbing and it was leaking.

23 Q And the waste disposal or the waste disposed of regularly?

24 A There was a trash bag that was open and it was overflowing.

25 Q Go ahead and go through the floor mats and the equipment.

1 A Okay. The floors, the area, all -- all of the salon floor
2 area was dirty, it needed to be cleaned, swept and cleaned.
3 Equipment. Roller carts were dirty, they needed to be cleaned,
4 they were full of hair. A station, there was clipper -- inside
5 another station clippers were full of hair, the -- in the
6 drawers.

7 Q Mentioned a pedicure area?

8 A There was a -- let's see.

9 Q Said it was full of nail clippings?

10 A Pedicure area was dirty and full of nail clippings and nail
11 dust on the manicure table.

12 Q What does it mean about sufficient number of covered waste
13 cans or closed receptacles? You -- did she have any covered
14 waste cans or --

15 A No. As I recall it was just the trash bag was open and
16 there was no trash can.

17 Q Were there any closed receptacles for soiled towels?

18 A Let me see.

19 I wrote, "Salon needs a container for soiled towels," so
20 there was not one.

21 Q You mentioned under, again, "Physical facilities, treatment
22 tables were not sanitized before and after each use."

23 A That -- that was --

24 Q Can you tell us about that?

25 A The manicure, the pedicure area, I wrote, "The area was

1 dirty and full of nail -- "full of nail clippings and the
2 manicure table was full of nail dust."

3 Q Now, you gave her a copy of this inspection report that you
4 wrote up?

5 A Yes, sir.

6 Q Did she or her daughter have any questions about -- was her
7 daughter with her at that -- at the time you gave her the form?

8 A March. You know, in March, I don't remember if it was -- is
9 it -- I don't remember who signed it in March. I don't know if
10 the -- the owner was there. I know when I delivered the hearing
11 order the daughter was there.

12 Q In March or April -- oh, you mean when you hand delivered
13 the order?

14 A I hand delivered the -- yes.

15 Q I get it. I'm sorry.

16 A I --

17 Q In April, can you tell us what you found when you went back
18 in April?

19 A In April?

20 Q I'm sorry. I've got April 7th here on the next --

21 A I don't have that.

22 Q That's unfortunate. Let me hand it to you.

23 MS. COLLINS-BURROUGHS: Pass her mine down.

24 BY MR. HOGAN:

25 Q Can you look at that right quick and tell us if that's an

1 inspection report? Is that your signature at the top?

2 A Yes. It is. This -- this was the date that I took the
3 salon license, it looks like it was issued in March and it was
4 for the old location, that's when I -- oh, this is April. This
5 was -- April, May, June, July --

6 Q It says the salon license issued dated March 31st?

7 A Yes. And it was for the old location and that -- that's why
8 I took it.

9 Q Okay. Again, this is 109 West Emma, not 107?

10 A Yes.

11 Q And so you took that license to the old facility. Did you
12 or -- did they ask you about transferring the license that they
13 had or -- to the new facility or --

14 A This day the owner was in, and I talked to the mother and
15 she said her daughter was taking -- was waiting to take her
16 Arkansas exam to get a license. And that day there was a man
17 doing a haircut while I -- when I arrived. When I introduced
18 myself he left. There was man doing a haircut this day.

19 Q A man doing a haircut that worked there, you mean, not a man
20 getting his hair cut but someone that worked --

21 A He was working -- no, someone, a man was giving a haircut
22 and left the salon that day.

23 Q Okay. The person that he was cutting their hair, did you
24 talk to them or did they --

25 A No. No. I didn't.

1 But the mother told me that her daughter was waiting to do
2 her manicure exam.

3 And I believe that also that day the daughter was doing
4 nails because I wrote, "practitioner has current license" and I
5 checked it, and I put the No. 2 there --

6 Q Okay.

7 A -- for two people.

8 Q You mentioned that, and I think this is what the -- well,
9 maybe this is the March report, that there was no sign of
10 Barbicide anywhere, no wet sterilizer or bottle of Barbicide. Is
11 that what you found --

12 A Right.

13 Q -- on both occasions?

14 A Yes, sir. Yes, sir.

15 Q Now, I believe you took -- you hand delivered all of these
16 documents?

17 A (Nodding head up and down.)

18 Q Is that correct?

19 A Yes, sir.

20 Q Did you talk then with Mrs. Moncada, Moncada or her daughter
21 at that time?

22 A Which time?

23 Q When you hand delivered the documents to her.

24 A Yes. I did. They were both -- the daughter was there and
25 then she called her mother and the mother came.

1 Q What would -- tell us what was the discussion about at that
2 point?

3 And I believe that would be in -- when was that when you
4 hand delivered these documents?

5 A Well, this day, it wasn't this day, it wasn't the
6 April 7th.

7 Q Right.

8 A I wrote it down April 20 -- June 29th I delivered the
9 hearing order.

10 Q Okay.

11 A It was in my BlackBerry because I had sent Kelli an email
12 that I had delivered it, that was June 29th.

13 Q And what was the nature of your discussion then with the
14 daughter and her mother?

15 A The daughter would -- didn't want to sign it, and so she
16 called her mother and her mother came. And I -- and I just told
17 her that, you know, we needed a signature, you know, that this
18 needed to be taken care of.

19 Q Okay. Is there anything further, Rose, you want to make the
20 members of the committee aware of?

21 A I believe on my first -- first visit, I believe I left a
22 salon relocation application for the owner the first -- the first
23 time I, you know, found her, that she had relocation -- had
24 relocated.

25 Q And to your knowledge was that form filled out or filed with

1 the board?

2 A Not that I know of.

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

4 HEARING OFFICER JONES: Okay. Ms. Moncada, do you
5 have any questions you want to ask Ms. Horner?

6 MS. LURVIN MONCADA: Yes, I has to answer,
7 starting for the first date she say she went over
8 there, March 16. Actually I just work three days a
9 week, Thursday, Friday, and Saturday. That day when
10 she went it was closed. We -- we came to the salon to
11 clean all the salon Tuesday or Wednesday, a day before
12 I started work. Okay. That day when she went, it was
13 my sister, my daughter --

14 HEARING OFFICER JONES: Okay. Ms. Moncada, I'm
15 going to give you a chance to tell the whole story, but
16 do you have any questions for Ms. Horner?

17 MS. LURVIN MONCADA: Oh, no. No. No. No.

18 HEARING OFFICER JONES: Okay. I'm going to give
19 you a chance to fully explain everything.

20 MS. LURVIN MONCADA: Okay. Oh, yeah. Yes.

21 CROSS-EXAMINATION

22 BY MS. LURVIN MONCADA:

23 Q The -- that's what I would like to ask you, because that
24 day, really I don't like how you express yourself that day
25 because the -- I respect you, I believe you have to respect me,

1 too. That day when you went over there and she -- you asked me
2 if I have a practical license and the business license, I show
3 you, yes, and I tell you, yes, I have it right here. It's right
4 here in the poster. And I don't know, I know, I know you for
5 many years and I know you are a wonderful person. Maybe that day
6 it was some, you know, sometime we have a bad day. But I don't
7 like when you did in front of the customer, "That's not the
8 license I asked you" (indicating). So the customer I have in the
9 chair, he was like that and he say, how -- "Who is she?" I tell
10 him, "Don't worry about it, she's the -- the -- she's the
11 inspector."

12 And I tell you, I explain to you, I went personal to the
13 Little Rock to change it, to change the -- the address. And it
14 was my mistake. I fill out --

15 HEARING OFFICER JONES: Wait, Ms. Moncada. Can
16 you stop for just a minute. I want to be sure the
17 court reporter can hear everything.

18 BY MS. LURVIN MONCADA:

19 Q I fill it out and I change the address for the new address
20 and I give it to the lady. It was my fault, when she give me
21 back the -- the -- the new license, she give me the envelope and
22 I didn't open it. When I was in the Springdale when I saw it was
23 the -- the -- the old address and I explain to you but you don't
24 listen to me. And you took it and you don't give me back that.
25 And when I call over here to change it, they ask me for the

1 number, and I don't have the numbers because you took it. And
2 that's why today I don't have the business license.

3 That's all I wanted -- I wanted to ask you.

4 HEARING OFFICER JONES: Okay. Does the board have
5 any questions for Ms. Horner?

6 MS. AKARD: I do.

7 HEARING OFFICER JONES: Okay.

8 MR. HOGAN: Can I just -- oh, I'm sorry. Go
9 ahead.

10 MS. AKARD: When you -- when the daughter was
11 working and you went in in March, what kind of service
12 was she doing?

13 THE WITNESS: March. I believe a manicure.

14 MS. AKARD: Okay.

15 MR. HOGAN: Is that all?

16 MS. AKARD: Yes.

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

19 MR. HOGAN: Just one, make sure I understood --

20 HEARING OFFICER JONES: Wait, Jacquelyn has a
21 question.

22 MR. HOGAN: Oh, I'm sorry.

23 MS. REYNOLDS: Do they have the pedicuring chairs
24 set up?

25 THE WITNESS: Yes.

1 MS. LURVIN MONCADA: No.

2 THE WITNESS: No pedicure chair?

3 MS. LURVIN MONCADA: No. The pedicure chair is
4 close.

5 HEARING OFFICER JONES: Now, wait, Ms. Moncada.
6 I'll give you a chance to answer that question, too,
7 but right now she's asking her.

8 MS. LURVIN MONCADA: Oh, I'm sorry.

9 HEARING OFFICER JONES: Thank you.

10 Go ahead.

11 THE WITNESS: I wrote on my inspection sheet,
12 "Pedicure area dirty and full of nail clippings and
13 nail dust on manicure table."

14 HEARING OFFICER JONES: Go ahead.

15 MS. REYNOLDS: Did she have all of the appropriate
16 materials on the table?

17 THE WITNESS: You mean products and --

18 MS. REYNOLDS: Yes. Everything was labeled?

19 THE WITNESS: To do nails and -- yes, ma'am.

20 MS. REYNOLDS: Yes. Was everything labeled?

21 THE WITNESS: Nail polish?

22 MS. REYNOLDS: Acetone?

23 THE WITNESS: Yes.

24 HEARING OFFICER JONES: Okay. Further questions
25 from the board for Ms. Horner?

1 Okay. If there are none, Mr. Hogan, did you have
2 a follow-up?

3 MR. HOGAN: I just had one to make sure I got this
4 correct.

5 REDIRECT EXAMINATION

6 BY MR. HOGAN:

7 Q Rose, the violation letter dated May -- March 28, I believe
8 it came back or you were unable to deliver that and so you went
9 back in April to deliver the violation letter. Is that correct?

10 A April --

11 Q The reason you were back on April 7th is because the --

12 A Yes, sir, yes, sir. That's right. That's right.

13 MR. HOGAN: Okay. Thank you.

14 HEARING OFFICER JONES: Okay. Mr. Hogan, you can
15 call your next witness.

16 Ms. Horner, thank you very much.

17 (Witness excused.)

18 MR. HOGAN: I call Kelli Kersey, please.

19 MS. KERSEY: I don't know her. Kelli.

20 MR. HOGAN: Kelli. Isn't that what I said?

21 MS. KERSEY: You said Callie.

22 MR. HOGAN: Thought I said Kelli.

23 Don't mess with me.

24 THE WITNESS: Okay. I'm sorry.

25 WHEREUPON,

1 Q We heard Ms. Horner say that she had left the form --

2 A Yeah.

3 Q -- to be executed to change the address, but you never
4 received that form?

5 A I have not seen that.

6 Q Anything further you need to make the committee aware of?

7 A I don't think so.

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

10 MS. LURVIN MONCADA: No. Not with --

11 HEARING OFFICER JONES: No. For Ms. Kersey. She
12 keeps the records.

13 MS. LURVIN MONCADA: Well, I didn't finish to
14 explain about the whole thing.

15 HEARING OFFICER JONES: I'll give you a chance to
16 explain the whole thing.

17 MS. LURVIN MONCADA: All right.

18 HEARING OFFICER JONES: Yes, ma'am. This is just
19 for you to ask questions.

20 MS. LURVIN MONCADA: All right. No. I don't have
21 any.

22 HEARING OFFICER JONES: All right. Does the board
23 have any questions for Ms. Kersey?

24 Oh, wait a minute.

25 MS. AKARD: Do we have Cynthia enrolled in school?

1 THE WITNESS: No.

2 MR. BUTENSHOEN: Nor has she ever been?

3 COURT REPORTER: I can't hear you. I'm sorry.

4 HEARING OFFICER JONES: Wait. Start over.

5 COURT REPORTER: I didn't hear your question.

6 MR. BUTENSHOEN: Nor has she ever been enrolled?

7 THE WITNESS: No, not to my knowledge.

8 MR. BUTENSHOEN: He's not --

9 MS. CRAVOTTA: She transferred.

10 MR. BUTENSHOEN: She's transferred?

11 HEARING OFFICER JONES: Hold on. Wait a minute,
12 y'all. We're getting way off course here.

13 THE WITNESS: Sorry. Okay.

14 HEARING OFFICER JONES: Just to clarify this for
15 everybody, Mrs. Moncada, is your daughter in beautician
16 school, cosmetology school?

17 MS. LURVIN MONCADA: Yes, she was. She already
18 took the -- last week, last Monday, she took the -- the
19 test.

20 HEARING OFFICER JONES: To transfer her license?

21 MS. LURVIN MONCADA: Yes. And we are already
22 waiting, you know, if she pass or not.

23 HEARING OFFICER JONES: So does that clarify that
24 for everybody, she -- so --

25 MS. AKARD: Is that correct?

1 MS. CRAVOTTA: Yes. That's correct.

2 HEARING OFFICER JONES: Please state your name for
3 the record.

4 MS. CRAVOTTA: Terry Cravotta.

5 HEARING OFFICER JONES: What's your position?

6 MS. CRAVOTTA: Examination coordinator.

7 HEARING OFFICER JONES: Okay. Just so we're clear
8 on the record.

9 Okay. Any other questions from the board for
10 Ms. Kersey?

11 (Witness excused.)

12 HEARING OFFICER JONES: Okay. If there are none,
13 Mr. Hogan, do you have any other witnesses?

14 MR. HOGAN: No.

15 HEARING OFFICER JONES: Ms. Moncada, you can
16 explain the whole situation to the board right now,
17 okay?

18 MS. LURVIN MONCADA: Yes.

19 WHEREUPON,

20 LURVIN MONCADA,

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 TESTIMONY

25 THE WITNESS: I can explain it the day she went,

1 it was that day, I don't open up on this day. We was
2 fixing the -- the tool she said she was in the bowl. I
3 thinking my daughter, she told him I was at the Home
4 Depot looking for with the plumber, the special thing,
5 I believe she explained to you. And that day nobody
6 was working because that day we was closed.

7 And when we put the hand and we say we going to
8 say the truth and only the truth, I believe in that's
9 because I am Christian, and I don't believe, I don't go
10 in there and lie you, I don't go in there and lie you.
11 I tell, but I has to because forces God and we don't
12 want to do that in front of the God because we got
13 problem with God not with you, and I going to say the
14 truth. We don't open this day, and the whole people
15 know around there we don't open Tuesday. Tuesday,
16 Wednesday. And we started work Wednesday -- I mean
17 Thursday, Friday and Saturday. That's why we that day
18 I didn't work there.

19 When she went back up, she -- she said everything
20 was dirty. Okay. That day we went three times over
21 there to clean everything. She went to inspection
22 the -- the bathroom and she say it was dirty, too, it
23 wasn't my bathroom, because mine is the only one
24 keeping close because there is a church and some
25 doctor, have a cleaning company over there, too, and

1 that's the bathroom for the other business. The one it
2 was closed.

3 The pedicure chair, it's the one I have from the
4 other beauty shop and have a sign over there, that's
5 chairs -- that pedicure chair out order, nobody use
6 because nobody do pedicure in the beauty salon.
7 Nobody. And next time they go through, she saw those
8 sign, she saw those sign, I believe it. She saw those
9 sign with nobody do pedicure in the area.

10 It's believed she say, and the bowl we -- we wash
11 the hair, it was messing up, yes, it was. That day we
12 was fixing with the plumber. Okay.

13 MS. CYNTHIA MONCADA: Can I speak?

14 HEARING OFFICER JONES: I'll give you a chance to
15 in just a moment.

16 THE WITNESS: Yes. And that day when she went
17 over there and give me that letter, it was -- it was
18 closed, it wasn't -- I think it was like three days
19 before the 4th of July, because it was the --

20 MS. HORNER: Parade.

21 MS. LURVIN MONCADA: -- the parade, it was the
22 parade. But my daughter was there and she called me
23 and I show her the proof I -- all my paper is in order,
24 the proof.

25 Do I show you?

1 MS. HORNER: No.

2 HEARING OFFICER JONES: Wait, now --

3 MS. LURVIN MONCADA: Yes, I did.

4 HEARING OFFICER JONES: Mrs. Moncada, you can't
5 talk to -- you and Ms. Horner can't have a conversation
6 right now.

7 THE WITNESS: Okay.

8 HEARING OFFICER JONES: You can just talk to the
9 board.

10 THE WITNESS: Well, I tell you I going to tell you
11 the truth and I will.

12 I bring the proof of the payments when I came to
13 Little Rock to pay the business license and the --

14 HEARING OFFICER JONES: And is that what the --

15 THE WITNESS: -- cosmetology license --

16 HEARING OFFICER JONES: And that's the copies
17 of -- the copies, Michelle, she made was the payment.

18 Let's mark those as Respondent's Exhibit No. 1.

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

21 HEARING OFFICER JONES: Go ahead.

22 THE WITNESS: Yes. I show to her and she -- she
23 put it write -- wrote in the paper, I don't know where,
24 on her paper, it was true, she did and she give me the
25 letter and she say sign with the letter because you

1 have some, and I sign it. That was all. That was all.

2 And I thinking somebody else want to do something
3 bad to me and I know who was but it's -- I believe that
4 God is good all the time. I believe it. Maybe it's
5 not concern to your religion here but I believe in God
6 and God is good. In doing good or doing bad, God is
7 good.

8 I don't know if my daughter has something to say.

9 HEARING OFFICER JONES: Okay. Mrs. Moncada --

10 THE WITNESS: For me, I'm finished.

11 HEARING OFFICER JONES: Okay. Well, I'm going to
12 let -- if you have any questions you want to ask your
13 daughter, then she can tell the board, she can answer
14 those questions for the board. Okay?

15 MS. LURVIN MONCADA: Okay.

16 WHEREUPON,

17 CYNTHIA MONCADA,

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 TESTIMONY

22 THE WITNESS: I just wanted to say, the day that
23 she went into the salon and she brought me in the salon
24 was on a Wednesday and the salon was closed. And the
25 reason that I was there is because I was supposed to be

1 cleaning up the salon. And I told her when she came
2 in, I said, "I'm sorry, ma'am, the salon is closed,"
3 and but she just went right ahead and inspect
4 everything. And I'm saying, "If it's dirty it's
5 because I'm closed to be cleaning up actually the
6 salon," but she just did the whole inspection. And I
7 even told her everything else, actually this is out of
8 order and the reason that the plumbing and everything
9 is messed up like that because the owner is supposed to
10 fix it, we've been talking to him a long time already,
11 that's the reason that she opens up on Thursday,
12 Fridays, and Saturdays.

13 And I don't -- and, yeah, there was one time --
14 well, I had my license but I'm during the transfer to
15 an Arkansas license. And know I made a mistake that
16 day, I think, I'm not sure the day she was there, but I
17 was just doing my friend's nails. And I know my mother
18 was always telling me, you know, don't do nails unless
19 it's out of the salon.

20 Sorry about that.

21 HEARING OFFICER JONES: Okay. Mr. Hogan, do you
22 have any questions for Ms. Moncada?

23 CROSS-EXAMINATION

24 BY MR. HOGAN:

25 Q There was some evidence or testimony about a man being there

1 and doing some work that left?

2 A That was a big mistake, there was only my mother in there.
3 There was another lady in there but she work on Mondays, so if
4 there was a man, maybe my mother was doing his hair, so I don't
5 know about that. I don't know where she got that.

6 MS. LURVIN MONCADA: It was he was there sometime,
7 sometime come two or three people together and they
8 just stand, stand up around when we are doing the
9 friend or, I don't know, family, and they stand up on
10 the side.

11 When she get in, I was taking something from the
12 desk, and the other guy maybe he was waiting for the
13 guy and he not even know who -- who was she, he not
14 even know. But I was doing the guy, he was the one, he
15 wasn't in charge.

16 WHEREUPON,

17 LURVIN MONCADA,
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 But the testimony was, as I understood it, that he was
24 cutting somebody's hair and he left?

25 A No. He never was cutting. He didn't was cutting. He

1 wasn't. He was stand up in the side and wasn't only one behind
2 and they was on this side. Actually was -- he was finishing.

3 Q Did -- do you have anybody else other than your daughter
4 that -- that works there or --

5 A Before -- before I have a lady, yeah, I have a lady, she
6 come from Memphis and she was out for April, a very nice lady.
7 Now she's not, not there because she went back to Memphis.

8 HEARING OFFICER JONES: Anything else?

9 MR. HOGAN: I don't have anything else.

10 HEARING OFFICER JONES: Does the board have any
11 questions for Mrs. Moncada?

12 Tracy.

13 MS. AKARD: What time was your daughter doing
14 nails on her friend?

15 THE WITNESS: Excuse me?

16 MS. AKARD: What day was your daughter doing nails
17 on her friend?

18 THE WITNESS: It was Wednesday. It was Wednesday,
19 nobody was working there. Nobody was working, it was
20 closed.

21 MS. AKARD: You were doing nails on your friend on
22 that Wednesday?

23 MS. CYNTHIA MONCADA: It wasn't a Wednesday that I
24 was doing the nails.

25 COURT REPORTER: Wait a minute, I can't hear you.

1 Can you come sit up here at the table?

2 HEARING OFFICER JONES: Sit up here at the table
3 or at least stand up.

4 MS. CYNTHIA MONCADA: It wasn't a Wednesday that I
5 was doing my friend's nails, it was a day that I was
6 supposed to be cleaning up the salon. The salon was
7 closed, I had the door locked. One of my friends
8 stepped out and had the door open, that's when she
9 walked in. I told her, I'm sorry, the salon was
10 closed. I didn't know who she was so I told her the
11 salon was closed, you know, but she just asked, you
12 know, did the whole inspection, everything, and so I
13 just went about it, you know, I had no idea. But it
14 was not that it was open.

15 Every time -- usually I go there every Wednesday
16 to try to clean up because that's what I do for my mom.
17 If I'm there all the time it's because I clean up, I
18 don't do nails. It's just that because I'm doing the
19 practical and everything, so my mom was, if you want to
20 help me, she was going to help me clean up the salon,
21 that's the only day that they were there. It was a day
22 the salon was closed, no open sign or anything, that
23 day if I'm there, no open sign or anything because I'm
24 just there to clean.

25 HEARING OFFICER JONES: Further questions for the

1 board members?

2 (Witness excused.)

3 HEARING OFFICER JONES: Okay. If there are no
4 further questions, Mr. Hogan?

5 Ms. Moncada, is there anything else you would like
6 to say?

7 MS. LURVIN MONCADA: No.

8 HEARING OFFICER JONES: I'll give you a chance to
9 make a closing, so --

10 MS. LURVIN MONCADA: No. I think everything was
11 said.

12 HEARING OFFICER JONES: Okay. Mr. Hogan, anything
13 in closing?

14 MR. HOGAN: No. That's it.

15 HEARING OFFICER JONES: Okay. Ms. Moncada, last
16 chance to say something before we close for
17 deliberation.

18 MS. LURVIN MONCADA: I don't got nothing to say
19 any more.

20 HEARING OFFICER JONES: Okay. I just wanted to
21 make sure.

22 At this time we're going to close the record and
23 make it complete except for the board's recess for
24 deliberations and decision. Once a decision has been
25 reached we will go back on the record.

1 (WHEREUPON, the Commission retired to deliberate,
2 off the record, from 3:17 p.m. to 3:21 p.m., and
3 returned with the following motion.)

4 HEARING OFFICER JONES: Okay. At this time we'll
5 go back on the record for a motion.

6 MR. BUTENSHOEN: What is it, No. 3?

7 MS. COLLINS-BURROUGHS: No, it would be No. 1.

8 MR. BUTENSHOEN: Number one, okay.

9 I make a motion, finding the allegations to be
10 true, I move the order -- to order the respondent to
11 pay a fine in the amount of \$1,000, payable within 30
12 days of the receipt of the board's order. Failure to
13 pay the fine as ordered will result in a suspension of
14 the respondent's license, practitioner's license and
15 establishment license beginning 30 days from the
16 receipt of the order and continuing for a period of 90
17 days from the date the respondent relinquishes her
18 license to the board.

19 MS. COLLINS-BURROUGHS: We have a first, and do we
20 have a second?

21 MS. AKARD: I second.

22 MS. COLLINS-BURROUGHS: We have a first and
23 second. All in favor, raise your hand.

24 (Hands raised.)

25 MS. COLLINS-BURROUGHS: Motion carried.

1 HEARING OFFICER JONES: Let the record reflect the
2 decision of the board is unanimous. Please reduce that
3 decision to writing and make or attempt service upon
4 all parties.

5 Please also note that the respondent's address is
6 109 West Emma, not 106.

7 If the respondent cares to appeal the decision,
8 appeal may be taken under the Arkansas Code Annotated,
9 and the Administrative Procedures Act section, which is
10 25-15-201 or any specific provision of this board.

11 Any other question or comments can be directed
12 towards the director of the board.

13 Thank you.

14 This hearing is closed.

15 (WHEREUPON, at 3:22 p.m., the above-entitled
16 proceedings were concluded.)

17 ---o---

18 HEARING OFFICER JONES: One more. Diva Nails.

19 MS. REYNOLDS: Will you let her know?

20 HEARING OFFICER JONES: They fined against you.

21 MR. HOGAN: You'll get something in writing and
22 then you can decide what you want to do after you get
23 the written order.

24 MS. LURVIN MONCADA: You -- you already decide
25 what you going to do.

1 MR. HOGAN: But you can appeal. It will tell you
2 you can appeal that decision.

3 MS. LURVIN MONCADA: No. It's a -- no. If I do
4 you going to give me 2,000 in fine.

5 It's okay.

6 MR. HOGAN: Thank you, ma'am.

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH, PETITIONER.

4 V.

5 DIVA NAILS AND SPA, OWNER, KEVIN NGUYEN,

6 RESPONDENT.

7 HEARING OFFICER JONES: Have a seat, sir.

8 Kevin Nguyen, Diva Nails. Let everybody have a
9 change to pull their paperwork.

10 Okay. My name is Kendra Akin Jones and I'm the
11 Hearing Officer today In The Matter of the Arkansas
12 Department of Health versus Diva Nails and Spa, owner,
13 Kevin Nguyen, which is to be heard before the
14 Cosmetology Technical Advisory Committee. Today is
15 Monday, July 18, 2011, and we're located in the
16 conference room of the Freeway Medical Building.

17 Mr. Nguyen, would you please identify yourself for
18 the record?

19 MR. KEVIN NGUYEN: Yes.

20 HEARING OFFICER JONES: State your name for the
21 court reporter.

22 MR. KEVIN NGUYEN: Yes, ma'am.

23 HEARING OFFICER JONES: You have to state your
24 name.

25 MR. KEVIN NGUYEN: Kevin Nguyen.

1 HEARING OFFICER JONES: And you're going to have
2 to speak up because none of us down here can hear you.

3 MR. KEVIN NGUYEN: Kevin Nguyen.

4 HEARING OFFICER JONES: Thank you.

5 And, Mr. Nguyen, did you bring any counsel with
6 you today?

7 MR. KEVIN NGUYEN: No.

8 HEARING OFFICER JONES: Okay.

9 MR. KEVIN NGUYEN: I got that thing.

10 HEARING OFFICER JONES: And you have the Order and
11 Notice of Hearing that was sent to you?

12 MR. KEVIN NGUYEN: Yes.

13 HEARING OFFICER JONES: Okay. Mr. Hogan, please
14 identify yourself for the record.

15 MR. HOGAN: Rick Hogan, attorney for the health
16 department.

17 HEARING OFFICER JONES: For the respondent's
18 benefit as well as the benefit of anyone present who
19 may not have appeared before in an administrative
20 hearing, the board's decision will be based solely on
21 evidence that is presented here today. This hearing is
22 being held in accordance with the Administrative
23 Procedures Act, so the strict rules of evidence do not
24 apply. To ensure the efficiency of the proceedings, I
25 will grant objections and caution parties as necessary.

1 The board members know of the case only as it
2 appears and is set forth in the Order and Notice of
3 Hearing. If there is anything you want to have
4 considered by the board, you must submit it today.

5 All participants should also be aware that this is
6 open to the public under the Freedom of Information
7 Act, and that includes the hearing and the board's
8 recess for deliberations.

9 If you're going to be a witness in this matter,
10 please raise your right hand and we'll have the court
11 reporter swear you in.

12 (WHEREUPON, the witnesses were sworn.)

13 HEARING OFFICER JONES: Preliminary matters,
14 Mr. Hogan?

15 MR. HOGAN: I would ask that this Order and Notice
16 of Hearing be admitted as Board's Exhibit No. 1, and
17 that the rules of the board and the statute, that the
18 committee be able to take notice of those.

19 HEARING OFFICER JONES: The packet will be
20 admitted as the Board's Exhibit No. 1, and the board
21 can take notice of the rules and regulations, the
22 statutes pertaining to the -- this board.

23 (WHEREUPON, Board's Exhibit No. 1 was received in
24 evidence.)

25 MR. HOGAN: And may I ask that, Kevin, are you

1 here to contest the matters that are in the notice of
2 hearing?

3 MR. KEVIN NGUYEN: Yes.

4 MR. HOGAN: You are?

5 MR. KEVIN NGUYEN: Yes.

6 MR. HOGAN: Okay.

7 HEARING OFFICER JONES: Mr. Nguyen, do you have
8 any -- any evidence or anything you would like for the
9 board to look at today?

10 MR. KEVIN NGUYEN: No.

11 HEARING OFFICER JONES: Okay. Mr. Hogan, opening?

12 MR. HOGAN: I waive that.

13 HEARING OFFICER JONES: Mr. Nguyen, is there
14 anything you would like to say in opening to the board?

15 MR. KEVIN NGUYEN: Yes.

16 HEARING OFFICER JONES: I'll give you a full
17 chance to state your whole story later, but if you want
18 to say anything as an opening.

19 MR. KEVIN NGUYEN: Okay.

20 HEARING OFFICER JONES: You can go right ahead.

21 MR. KEVIN NGUYEN: Okay.

22 HEARING OFFICER JONES: All right. Do you want to
23 state anything now or do you want to wait?

24 MR. KEVIN NGUYEN: No, ma'am.

25 HEARING OFFICER JONES: Okay. Mr. Hogan, you can

1 call your first witness.

2 MR. HOGAN: I call Ms. Lester.

3 WHEREUPON,

4 LAVONNE LESTER,

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 MR. HOGAN:

10 Q State your name, if you would please, Lavonne.

11 A Lavonne Lester.

12 Q And you're an inspector --

13 A Yes, sir.

14 Q -- for the Arkansas Department of Health cosmetology?

15 A Yes, sir.

16 Q You, I believe, inspected the Diva Nails and Spa on April
17 the 27th of this year. Correct?

18 A I did.

19 Q Lavonne, can you tell the members of the committee what you
20 found during that inspection?

21 A Okay. When I entered the salon, I stood for a while at the
22 door and scanned the room and watched who was working. Then I
23 went to do the license and the gentleman that was at the first
24 table got up and walked to the back and I noticed a man doing a
25 pedicure that did the same thing.

1 So I got all the license and their ID so I could find out
2 who was who. And those, the people that had gotten up and walked
3 out, their -- they were not licensed.

4 Q Were you able to identify who those folks were or did you --

5 A I -- I spoke with this gentleman and he told me who they
6 were.

7 I asked him to write their names down and he did, and none
8 of those names matched the license that were there.

9 Q And that -- the names that he wrote down, Lavonne, is that
10 on this page?

11 A Yes.

12 Q Okay. On this note?

13 A Yes, on the back page.

14 Q And that's Page 3 of this document that we've introduced.
15 And those names appear to be Mr. Tran and Van Lam? Is that --

16 A That's what it looks like to me. That's what he wrote down
17 for me. Yes.

18 Q And you couldn't find any license for those -- those folks?

19 A No. I did not.

20 Q Is there anything further you want to --

21 A Well, I had them take the filters off on the pedicure bowls
22 and they showed definite signs of having -- that they had not
23 been cleaned recently, there was a lot of debris in there.

24 Q That was the --

25 A And that was --

1 Q -- the shampoo bowl that was not --

2 A No. That was the pedicure bowls.

3 Q Okay. Is that the same or is that -- on your inspection

4 report, Lavonne, No. 20?

5 A Uh-huh. Yes, I see.

6 Q You list shampoo bowl not cleaned. Is that a separate bowl

7 than what we're talking about or is that the same thing?

8 A No. It -- it's the pedicure bowls.

9 Q Okay.

10 A We just don't have that particular --

11 Q There's not a pedicure bowl slot?

12 A (Nodding head up and down.)

13 Q Okay. Did you -- just to make sure this is clear, the two

14 gentlemen that were listed by Mr. Nguyen?

15 A Uh-huh.

16 Q Did you observe them working? Were they providing some --

17 A They were working when I walked in the salon. One was doing

18 a manicure and the other one was doing a pedicure.

19 Q Okay. Were they at individual stations that they worked

20 from?

21 A Yeah.

22 Q Did they have their own station?

23 A Uh-huh. Yes. Yes, they did.

24 Q Were you able to talk to them?

25 A No. They immediately got up and left.

1 Q All right. Did you talk to --

2 A Or went to a back room. I don't know which.

3 Q Did you talk to Mr. Nguyen? I know you said --

4 A Uh-huh.

5 Q -- that you got the names of them --

6 A I did, and he was kind enough to write them down.

7 Q Did you talk to -- did --

8 A I asked first who they were and he mentioned and I said,

9 "Would you please write their names down," and he did.

10 Q At that time did you talk to him or any time after that

11 about the fact you couldn't find any license posted or anything

12 else --

13 A Uh-huh.

14 Q -- for those two gentlemen, right?

15 A Uh-huh. Yes.

16 Q What did he say or what was his response?

17 A I don't remember his response. He was kind enough to write

18 the names down for me.

19 I think he was well aware that they didn't have license.

20 Q Now, he had several other people that worked there that were

21 properly licensed?

22 A Uh-huh.

23 Q Is that correct?

24 A Yes.

25 Q Is there anything further you're going to make the committee

1 aware of at this time?

2 A That's it for me.

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

4 HEARING OFFICER JONES: Mr. Nguyen, do you have
5 any questions for Ms. Lester?

6 MR. KEVIN NGUYEN: No, ma'am.

7 HEARING OFFICER JONES: Okay. Board members,
8 questions for Ms. Lester?

9 MS. COLLINS-BURROUGHS: I do.

10 MS. AKARD: Go right ahead.

11 MS. COLLINS-BURROUGHS: After these two fellows
12 went to the back of the room or whatever, what happened
13 to the client?

14 THE WITNESS: Someone else came and took over,
15 another person that was there at the salon came and
16 took over doing that particular task, whatever it was,
17 the manicure or the pedicure.

18 I mean they didn't leave their client just
19 hanging.

20 MS. COLLINS-BURROUGHS: So what did the client do
21 or appear concerned or --

22 THE WITNESS: Huh-uh.

23 MS. COLLINS-BURROUGHS: -- say --

24 Okay. Thank you.

25 HEARING OFFICER JONES: Further questions from the

1 board?

2 Okay. If there are none, thank you, Ms. Lester.

3 (Witness excused.)

4 HEARING OFFICER JONES: Mr. Hogan, you can call
5 your next witness.

6 MR. HOGAN: Ms. Kersey.

7 WHEREUPON,

8 KELLI KERSEY,

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 Ms. Kersey, state your name and your position with the
15 department, please.

16 A Kelli Kersey, section chief.

17 Q Have you looked at the records of the board to determine if
18 these two gentlemen had a license with the Arkansas Department of
19 Health?

20 A Well, unfortunately with just their names, it would be
21 difficult to determine whether it was them. I mean we have
22 multiple names of the same in our system, so without a birthday
23 or social or something, we can't determine exactly who these two
24 gentlemen, or it may be ladies, are.

25 I mean it's unfortunate but it's true.

1 Q You didn't -- for those particular names you found no
2 license on the record, though, right?

3 A Well, yeah, there is named -- there is people with these
4 names that have license.

5 MS. COLLINS-BURROUGHS: There are several, she
6 said.

7 MR. HOGAN: Oh, there are several?

8 MR. BUTENSHOEN: Joe Smith.

9 THE WITNESS: Yeah. I mean, there is like --

10 MS. COLLINS-BURROUGHS: But for any, without any
11 other identifying numbers, there are --

12 HEARING OFFICER JONES: All right, Susan, you
13 can't answer questions.

14 MS. COLLINS-BURROUGHS: Sorry.

15 THE WITNESS: But with just their names, I can't
16 say. You know, I mean, there is names in the system by
17 this, but I don't know, you know, if this is the right
18 birthday or, you know what I'm trying -- to match this
19 person to a license, I can't just use their name.

20 MR. HOGAN: Okay.

21 THE WITNESS: Sorry. I don't know if I said that
22 right.

23 MR. HOGAN: Anybody else sorry that I called her
24 as a witness?

25 THE WITNESS: Sorry. I don't know what else to

1 say. It's true.

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

3 HEARING OFFICER JONES: Mr. Nguyen, do you have
4 any questions for Ms. Kersey?

5 MR. KEVIN NGUYEN: No.

6 THE WITNESS: Are you sure?

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

9 Does the board have any questions for Ms. Kersey?
10 If there are none, thank you very much.

11 (Witness excused.)

12 HEARING OFFICER JONES: Mr. Hogan, anything
13 further?

14 MR. HOGAN: Just a few questions of Mr. Nguyen, if
15 I may.

16 MR. KEVIN NGUYEN: Yes, sir.

17 WHEREUPON,

18 KEVIN NGUYEN,

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

22 DIRECT EXAMINATION

23 BY MR. HOGAN:

24 Q Did -- you wrote down the names for the inspector, correct?

25 A (Nodding head up and down.)

1 Q Were they two gentlemen, both men that worked there at the
2 business?

3 A They just moved -- they just moved from Texas and they asked
4 me, you know, for work, for pay the bill. I let them wait about
5 three weeks --

6 COURT REPORTER: I didn't hear that.

7 THE WITNESS: -- but then I need --

8 HEARING OFFICER JONES: Just a minute. The court
9 reporter is having a hard time.

10 MR. HOGAN: You need to speak up, please.

11 HEARING OFFICER JONES: You need to speak up,
12 please.

13 THE WITNESS: They move from Texas about a month
14 before they work, and I don't let them work and they
15 ask me, they need to work for pay the bill, and that
16 why I need to let them work. And they start, they just
17 start work about 4-5 days before inspector coming.

18 BY MR. HOGAN:

19 Q Did they tell you if they were licensed in Texas?

20 A Yeah. They have, they have their license somewhere else.

21 Q You knew they didn't have a license in Arkansas?

22 A Yeah. I know, but they need to, money to pay for bill.

23 Q Okay.

24 A But that's why I let.

25 MR. HOGAN: Okay. Thank you. I appreciate your

1 honesty.

2 I have no further questions.

3 HEARING OFFICER JONES: Does the committee have
4 any questions at this time that they would like to ask
5 Mr. Nguyen?

6 MS. AKARD: How long have you been in business in
7 Arkansas?

8 THE WITNESS: Yes. Two and -- two year and three
9 months.

10 MS. COLLINS-BURROUGHS: Where did you come from?

11 THE WITNESS: Texas.

12 MS. COLLINS-BURROUGHS: Texas?

13 THE WITNESS: Yes.

14 MS. COLLINS-BURROUGHS: So you knew these two
15 prior?

16 THE WITNESS: Yes.

17 MS. COLLINS-BURROUGHS: Okay. And you know it's
18 unlawful to have unlicensed workers in your shop?

19 THE WITNESS: Yes, ma'am.

20 MS. COLLINS-BURROUGHS: Okay.

21 HEARING OFFICER JONES: Further questions from the
22 board at this point?

23 (Witness excused.)

24 HEARING OFFICER JONES: Okay. Mr. Nguyen, is
25 there any -- Mr. Hogan, do you have anything else?

1 MR. HOGAN: I rest. That concludes it.

2 HEARING OFFICER JONES: Mr. Nguyen, this is your
3 opportunity to tell the board anything you want them to
4 know before they make their decision.

5 MR. KEVIN NGUYEN: No, ma'am.

6 HEARING OFFICER JONES: Okay. Very well, then.
7 Anything in closing, Mr. Hogan?

8 MR. HOGAN: No. No, ma'am.

9 HEARING OFFICER JONES: Last chance, Mr. Nguyen,
10 anything for the board?

11 MR. KEVIN NGUYEN: (Shaking head from side to
12 side.)

13 HEARING OFFICER JONES: Okay. I just wanted to
14 make sure.

15 At this time we'll close the record and make it
16 complete except for the recess for deliberation. Once
17 a decision has been reached by the board we will go
18 back on the record.

19 (WHEREUPON, the committee retired to deliberate,
20 off the record, from 3:36 p.m. to 3:37 p.m., and
21 returned with the following motion.)

22 MR. BUTENSHOEN: I make a motion, finding the
23 allegations being true, I move to order the respondent
24 to pay a fine in the amount of \$525, that's \$250 per
25 unlicensed practitioner offense and \$25 for every

1 sanitation offense, within 30 days of receipt of the
2 board's order. Failure to pay the fine as ordered will
3 result in the suspension of the respondent's, what is
4 it, I'm trying to think --

5 MS. COLLINS-BURROUGHS: You can do both or you can
6 just do one.

7 MR. BUTENSHOEN: The establishment license.

8 MR. HOGAN: Salon.

9 MR. BUTENSHOEN: Establishment license.

10 MR. HOGAN: Yeah.

11 MR. BUTENSHOEN: Sorry. Beginning 30 days from
12 receipt of the order, continuing for a period of 90
13 days from the date the respondent relinquishes his
14 license to the board.

15 MS. COLLINS-BURROUGHS: Okay. Do we have a
16 second?

17 MS. AKARD: Second.

18 MS. COLLINS-BURROUGHS: We have a second. All in
19 favor, raise your right hand.

20 (Hands raised.)

21 MS. COLLINS-BURROUGHS: Motion carried.

22 HEARING OFFICER JONES: Let the record reflect the
23 decision of the board is unanimous, please reduce the
24 decision to writing and make or attempt service upon
25 all parties. Please also notify the respondent that if

1 they care to appeal the decision, an appeal can be
2 taken under the Administrative Procedures Act found at
3 Arkansas Code Annotated 25-15-201 et seq., or any
4 specific provision of this board.

5 Any other questions or comments can be directed
6 toward the director of this board, and the record is
7 closed.

8 (WHEREUPON, at 3:38 p.m., the above-entitled
9 proceedings were concluded.)

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11 MR. HOGAN: Okay. You will -- Kevin, you will get
12 a written order in the mail, and if you have any
13 questions about it you can call me or Kelli. And you
14 can appeal that if you want to, you've got 30 days to
15 appeal that decision.

16 You can pay in installments, just get with
17 Michelle or this lady over here and then she can work
18 with you as far as paying the fine, and otherwise
19 you're good to go.

20 MR. KEVIN NGUYEN: Okay. Thank you, sir.

21 Thank you.

22 MR. HOGAN: Thank you.

23 BOARD MEMBERS: Thank you.

24 MR. KEVIN NGUYEN: Thank you.

25 (WHEREUPON, at 3:39 p.m., the above-entitled

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CERTIFICATE

STATE OF ARKANSAS)

COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the Administrative Hearings held before the Arkansas Department of Health, Cosmetology Technical Advisory Committee, July 18, 2011, were taken by me in Stenotype and were reduced to computer-generated typewritten form by me or under my direction and supervision; that the witnesses were duly sworn by the undersigned notary public; and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

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

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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