

1 ARKANSAS DEPARTMENT OF HEALTH  
2 COSMETOLOGY SECTION  
3 COSMETOLOGY TECHNICAL ADVISORY COMMITTEE  
4  
5  
6  
7

8 BE IT REMEMBERED that on Monday, the 16th day of May,  
9 2011, the meeting of the Arkansas Department of Health,  
10 Cosmetology Section, Cosmetology Technical Advisory  
11 Committee was held at 9:00 a.m., at the Freeway Medical  
12 Tower Building, located at 5800 West 10th Street, 8th  
13 Floor, Little Rock, Pulaski County, Arkansas.  
14  
15

---

16 TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT:

17 Tracy Akard, Chair  
18 Cathy Caver  
19 Jacquelyn Reynolds  
20 Jim Butenschoen

---

21 REPORTED BY:

22 Michelle R. Satterfield, CCR  
23 Arkansas Supreme Court Certificate No. 570  
24 Write Right Stenotype, Inc.  
25 1955 Little River Drive  
Conway, Arkansas 72034  
(501)336-7414  
satterfield@conwaycorp.net

**Michelle Satterfield, CCR**

A P P E A R A N C E S

1 HEARING OFFICER:

2 CHARLES MOULTON

3 ON BEHALF OF THE BOARD:

4 RICK HOGAN, ESQ.

5 STAFF MEMBERS PRESENT:

6 KELLI KERSEY - Section Chief

7 MICHELLE RUDOLPH - Business Operations Specialist

8 Board Inspectors Present:

9 LAVONNE LESTER

10 BRENDA MORGAN

11 ROSE HORNER

12 PAT BLAND JACKSON

13 VERA WOOD

14 Court Reporter:

15 MICHELLE R. SATTERFIELD, CCR

16 Arkansas Supreme Court Certificate No. 570

17 \* \* \* \* \*

I N D E X

1			
2	TOPIC		PAGE
3	APPEARANCES		2
4	INDEX		3
5	DISCIPLINARY HEARING OF:	Allure Salon	4-9
6	DISCIPLINARY HEARING OF:	Salon Nula & Company	9-27
7	DISCIPLINARY HEARING OF:	Rose Spa, LLC	27-36
8	DISCIPLINARY HEARING OF:	Salon Scarlet	37-41
9	DISCIPLINARY HEARING OF:	Body Bronze, LLC	42-47
10	DISCIPLINARY HEARING OF:	Sarah Ruthven	48-52
11	REPORTER'S CERTIFICATE		53

E X H I B I T S

12			
13	NUMBER	DESCRIPTION	PAGE
14	Exhibit 1	Allure Salon Hearing Exhibits	4
15	Exhibit 2	Salon Nula & Company Hearing Exhibits	12
16	Exhibit 3	Rose Spa, LLC Hearing Exhibits	13
17	Exhibit 4	Salon Scarlet Hearing Exhibits	29
18	Exhibit 5	Body Bronze Hearing Exhibits	38
19	Exhibit 6	Sarah Ruthven's Hearing Exhibits	43

20  
21  
22  
23  
24  
25

1 MR. HOGAN: This is the matter involving  
2 the Allure Salon, 428 Southwest Drive, in  
3 Jonesboro, Arkansas.

4 I've talked to Mr. Shepard beforehand,  
5 Madam Chair, and he has no objection to the  
6 introduction of this 5-page document, front and  
7 back, which includes a Notice of Hearing and the  
8 Inspector's Report.

9 I know that he has some extenuating  
10 circumstances that he wants to explain to the  
11 Committee. The two violations that have been  
12 cited, is that the salon's license was not  
13 current and that the license was not posted.

14 I know Mr. Shepard has recently purchased  
15 this business and I'll just introduce this as an  
16 Exhibit No. 1, Madam Court Reporter, and if it's  
17 okay with the Committee, turn it over to  
18 Mr. Shepard to explain his circumstances.

19 (WHEREUPON, Exhibit No. 1 was marked for  
20 identification and is attached hereto.)

21 MR. SHEPARD: I purchased the salon in  
22 December of last year and I've been -- me and  
23 the previous owner, who still works there,  
24 Shelly Rounsville, me and her had been  
25 discussing it for several months and so I

1 finally bought it in December of last year and  
2 bought a business license, and she had --  
3 honestly, there's some miscommunication between  
4 her and I. She had asked me if I had got a  
5 business license from the state and I said yes  
6 because -- I am just pleading ignorance here,  
7 I'm going to be honest. I didn't realize you  
8 had to get a business license from the city,  
9 plus a salon license from the state, and she had  
10 told me that she had her license, so there was  
11 some miscommunication there.

12 So in January, I was moving right along,  
13 thinking I was perfectly legal and had done  
14 everything right, and then the first of  
15 February -- I have some paperwork here -- I  
16 was -- fell on some ice and had an accident and  
17 separated my shoulder, lumbar, and had two discs  
18 in my neck that were bulging and had to have  
19 surgery on my shoulder, and for the month, up  
20 until actually two weeks earlier -- I've just  
21 been released to go back to work today, and I  
22 have all my paperwork there.

23 So I was out of the shop for two months.  
24 She would call me periodically just to let me  
25 know, you know, everything is going -- because

1 we had some new girls that were working there.  
2 And then I get a call from her one day saying  
3 that, you know, an inspector had come by and  
4 asked me if I had that license yet and I said,  
5 yeah, you know I already bought that in January.

6 So at that point, the -- I guess the fine  
7 was, you know, already established or whatever,  
8 so I got everything that I needed. I got on the  
9 website, got the proper form to fill out and  
10 sent that in and paid for that license.

11 And to help me make sure that those things  
12 are going now, I have a manager in the shop now,  
13 someone who's helping me keep up with those  
14 sorts of things.

15 There had been letters apparently sent to  
16 the shop and I never received them or nothing  
17 and -- because they was in her name, and she  
18 just assumed that, you know, she wasn't the  
19 owner, so she -- you know, I guess they went in  
20 the trash.

21 And I don't deny the claim, and it won't  
22 happen again, I assure you, now that I -- I've  
23 went on the website and I've looked at all the  
24 rules and regulations and educated myself on  
25 them.

1 And that's my side of what happened.

2 MR. HOGAN: Do the Members of the Committee  
3 have any questions for Mr. Shepard about the  
4 allegations or circumstances?

5 I understood, just to make sure, you have  
6 received your license now?

7 MR. SHEPARD: Yes.

8 MR. HOGAN: Now you are currently licensed?

9 MR. SHEPARD: Yes.

10 MR. HOGAN: And it is currently posted?

11 MR. SHEPARD: Yes, it's currently posted in  
12 there.

13 MR. HOGAN: And the owner of -- the  
14 previous owner, she continues to work there?

15 MR. SHEPARD: She still works there, yes.

16 MR. BUTENSCHOEN: So you paid the renewal  
17 license and the violation fine?

18 MR. SHEPARD: Yes, sir.

19 MR. BUTENSCHOEN: Okay. What's the point  
20 of this?

21 MS. AKARD: Has he paid the fine?

22 MS. RUDOLPH: The violation hadn't been  
23 paid, but the licensing has.

24 MR. SHEPARD: Oh, okay. I apologize.

25 MR. BUTENSCHOEN: The \$129 --

1 MR. SHEPARD: Okay.

2 MR. BUTENSCHOEN: -- that needs to be paid.

3 MR. SHEPARD: Sure, I can pay that.

4 MR. HOGAN: I think, as I understood from  
5 talking to you earlier, that you were concerned  
6 about the language in the notice about possible  
7 revocation of your license?

8 MR. SHEPARD: Yes.

9 MR. HOGAN: And you wanted to come today  
10 and explain to the Committee your circumstances  
11 and ask --

12 MR. SHEPARD: Yes.

13 MR. HOGAN: -- them to take that into  
14 consideration?

15 MR. SHEPARD: Yes, I just didn't -- there's  
16 six girls working there. They're -- they're  
17 great and I wouldn't want anything to happen to  
18 their . . .

19 MR. HOGAN: The proposed violation is --  
20 total proposed penalty, Madam Chair and Members  
21 of the Committee, is \$129, and he has paid -- or  
22 he has renewed his license, so the issue is  
23 whether or not, today, the Committee wishes to  
24 assess the penalty of \$129, or you can take less  
25 or more.

1 MR. BUTENSCHOEN: I make a motion that we  
2 accept the \$129. Call it education.

3 MR. SHEPARD: Yes.

4 MS. CAVER: I second that.

5 MS. AKARD: All in favor?

6 (Committee Members raising their hands in response.)

7 MR. BUTENSCHOEN: Thank you.

8 MR. HOGAN: Thank you, Mr. Shepard.

9 MR. SHEPARD: Thank you.

10 HEARING OFFICER: Well, first off, let me  
11 apologize. I went by the Agenda that said that  
12 the hearing started at 9:30. I didn't realize  
13 that 9:30 meant 9:15.

14 For the record, my name is Charlie Moulton.  
15 I'll be acting as the Administrative Hearing  
16 Officer for this matter.

17 This is styled "Before the Cosmetology  
18 Technical Advisory Committee in the matter of  
19 License No. 53424, Arkansas Department of  
20 Health, Petitioner, versus Salon Nula & Company,  
21 Respondent." The owner is Fionnola Rutherford.

22 MS. RUTHERFORD: Fionnula.

23 HEARING OFFICER: I'm sorry.

24 MS. RUTHERFORD: It's okay.

25 HEARING OFFICER: You've already identified

1                   yourself for the record?

2                   MS. RUTHERFORD: Uh-huh.

3                   HEARING OFFICER: And I guess you sat  
4 through the previous hearing, did you not,  
5 ma'am?

6                   MS. RUTHERFORD: Yes, sir.

7                   HEARING OFFICER: So it's going to be  
8 structured just slightly different, since I  
9 arrived on the scene here. Theoretically I  
10 should have been here for the first one and  
11 basically run the hearing.

12                   My job is to make sure that you get a fair  
13 hearing, so the Board -- the Committee gets a  
14 chance to hear your side of the story.

15                   Mr. Hogan here represents the Petitioner,  
16 so consequently it's his burden. He goes first.  
17 He puts on whatever evidence that he's got,  
18 whatever witnesses he's got. You get a chance  
19 to question those witnesses if you'd like.

20                   If, as we go through this proceeding, you  
21 have got any questions or you've got some  
22 concern, you don't fully understand what's going  
23 on, make certain that you bring it to my  
24 attention. I want everyone to be on the same  
25 page, so at the end of this you do feel that you

1 got a fair shake.

2 All right?

3 MS. RUTHERFORD: Uh-huh.

4 HEARING OFFICER: And you're doing fine. I  
5 would ask you that when you do respond to  
6 anybody as we go through this, that you give a  
7 verbal response instead of a nod of the head.

8 MS. RUTHERFORD: Okay.

9 HEARING OFFICER: It's beneficial for you  
10 and her.

11 MS. RUTHERFORD: Okay.

12 HEARING OFFICER: Mr. Hogan, could you  
13 identify yourself for the record, please?

14 MR. HOGAN: Rick Hogan, General Counsel for  
15 the Arkansas Department of Health.

16 HEARING OFFICER: And, ma'am, you've  
17 already identified yourself. Who have you got  
18 with you?

19 MS. RUTHERFORD: My husband, Todd  
20 Rutherford.

21 HEARING OFFICER: All right. Anybody else  
22 that you brought today?

23 MS. RUTHERFORD: No, sir.

24 HEARING OFFICER: All right. Why don't we  
25 swear in the witnesses? I know you're going to

1 be testifying and your husband is probably going  
2 to be saying something, as well.

3 Who are your witnesses?

4 MR. HOGAN: Brenda Morgan.

5 HEARING OFFICER: Would you raise your  
6 right hands, please?

7 MR. HOGAN: Well, let me also swear in  
8 Kelli.

9 (All witnesses sworn in simultaneously.)

10 HEARING OFFICER: Do you have any exhibits?  
11 You've got one exhibit?

12 MR. HOGAN: Yes, that's our exhibit.

13 HEARING OFFICER: Well, just put the  
14 whole -- we will mark, as Board's Exhibit No. 1,  
15 a compilation package and admit that into  
16 evidence.

17 (WHEREUPON, Exhibit No. 1 was marked for  
18 identification and is attached hereto.)

19 Mrs. Rutherford, have you brought anything  
20 with you, any documents, or anything that you  
21 want the Board to take a look at?

22 MS. RUTHERFORD: Well, I have the  
23 establishment license for 2011 that I had paid  
24 the \$150 for.

25 HEARING OFFICER: Is that your original?

1 Is that the only copy that you've got of that  
2 license?

3 MS. RUTHERFORD: Yes, sir.

4 HEARING OFFICER: If I mark it and move it  
5 into evidence, you're not going to get it back.

6 MS. RUTHERFORD: Okay. Could you make a  
7 copy of it or should I have done that?

8 MR. HOGAN: We can make a copy of it.

9 HEARING OFFICER: Anything else that you've  
10 got with you, ma'am?

11 MS. RUTHERFORD: Something from the  
12 Arkansas Department of Health.

13 HEARING OFFICER: Okay. That's what's  
14 already been admitted, but we can make a copy of  
15 your license.

16 MS. RUTHERFORD: And then I have just the  
17 original copy of what I signed on February 15th.

18 HEARING OFFICER: That's already in  
19 evidence, as well.

20 MS. RUTHERFORD: Okay. And that's all.

21 HEARING OFFICER: Okay. And we will mark  
22 that as Respondent's Exhibit No. 1 and move that  
23 into evidence.

24 MS. RUTHERFORD: All right.

25 (WHEREUPON, Resp. Exhibit No. 1 was marked

1 for identification and is attached hereto.)

2 HEARING OFFICER: Mr. Hogan, do you want to  
3 make an opening statement?

4 MR. HOGAN: No, sir, I'll waive that.

5 HEARING OFFICER: Since he's waived an  
6 opening statement, I'm going to ask you to do  
7 the same thing, Ms. Rutherford.

8 MS. RUTHERFORD: Okay.

9 HEARING OFFICER: All right. Mr. Hogan,  
10 call your first witness, please.

11 MR. HOGAN: Just for the record, we'd like  
12 the Committee to be able to take notice of the  
13 of the rules and regulations of the Cosmetology  
14 Committee and the Board of Health.

15 HEARING OFFICER: We'll incorporate, by  
16 reference, both the statutes and the regs that  
17 are governing this proceeding.

18 MR. HOGAN: Madam Chairman, and Members of  
19 the Committee, I had an opportunity to talk to  
20 Mr. and Mrs. Rutherford beforehand and I know  
21 they've been through Exhibit No. 1 before, and  
22 it's two simple allegations. It's the license  
23 not being current, which they have corrected  
24 that, and not being posted currently. I don't  
25 believe there's any need for clarification at

1 this point by Ms. Morgan.

2 I would just turn over the matter, if it's  
3 appropriate, Mr. Hearing Officer, to the  
4 Rutherfords and ask them to explain why they're  
5 here today.

6 HEARING OFFICER: Sure. Ms. Rutherford?

7 MS. RUTHERFORD: Well, I understand I sent  
8 it in late and there's some penalties due, and I  
9 had signed for this and put it with all my  
10 paperwork. And when I was going through  
11 everything last week, I realized that there was  
12 a penalty due for sending this in late, so I'm  
13 just here to resolve the issue, the situation in  
14 any way possible.

15 MR. RUTHERFORD: And a reduction in the  
16 violation, the fees.

17 HEARING OFFICER: Mr. Rutherford, you have  
18 to speak up.

19 MR. RUTHERFORD: We're looking for a  
20 reduction in the penalty, the fees of \$856, if  
21 we could have that reduced.

22 EXAMINATION OF FIONNULA RUTHERFORD

23 BY MR. HOGAN:

24 Q So the proposed penalty that's listed in the last  
25 page of the exhibit, or next to the last page, asked for

1 \$856 and also the \$150 for the new salon, which you've  
2 paid and been properly licensed.

3 Do you want to tell the Committee a little bit about  
4 your circumstances? I mean, have you been in business  
5 for --

6 A We've been in business for nine years, and it's  
7 just -- you know, I've had some health issues recently and  
8 I'm not as busy as I'm used to being, so I'm just having a  
9 little bit of a hard time in the salon right now.

10 Q Have you had any previous violations or problems  
11 or --

12 A No, sir.

13 Q Have you always paid your fees --

14 A Yes.

15 Q -- your license fees?

16 A Yes.

17 Q -- and renewed it appropriately?

18 A Yes, my license, my business license, my  
19 establishment license, my sales permit, my cosmetology  
20 license.

21 Q Is there any particular circumstances that have  
22 happened in the last six months or so that caused -- I  
23 mean, you knew it had to be renewed?

24 A Yes. And it's just -- you know, like I said earlier,  
25 getting around just a day late, a dollar short, just

1 trying to keep my head above the water with the salon.

2 Q Is there anything else you want to tell the  
3 Committee, as far as reasons or circumstances that you're  
4 asking them to --

5 A Well, I understand that I'm at fault and would just  
6 like to see what we could do to just take care of the  
7 situation. If I need to pay the \$856 in full, I  
8 probably -- I would be able to take care of that, but just  
9 not today, at this moment. If I could give you postdated  
10 checks, or if we're able to maybe lessen the fee, maybe  
11 I'd be able to take care of it today.

12 HEARING OFFICER: Committee Members, do you  
13 have any questions for the Rutherfords?

14 BY MS. AKARD:

15 Q When did you renew?

16 A She came in the salon on February the 15th and I had  
17 taken the paperwork home and I think I sent the check out  
18 on March 11th, and I received my establishment license.  
19 It was issued on March 31st.

20 Q So it was several years late?

21 A Several? What do you mean several years late?

22 MR. BUTENSCHOEN: It was two years late.

23 BY MS. AKARD:

24 Q It was two years late?

25 A I think -- wasn't this the one where you were

1 doing -- like you had taken a picture, a photograph card,  
2 and I think that's where all the confusion had gotten?

3 Q So we're not just talking about a couple of months?

4 A I guess I didn't realize that -- I thought that  
5 because the card said 2011 on it, that I didn't -- I don't  
6 know how something had got misconstrued, because like I  
7 said, in the nine years that I've been in business this is  
8 the first time that anything has been late. Like my  
9 cosmetology, my business license, the tax license, so I  
10 think that was a misunderstanding on my part.

11 Because remember you had issued a card with the  
12 photograph on it, and wasn't that going to be a few --  
13 like you had it for a few years?

14 Q Two years.

15 A Okay. It was for two years and I thought that -- so  
16 I didn't -- like when she came in, I didn't even realize  
17 that this was out of date because I thought -- and I  
18 should have brought it with me -- it said March 31st,  
19 2011.

20 Q So you had the establishment license --

21 A I had the establishment license -- because sometime  
22 last year the card didn't -- I guess the card went out of  
23 effect, and I didn't realize that, so when she came in and  
24 informed me --

25 MS. KERSEY: They all expired 2010.

1 MS. RUTHERFORD: They did?

2 MS. KERSEY: Yes. I mean, we would have to  
3 get a copy of that because what it's saying here  
4 in our system, is that it expired in 2008, so we  
5 definitely need to see a copy of that.

6 MS. RUTHERFORD: Okay. Well, I have it at  
7 the salon.

8 MS. KERSEY: It wouldn't have been 2011.  
9 It would have been 2010.

10 MS. CAVER: But would it have expired in  
11 '08 --

12 MS. RUTHERFORD: Wasn't it -- there was a  
13 certain card --

14 MS. KERSEY: No, the --

15 HEARING OFFICER: What's happening is you  
16 have too many people speaking --

17 MS. KERSEY: Sorry, yeah.

18 MS. AKARD: Yes.

19 HEARING OFFICER: -- at the same time and  
20 she's going to have a difficult time, so you  
21 can't speak over one another. You each have to  
22 take a turn.

23 All right. So who's -- who's next?

24 MS. RUTHERFORD: I would like to know what  
25 I need to do to take care of it and resolve it.

1                   Okay?

2                   And if I'm at fault and I didn't get it  
3 renewed, I just need to know what I need to do  
4 to take care of it so I can continue with my  
5 business. And you know -- and I guess that was  
6 my misunderstanding with all of this.

7                   MS. KERSEY: Okay --

8                   MS. RUTHERFORD: And I'm also at fault for  
9 sending it in late.

10                  MS. KERSEY: -- do you have the salon  
11 license card or was it your personal one or --

12                  MS. RUTHERFORD: I had two. I had a salon  
13 license, an establishment card and I had my  
14 cosmetology license.

15                  MS. KERSEY: Okay.

16                  MS. RUTHERFORD: And they're at the salon.  
17 I did not bring those with me. I didn't think I  
18 needed them.

19                  MS. AKARD: Brenda, did you have something  
20 to add?

21                  MS. MORGAN: I was just making sure that  
22 she knew she had to have two need, the  
23 cosmetology and the salon license, which she did  
24 from 8 to 10. I mean, 8 to -- I don't know. I  
25 don't remember exactly what was on the -- the

1 dates on that. Evidently, it's what I put down  
2 here.

3 MR. BUTENSCHOEN: Why is the fine so high?

4 MS. KERSEY: Jim asked why is the fine so  
5 high? If the system is showing that it expired  
6 in 2008, that's why the fine is so high.

7 MR. BUTENSCHOEN: Well, three years, I  
8 guess.

9 MS. KERSEY: Yeah. So if she shows us a  
10 copy that she had that, and it just wasn't  
11 updated in the system -- is it? Do you got it?

12 MS. RUDOLPH: It wasn't updated in the  
13 system.

14 MS. KERSEY: Oh, it wasn't.

15 MS. RUTHERFORD: Okay. So it was two  
16 years.

17 MS. KERSEY: Okay. So that's why the fine  
18 is so high, because it's like \$25 and then it's  
19 a dollar a day.

20 MS. RUTHERFORD: Oh.

21 MS. KERSEY: That's why.

22 MR. BUTENSCHOEN: That -- that explains  
23 that. Never mind.

24 MS. RUTHERFORD: Okay. So what do I have  
25 to do at this point in time to take care of this

1 matter?

2 HEARING OFFICER: Ms. Rutherford, what  
3 they're probably going to do is go off the  
4 record and deliberate and then tell you what it  
5 is that you're going to do.

6 MS. RUTHERFORD: Okay.

7 HEARING OFFICER: Mr. Hogan, do you have  
8 any other questions?

9 MR. HOGAN: Nothing further, Mr. Hearing  
10 Officer. We have an admitted violation and  
11 there's no additional evidence that we have to  
12 present. I would close our evidence at this  
13 time.

14 HEARING OFFICER: All right. What we'll  
15 do -- what we'll do, is we'll go off the record  
16 and the Committee will deliberate off the  
17 record. Once they reach a decision, they'll  
18 come back on the record and announce it with a  
19 motion.

20 (Off-the-record deliberations.)

21 HEARING OFFICER: Let's go back on the  
22 record. The Committee has a question.

23 MR. BUTENSCHOEN: Brenda, was she inspected  
24 in '09 and '10?

25 MS. MORGAN: Yes, she has been inspected in

1           those years. I do not know the date at all.  
2           I'm sure that Michelle would have that  
3           information for me.

4           MR. BUTENSCHOEN: But according to this,  
5           she didn't have a current license in '09 or  
6           2010.

7           MS. KERSEY: No, she did.

8           MR. BUTENSCHOEN: So how did she pass?

9           MS. AKARD: Yeah, that's what I'd like to  
10          know, too.

11          MS. MORGAN: I don't think that is right.

12          MR. BUTENSCHOEN: Huh?

13          MS. MORGAN: I don't think that is right.

14          MR. BUTENSCHOEN: Well, I --

15          MS. MORGAN: I'm saying I would have to  
16          look at my inspection sheets from that. You  
17          know, that's two years ago, too, and I just do  
18          not think I would not write -- if it had been  
19          inspected, I don't know what happened. Once I  
20          turned that in, I don't know.

21          MS. CAVER: And that's the first thing you  
22          look for at the salon?

23          MS. MORGAN: That's the first thing I --  
24          she knows that's the first thing I look at. I  
25          was there last year, I was there the year

1 before. I don't --

2 MS. RUTHERFORD: She was there.

3 MR. BUTENSCHOEN: I'm not doubting that. I  
4 just -- if you were there in '09, when she  
5 didn't renew, it should have been a violation in  
6 '09, correct?

7 MS. MORGAN: Exactly.

8 MS. CAVER: And she's really thorough.

9 MS. RUDOLPH: Let me look back and see.

10 Because she was inspected on 9/1/2009, 6/25/2010  
11 and we'll have to look back and see --

12 MR. BUTENSCHOEN: But I mean, if --

13 MS. RUDOLPH: -- if she was sent letters.

14 MS. KERSEY: Well, if it's in there, no,  
15 because, remember, we weren't recording  
16 violations in the inspection log.

17 HEARING OFFICER: Ms. Rutherford, you  
18 wanted to add something?

19 MS. RUTHERFORD: Well, I just -- if I had  
20 gotten any kind of paperwork, any kind of notice  
21 that I owed it, or that I didn't renew it, I  
22 would have taken care of it.

23 Like I said, I know it's my -- I'm at fault  
24 because I sent it in late, but I didn't know  
25 that I owed it. I didn't know that it was not

1 up to date. I just -- like if I had gotten any  
2 notification at all in 2009, I would have taken  
3 care of then. Okay? Because I've been in  
4 business for nine years and I try to keep up  
5 with taxes, payroll, everything, and like I  
6 said, it's just --

7 MS. KERSEY: I think that we need a copy of  
8 that card license.

9 MS. RUTHERFORD: The card? Okay.

10 MS. KERSEY: Because when they were using  
11 that system, a lot of stuff was not entered.

12 MR. BUTENSCHOEN: Really?

13 MS. KERSEY: And so if she has a copy of a  
14 card license --

15 HEARING OFFICER: You're on the record.

16 MS. KERSEY: -- yeah, I know -- that says  
17 that her license didn't expired until 2010,  
18 because it had to be '10, all those cards  
19 expired in '10 -- we're talking about from a  
20 while -- from 3/1 until now. Okay? I mean,  
21 definitely that would obviously make the fine a  
22 lot smaller, you know, because it would just be  
23 a year if you have a copy -- I mean, we need to  
24 see a copy of that card.

25 MS. RUTHERFORD: Would there not be a copy

1 in the file?

2 MS. KERSEY: That's what we're saying.  
3 It's not in our system.

4 MS. RUTHERFORD: Oh, okay.

5 MS. AKARD: But we have an inspection  
6 report that is saying -- right here, our  
7 inspector is saying that it expired in '08.

8 MS. MORGAN: I didn't put that down there.  
9 I didn't put "expired 12/31/08."

10 I put "salon is not current." The other  
11 statement there is from the office.

12 MS. AKARD: Okay.

13 HEARING OFFICER: Why don't we go off the  
14 record for a second?

15 MS. CAVER: Okay.

16 (Off-the-record discussion.)

17 HEARING OFFICER: All right. We're back on  
18 the record.

19 MR. BUTENSCHOEN: I make a motion to table  
20 this.

21 Brenda, did you want to talk?

22 MS. MORGAN: Yes. I was just going to say  
23 if she has a card license through 12 of 2010,  
24 then she would only owe from January 31st until  
25 February the 15th. That would be all that she

1 would owe.

2 MR. BUTENSCHOEN: Correct. And if she has  
3 such a card, that would explain why there was no  
4 write-up prior.

5 I make a motion that we table this item  
6 until Ms. Rutherford has an opportunity to  
7 produce the document for her establishment  
8 license prior to this year.

9 MS. CAVER: I second that.

10 MS. AKARD: All in favor?

11 (Committee Members raising their hands in response.)

12 MS. RUTHERFORD: Okay. Thank you.

13 HEARING OFFICER: I will note, for the  
14 record, that the decision to table was  
15 unanimous. We will close this one for now and  
16 maybe we will open it up next month, but maybe  
17 not.

18 MS. RUTHERFORD: Okay. Thank you.

19 HEARING OFFICER: All right. This is  
20 styled "Before the Cosmetology Technical  
21 Advisory Committee in the matter of License No.  
22 65632, Rose Spa, Arkansas Department of Health,  
23 Petitioner, versus Rose Spa, LLC, Respondent."

24 And, sir, will you be so kind as to  
25 identify yourself for the record? Please, state

1 your name?

2 MR. TRAN: Yes, sir, my name is Quoc Tran,  
3 and I am the managing -- managing member of the  
4 Rose Spa, LLC.

5 HEARING OFFICER: All right. Mr. Hogan,  
6 could you identify yourself for the record,  
7 please?

8 MR. HOGAN: My name is Rick Hogan. I'm the  
9 General Counsel for the Health Department.

10 HEARING OFFICER: All right. Mr. Tran, You  
11 sat through the previous hearing that we just  
12 had, maybe even a couple of them, so you're sort  
13 of familiar with how the process works?

14 MR. TRAN: Yes, sir.

15 HEARING OFFICER: I run the hearing, but I  
16 don't make the decision. The Committee is the  
17 one that makes the decision. And you've already  
18 stated, off the record, that you're not  
19 necessarily going to contest the findings of the  
20 order. I'm guessing you're here to ask the  
21 Board for some kind of leniency; is that right?

22 MR. TRAN: Yes, sir.

23 HEARING OFFICER: All right. Given that,  
24 do you have any documents or anything that you  
25 want the Committee to take a look at?

1 MR. TRAN: No, sir.

2 HEARING OFFICER: All right. Why don't we  
3 mark, as Exhibit No. 1, the Order and Notice of  
4 Hearing and the Inspection Report that's  
5 attached to it and admit that as Committee's  
6 Exhibit No. 1.

7 (WHEREUPON, Exhibit No. 1 was marked for  
8 identification and is attached hereto.)

9 Mr. Hogan, would you identify yourself for  
10 the record, please?

11 MR. HOGAN: Rick Hogan. I'm General  
12 Counsel for the Health Department.

13 HEARING OFFICER: All right.

14 MR. HOGAN: I don't know if you had a  
15 chance to see it, Mr. Tran, but I want to make  
16 sure he's had a --

17 HEARING OFFICER: I think he's got some  
18 documents with him.

19 MR. TRAN: I have the violation notice and  
20 these documents.

21 MR. HOGAN: Do you have a copy of this?  
22 This is the Inspection Report.

23 MR. TRAN: I don't have it with me, but I'm  
24 sure when the inspector come in the last time,  
25 she -- the other partner in my business probably

1 have this documentation.

2 MR. HOGAN: Do you want it while you  
3 testify today? Do you want it to testify from?

4 MR. TRAN: I don't, no.

5 MR. HOGAN: All right. Very good.

6 HEARING OFFICER: All right. We will  
7 incorporate, by reference, the statutes and  
8 regulations that are governing this proceeding.

9 Mr. Hogan, I don't know if you're going to  
10 call any witnesses. Mr. Tran stated that he's  
11 not necessarily going to contest, but we can go  
12 ahead and swear in any individuals that you  
13 might be calling or might be testifying.

14 MR. HOGAN: If I may, Mr. Tran, raise your  
15 right hand, and, Michelle, raise your right  
16 hand, too, just in case.

17 (All witnesses sworn in simultaneously.)

18 HEARING OFFICER: Mr. Tran, as I said to  
19 the previous Respondents, my job is to make  
20 certain that you get a chance to tell the  
21 Committee your side of the story, or get a  
22 chance to ask them for leniency or whatever it  
23 is that you want to present to them.

24 So as we go through this, if at any time  
25 you've got a question or you want to provide

1           them with something, just bring it to my  
2           attention and I will make sure that happens.  
3           All right?

4           MR. TRAN: Yes, sir.

5           HEARING OFFICER: All right.

6           Mr. Hogan, you want to proceed?

7           MR. HOGAN: Yes, sir.

8           Mr. Hearing Officer, we've already admitted  
9           this exhibit into evidence and Ms. Morgan is  
10          here if we need to ask her any questions, but I  
11          believe this is not necessarily being contested,  
12          so at this point I would just tender Ms. Morgan  
13          as a witness or -- and then give Mr. Tran the  
14          opportunity to present his information.

15          But if I may ask you just one question  
16          before we go. In the Inspection Report, it  
17          says, "Don't know if salon is current. Owner  
18          had license with him today." That's expired  
19          12/12/10. Maybe I just need to ask Ms. Morgan  
20          that.

21          EXAMINATION OF BRENDA MORGAN

22          BY MR. HOGAN:

23          Q        What does that mean?

24          A        It meant that when I asked for the salon license,  
25          when I did not see them posted, that I was told that the

1 owner was -- obviously he was not there. I know that.  
2 And that he had the license with him, which would have  
3 been the -- I didn't know if they were the card license or  
4 the paper license at that point in time.

5 Q And they had expired --

6 A I was not aware of that until I received this.  
7 That's the -- when the office gets these inspections, they  
8 write that down there.

9 Q Okay.

10 A I did not write that.

11 Q So that was written in --

12 MR. HOGAN: Kelli, that was written in by  
13 the office, that his license expired December  
14 12th of 2010; is that correct?

15 MS. KERSEY: Yes, I'm assuming that  
16 Michelle wrote that.

17 THE WITNESS: And, see, if you look up at  
18 the top, line 5, it also has the expiration.  
19 That's how she checks them and coordinates the  
20 report.

21 MR. HOGAN: Okay. I'll pass the witness to  
22 Mr. Tran.

23 MR. TRAN: I don't have any questions.

24 HEARING OFFICER: Mr. Tran, why don't you  
25 go ahead and tell the Committee what it is that

1 you are here for, or give your explanation, as  
2 far as what happened and what you're asking them  
3 for?

4 Go ahead.

5 MR. TRAN: Okay. Good morning. And let me  
6 start out by saying I'm so embarrassed to be  
7 here.

8 HEARING OFFICER: Would you be so kind as  
9 to speak up just a little bit?

10 MR. TRAN: Sure, sir, I will. Let me try.

11 Let me start off by saying that I'm  
12 embarrassed to be here today. Okay? When  
13 Ms. Brenda, the Inspector, came into the salon  
14 to inspect the facility the last time, I wasn't  
15 in the salon, so I -- I don't come here to  
16 disagree with all the violations that was handed  
17 by Ms. Brenda. I just want to explain my  
18 situation.

19 I wasn't in the salon and the paperwork or  
20 the citation that the violation that was handed  
21 to us was kept in the salon and it -- it was --  
22 didn't get to my attention until almost the  
23 last -- a week or so ago.

24 Also, during that period of time we had  
25 received this notice or letters from the

1 Arkansas State Board of Cosmetology, too.  
2 Again, I wasn't in the salon at that time, so  
3 all this paper was sending to the salon's  
4 address, which is at 11525 Cantrell Road.

5 I personally have not seen all these  
6 papers, all these documents, until last night.  
7 And when I looked at it last night, I absolutely  
8 agree that, yes, we was violated with these  
9 violations, and it is my fault that I have -- I  
10 should have kept updated with all these  
11 information here, with all this licenses, which  
12 I had not, so it was entirely my fault.

13 I am in graduate school and because of the  
14 schoolwork and this, there was a lot of things  
15 going on in my personal life and because of  
16 that, I -- I did not -- I have not kept all the  
17 licenses in the salon updated, and that's  
18 entirely my fault.

19 But, however, that is Rose Spa's first  
20 violation, so I'm asking the members to please  
21 consider the situation. We never have any  
22 violation prior to these two violations, so if I  
23 can ask the members to, please, allow me to pay  
24 for the penalty and the license fee, and waive  
25 the fine for these two violations. That's all I

1 ask.

2 HEARING OFFICER: All right. Thank you,  
3 Mr. Tran.

4 MR. HOGAN: Can I just follow up on that?

5 HEARING OFFICER: Sure.

6 EXAMINATION OF QUOC TRAN

7 BY MR. HOGAN:

8 Q The total proposed penalty violation is \$117, and the  
9 amount of the renewal license is \$150?

10 A Yes, sir.

11 Q You paid the renewal license, right?

12 A Right now, not yet. Like I said, I didn't get all  
13 this paper until I was looking at it last night, but I  
14 have all the intention, after the meeting today, to go  
15 straight to the State Board of Cosmetology and renew my  
16 salon license.

17 MR. HOGAN: Okay. That's all I have.  
18 Can we go off the record just a second?

19 HEARING OFFICER: Off the record.

20 (Off the record.)

21 HEARING OFFICER: All right. We're back on  
22 the record.

23 Mr. Hogan, anything else that you wanted to  
24 ask Mr. Tran?

25 BY MR. HOGAN:

1 Q So your intent, today, is to pay your --

2 A Absolutely, sir.

3 Q And you're asking for relief on the actual penalty  
4 amount, which was, what, \$117?

5 A No. I said that if I -- if the Board may allow me to  
6 pay for the license renewing fee and the penalties, the  
7 total of those two should be about \$267, something in that  
8 amount.

9 When I'm looking at this second page of the Order of  
10 Notice of Hearing, it said that if -- if the Committee  
11 finds you guilty at hearing, an assessment of up to \$1,000  
12 per violation. That's all I ask, if that violation --

13 Q So you're agreeing to pay the \$267 that's included?

14 A Yes, sir.

15 MR. HOGAN: Okay. That's all I have.

16 HEARING OFFICER: All right. Committee  
17 Members, any questions for Mr. Tran?

18 MR. BUTENSCHOEN: Nope. I make a motion  
19 that we accept the penalty of \$117 and reaffirm  
20 the \$150 license requirement, for a total of  
21 \$267 payable soon.

22 MR. TRAN: Today.

23 MS. CAVER: I second that.

24 MS. AKARD: All in favor?

25 (Committee Members raising their hands in response.)

1 HEARING OFFICER: All right. I will note,  
2 for the record, that the Committee's decision  
3 was unanimous.

4 I know you're not going to appeal it,  
5 Mr. Tran, so --

6 MR. TRAN: Well, thank you for your kind  
7 consideration.

8 HEARING OFFICER: All right. Thank you.  
9 We're off the record.

10 (Off the record.)

11 HEARING OFFICER: All right. The next item  
12 on the disciplinary agenda is styled "Before the  
13 Cosmetology Technical Advisory Committee in the  
14 matter of License No. 56496, Arkansas Department  
15 of Health, Petitioner, versus Salon Scarlet,  
16 Respondent."

17 Is there anyone present from Salon Scarlet?

18 I will note, for the record, that there was  
19 no response and that there is no one present  
20 from Salon Scarlet.

21 Mr. Hogan, would you identify yourself for  
22 the record?

23 MR. HOGAN: My name is Rick Hogan, General  
24 Counsel for the Health Department.

25 HEARING OFFICER: All right. And what we

1 will do, is we will mark the Order and Notice of  
2 Hearing and Inspection Report, which is a  
3 compilation exhibit, and admit that as  
4 Committee's Exhibit No. 1.

5 (WHEREUPON, Exhibit No. 1 was marked for  
6 identification and is attached hereto.)

7 HEARING OFFICER: We'll swear in any  
8 witnesses there are.

9 MR. HOGAN: Michelle, and, Kelli, go ahead.  
10 (All witnesses sworn in simultaneously.)

11 I will note and incorporate for reference, both the  
12 code sections, as well as the regulations that are  
13 governing this proceeding.

14 Mr. Hogan, I will turn it over to you.

15 MR. HOGAN: Thank you, Mr. Hearing Officer.  
16 I'd call Brenda Morgan to testify.

17 EXAMINATION OF BRENDA MORGAN

18 BY MR. HOGAN:

19 Q Brenda, you've been sworn. Please, identify yourself  
20 for the record and your position with the Department of  
21 Health.

22 A I'm Brenda Morgan and I'm an Inspector for  
23 Cosmetology.

24 Q Brenda, I have in front of me, and we've admitted it  
25 into evidence, a document dated February the 25th of this

1 year, concerning an inspection you performed at Salon  
2 Scarlet.

3 Do you have that in front of you?

4 A Yes, sir.

5 Q Is this document, documents that you prepared for the  
6 hearing today?

7 A Yes, sir, it is.

8 Q Can you describe for the Committee Members and for  
9 the record, what you found when you inspected the facility  
10 on that date?

11 A On February the 25th of 2011, I did a regular  
12 inspection at Salon Scarlet at 11525 Cantrell Road in  
13 Little Rock. I discovered that there was an expired salon  
14 license on the premises that day. And that was my  
15 findings, that they were in violation there.

16 Q Brenda, have you had any communication -- I noticed  
17 that it's signed by --

18 A Carrie Parsons.

19 Q -- Carrie Parsons.

20 Is she the owner?

21 A Yes, sir.

22 Q Do you have -- have you had any conversations with  
23 her about the violations?

24 A No, sir.

25 Q To your knowledge, have they renewed their license?

1 A I'm not aware of that.

2 Q All right. Is there anything further you need to  
3 make the Committee aware of today?

4 A No, sir.

5 MR. HOGAN: All right. I'll pass the  
6 witness for questions from the Committee.

7 HEARING OFFICER: Committee Members, any  
8 questions for this witness?

9 No? Okay.

10 MR. HOGAN: Let me just briefly call  
11 Michelle.

12 EXAMINATION OF MICHELLE RUDOLPH

13 BY MR. HOGAN:

14 Q State your name and what your position is for the  
15 Department.

16 A Michelle Rudolph, Business Operations Specialist.

17 Q Michelle, there's some information on the Inspection  
18 Report indicating that this license for Salon Scarlet had  
19 expired January 1 of 2011.

20 Is that information you verified --

21 A Yes, sir.

22 Q -- by searching the records?

23 A Yes, sir.

24 Q To your knowledge, Michelle, has Salon Scarlet made  
25 any effort or communicated to your office to have their

1 license renewed today?

2 A Yes, they renewed their license May 13th, 2011.

3 Q Okay. So that was last Friday?

4 A Uh-huh.

5 Q So of the proposed penalty, they've paid \$150 then,  
6 or at least the renewal of the salon fee, right?

7 A Uh-huh.

8 Q Now, did you have -- or did your office have any  
9 communications about the actual \$98 penalty?

10 A No, sir, we just sent them a Notice of Hearing, as  
11 well as a violation letter.

12 Q Is there anything further you need to make the  
13 Committee aware of today?

14 A No, sir.

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

16 HEARING OFFICER: Committee Members, any  
17 questions for this witness?

18 MR. HOGAN: That concludes our evidence,  
19 Mr. Hearing Officer.

20 HEARING OFFICER: All right.

21 MR. BUTENSCHOEN: I make a motion that we  
22 affirm the \$98 penalty.

23 MS. CAVER: I second that, as well.

24 MS. AKARD: All in favor?

25 (Committee Members raising their hands in response.)

1 HEARING OFFICER: I will note, for the  
2 record, that the decision of the Committee was  
3 unanimous. I will ask staff to reduce the  
4 decision of the Committee to writing, and make  
5 sure that the Respondent gets a copy of it with  
6 a cover letter notifying them of their appeal  
7 rights.

8 If there's no further questions, I will  
9 call this hearing to a close.

10 MR. HOGAN: I believe our next one is Body  
11 Bronze; is that correct?

12 MS. RUDOLPH: And actually it's for Kelly  
13 Stracener.

14 MR. HOGAN: I'm sorry, Michelle?

15 MS. RUDOLPH: Kelly Stracener. It's for  
16 her.

17 HEARING OFFICER: All right. We're on the  
18 record. This is styled "Before the Cosmetology  
19 Technical Advisory Committee in the matter of  
20 License No. 56269, Arkansas Department of  
21 Health, Petitioner, versus Kelly Stracener,  
22 Respondent," and that name is spelled K-E-L-L-Y;  
23 S-T-R-A-C-E-N-E-R.

24 Is Kelly Stracener present in the hearing  
25 room?

1 I will note, for the record, that there was  
2 no response.

3 Mr. Hogan, could you identify yourself for  
4 the record, please?

5 MR. HOGAN: Rick Hogan, General Counsel for  
6 the Health Department.

7 HEARING OFFICER: All right. We've got a  
8 compilation package here. It consists of the  
9 Order and Notice of Hearing and an Inspection  
10 Report, along with a certified mail receipt. I  
11 will mark this compilation package as  
12 Committee's Exhibit No. 1, and admit that into  
13 evidence.

14 (WHEREUPON, Exhibit No. 1 was marked for  
15 identification and is attached hereto.)

16 And I will also take judicial notice of the  
17 code sections, as well as the regulations that  
18 are governing this proceeding.

19 Go ahead and swear in your witnesses,  
20 Mr. Hogan.

21 MR. HOGAN: Michelle, Kelli and Brenda.  
22 (All witnesses sworn in simultaneously.)

23 HEARING OFFICER: Go ahead, Mr. Hogan.

24 MR. HOGAN: We call our first witness,  
25 Brenda Morgan.

## EXAMINATION OF BRENDA MORGAN

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BY MR. HOGAN:

Q Brenda, state your name for the record and your position with the Department.

A My name is Brenda Morgan and I'm an inspector for the Cosmetology Section.

Q Brenda, in front of me I have an Inspection Report dated February 2nd of this year. Is that report the document that you prepared?

A Yes, sir, it is.

Q Tell the Members of the Committee what you found when you inspected the Body Bronze facility on Cantrell Road on February 2nd of this year.

A I found that I had one practitioner, Kelly Jean Stracener, that was not current. She was working that day. And a Lisa Michelle Schiller that had no license posted. She explained to me that she had her license stolen, and therefore I did not know if she was current or not, so I had to write it up as I saw it, and those are the two violations I found that day.

Q You subsequently learned that Ms. Schiller, I believe, did have a current license, correct?

A Yes, sir.

Q And Ms. Stracener, did you have any conversation with her about her not having a current license?

1 A Yes, sir.

2 Q What did you all discuss?

3 A We just discussed that -- why didn't she have --  
4 where was her current license, and she had no explanation,  
5 that I had recall.

6 Q All right. Is there anything further you want to  
7 make the Committee aware of, Brenda?

8 A No, sir.

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

10 HEARING OFFICER: Committee Members, any  
11 questions for this witness?

12 MS. AKARD: Tell me again who had the  
13 current license and who did not have a current  
14 license.

15 MR. BUTENSCHOEN: Schiller had the current  
16 license. She just didn't have it posted.

17 MS. AKARD: She had the current and it was  
18 not posted, and then Lisa did not have a  
19 current --

20 MS. MORGAN: No.

21 MR. BUTENSCHOEN: No, Lisa had a current  
22 one, Kelly did not.

23 MS. AKARD: Okay.

24 MR. BUTENSCHOEN: Is that correct?

25 MR. HOGAN: That's correct.

1                   We call Michelle, just to kind of elaborate  
2                   just a little bit on that.

3                   EXAMINATION OF MICHELLE RUDOLPH

4 BY MR. HOGAN:

5 Q     Michelle, state your name and your position with the  
6 Department.

7 A     Michelle Rudolph, Business Operations Specialist.

8 Q     Michelle, you see in front of you a document that  
9 includes the Inspection Report from Ms. Morgan, as well as  
10 a tracking form and the Order and Notice of Hearing?

11 A     Uh-huh.

12 Q     Can -- can you tell the Members of the Committee what  
13 particular license you were able to confirm and which ones  
14 were not current at this facility?

15 A     Lisa Michelle Schiller was current at the time and  
16 she was assessed a \$25 penalty.

17 Q     And she paid that penalty?

18 A     Yes, uh-huh.

19 Q     And that was part of our previous motion to  
20 confirm --

21 A     Uh-huh.

22 Q     And then what did you find with respect to --

23 A     Kelly Jean Stracener, her license expired on  
24 September 29th, 2010.

25 Q     Has she had any communication with the office, that

1 you're aware of?

2 A No, sir.

3 Q And to date, has she renewed her license?

4 A No, sir.

5 Q Is there anything further we need to make the  
6 Committee aware of at this time?

7 A No, sir.

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

9 HEARING OFFICER: Committee Members, any  
10 questions for this witness?

11 BY MS. AKARD:

12 Q Who owns the salon?

13 A The salon is owned by Body Bronze, LLC.

14 Q What?

15 A Body Bronze, LLC.

16 Q But --

17 A It doesn't have a managing owner's name or anything  
18 in our system.

19 Q Okay.

20 HEARING OFFICER: Any other Committee  
21 Members?

22 MR. BUTENSCHOEN: I make a motion that we  
23 assess the penalty.

24 MS. CAVER: I second that.

25 MS. AKARD: All in favor?

1 (Committee Members raising their hands in response.)

2 HEARING OFFICER: All right. I will note,  
3 for the record, that the Committee Members'  
4 decision was unanimous. I will ask staff to  
5 reduce it to writing and make sure the  
6 Respondent gets a copy of it, along with a cover  
7 letter notifying her of her appeal rights.

8 If there are no further comments, I will  
9 call this hearing to a close.

10 All right. This is styled "Before the  
11 Cosmetology Technical Advisory Committee in the  
12 matter of License No. 7905, Arkansas Department  
13 of Health, Petitioner, versus Sarah Ruthven,  
14 Respondent."

15 Is Ms. Ruthven present?

16 I will note, for the record, that there was  
17 no response and Ms. Ruthven is not present in  
18 the hearing room.

19 Mr. Hogan, please, identify yourself for  
20 the record, please.

21 MR. HOGAN: Rick Hogan, General Counsel for  
22 the Health Department.

23 HEARING OFFICER: Okay. We've got a  
24 compilation package that consists of the Order  
25 and Notice of Hearing, an Inspection Report and

1 a certified mail receipt. We will mark that as  
2 Committee's Exhibit No. 1 and admit that into  
3 evidence.

4 (WHEREUPON, Exhibit No. 1 was marked for  
5 identification and is attached hereto.)

6 I will take judicial notice of the code  
7 section and regulations that is governing this  
8 proceeding, and we will swear in your witnesses.

9 MR. HOGAN: Michelle, Lavonne and Kelli.

10 (Witnesses sworn in simultaneously.)

11 MR. HOGAN: May I call the first witness,  
12 Ms. Lavonne Lester.

13 EXAMINATION OF LAVONNE LESTER

14 BY MR. HOGAN:

15 Q State your name for the record, please, and your  
16 position with the Department.

17 A Lavonne Lester, Inspector for Cosmetology.

18 Q Ms. Lester, I have, in front of me, an Inspection  
19 Report dated February 18th of 2011. It purports to have  
20 your name on it.

21 Can you tell the Members of the Committee -- you  
22 inspected The Hair Loft on that date?

23 A Yes, sir.

24 Q Can you tell the Members of the Committee what you  
25 found, specifically?

1 A Just that Sarah had a --

2 Q Is it Ruthven?

3 A That's correct.

4 Q Go ahead.

5 A But, anyway, she had towels laying on the floor, so I  
6 cited her for needing to have a closed receptacle for her  
7 towels.

8 Q Did you discuss that --

9 A I did.

10 Q -- with her?

11 A I did.

12 Q And what was her response?

13 A She would get one.

14 Q Just for the record, can you kind of -- why it is  
15 important that, you know, these towels would be kept  
16 properly stored and what are you trying to prevent, I  
17 guess?

18 A Well, it would -- it would -- probably a bunch of  
19 towels would create bacteria, mold, whatever, so, yes,  
20 they need to be stored in a closed receptacle.

21 Q So it's a health and safety violation --

22 A Yes, sir.

23 Q -- to protect the customers --

24 A Yes, sir.

25 Q -- as well as the persons that work there?

1 A Absolutely.

2 Q And have you had an opportunity to go by to see if  
3 she has, in fact --

4 A I have not been back there. That was in February.  
5 No, I haven't.

6 Q Anything further you want to make the Committee aware  
7 of today?

8 A No.

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

10 HEARING OFFICER: Committee Members, any  
11 questions?

12 BY MS. AKARD:

13 Q Was there not a closed receptacle at all in the  
14 entire salon?

15 A They're all individual, you know, owners, so they all  
16 needed to have their own, and she didn't have one.  
17 Everyone else did.

18 Q Okay. Thank you.

19 A You're welcome.

20 HEARING OFFICER: Anyone else?

21 Mr. Hogan?

22 MR. HOGAN: That concludes our testimony.

23 MR. BUTENSCHOEN: I make a motion to affirm  
24 the \$25 fine.

25 MS. CAVER: I second that.

1 MS. AKARD: All in favor?

2 (Committee Members raising their hands in response.)

3 HEARING OFFICER: All right. Once again, I  
4 will note, for the record, that the Committee's  
5 decision was unanimous. I will ask the staff to  
6 reduce the decision to writing. Make certain  
7 that the Respondent gets a copy of it, along  
8 with a cover letter notifying her of her appeal  
9 rights.

10 If there are no further questions, I will  
11 close this hearing.

12 MR. HOGAN: That concludes our hearings,  
13 correct, Michelle?

14 MS. RUDOLPH: Yes, sir.

15 (WHEREUPON, at 10:16 a.m, the  
16 above proceedings concluded.)  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

STATE OF ARKANSAS }  
COUNTY OF FAULKNER }

RE: DISCIPLINARY HEARINGS OF MAY 16, 2011

I, Michelle R. Satterfield, CCR, a Notary Public in and for Faulkner County, Arkansas, do hereby certify that the transcript of the foregoing disciplinary hearings accurately reflects the testimony given; and that the foregoing was transcribed by me, or under my supervision, on my Eclipse computerized transcription system from my machine shorthand notes taken at the time and place set out on the caption hereto, all witnesses having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was 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. GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 26th day of May 2011.

---

Michelle R. Satterfield, CCR  
LS Certificate No. 570  
Notary Public in and for  
Faulkner County, Arkansas  
Notary License #12369856

My commission expires: February 9, 2019.