

1 ARKANSAS DEPARTMENT OF HEALTH

2 COSMETOLOGY SECTION

3 COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

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8 BE IT REMEMBERED that on Monday, the 19th day of March
9 2012, the meeting of the Arkansas Department of Health,
10 Cosmetology Section, Cosmetology Technical Advisory Committee was
11 held, at 9:00 a.m., at the Arkansas Department of Health, Freeway
12 Medical Building, Suite 801, Little Rock, Pulaski County,
13 Arkansas.

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16 TECHNICAL ADVISORY COMMITTEE:

17 KIMBERLY FORD, Chair
18 REBECCA ARGUELLO (not present)
19 ROGER BARNES
20 SANDY DAVIS
21 JACQUELYN REYNOLDS
22 JEANNIE BONDS
23 ANDREA FUENTES

24 REPORTED BY:

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1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 RICK HOGAN, ESQ.

4 HEARING OFFICER:

5 KENDRA AKIN-JONES, ESQ.
6 Office of the Attorney General
7 323 Center Street, Suite 200
8 Little Rock, Arkansas 72201

8 Staff Members Present:

9 KELLI KERSEY - Section Chief
10 RENEE MALLORY
11 MICHELLE RUDOLPH - Administrative Assistant
12 TERI CRAVOTTA - Administrative Specialist

12 Inspectors Present:

13 ROSE HORNER
14 PAT BLAND JACKSON
15 LAVONNE LESTER
16 BRENDA MORGAN
17 VERA WOOD

17 Court Reporter:

18 Susan B. Whitson, CCR
19 Arkansas Supreme Court Certificate No. 158
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ADH, CTAC, 3/19/2012

I N D E X		
	AGENDA ITEM	PAGE
1		
2	AGENDA ITEM	PAGE
3	Caption	1
4	Appearances	2
5	Paid Violations	
6	Motion by the committee	9
7	HEARINGS:	
8	IN THE MATTER OF: License No. 48357	
9	ADH v. MABLE'S BEAUTY SALON	10
10	WITNESSES:	
11	VERA WOOD	
12	Direct by Mr. Hogan	16
13	KELLI KERSEY	
14	Direct by Mr. Hogan	19
15	Examination by the committee	29
16	Further examination by Mr. Hogan	31
17	JOHNNIE L. SHIN	
18	Direct testimony	31
19	Cross by Mr. Hogan	32
20	MABLE SHIN	
21	Direct by Mr. Hogan	34
22	EXHIBITS	
23	Board's 1 Notice of Hearing packet	13
24	Board's 2 Notes page	24
25	Respondent's 1 Check and renewal form 2011	20

ADH, CTAC, 3/19/2012

1	Respondent's 2	Renewal form 2012	28
2	Motion by the committee		39
3	IN THE MATTER OF: License No. 55069		
4	ADH v. THE SHOP		41
5	WITNESSES:		
6	LAVONNE LESTER		
7	Direct by Mr. Hogan		45
8	KELLI KERSEY		
9	Direct by Mr. Hogan		48
10	Cross by Mr. Harris		52
11	Examination by the committee		54
12	AARON HARRIS		
13	Direct by Mr. Hogan		54
14	Examination by the committee		57
15	EXHIBITS		
16	Board's 1	Notice of Hearing packet	43
17	Motion by the committee		62
18	IN THE MATTER OF: License No. N/A		
19	ADH v. KENNY HOANG VO		63
20	WITNESSES:		
21	LAVONNE LESTER		
22	Direct by Mr. Hogan		68
23	KELLI KERSEY		
24	Direct by Mr. Hogan		70
25	Examination by the committee		73

ADH, CTAC, 3/19/2012

1	KENNY VO	
2	Direct testimony	76
3	Cross by Mr. Hogan	77
4	Examination by the committee	79
5	KELLY MAI	
6	Direct by Mr. Vo	81
7	Examination by the committee	82
8	KENNY VO	
9	Examination by the committee	83
10	EXHIBITS	
11	Board's 1	Notice of Hearing packet 67
12	Respondent's 1	Manicurist's license 66
13	Respondent's 2	Driver's license 66
14	Motion by the committee	85
15	IN THE MATTER OF: License No. N/A	
16	ADH v. JUST KUTTIN UP BEAUTY & BARBER	87
17	EXHIBITS	
18	Board's 1	Notice of Hearing packet 88
19	IN THE MATTER OF: License No. 51845	
20	ADH v. BEST NAILS	90
21	WITNESSES:	
22	BRENDA MORGAN	
23	Direct by Mr. Hogan	91
24	Examination by the committee	95
25	KELLI KERSEY	

ADH, CTAC, 3/19/2012

1	Direct by Mr. Hogan	96
2	Examination by the committee	97
3	EXHIBITS	
4	Board's 1 Notice of Hearing packet	90
5	Motion by the committee	98
6	IN THE MATTER OF: License No. 68993	
7	ADH v. SPECIAL FX SALON	100
8	WITNESSES:	
9	BRENDA MORGAN	
10	Direct by Mr. Hogan	101
11	KELLI KERSEY	
12	Direct by Mr. Hogan	102
13	Examination by the committee	102
14	EXHIBITS	
15	Board's 1 Notice of Hearing packet	100
16	Motion by the committee	104
17	IN THE MATTER OF: License No. 55101	
18	ADH v. STUDIO 265	105
19	WITNESSES:	
20	ROSE HORNER	
21	Direct by Mr. Hogan	106
22	KELLI KERSEY	
23	Direct by Mr. Hogan	107
24	EXHIBITS	
25	Board's 1 Notice of Hearing packet	106

ADH, CTAC, 3/19/2012

1	IN THE MATTER OF: License No. 77594	
2	ADH v. ALESHIA DEAN	110
3	WITNESSES:	
4	LAVONNE LESTER	
5	Direct by Mr. Hogan	111
6	KELLI KERSEY	
7	Direct by Mr. Hogan	112
8	Examination by the committee	113
9	EXHIBITS	
10	Board's 1 Notice of Hearing packet	110
11	Motion by the committee	116
12	IN THE MATTER OF: License No. 51867	
13	ADH v. PETRO'S BEAUTY AND BARBER SHOP	118
14	WITNESSES:	
15	VERA WOOD	
16	Direct by Mr. Hogan	119
17	Examination by the committee	121
18	KELLI KERSEY	
19	Direct by Mr. Hogan	122
20	Examination by the committee	123
21	EXHIBITS	
22	Board's 1 Notice of Hearing packet	118
23	Motion by the committee	124
24	IN THE MATTER OF: License No. 69484	
25	ADH v. DISTINCTION SALON AND NAIL SPA	126

ADH, CTAC, 3/19/2012

1	WITNESSES:	
2	VERA WOOD	
3	Direct by Mr. Hogan	127
4	KELLI KERSEY	
5	Direct by Mr. Hogan	129
6	Examination by the committee	130
7	EXHIBITS	
8	Board's 1 Notice of Hearing packet	126
9	Motion by the committee	132
10	Reporter's certificate	134

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ADH, CTAC, 3/19/2012

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P R O C E E D I N G S

CHAIRMAN FORD: Next on our agenda is approval of the paid violations. You should have a copy there.

MS. DAVIS: I make a motion we approve the paid violations.

MR. BARNES: I second.

CHAIRMAN FORD: The motion has been seconded. At this time all in favor of approval of the paid violations.

COMMITTEE MEMBERS: Aye.

CHAIRMAN FORD: All opposed?

Approval -- paid violations will stand as approved.

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ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 4837

2 ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

3 v.

4 MABLE'S BEAUTY SALON

RESPONDENT

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

6 HEARING OFFICER AKIN-JONES: We're going to start
7 with Mable's Beauty Salon.

8 My name is Kendra Akin Jones and I'm the Hearing
9 Officer today in the matter of the Cosmetology --
10 Arkansas Department of Health Cosmetology Technical
11 Advisory Committee versus Mable's Beauty Salon. Today
12 is March 19, 2012, and we're located in Suite 801 of
13 the Freeway Medical Center.

14 Would the respondent please identify yourself for
15 the record?

16 If you would identify yourself for the record,
17 ma'am.

18 MS. WOOD: Tell them who you are.

19 MS. SHIN: I have -- I have hearing problem. I
20 can't hear this morning so you'll have to hear for me.

21 HEARING OFFICER AKIN-JONES: If you will just
22 state your name.

23 MR. SHIN: Mable Shin. Mable L. Shin.

24 HEARING OFFICER AKIN-JONES: Okay, Ms. Shin, would
25 it be easier if you moved up a little closer?

ADH, CTAC, 3/19/2012

1 MS. SHIN: I can't hear. You'll have to talk for
2 me.

3 MR. SHIN: No. That will be okay.

4 HEARING OFFICER AKIN-JONES: Okay. And you
5 received the Order and Notice of Hearing for today's
6 matter?

7 MR. SHIN: Yes.

8 HEARING OFFICER AKIN-JONES: Okay. And you don't
9 have counsel with you here today?

10 MR. SHIN: No.

11 HEARING OFFICER AKIN-JONES: Mr. Hogan, if you
12 would, identify yourself for the record.

13 MR. HOGAN: Rick Hogan, general counsel for the
14 health department.

15 HEARING OFFICER AKIN-JONES: For the benefit of
16 the respondent or anyone here who may not have appeared
17 before in an administrative hearing, the board will
18 make its decision solely on the evidence presented here
19 today. This hearing is being held under the
20 Administrative Procedures Act, which means the strict
21 rules of evidence do not apply.

22 The board members know of this case only as it
23 appears and is set forth in the Order and Notice of
24 Hearing. If there is anything that you want them to
25 look at in order to make their decision today, you need

ADH, CTAC, 3/19/2012

1 to present it as evidence here today.

2 This hearing is open to the freedom -- under the
3 Freedom of Information Act to the public and that
4 includes the board's recess for deliberations.

5 Okay. For those of you who are going to be
6 witnesses in this matter, if you would, please raise
7 your right hand.

8 If you would, please.

9 (WHEREUPON, the witnesses were sworn by the
10 Hearing Officer.)

11 HEARING OFFICER AKIN-JONES: Very well. And it's
12 Shin?

13 MR. SHIN: Shin.

14 HEARING OFFICER AKIN-JONES: Shin?

15 Okay. I don't hear real well either today.

16 Okay. And let's -- are you Mr. Shin?

17 MR. SHIN: Yes.

18 HEARING OFFICER AKIN-JONES: Let's get your name
19 on the record, too, so we will know who is talking.

20 MR. SHIN: Johnnie L. Shin.

21 HEARING OFFICER AKIN-JONES: Okay.

22 MR. SHIN: And that's J-o-h-n-n-i-e, by the way.

23 HEARING OFFICER AKIN-JONES: Okay. We're going to
24 start with some preliminary matters. Mr. Hogan?

25 MR. HOGAN: I've had a chance to share with

ADH, CTAC, 3/19/2012

1 Mr. and Mrs. Shin a document that includes the Order
2 and Notice of Hearing, as well as the inspector's
3 inspection report, and I would like to move that this
4 be made Board's Exhibit No. 1 for the record, please.

5 HEARING OFFICER AKIN-JONES: Those will be so
6 admitted as Board's No. 1.

7 (WHEREUPON, Board's Exhibit No. 1 was received in
8 evidence.)

9 MR. HOGAN: Also I would like that the board be
10 able to take notice of their rules and regulations and
11 the statute for the purposes of the hearing.

12 HEARING OFFICER AKIN-JONES: Those will be so
13 noted.

14 MR. HOGAN: I had talked to the Shins previously,
15 and I don't believe they are contesting -- this is a
16 failure to have a current license. But they have
17 documentation that shows that they tried to mail the
18 check in and it came back to them, I believe. And I
19 have no objection if they would like to put that into
20 evidence at this time.

21 MR. SHIN: Yes, we did. We --

22 HEARING OFFICER AKIN-JONES: And you have a copy
23 of that, of the returned check with you?

24 MR. SHIN: Yes. I have a copy of the application,
25 it came in and the -- and the returned check.

ADH, CTAC, 3/19/2012

1 We sent the check in on the 28th of January, and
2 then we got the check back in the mail. I don't have
3 the date we got it back but it came back and said that
4 we didn't owe anything at that time.

5 HEARING OFFICER AKIN-JONES: And do you have
6 copies of those with you or do we need to get some
7 made?

8 MR. SHIN: Of these?

9 HEARING OFFICER AKIN-JONES: Uh-huh.

10 MR. SHIN: I have -- yeah, these are my copies.

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

12 MR. SHIN: You can get some made from them.

13 HEARING OFFICER AKIN-JONES: Okay. Well, let's
14 get Michelle or Teri, one, to get copies made for the
15 board to have those.

16 While she's doing that, we're going to go ahead
17 and proceed for now.

18 Was there a letter with it or anything?

19 MR. SHIN: Yes. But we -- we -- somehow we've
20 misplaced the letter.

21 HEARING OFFICER AKIN-JONES: Okay. Anything else
22 you have with you today you want the board to see?

23 MR. SHIN: That's all we have.

24 We have -- well, we did -- we have submitted our
25 payment in December for this year, we have not heard

ADH, CTAC, 3/19/2012

1 from that, we have not. No check has come back, it's
2 still out, so I don't know what's going on.

3 HEARING OFFICER AKIN-JONES: Do you have a copy
4 of -- of your application or whatever you submitted in
5 December?

6 MR. SHIN: No. No. I don't.

7 HEARING OFFICER AKIN-JONES: Okay. Okay.

8 MS. SHIN: Just have a check number and a date.

9 MR. SHIN: I have a check number and a date that
10 it was sent in.

11 HEARING OFFICER AKIN-JONES: Okay. Well, we're
12 going to go ahead and I'll let Mr. Hogan state anything
13 he wants to in opening while they are getting us some
14 copies of that returned check. Okay?

15 MR. HOGAN: I waive any opening remarks.

16 We would call Vera Wood and also Kelli Kersey as
17 our only two witnesses today.

18 Has everybody been sworn in already?

19 Did I miss that?

20 HEARING OFFICER AKIN-JONES: Yes. You missed
21 that.

22 MR. HOGAN: Here we go.

23 MS. KERSEY: That's all right.

24 HEARING OFFICER AKIN-JONES: Mr. Shin, do you have
25 anything you want to say in the opening?

ADH, CTAC, 3/19/2012

1 MR. SHIN: No.

2 MS. SHIN: No. I just want to know why the check
3 was returned and why did they send it back and didn't
4 say anything about it, other than they just sent the
5 check back said we didn't know anything at that time.

6 HEARING OFFICER AKIN-JONES: Okay.

7 MR. SHIN: The check was stamped by your office
8 showing it was stamped.

9 MS. SHIN: Because it was stamped at the office
10 here.

11 HEARING OFFICER AKIN-JONES: Okay. Well, and when
12 we get those copies, we'll get those handed out to the
13 board members so they can take a look at them.

14 And, actually, here she is so we will let her pass
15 those out.

16 Mr. Hogan, you can go ahead and call your first
17 witness.

18 MR. HOGAN: I would call Vera Wood, please.

19 WHEREUPON,

20 VERA WOOD,
21 having been called for examination, and having been first duly
22 sworn by the Hearing Officer, was examined and testified, as
23 follows:

24 DIRECT EXAMINATION

25 BY MR. HOGAN:

ADH, CTAC, 3/19/2012

1 Q Vera, would you state your name for the record and your
2 position with the Arkansas Department of Health?

3 A Vera -- excuse me. It's blooming.

4 Vera Wood, inspector.

5 Q Vera, I'm looking at an inspection report dated December the
6 2nd of last year in the packet of information we've admitted.

7 Can you tell the members of the committee when you first visited
8 this facility last year in December and what you found when you
9 were there?

10 A December the 2nd, and I found everything in order except
11 for the license was expired.

12 Q When did the license expire, Vera?

13 A 9/20/11.

14 Q Normally, as a matter of process, when would you have to
15 reapply for a license or make sure that the paperwork was in to
16 the board or the department before an expiration?

17 A By that date, by 9/20/11 or within that 30-day grace period.

18 Q And did you talk to Mr. or Ms. Shin about the application
19 process or reapplication process?

20 A Yes, sir. I talked to Ms. Mable about it.

21 Q And what did she tell you? What were her comments?

22 A She said she had sent it in and it was returned. I called
23 the office and they said, yes, it had expired 9/20/11.

24 Q Well, did anybody indicate that they had received a copy of
25 the check or -- at the department or anything like that?

ADH, CTAC, 3/19/2012

1 A Not to my knowledge.

2 Q Okay. Is there anything further that you have discussed
3 with Ms. Mable or anybody there at the salon?

4 A No, sir.

5 Q Do you have any idea how long this facility has been
6 licensed?

7 A I do not.

8 I've been with them three years and this is my first time to
9 get into this facility.

10 MR. SHIN: Forty years, over 40.

11 MS. SHIN: Forty years I've been at the shop.

12 BY MR. HOGAN:

13 Q What does this mean on the inspection report, it says "life"
14 out beside. Does that mean she has a cosmetology license for
15 life?

16 A Lifetime. Yes, sir.

17 Q Okay. And is there anything further you want to make the
18 committee aware of?

19 A No, sir.

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

21 HEARING OFFICER AKIN-JONES: Mr. or Ms. Shin, are
22 there any questions that you have for Ms. Wood?

23 MR. SHIN: No.

24 HEARING OFFICER AKIN-JONES: Okay. Members of the
25 board, are there any questions you have for Ms. Wood?

ADH, CTAC, 3/19/2012

1 Okay. If there are none, thank you, Ms. Wood.

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

3 MR. HOGAN: Call Ms. Kersey.

4 WHEREUPON,

5 KELLI KERSEY,

6 having been called for examination, and having been first duly
7 sworn by the Hearing Officer, was examined and testified, as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. HOGAN:

11 Q State your name and your position with the department of
12 health, please.

13 A Kelli Kersey, section chief.

14 Q Ms. Kersey, did you have occasion to review the Order and
15 Notice of Hearing and the inspection report regarding this
16 matter?

17 A I did.

18 Q Do you -- you have custody over and are in charge of the
19 records of the Arkansas Department of Health and the cosmetology
20 records, is that correct?

21 A Yes, sir.

22 Q And have you looked through those records to determine what
23 was the status of the licensure of Mr. and Mrs. Shin or Mable's
24 Beauty Salon?

25 A It is -- it is still expired, has not been renewed.

ADH, CTAC, 3/19/2012

1 Q And when did that license expire?

2 A 9/20/2011.

3 Q What would be required for a salon to be -- reapply? How
4 often do they have to do that?

5 A Once a year on the expiration date, up to 30 days past the
6 expiration date.

7 Q I notice you have a copy of a check and a renewal form there
8 that Mr. and Mrs. Shin have provided. Do you know what those
9 are? Have you --

10 HEARING OFFICER AKIN-JONES: Just -- just so we
11 can make a clear record, we're going to call that
12 Respondent's Exhibit No. 1.

13 (WHEREUPON, Respondent's Exhibit No. 1 was
14 received in evidence.)

15 BY MR. HOGAN:

16 Q Respondent's Exhibit No. 1, you have in your hand there, do
17 you -- are you familiar with that renewal form that you have
18 there?

19 A Yes. I mean that is our renewal form that you can print off
20 our website.

21 Q And did your records reveal that you had received that
22 renewal form? Did you find that in your files?

23 A Yes.

24 Q And --

25 A But I didn't print that. Sorry.

ADH, CTAC, 3/19/2012

1 Q You did receive that?

2 A Yes.

3 Q Is that the --

4 A That --

5 Q Okay. Go ahead. I'm sorry.

6 A Okay. And the check is dated 1/28/2011, and if we got this
7 in January, I'm sorry, I don't have the exact dates, it -- y'all
8 would not have owed anything because your license -- this is
9 2011. Because your license didn't expire until 9/20/2011, so at
10 that time that's why that one was returned. This was returned to
11 you.

12 Q In January of last year?

13 A Yes.

14 Q And so, your records reveal that it was not renewed at the
15 renewal date of September? That's correct, right?

16 A Correct. Correct.

17 Q And would there have been any confusion because of the
18 change over or anything like that when the department of health
19 assumed responsibility over the board of cosmetology? Would
20 that -- would they have been under the impression, for example,
21 to apply in January as opposed -- or reapply in January as
22 opposed to September?

23 A Well, until 2008, all of our license did go until
24 December 31st of every year. But in 2008, it switched to our
25 birthdays. And salons had a choice of either their birth date or

ADH, CTAC, 3/19/2012

1 the end of the year. And this one expiring on 9/20/2011, I'm
2 assuming it's her birthday, it's the owner's birth date.

3 Q Yeah. It's right there.

4 A Right. It's on the renewal. I'm sorry.

5 And so that would have been -- this would have been the
6 third time that she would have renewed on her birthday, so I
7 don't think there would have been any confusion that the license
8 expired on 9/20, since it was the third time.

9 MR. HOGAN: You don't look 77, either. She's
10 not --

11 THE WITNESS: Well, maybe she's not --

12 MR. HOGAN: She's not 77?

13 THE WITNESS: Yeah, she's 77.

14 MR. HOGAN: Well, that's a faux pas.

15 THE WITNESS: I'm sorry.

16 BY MR. HOGAN:

17 Q Is there anything further you want to make the committee
18 aware of?

19 A I do have a copy of the send back letter.

20 MR. SHIN: Can I -- can I -- I have a --

21 HEARING OFFICER AKIN-JONES: Hold on just a
22 minute, Mr. Shin. I'll let you in just one minute.

23 THE WITNESS: Okay. Michelle, can you bring me
24 that?

25 MR. HOGAN: Is that not in the packet?

ADH, CTAC, 3/19/2012

1 THE WITNESS: I'm sorry, no.

2 Can I --

3 No? Are we not allowed to do that?

4 MR. HOGAN: Well, no, we'll just need to add it to
5 the record to make sure that --

6 Let them look at it first.

7 Okay.

8 BY MR. HOGAN:

9 Q That is the --

10 A No. This is the license page that you're looking at and
11 this is the notes page.

12 MR. HOGAN: And they, can you show that -- or can
13 we get a copy of this and show Mr. and Mrs. Shin a copy
14 of that before you testify about it?

15 Hold on just a second.

16 THE WITNESS: Okay. This is the -- he said he
17 sent a check in this year in December and they got a
18 send back for that check. This says they owe \$150.

19 MR. HOGAN: Wait just a second.

20 THE WITNESS: Sorry.

21 MS. FUENTES: And the amount was incorrect, as
22 well?

23 THE WITNESS: Okay. This is not this check, this
24 is the other check he was talking about, this send
25 back.

ADH, CTAC, 3/19/2012

1 MR. HOGAN: Before you have -- for the record --

2 HEARING OFFICER AKIN-JONES: Mr. Shin, are you
3 okay with this coming into the record?

4 MR. HOGAN: Do you have any objection to this
5 document?

6 MR. SHIN: This? This right here?

7 MR. HOGAN: Yes, sir.

8 MR. SHIN: No, I don't have any.

9 HEARING OFFICER AKIN-JONES: Very well. Then we
10 will introduce the note's page as Board's Exhibit
11 No. 2.

12 (WHEREUPON, Board's Exhibit No. 2 was received in
13 evidence.)

14 BY MR. HOGAN:

15 Q Now, you can testify about it, if you would. What does this
16 indicate? What is --

17 A Okay. This indicates the check that he was talking about in
18 December that came to our office that he said he hadn't heard
19 anything from, this is the check that he sent in to renew his
20 license which was already late, it was late 9/20/2011. So we
21 returned it to him on 12/9/2011, indicating that he owed \$150.

22 Q And what was the amount of the check on Respondent's Exhibit
23 No. 1? What was the check issued --

24 A \$100.

25 Q \$100?

ADH, CTAC, 3/19/2012

1 A Yeah.

2 Q Did that fee change? Is there any reason where they may
3 have thought that it was \$100 as opposed to \$150?

4 A If he thought it wasn't late it was \$100, but once it's late
5 it's \$150.

6 Q I see.

7 Now, how would he -- how would he have known that, if he had
8 been sending it in on January? Is that in the rules or
9 regulations that a late fee is an additional --

10 A Yes, sir.

11 Q -- \$50?

12 A It is in the rules. Yes. The late fee is half of the
13 actual renewal fee.

14 Q How is this notes page generated? How is that -- how do
15 you -- how do you determine what's on the content of this
16 document?

17 A When we look at the record and we see that it's past due or
18 too early, as this one was, this one was too early, this one was
19 too late, then --

20 Q Just to make sure that you -- in --

21 A I'm sorry.

22 Q -- Respondent's No. 1, that was too early?

23 A Yes, this one was too early.

24 Q And Board's No. 2, that was too late?

25 A Too late. Yeah.

ADH, CTAC, 3/19/2012

1 We make a note in each one's file so that if this comes up
2 then we know that they -- you know, that we have sent this back
3 to them.

4 Q It has on the document, date entered down at the bottom
5 left, and subject. Can you describe what that -- what that
6 means? Who -- who generates that information? How is that
7 generated?

8 A Well, it depends on who ever is doing the renewal.

9 On 12/9/2011, when we received the checks, Patricia Woods
10 was -- did the renewal, and so she sent the send back. And then
11 I got the violation and entered it into the system on 12/20. We
12 also put a note in there when we send out a violation.

13 Q On the December 9th entry, it says Check No. 273. Does
14 that coincide with Respondent's Exhibit No. 1, the check? Is
15 that check numbered 2 --

16 A (Shaking head from side to side.)

17 It's the other one.

18 Q That's the different check?

19 A That's the different check. Too early. Too late.

20 Q Okay. All right.

21 And to date has there been a check in the -- well, let me
22 ask you this: Have you clearly communicated to Ms. Mable and
23 Mr. Shin the fact that they owe \$150 as opposed to \$100?

24 A Well, I am assuming that they would get the send back letter
25 because each -- every time we send them something we use the same

ADH, CTAC, 3/19/2012

1 address that's in the system. They got the notice of hearing or
2 they wouldn't be here, so I would not -- I would assume that they
3 got the send back because it wouldn't go to a different address.

4 Q What is the send back letter? Is that in the packet of
5 information?

6 A No. That's this.

7 Q That's this notes page?

8 A Yeah.

9 Well, that's not it, but --

10 Q Is there an actual letter that -- that would have been sent
11 to --

12 A There is, but they would have it, not us.

13 Q So you don't maintain a copy of the send back letter?

14 A We do an electronic copy.

15 Q Okay. All right.

16 A Should we keep a file copy?

17 Q We'll talk about that later.

18 A Okay. Sorry.

19 Q All right. But that's -- that's good that you're still
20 listening to legal advice.

21 A Yes. Yeah.

22 We do keep an electronic copy of it.

23 Q Is there anything further you want to make the committee
24 aware of?

25 A No. I think they are all good.

ADH, CTAC, 3/19/2012

1 Does everybody got it?

2 COMMITTEE MEMBERS: Got it.

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

4 HEARING OFFICER AKIN-JONES: Okay. Mr. Shin, do
5 you have something else there that you would like to
6 introduce?

7 MR. SHIN: Yeah. The form that I downloaded from
8 the computer --

9 THE WITNESS: Uh-huh.

10 MR. SHIN: -- to send in says it's due the
11 31st of December, and that's why -- that's where the
12 confusion is coming in. It didn't say on your
13 birthday, it says the 31st of December. This was
14 downloaded off of your computer, off the computer
15 Internet.

16 HEARING OFFICER AKIN-JONES: Okay. Michelle has a
17 copy of that so we can see what you have there, and
18 we're going to mark that as Respondent's Exhibit No. 2.

19 (WHEREUPON, Respondent's Exhibit No. 2 was
20 received in evidence.)

21 MR. SHIN: And we have not received a letter
22 stating that we owed you \$150. We knew that if it were
23 late we would pay the extra \$50.

24 HEARING OFFICER AKIN-JONES: Okay. Mr. Shin, I'm
25 going to give you time to give your full side, but

ADH, CTAC, 3/19/2012

1 right now do you have any questions for Ms. Kersey?

2 MR. SHIN: No.

3 HEARING OFFICER AKIN-JONES: Okay. Members of the
4 board, do y'all have any questions for Ms. Kersey?

5 If not --

6 CHAIRMAN FORD: I do.

7 HEARING OFFICER AKIN-JONES: Go right ahead.

8 CHAIRMAN FORD: Is there a letter from the first
9 check that was mailed out stating that you're renewing
10 too early, or did it just say you don't owe anything at
11 this particular time?

12 Is there a letter or do we have some type of
13 record of that?

14 THE WITNESS: Teri, can you look in ACCESS?

15 MS. CRAVOTTA: I can't access it now.

16 THE WITNESS: They can't look in ACCESS. That
17 would be in our old system.

18 HEARING OFFICER AKIN-JONES: Sorry.

19 THE WITNESS: It would be in our old system. We
20 don't have access to that here.

21 MS. DAVIS: So, Kelli, you don't -- you don't know
22 exactly what the other letter said, the send back
23 letter to them?

24 THE WITNESS: No.

25 MS. DAVIS: Okay.

ADH, CTAC, 3/19/2012

1 THE WITNESS: Sorry.

2 HEARING OFFICER AKIN-JONES: Further questions
3 from the board members for Ms. Kersey?

4 MR. HOGAN: Let me just follow up on the --

5 BY MR. HOGAN:

6 Q You had mentioned, I think, that they renew for one year or
7 every year. The notice or this Respondent's No. 2 indicates it
8 can be a one or a two-year period. Is that correct?

9 A That's correct.

10 Q And you searched your records to determine if they had ever
11 renewed for a two-year period and there was no evidence of such
12 renewal, right?

13 A I can't recall that.

14 MR. HOGAN: Okay. All right. I'll pass the
15 witness.

16 HEARING OFFICER AKIN-JONES: Thank you,
17 Ms. Kersey.

18 THE WITNESS: Uh-huh.

19 HEARING OFFICER AKIN-JONES: Mr. Hogan, do you
20 have any other witnesses?

21 MR. HOGAN: No. That's the -- I'm going to --

22 HEARING OFFICER AKIN-JONES: Okay. Mr. Shin, you
23 can tell the board everything and ask whatever
24 questions and --

25 WHEREUPON,

ADH, CTAC, 3/19/2012

1 it. But since it -- we sent it in in December, we
2 didn't feel we owed it, the \$50, but we were thinking
3 it was 31st of December.

4 The same -- and the same way that -- I would just
5 say this, the same thing we did this year, for this
6 year, we sent it in in December for the 2012, so we're
7 going to wind up in the same situation that we are in
8 for 2011, since we were going by this thing that we got
9 off the Internet.

10 HEARING OFFICER AKIN-JONES: Mr. Shin, I think
11 what I'm going to do is I'm going to let Mr. Hogan ask
12 you and Ms. -- Ms. Shin some questions, and then the
13 board, if they have any questions, and then I'll give
14 you another chance to clarify or say anything else at
15 the end.

16 THE WITNESS: Okay.

17 HEARING OFFICER AKIN-JONES: Okay?

18 THE WITNESS: Yeah. Sure.

19 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan.

20 CROSS-EXAMINATION

21 BY MR. HOGAN:

22 Q Mr. Shin, do you -- do you kind of run the business side of
23 the operation and your wife is a licensed cosmetologist?

24 A I just -- I just pay the checks.

25 Q Are you at the -- are you at the actual business --

ADH, CTAC, 3/19/2012

1 A No, no.

2 Q -- during the day?

3 A No. I'm at home.

4 Q Okay.

5 A I'm at home.

6 Q When you receive mail like this Order and Notice of Hearing
7 for today's hearing, you got that in the mail?

8 A Yeah.

9 Q Did you get that at your business or at --

10 A At the shop.

11 Q At the shop?

12 A At the shop. It come to the shop. Yeah.

13 Q Okay. Is there a process at the shop that you all have to
14 process mail when it comes in or stamp it in or file it or
15 anything like that?

16 A She will -- no. She brings it home.

17 Q Just brings it to the house?

18 A Yeah. Uh-huh.

19 Q And your testimony is that you never received a copy of the
20 letter notifying you of the fact that the check was late?

21 A We --

22 Q And that you --

23 A No.

24 Q -- you owed \$150?

25 A No.

ADH, CTAC, 3/19/2012

1 WHEREUPON,

2 MABLE SHIN,

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

6 DIRECT EXAMINATION

7 BY MR. HOGAN:

8 Q Are you -- I'll ask your wife, I guess -- familiar with the
9 rules and regulations of the cosmetology board and the Arkansas
10 Department of Health?

11 A I've been in business for over 40 years.

12 MR. SHIN: Yeah.

13 THE WITNESS: So I've never been late with my
14 payments.

15 MR. HOGAN: And are you familiar with the rule
16 that if you are late with your renewal, that that is a
17 50-dollar additional charge?

18 THE WITNESS: Yes.

19 MR. SHIN: Yeah.

20 MR. HOGAN: What did you think when you received
21 the check back in the mail for \$100? Did you contact
22 the office?

23 MR. SHIN: No.

24 THE WITNESS: No. I thought --

25 MR. SHIN: A little confusing because of the --

ADH, CTAC, 3/19/2012

1 the change over, I guess, from the -- me looking at --
2 me looking at this little thing here we had gotten off
3 the Internet and couldn't -- we couldn't figure out why
4 we did get it back since it was due, in our opinion, it
5 was due as of the 31st of December.

6 THE WITNESS: Because I -- I was under the
7 impression that the operator license was renewed on
8 your birthday and the shop license was different.

9 BY MR. HOGAN:

10 Q So did you ask Ms. Wood or did you contact the office at all
11 and get some clarification --

12 A She -- she told me to call --

13 Q -- when you got the check back?

14 A -- but I just -- she told me to call because she called when
15 she was at my shop --

16 HEARING OFFICER AKIN-JONES: And, Ms. Shin, just
17 to clarify --

18 THE WITNESS: -- but she called to check and
19 everything --

20 HEARING OFFICER AKIN-JONES: -- Ms. Wood was the
21 one that --

22 THE WITNESS: -- and she asked me to call. But, I
23 don't know, somehow it just -- it just slipped my mind
24 when --

25 MR. SHIN: When you say she, for the record, say

ADH, CTAC, 3/19/2012

1 Ms. Wood.

2 THE WITNESS: Huh?

3 MR. SHIN: When you say she, for the record, say

4 Ms. Wood.

5 Go ahead.

6 THE WITNESS: I did say it.

7 HEARING OFFICER AKIN-JONES: Go ahead, Mr. Hogan.

8 BY MR. HOGAN:

9 Q You -- you have your salon license and your practitioner's
10 license displayed at your business?

11 A Yes.

12 MR. HOGAN: That's correct?

13 MR. SHIN: Yes.

14 BY MR. HOGAN:

15 Q And are you aware that on the license itself, it has an
16 expiration date or -- did you look at that?

17 MR. SHIN: Yes.

18 THE WITNESS: I don't know if it has.

19 BY MR. HOGAN:

20 Q And what was your expiration date on your license?

21 MS. SHIN: Couldn't figure --

22 BY MR. HOGAN:

23 Q The record indicates in September.

24 MR. SHIN: Couldn't figure out why we got the
25 check back. Confused, why would you send the check

ADH, CTAC, 3/19/2012

1 back if we -- if the license was updated?

2 That's what we -- that's how -- that's what
3 we came -- that's the conclusion we came with.

4 MR. HOGAN: Now, when did you -- when did you get
5 that check back? That one in -- you issued, you sent
6 that in in January of last year, right?

7 MR. SHIN: No. No. We sent it in, was it --
8 yeah, 28th of January. I don't know exactly the date
9 we got it back but it came back in the mail.

10 MR. HOGAN: And you don't know if it came back --
11 are you saying that it just came back as a check in
12 the -- in the mail? There was no letter with it or
13 attachment?

14 MR. SHIN: With a -- with a letter saying that we
15 owed nothing at this time.

16 MR. HOGAN: And when you paid later, you're saying
17 you didn't get a letter back with that?

18 MR. SHIN: Didn't pay -- didn't pay later.

19 MR. HOGAN: No, I mean, you --

20 MR. SHIN: We sent in the check for this year.

21 MR. HOGAN: Okay.

22 MR. SHIN: Back in September -- December.

23 MR. HOGAN: In December?

24 MR. SHIN: Uh-huh.

25 MR. HOGAN: Of -- of 2011?

ADH, CTAC, 3/19/2012

1 MR. SHIN: 2011 we sent in for the 2 of -- 2012
2 year.

3 MR. HOGAN: And your -- is it your testimony today
4 that you didn't get a letter back after you --

5 MR. SHIN: No, we didn't.

6 MR. HOGAN: -- sent that?

7 MR. SHIN: No. We did not.

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

9 HEARING OFFICER AKIN-JONES: Okay. Board members,
10 do y'all have any questions for -- for the Shins?

11 Okay. Thank you, Mr. Shin.

12 Ms. Shin, thank you very much.

13 Are there any witnesses that the two of you would
14 like to call?

15 MR. SHIN: No.

16 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan,
17 closing?

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

19 HEARING OFFICER AKIN-JONES: Mr. Shin, is there
20 anything else you would like to state in closing or
21 clarify for the board before they make their decision?

22 MR. SHIN: No. I'm --

23 HEARING OFFICER AKIN-JONES: Okay.

24 MR. SHIN: I'm assuming it's -- that we going to
25 be -- it's going to be clarified whether it's due on

ADH, CTAC, 3/19/2012

1 the 31st of December or due on your birthday. I
2 don't -- I haven't looked at it to print it off
3 recently.

4 HEARING OFFICER AKIN-JONES: I hope that if that's
5 not made clear by the time the deliberations are over,
6 that the two of you will talk to Ms. Kersey and get
7 that worked out before you leave here today.

8 MR. SHIN: Okay.

9 HEARING OFFICER AKIN-JONES: Okay?

10 MR. SHIN: That's all right.

11 HEARING OFFICER AKIN-JONES: Very well. At this
12 time we'll make the record closed and complete except
13 for the board's recess for deliberations.

14 Once the board reaches a decision we will go back
15 on the record.

16 (WHEREUPON, the committee retired to deliberate,
17 off the record, from 9:44 a.m. to 9:49 a.m., and
18 returned with the following decision:)

19 HEARING OFFICER AKIN-JONES: At this time we'll go
20 back on the record for a motion. Is there a motion?

21 MS. KERSEY: To come back on the record.

22 MS. BONDS: Oh, I motion to come back on the
23 record.

24 HEARING OFFICER AKIN-JONES: No, not to come back
25 on the record.

ADH, CTAC, 3/19/2012

1 MS. BONDS: I motion to let them go in good
2 standing with 150 to get their license.

3 MS. REYNOLDS: I second it.

4 CHAIRMAN FORD: The motion has been seconded that
5 the payment be 150. All in favor?

6 COMMITTEE MEMBERS: Aye.

7 CHAIRMAN FORD: All opposed?

8 HEARING OFFICER AKIN-JONES: Let the record
9 reflect the decision of the board is unanimous. Please
10 reduce the decision to writing and make or attempt
11 service upon all parties. If the respondent cares to
12 appeal the decision, one can be taken under the
13 Arkansas Code Annotated 25-15-201, or any specific
14 provision of this board.

15 Mr. and Mrs. Shin, I'm going to recess after this
16 so you can talk to Ms. Kersey and get the dates
17 straightened out and make sure we have a good
18 understanding before y'all leave here today.

19 If there are no questions or comments, this
20 hearing is concluded and the record is complete.

21 Thank you.

22 (WHEREUPON, at 9:50 a.m., the above-entitled
23 proceedings were concluded.)

24 ---o---

25

ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 55069

2 ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

3 v.

4 THE SHOP

RESPONDENT

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

6 CHAIRMAN FORD: Call this Cosmetology Technical
7 Advisory Committee meeting back to order.

8 HEARING OFFICER AKIN-JONES: We're going to move
9 on to The Shop, if y'all want to find that in your
10 paperwork.

11 My name is Kendra Akin Jones and I'm the Hearing
12 Officer today in the matter of the Arkansas Department
13 of Health Cosmetology Technical Advisory Commission --
14 Committee versus The Shop. Today is March 19, 2012,
15 and we're located in Suite 801 of the Freeway Medical
16 Building.

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

19 MR. HARRIS: Aaron Harris.

20 HEARING OFFICER AKIN-JONES: And, Mr. Harris, you
21 received a copy of the Order and Notice of Hearing?

22 MR. HARRIS: Yes.

23 HEARING OFFICER AKIN-JONES: And you don't have
24 counsel present with you today?

25 MR. HARRIS: No, ma'am.

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan,
2 would you identify yourself?

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

5 HEARING OFFICER AKIN-JONES: For the respondent's
6 benefit and the benefit of anyone present who may not
7 have appeared before an administrative hearing, the
8 board will make its decision based solely on the
9 evidence presented here today. This hearing is being
10 held under the Administrative Procedure Act, which
11 means the strict rules of evidence do not apply. Board
12 members know of this case only as it appears and is set
13 forth in the Order and Notice of Hearing. Anything to
14 have them consider today must be presented to the board
15 as evidence today.

16 This hearing is open to the public, under the
17 Freedom of Information Act, and that includes the
18 board's recess for deliberations.

19 For all of you who are going to be witnesses in
20 today's matter, please raise your right hand.

21 (WHEREUPON, the witnesses were sworn by the
22 Hearing Officer.)

23 HEARING OFFICER AKIN-JONES: Very well.

24 Mr. Hogan, any preliminary matters?

25 MR. HOGAN: Yes.

ADH, CTAC, 3/19/2012

1 We would ask that this nine-page document -- I
2 don't know, Aaron, have you had a chance to look
3 through the -- do you need to see this document? It
4 has the Order and Notice of Hearing, proposed consent
5 agreement, and the -- also the inspection record of the
6 department.

7 MS. LESTER: Did you read it?

8 MR. HARRIS: Yeah, I did.

9 Yeah, I did. She's got it.

10 MR. HOGAN: Do you have any objection?

11 I would like to move that that nine-page document
12 be admitted as Exhibit No. 1 for the record, please.

13 HEARING OFFICER AKIN-JONES: Mr. Harris, do you
14 have any objection to that being admitted?

15 MR. HARRIS: No, ma'am.

16 HEARING OFFICER AKIN-JONES: Very well. It will
17 be admitted as Board's Exhibit No. 1.

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

20 MR. HOGAN: And that the board be able to take
21 notice of the rules and regulations and the statutes of
22 the Cosmetology Technical Advisory Committee.

23 HEARING OFFICER AKIN-JONES: Very well. Those
24 will be so noted.

25 MR. HOGAN: And that's all of the preliminary

ADH, CTAC, 3/19/2012

1 matters that I have.

2 HEARING OFFICER AKIN-JONES: Mr. Harris, do you
3 have anything in your possession today that you would
4 like for the board to consider during their
5 deliberations today?

6 MR. HARRIS: No, ma'am.

7 HEARING OFFICER AKIN-JONES: Very well. We will
8 move on.

9 Opening statement, Mr. Hogan?

10 MR. HOGAN: I have none. But I would just note
11 for the record that Ms. Bonds, CTAC sitting member, has
12 recused from this matter because of her friendship with
13 Mr. Harris. An instructor, I believe.

14 HEARING OFFICER AKIN-JONES: Okay. Anything
15 further?

16 MR. HOGAN: I have nothing further.

17 HEARING OFFICER AKIN-JONES: Okay. Mr. Harris,
18 anything you would like to say in opening?

19 MR. HARRIS: The reason why I was --

20 HEARING OFFICER AKIN-JONES: If you want to say
21 a -- if you want to give an opening now or if you just
22 want to tell them after we've had a couple of
23 witnesses, that's fine, too.

24 MR. HARRIS: Okay. I'll just wait.

25 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan,

ADH, CTAC, 3/19/2012

1 call your first witness.

2 MR. HOGAN: Well, just may be short, I'm not sure.
3 Are you here to contest the allegations, Mr. Harris, or
4 are you -- are you going to -- are you disputing the
5 charges or are you here just to explain the situation?

6 MR. HARRIS: Yes. Disputing, I guess.

7 MR. HOGAN: You are disputing?

8 MR. HARRIS: (Nodding head up and down.)

9 MR. HOGAN: Okay. We would call Ms. Lavonne
10 Lester, then.

11 WHEREUPON,

12 LAVONNE LESTER,

13 having been called for examination, and having been first duly
14 sworn by the Hearing Officer, was examined and testified, as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. HOGAN:

18 Q Ms. Lester, would you state your name and your position with
19 the department?

20 A Lavonne Lester, inspector with the department.

21 Q Ms. Lester, I want to turn your attention to the inspection
22 report.

23 A Yes, sir.

24 Q Is that your signature on -- as the inspector of that
25 report?

ADH, CTAC, 3/19/2012

1 A Yes. It is.

2 Q And tell the members of the committee, it looks like you
3 were there on December the 1st --

4 A Yes.

5 Q -- of last year. Correct?

6 A Yes. I was.

7 Q What did you find in The Shop?

8 A That the salon license had not been renewed, it was overdue.

9 Q How did you find that out? Did you look at the license and
10 it was posted on the wall?

11 A The license and the expiration date on the license. And it
12 was like, I don't know, I'm thinking six months overdue, maybe.

13 Q Did you contact the office to confirm or anything whether or
14 not the license had been --

15 A No.

16 I spoke with Aaron and he --

17 Q What did he say?

18 A He was thinking it was like a two-year license when -- and
19 it wasn't.

20 Q And, but the expiration date was actually on the license
21 that were --

22 A Yes, sir. It was.

23 Q You also mentioned in that, all posted license are current.
24 That apparently was a violation. What did you mean by that?

25 A That the salon license had expired.

ADH, CTAC, 3/19/2012

1 Q So is that the same -- the reason I -- you got two check
2 marks on your inspection report?

3 A Yes.

4 Q One for the salon license current?

5 A Yes.

6 Q And then you've got, under the consumer information,
7 Section 2B, all posted license are current. So --

8 A Correct.

9 Q -- that's -- you're saying that that's the same violation,
10 that it was not a --

11 A Yes.

12 Q -- not a current?

13 A Yes. He had it posted and it was not current.

14 Q Okay. So that's the only violation we're looking at?

15 A Yes.

16 Q Not a posted license that was current?

17 A Yes.

18 Q Now, are these persons that are listed on the inspection
19 report, these individuals, are those -- those are all
20 cosmetology -- or practitioners that work at the salon?

21 A Yes.

22 Q And were all of those current licensees?

23 A Yes. They were.

24 Q And the only explanation you got from Mr. Harris was that he
25 thought it was a two-year license as opposed to a one-year

ADH, CTAC, 3/19/2012

1 license?

2 A Yes, sir.

3 Q Is there anything further you're going to make the committee
4 aware of?

5 A No.

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

7 HEARING OFFICER AKIN-JONES: Mr. Harris, do you
8 have any questions for Ms. Lester?

9 MR. HARRIS: No, ma'am.

10 HEARING OFFICER AKIN-JONES: Okay.

11 MR. HOGAN: I call Ms. Kersey.

12 HEARING OFFICER AKIN-JONES: Board members, do you
13 have any questions for Ms. Lester?

14 Okay. Now then, Mr. Hogan.

15 MR. HOGAN: I'll call Ms. Kersey.

16 THE WITNESS: Okay.

17 WHEREUPON,

18 KELLI KERSEY,

19 having been called for examination, and having been first duly
20 sworn by the Hearing Officer, was examined and testified, as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. HOGAN:

24 Q State your name, please, and your position with the
25 department.

ADH, CTAC, 3/19/2012

1 A Kelli Kersey, Section Chief, Cosmetology, Arkansas
2 Department of Health.

3 Q Did you have occasion, Ms. Kersey, as a part of your
4 responsibilities to look at the records of the department of
5 health and the cosmetology section?

6 A I did.

7 Q And at page -- I believe it's Page 8 of this document --

8 A Uh-huh.

9 Q -- it has a sheet. And now, what would you call that, this?
10 It's a printout --

11 A Uh-huh.

12 Q -- of the License ID No. 55069, which matches up with the
13 inspection report?

14 A Yes, sir.

15 Q Tell the members of the committee what that indicates,
16 please.

17 A That this is a history of his license and when they expired
18 and when he renewed it. He had -- his license expired 3/10/2010,
19 he renewed on 4/8/2010 and it went until 3/10/2011. And he
20 didn't renew until 1/10/2012.

21 Q So he has renewed at this point?

22 A At this point he has renewed.

23 Q And he has renewed for a two-year period or for a one-year
24 period?

25 A Just one year.

ADH, CTAC, 3/19/2012

1 Q Okay. Explain for the record, what is the -- is the process
2 different, the fee, I'm sure, is different between a one-year
3 licensure and a two-year license?

4 A It's the same process, he just would pay \$200 instead of
5 \$100 for a two-year license.

6 Q Did your records ever indicate that he had been licensed for
7 a two-year period in the past?

8 A No, sir.

9 Q Is there any communication that you're aware of that went to
10 the salons for licensees regarding a two-year licensure versus a
11 one-year licensure?

12 A I believe when we sent out a newsletter in 2010 it explained
13 that -- I mean that they could do a two-year license if they
14 wanted, but he normally only did --

15 Q Was the -- I'm sorry. Go ahead.

16 A No, I'm good.

17 Q Are you sure?

18 A Yeah. No, I'm okay.

19 Q How long -- is the two-year licensure, to your knowledge,
20 has that been permissible for a long period of time or is that a
21 new rule or is that a new law or is that something that's been on
22 the books for a while?

23 A I believe it went into effect in 2008.

24 Q 2008?

25 A Yeah.

ADH, CTAC, 3/19/2012

1 Q All right. Is there anything further -- did you have any
2 communications with Mr. Harris or anybody at the salon?

3 A I have not, huh-uh.

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

5 A Well, I want to say on January 10, 2012, he didn't actually
6 renew his license, he did a relocation. So he still did not ever
7 renew that license for the old -- for the 3704. He did a
8 relocation to 219 South Church Street.

9 Q Okay. Maybe you misunderstood my question.

10 A I'm sorry.

11 Q Was that -- I was asking you, then --

12 A Yes.

13 Q -- if he had renewed his salon license?

14 A I'm sorry. Yes. And I looked at that and I realized that
15 it's a relocation.

16 Q Tell me, for the record, what's the difference between a
17 relocation and a renewal of a salon license?

18 A The fee is the same, it's just when you do a relocation
19 you -- it's basically a new shop. You have to close down the old
20 shop and do the new shop. So from 3/10/2012 to 1/10 -- I mean,
21 I'm sorry. 3/10/2011 to 1/10/2012 he didn't have a license at
22 3704 South Caraway.

23 Q So do you know if he still has a salon there or is that --

24 A (Shaking head from side to side.)

25 Q Is that -- I guess my question is, is he current on his

ADH, CTAC, 3/19/2012

1 licensure for the salon that he currently operates?

2 A Yes.

3 Q And it's just that he changed locations but he did renew for
4 purposes of the new location?

5 A Yes.

6 Q And the law requires that if you change location, you have
7 to notify the board or department of the change in location and
8 you pay a relocation fee?

9 A Yes, sir.

10 Q And then you're issued a salon license for that new
11 location?

12 A Yes.

13 Q All right. Is there anything further you want to make the
14 committee aware of?

15 A No.

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

17 HEARING OFFICER AKIN-JONES: Mr. Harris, do you
18 have any questions for Ms. Kersey?

19 CROSS-EXAMINATION

20 BY MR. HARRIS:

21 Q So are my license current now with the relocation?

22 A At --

23 Q I mean, it says expired on -- you know, at the end of this
24 year?

25 A 2012?

ADH, CTAC, 3/19/2012

1 Q Yes. Now.

2 A Yes.

3 Q Yes?

4 So, there are --

5 A Okay. When you relocated --

6 Q Uh-huh. I shut the other one down --

7 A Right.

8 Q -- and relocated to a different --

9 A Okay. But when this inspection was done on 12/1 --

10 Q I was, yes --

11 A -- you were still at the other location.

12 Q Yes, ma'am.

13 A This fine is on the other location.

14 Q Yes, ma'am.

15 A Not the new location.

16 Q Yes, ma'am. Okay.

17 A Because you had not renewed your license from March to
18 December.

19 MR. HARRIS: Correct.

20 HEARING OFFICER AKIN-JONES: Okay. Do you have
21 further questions for Ms. Kersey?

22 MS. LESTER: Well, whenever you moved.

23 MR. HARRIS: Right.

24 No.

25 HEARING OFFICER AKIN-JONES: Okay. Committee

ADH, CTAC, 3/19/2012

1 members, do you have any questions for Ms. Kersey?

2 CHAIRMAN FORD: I do.

3 HEARING OFFICER AKIN-JONES: Go ahead.

4 CHAIRMAN FORD: So, basically, what we're
5 deliberating on here today are the arrears from the old
6 location and the fine?

7 THE WITNESS: Yes.

8 HEARING OFFICER AKIN-JONES: Further questions
9 from the committee members?

10 If there are none, thank you, Ms. Kersey.

11 Mr. Hogan, any further witnesses?

12 MR. HOGAN: I just call Mr. Harris just to have
13 you --

14 HEARING OFFICER AKIN-JONES: Okay.

15 WHEREUPON,

16 AARON HARRIS,

17 having been called for examination, and having been first duly
18 sworn by the Hearing Officer, was examined and testified, as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. HOGAN:

22 Q Mr. Harris, when did you relocate your salon?

23 A January 15th. Something like that.

24 Q Of this year?

25 A Yes, sir.

ADH, CTAC, 3/19/2012

1 Q And then it indicates in our records, at least, that
2 January 10th of 2011, is that -- is that when you reapplied for
3 or applied for the relocation? You sent in the paperwork?

4 A Yes.

5 Q Of 2012?

6 A Yes.

7 Q Now, did -- you heard Ms. Lester's testimony, her
8 conversation with you. Is it a correct statement that you were
9 under the impression that you were licensed for a two year
10 period --

11 A Yes.

12 Q -- versus a one-year period?

13 A Yes. I thought it was the same as my personal license,
14 because they are the two year, every two year.

15 Q So you --

16 A So I just assumed that it was like that also.

17 Q You saw your establishment license and saw the expiration
18 date on it, as Ms. Lester has testified about, though?

19 A Yes. After she pointed it out. Yes, sir.

20 Q Okay. So you have a -- your cosmetologist license --

21 A (Nodding head up and down.)

22 Q -- you get that for a two-year period every time you have
23 applied since 2008?

24 A Yes.

25 Q Okay. Do you pay an extra fee to do that, as opposed to

ADH, CTAC, 3/19/2012

1 what you were previously paying for a one year before 2008?

2 A Yes. They have increased the fees in 2009. Correct?

3 MS. LESTER: Eight.

4 MS. KERSEY: Eight.

5 THE WITNESS: Eight.

6 BY MR. HOGAN:

7 Q Okay.

8 A Time flies. I just, I thought it was -- I thought this is
9 the first time that we've actually got our two-year license. So
10 if it's changed in 2008, we wouldn't have had to do that until
11 2009, correct? If the law changed in 2008?

12 HEARING OFFICER AKIN-JONES: You can't really ask
13 questions right now.

14 THE WITNESS: Okay. Sorry.

15 HEARING OFFICER AKIN-JONES: I'll give you a
16 chance to, though.

17 THE WITNESS: Okay.

18 MS. KERSEY: Practitioners don't have a choice, it
19 has to be two years.

20 MR. HOGAN: I'm --

21 MS. KERSEY: I'm sorry.

22 BY MR. HOGAN:

23 Q I'm told by Ms. Kersey that practitioners don't have a
24 choice, it's for two years versus a salon, that -- and you didn't
25 know that under these rules?

ADH, CTAC, 3/19/2012

1 A No. No, sir.

2 Q I can't believe that.

3 A No, sir.

4 MS. KERSEY: I didn't write the rules.

5 MR. HOGAN: Yeah. That's why I'm the lawyer.

6 I pass the witness.

7 HEARING OFFICER AKIN-JONES: Okay. Mr. Harris,
8 you -- you can tell the board your side and then I'll
9 give them a chance to ask you some questions right now
10 or I'll let you do it later, if you want. That's up to
11 you.

12 THE WITNESS: Later is fine.

13 HEARING OFFICER AKIN-JONES: Go right ahead then.

14 THE WITNESS: Oh, go ahead and --

15 HEARING OFFICER AKIN-JONES: Oh, what did you say?

16 THE WITNESS: No. Later is fine.

17 HEARING OFFICER AKIN-JONES: Oh, okay. Well,
18 board members, do you-all have any questions for
19 Mr. Harris right now?

20 CHAIRMAN FORD: I do.

21 HEARING OFFICER AKIN-JONES: Okay.

22 CHAIRMAN FORD: Mr. Harris.

23 THE WITNESS: Yes, ma'am.

24 CHAIRMAN FORD: Our records indicate that in the
25 year 2010 your license expired on 3/10/2011. It was

ADH, CTAC, 3/19/2012

1 issued on that date and it expired on that date.

2 MS. KERSEY: What?

3 CHAIRMAN FORD: It's going to be, if you will look
4 in the packet.

5 HEARING OFFICER AKIN-JONES: That's Board's
6 Exhibit No. 1.

7 CHAIRMAN FORD: It should be the next to the last
8 page in that packet.

9 THE WITNESS: Yes, ma'am.

10 HEARING OFFICER AKIN-JONES: Now, can you restate
11 your question, because I'm not sure that any of us
12 understood what the question was.

13 CHAIRMAN FORD: On that, on that next to the last
14 page.

15 THE WITNESS: Yes, ma'am.

16 CHAIRMAN FORD: Our records indicate that the
17 expiration, the issue date and the expiration, which is
18 posted on your license, at the time that the license
19 was issued to you, did you not take note of that?

20 THE WITNESS: No, ma'am.

21 MS. FUENTES: I have a question for you. When --
22 when you relocated and you had to do the relocation
23 paperwork, how did you know that -- that you had to do
24 that? Who told you that -- what forms to fill out and
25 all that?

ADH, CTAC, 3/19/2012

1 THE WITNESS: (Indicating.)

2 MS. FUENTES: You asked her to what to do or --

3 THE WITNESS: Yes. Yes.

4 MR. HOGAN: The inspector.

5 MS. FUENTES: At the time of the inspection or did
6 you call the office?

7 THE WITNESS: Yes.

8 MS. FUENTES: Okay.

9 HEARING OFFICER AKIN-JONES: And now just to
10 clarify, the her is Ms. Lester?

11 THE WITNESS: Yeah, Ms. Lester.

12 Sorry.

13 HEARING OFFICER AKIN-JONES: Okay.

14 CHAIRMAN FORD: And --

15 HEARING OFFICER AKIN-JONES: Further questions
16 from the board members for Mr. Harris?

17 MS. REYNOLDS: Yes.

18 HEARING OFFICER AKIN-JONES: Go right ahead.

19 MS. REYNOLDS: Mr. Harris, how long have you had
20 your license?

21 THE WITNESS: Shop license or personal license?

22 MS. REYNOLDS: Both.

23 THE WITNESS: Eleven or 12 years on my personal,
24 and my shop, five years.

25 MS. FUENTES: And are you a licensed instructor as

ADH, CTAC, 3/19/2012

1 well? Is that --

2 THE WITNESS: I've got -- I've completed my
3 hours --

4 MS. FUENTES: Oh, okay.

5 THE WITNESS: -- and I've just got to take the
6 test.

7 MS. FUENTES: Okay.

8 THE WITNESS: My exam.

9 HEARING OFFICER AKIN-JONES: Further questions
10 from the board?

11 MS. DAVIS: I have one.

12 Okay. So, in the process of you getting your
13 instructor's course, did you go over any of the rules
14 and regulations at all at school?

15 And how would you teach your students at this
16 point?

17 THE WITNESS: That's a good question.

18 No, ma'am, I did not. But this is a learning
19 experience so I will from now on, I'll be sure to tell
20 them.

21 MS. DAVIS: Good answer.

22 HEARING OFFICER AKIN-JONES: Further questions
23 from the board members for Mr. Harris?

24 If there are none, Mr. Hogan, do you have any
25 redirect?

ADH, CTAC, 3/19/2012

1 MR. HOGAN: I have nothing further.

2 HEARING OFFICER AKIN-JONES: Very well.

3 Okay. Mr. Harris, if there is anything else you
4 want to try to explain to the members of the board
5 before they make their decision, go right ahead.

6 MR. HARRIS: No. That's all right. I'm good.

7 I was going to -- I was going to give y'all --
8 y'all are safe because the other ones are old, but I
9 can tell you what I've been doing for the last nine
10 months. So I've just been really busy.

11 HEARING OFFICER AKIN-JONES: Mr. Hogan, anything
12 in closing?

13 MR. HOGAN: No, ma'am.

14 HEARING OFFICER AKIN-JONES: Mr. Harris, anything
15 in closing?

16 MR. HARRIS: No, ma'am.

17 HEARING OFFICER AKIN-JONES: Very well. At this
18 time we'll make the record closed and complete, except
19 for the board's recess for deliberations.

20 Once the board has reached its decision, we'll go
21 back on the record.

22 (WHEREUPON, the committee retired to deliberate,
23 off the record, from 10:24 a.m. to 10:25 a.m., and
24 returned with the following decision:)

25 HEARING OFFICER AKIN-JONES: We'll go back on the

ADH, CTAC, 3/19/2012

1 record. We'll go back on the record at this time for a
2 motion.

3 MR. BARNES: I make a motion that the fine stands
4 as posted.

5 MS. FUENTES: I second.

6 CHAIRMAN FORD: The motion has been seconded that
7 the fine stand as stated. All in favor?

8 COMMITTEE MEMBERS: Aye.

9 CHAIRMAN FORD: All opposed?

10 Fine stands at \$304.

11 HEARING OFFICER AKIN-JONES: Please let the record
12 reflect that the board's decision was unanimous, except
13 for Ms. Bonds, who recused from this hearing. Please
14 reduce that decision to writing and make or attempt
15 service upon all parties and notifying the parties that
16 an appeal may be taken under the Administrative
17 Procedures Act found at 25-15-201, et seq.

18 If there are no other questions or comments, this
19 hearing is closed and made complete.

20 (WHEREUPON, at 10:26 a.m., the above-entitled
21 proceedings were concluded.)

22 ---o---

23

24

25

ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. N/A

2 ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

3 v.

4 KENNY HOANG VO

RESPONDENT

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

6 MS. FORD: This meeting is called back to order.

7 HEARING OFFICER AKIN-JONES: Morning, Mr. Vo.

8 MR. VO: Morning.

9 HEARING OFFICER AKIN-JONES: We'll go on the
10 record now.

11 My name is Kendra Akin Jones and I'm the Hearing
12 Officer today in the matter of the Arkansas Department
13 of Health Cosmetology Technical Advisory Committee
14 versus Kenny Vo, to be heard before the Technical
15 Advisory Committee March 19, 2012. And we're in Suite
16 801 of the Freeway Medical Building.

17 Okay. Mr. Vo, if you would, please identify
18 yourself for the record. State your name.

19 MR. VO: My name is Kenny Vo.

20 HEARING OFFICER AKIN-JONES: Okay. And, Mr. Vo,
21 you received the Order and Notice of Hearing for
22 today's matter, the paperwork telling you to be here?

23 MR. VO: Yes, ma'am.

24 HEARING OFFICER AKIN-JONES: Okay. If at any time
25 you don't understand something, let me know.

ADH, CTAC, 3/19/2012

1 MR. VO: All right.

2 HEARING OFFICER AKIN-JONES: Okay? And you didn't
3 bring counsel with you today, an attorney?

4 MR. VO: No.

5 HEARING OFFICER AKIN-JONES: Okay. And be sure
6 you give verbal answers so that our court reporter can
7 get those into the record. Okay?

8 MR. VO: Okay.

9 MR. HOGAN: You might have to speak up a little.

10 HEARING OFFICER AKIN-JONES: That, too.

11 MR. HOGAN: These folks can hear you but I'm old
12 and I can't hear you.

13 MR. VO: Okay.

14 MR. HOGAN: Thanks.

15 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan, if
16 you would, identify yourself for the record.

17 MR. HOGAN: Rick Hogan, the general counsel for
18 the health department.

19 HEARING OFFICER AKIN-JONES: For the respondent's
20 benefit as well as the benefit of those present who may
21 not have appeared before in an administrative hearing,
22 I will tell you that the board will base its decision
23 solely on the evidence presented here today. This
24 hearing is being held under the Administrative
25 Procedures Act, which means the strict rules of

ADH, CTAC, 3/19/2012

1 evidence do not apply. The board members know of this
2 case only as it appears and is set forth in the Order
3 and Notice of Hearing. Anything in your possession
4 that you want the board to consider must be offered
5 into evidence today.

6 This hearing is open under the Freedom of
7 Information Act to the public, and that does included
8 the board's recess for deliberations.

9 For those of you who are going to be witnesses in
10 today's matter, please raise your right hand.

11 Mr. Vo?

12 MR. HOGAN: Wait, do you -- are you going to --
13 you may -- do you want to testify, too?

14 MS. MAI: Yes.

15 MR. HOGAN: You can sit up here by him if you
16 would like.

17 HEARING OFFICER AKIN-JONES: Just sit up here and
18 we'll get everybody sworn in.

19 (WHEREUPON, the witnesses were sworn by the
20 Hearing Officer.)

21 HEARING OFFICER AKIN-JONES: Very well.

22 Mr. Hogan, first of all, preliminary matters, I'm
23 just going to go ahead, do you have any objection to
24 these two items?

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

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: We're going to mark
2 these, the manicurist's license that Mr. Vo has brought
3 in as Respondent's Exhibit No. 1, and a copy of his
4 driver's license as Respondent's Exhibit No. 2.

5 Mr. Vo, do you have any other paperwork you want
6 the board to look at today?

7 MR. VO: I just have my license and driver's
8 license.

9 HEARING OFFICER AKIN-JONES: Okay. We have a copy
10 of that for the board members. Anything else?

11 MR. VO: No, ma'am. Just the license.

12 HEARING OFFICER AKIN-JONES: Okay.

13 (WHEREUPON, Respondent's Exhibits Nos. 1 and 2
14 were received in evidence.)

15 MR. VO: I have a letter.

16 MS. MAI: Court paper.

17 HEARING OFFICER AKIN-JONES: Is that the letter
18 you received about today's hearing?

19 MR. VO: Yes. The letter right here.

20 HEARING OFFICER AKIN-JONES: Okay. Those will be
21 put in. Okay? We'll label those as Respondent's 1 and
22 2.

23 Mr. Hogan, preliminary matters?

24 MR. HOGAN: Yes, we have the Order and Notice of
25 Hearing and the inspection report, I think it's eight

ADH, CTAC, 3/19/2012

1 pages, we would ask that be made as Board's Exhibit
2 No. 1. And also that the board be able to take notice
3 of the rules and regulations and the statutes.

4 HEARING OFFICER AKIN-JONES: That will be admitted
5 as Board's Exhibit No. 1, and the board is so noted to
6 take -- take any notice necessary of their rules and
7 regulations.

8 (WHEREUPON, Board's Exhibit No. 1 was received in
9 evidence.)

10 HEARING OFFICER AKIN-JONES: Okay. Opening
11 statement, Mr. Hogan?

12 MR. HOGAN: No, ma'am.

13 HEARING OFFICER AKIN-JONES: Mr. Vo, is there
14 anything you would like to state in an opening, or do
15 you want to wait until later?

16 Is there anything you would like to tell the board
17 before they start to hear information about your --
18 about the case?

19 MR. VO: Yes. That at that time I didn't have my
20 license with me but I had -- I have license but I
21 didn't have them with me.

22 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan, you
23 can call your first witness.

24 MR. HOGAN: Call Ms. Lester.

25 WHEREUPON,

ADH, CTAC, 3/19/2012

1 LAVONNE LESTER,
2 having been called for examination, and having been first duly
3 sworn by the Hearing Officer, was examined and testified, as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. HOGAN:

7 Q Ms. Lester, state your name and your position with the
8 department, please.

9 A Lavonne Lester, inspector.

10 Q Ms. Lester, I was looking at your inspection report dated
11 November 2nd of last year. Can you tell the members of the
12 committee what you found at the Beautiful Nails Salon?

13 A Well, actually, I found two people working without license,
14 without Arkansas license.

15 Kenny showed me his driver's license, I took down the
16 numbers. And I cannot pronounce the other, Ms. Tran, showed me a
17 driver's license and I took down the information, but they were
18 both working that day. And also that the salon license was not
19 posted.

20 Q Okay. Ms. Lester, the -- Mr. Vo has brought with him today
21 a copy of his license, which apparently he was issued October the
22 20th of last year. Did you see this license when you inspected
23 the facility?

24 A I did not.

25 Q Did you ask him for a copy of his current license or was

ADH, CTAC, 3/19/2012

1 it --

2 A Yes. And he didn't have it.

3 Q Were there any license that were posted at the salon at the
4 time of your inspection?

5 A Just the one, Ms. Nguyen had a license and Anh Le had a
6 license.

7 Q And did you talk directly to Mr. Vo the day you were there
8 in November?

9 A I did.

10 Q Did you ask him for a copy of his license?

11 A Yes. He didn't have one.

12 Q Did he tell you that he had a license that was issued but he
13 didn't have it with him or what -- what was the substance?

14 A He did tell me that he had a license.

15 Q I'm sorry?

16 A He did tell me that.

17 Q Did you then communicate with the department or with the
18 staff back here to discover whether or not there was a license on
19 file for Mr. Vo?

20 A I don't recall that.

21 Q Is there anything further you want to make the committee
22 aware of today?

23 A No.

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

25 HEARING OFFICER AKIN-JONES: Mr. Vo, are there any

ADH, CTAC, 3/19/2012

1 questions you would like to ask Ms. Lester?

2 MR. VO: No, ma'am.

3 HEARING OFFICER AKIN-JONES: Okay. Board members,
4 questions for Ms. Lester?

5 Okay. Mr. Hogan, call your next witness.

6 MR. HOGAN: Call Ms. Kersey.

7 WHEREUPON,

8 KELLI KERSEY,

9 having been called for examination, and having been first duly
10 sworn by the Hearing Officer, was examined and testified, as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. HOGAN:

14 Q Would you state your name for the record, please, and
15 position with the department.

16 A Kelli Kersey, Section Chief, Arkansas Department of Health,
17 Cosmetology.

18 Q Ms. Kersey, when you received a copy of the inspector's
19 report, is there a process that you go through to determine if --
20 the accuracy of the report?

21 I mean do you -- does someone in your office check the
22 records to determine if that facility or that person is indeed
23 licensed and has current license?

24 A Yes. We do check.

25 Q And in this particular case on Beautiful Nails, Mr. Vo has

ADH, CTAC, 3/19/2012

1 brought with him a manicurist license today. Would that have
2 been checked to determine if -- if that was current or was
3 that -- is that something different from the charges of a
4 practitioner not having a current Arkansas license?

5 A Well, with this information, it would -- we cannot determine
6 if that would -- if he has a current license. We would either
7 need that license number or a social security number to determine
8 if that's the same -- if -- if he does have a license with us.

9 Q So he's got -- on the inspection report it says -- it has
10 his name, it has his driver's license number and his date of
11 birth and the state of Tennessee --

12 A Right.

13 Q -- driver's license?

14 A (Nodding head up and down.)

15 Q You can't take that information and determine if he has a
16 current license from your records?

17 A Not -- not conclusively.

18 Q Okay. What do you mean by not -- I mean was there any
19 communication with Mr. Vo to rule out the fact that he did or
20 didn't have a license based on information that came to your
21 attention after a search of your records?

22 A We -- I have not communicated with him, no.

23 Q It -- had this license been presented to you, would there
24 have been a violation issued to Mr. Vo, the manicurist's license
25 that he's brought with him today?

ADH, CTAC, 3/19/2012

1 A I would not have sent him a violation if he would have sent
2 this to us or communicated with our office when he got his
3 violation letter.

4 Q And, apparently, his license does not expire until May of
5 next year. Is that -- that correct?

6 A That's, yes, correct.

7 Q This appears to be an accurate --

8 A Yes, appears to be accurate.

9 Q -- an accurate record --

10 A Yes.

11 Q -- of his license?

12 A Yes.

13 Q When you go through your process, I know on the salon name
14 it has Beautiful Nails, and it has Mr. Vo's name here listed as
15 well as another person who's -- and by the way, Ms. Tran, is that
16 how you say it, Tran? What is the status of her license? She
17 was listed as a person that's not licensed.

18 MS. MAI: She's the new owner. They were --

19 HEARING OFFICER AKIN-JONES: Not -- not right now.
20 Not right now. Thank you.

21 MS. MAI: Oh.

22 THE WITNESS: Those are two separate violations so
23 that's why it's not in this packet. She would have
24 been sent a different violation.

25 BY MR. HOGAN:

ADH, CTAC, 3/19/2012

1 Q She's not on today's agenda, that's --

2 A She's not on today's agenda.

3 I believe she's on the paid ones.

4 Q Okay.

5 A She's on the paid list that y'all approved a while ago.

6 Q Okay. Is there anything further you want to make the
7 committee aware of?

8 A No.

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

10 HEARING OFFICER AKIN-JONES: Mr. Vo, do you have
11 any questions for Ms. Kersey --

12 MR. VO: No, ma'am.

13 HEARING OFFICER AKIN-JONES: -- about your
14 license?

15 MR. VO: No, ma'am.

16 HEARING OFFICER AKIN-JONES: Okay. Committee
17 members, questions for Ms. Kersey?

18 If there are none, thank you.

19 CHAIRMAN FORD: Ah --

20 HEARING OFFICER AKIN-JONES: Go right ahead.

21 CHAIRMAN FORD: Ms. Kersey, in our system, can you
22 pull up a license with just a name?

23 THE WITNESS: We can.

24 CHAIRMAN FORD: Okay.

25 THE WITNESS: There is generally multiple names

ADH, CTAC, 3/19/2012

1 for each person, I mean, so you can't just determine by
2 a name.

3 CHAIRMAN FORD: Is there a separate fine for not
4 posting a license?

5 THE WITNESS: There is.

6 CHAIRMAN FORD: Which is in accordance with
7 17-26-105 No. 9?

8 THE WITNESS: There is, but it's not marked on the
9 inspection sheet, so we can't send it out unless it's
10 marked. The only other fine that was marked on the
11 inspection sheet was salon license wasn't posted in the
12 reception area.

13 CHAIRMAN FORD: And what would be the fine for
14 not -- for having a license but not having it posted?

15 THE WITNESS: Twenty-five dollars. That's
16 actually the next, that's No. 3 on the inspection
17 sheet.

18 CHAIRMAN FORD: That's all.

19 MS. REYNOLDS: Kelli.

20 THE WITNESS: Yes.

21 MS. REYNOLDS: What did you mean by he -- the
22 reason why he was fined, because he didn't comply with
23 you? What did you mean by that?

24 THE WITNESS: No. No. No. I said he would
25 have -- if he would have sent me this --

ADH, CTAC, 3/19/2012

1 MS. REYNOLDS: Uh-huh.

2 THE WITNESS: -- I could have determined that he
3 had a license.

4 MS. REYNOLDS: Oh, okay.

5 THE WITNESS: Yeah. I mean when I look and I
6 can't make sure it's him, I have to send the violation
7 to this person. If when he got the violation, if he
8 would have called and said, hey, I have license number
9 blah, blah, blah, I could have pulled it up. Or he
10 could have called and said, my social security number
11 is, and then, I mean, obviously he wouldn't have been
12 in violation because he had a license. But there
13 was -- I have not communicated with him.

14 MS. REYNOLDS: Okay.

15 THE WITNESS: So...

16 HEARING OFFICER AKIN-JONES: Further questions
17 from the committee members for Ms. Kersey?

18 Okay. Very well. Thank you, Ms. Kersey.

19 Mr. Hogan, any other witnesses?

20 MR. HOGAN: Nope. That's all for me.

21 HEARING OFFICER AKIN-JONES: Okay. Mr. Vo.

22 MR. VO: Yes, ma'am.

23 HEARING OFFICER AKIN-JONES: Now I want you to
24 tell the committee anything you want them to hear
25 before they make a decision about whether or not you

ADH, CTAC, 3/19/2012

1 should be fined and the status of your license and all.

2 Okay?

3 Tell them your story.

4 MS. MAI: He didn't know that he -- like he can
5 call in.

6 HEARING OFFICER AKIN-JONES: Wait, wait, wait,
7 wait. Just a second.

8 Do you understand what I'm saying, Mr. Vo?

9 WHEREUPON,

10 KENNY HOANG VO,

11 having been called for examination, and having been first duly
12 sworn by the Hearing Officer, was examined and testified, as
13 follows:

14 DIRECT TESTIMONY

15 THE WITNESS: I am saying because I expect them to
16 pull it up, my name and my birthday to put down that I
17 had a license, so I didn't contact them. Because it
18 got my birthday and my license --

19 HEARING OFFICER AKIN-JONES: Can you speak up just
20 a little bit? Some of the committee members are having
21 a hard time to hearing you.

22 THE WITNESS: Because I didn't contact the board
23 because I expect them to pull my name and my birth date
24 to figure out that I have a license, so that's why I --
25 I didn't call and talk to anybody.

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: Anything else you
2 want to tell them?

3 THE WITNESS: No.

4 HEARING OFFICER AKIN-JONES: Okay. I'm going to
5 give them a chance to ask you questions in a minute.

6 THE WITNESS: That's okay.

7 HEARING OFFICER AKIN-JONES: I'm going to let
8 Mr. Hogan go first.

9 CROSS-EXAMINATION

10 BY MR. HOGAN:

11 Q Mr. Vo, when you received the Order and Notice of Hearing
12 about today's hearing that you're here for, did you -- I guess
13 you understood then that there was a problem with your licensure
14 and with this inspection. Right?

15 A Yeah.

16 Q Did Ms. Lester give you a copy of this inspection report
17 when she --

18 A Yeah.

19 Q -- left?

20 A Yeah. I have, I have with me.

21 Q And did you -- you told her at that time that you had a
22 license, is that correct?

23 A Yes, sir.

24 Q You did?

25 When you got the Order and Notice of Hearing, did you make

ADH, CTAC, 3/19/2012

1 any effort to contact --

2 A Yeah. The --

3 Q -- the department or anybody else about this --

4 A I -- I told my boss to contact them, but she say -- she
5 said -- I don't know what she say, but I told her contact to see
6 if you -- we tell them we have a license. But the -- she said
7 she -- I don't remember what she say about it.

8 Q And your boss, is that Ms. Tran or is that --

9 A Yes, sir.

10 Q It is?

11 A That's Ms. Tran.

12 Q And you don't know if she contacted the office or anything
13 about your license?

14 A She said I -- I think she said on like -- she say -- I don't
15 remember what she say but --

16 Q You don't remember?

17 A No, but --

18 Q Okay.

19 A But she say I think I have to go up there.

20 Q That's -- that's a good driver's license photo. Those
21 things never turn out. That really looks good.

22 A Thank you.

23 MR. HOGAN: That's all I have.

24 HEARING OFFICER AKIN-JONES: Okay. Committee
25 members, do you have any questions for Mr. Vo?

ADH, CTAC, 3/19/2012

1 CHAIRMAN FORD: I do.

2 HEARING OFFICER AKIN-JONES: Go right ahead.

3 CHAIRMAN FORD: Mr. Vo.

4 THE WITNESS: Yes, ma'am.

5 CHAIRMAN FORD: Were you aware that you needed to
6 have that license posted in the salon where you were
7 working?

8 THE WITNESS: Yes, ma'am.

9 CHAIRMAN FORD: At that time were you in receipt
10 of your license?

11 Where was your license on this date?

12 THE WITNESS: It's -- I have it at home, but I
13 think I forgot to bring it.

14 MS. MAI: Can I speak?

15 THE WITNESS: Because I just started to -- to work
16 for her.

17 MS. MAI: Yeah, because she's the new owner.

18 MR. HOGAN: I don't think we have your name on the
19 record yet.

20 HEARING OFFICER AKIN-JONES: Not yet.

21 Well, I'm going to let -- I'll let Mr. Vo call you
22 as a witness and then you can tell us. Okay?

23 MS. MAI: Okay.

24 HEARING OFFICER AKIN-JONES: Go ahead, Mr. Vo.

25 Do you understand her question?

ADH, CTAC, 3/19/2012

1 THE WITNESS: Yes. Yes, ma'am.

2 HEARING OFFICER AKIN-JONES: Okay.

3 THE WITNESS: I just forgot to bring them with me
4 because I just started to work there.

5 HEARING OFFICER AKIN-JONES: Further questions
6 from the committee?

7 CHAIRMAN FORD: No. Not at this time.

8 HEARING OFFICER AKIN-JONES: Okay. Mr. Vo, I'm
9 going to let you call your friend here with you as a
10 witness if you want so she can say what she wants to
11 say. Okay?

12 MR. VO: She is my wife.

13 HEARING OFFICER AKIN-JONES: Okay.

14 MR. HOGAN: Okay. Oh, then she's not -- then
15 you're not friends at all.

16 HEARING OFFICER AKIN-JONES: I didn't want to
17 make -- in Rick's world maybe.

18 But if you would like, you may call your wife as a
19 witness if she has anything she wants the committee to
20 hear.

21 WHEREUPON,

22 KELLY MAI,

23 having been called for examination, and having been first duly
24 sworn by the Hearing Officer, was examined and testified, as
25 follows:

ADH, CTAC, 3/19/2012

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DIRECT EXAMINATION

BY MR. VO:

Q Do you have anything to say?

A Yeah, because I just --

HEARING OFFICER AKIN-JONES: Okay. Well, let's state your name for the record.

THE WITNESS: My name is Kelly Mai. I was just saying --

HEARING OFFICER AKIN-JONES: Spell your last name, please, for the record.

THE WITNESS: M-a-i is the last name.

HEARING OFFICER AKIN-JONES: Okay.

THE WITNESS: I was just wanting to say that she's the new owner so they just sold the shop so that's why he did have the license with him, because he didn't know if he going to work for her. But then he decide -- like he decided because they -- I think they selling the shop that week or something, yeah, but he's working for her now.

HEARING OFFICER AKIN-JONES: Mr. Hogan, do you have any --

MR. HOGAN: (Shaking head from side to side.)

HEARING OFFICER AKIN-JONES: Okay. Committee members, any questions for this witness?

MS. REYNOLDS: Yes.

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: Go right ahead.

2 MS. REYNOLDS: What's her name again?

3 HEARING OFFICER AKIN-JONES: Ms. Mai.

4 MS. REYNOLDS: Oh. Ms. Mai, at the time you had
5 your license at the salon when the inspector -- when
6 Ms. -- Ms. Lester.

7 MS. LESTER: Yes.

8 MS. REYNOLDS: Came to the salon, if you had your
9 license, then you know at the time that he was supposed
10 to have his license with him also?

11 THE WITNESS: Uh-huh. Well, I'm not working
12 there.

13 MS. REYNOLDS: Oh, you're not working there?

14 THE WITNESS: I'm not. I work in Tennessee.

15 MS. REYNOLDS: Okay.

16 THE WITNESS: Yeah.

17 HEARING OFFICER AKIN-JONES: Well, let's finish
18 questioning. Does anybody have a question for Ms. Mai?

19 Okay. I'm going to --

20 MS. KERSEY: Do you have one?

21 HEARING OFFICER AKIN-JONES: I'm going to let you
22 go back and ask Mr. Vo your question if you want. If
23 you have something for him I'll let you ask him just to
24 try to clarify things if you have something.

25 WHEREUPON,

ADH, CTAC, 3/19/2012

1 KENNY HOANG VO,
2 having been recalled for examination, and having been first duly
3 sworn by the Hearing Officer, was examined and testified, as
4 follows:

5 MS. REYNOLDS: Okay. Mr. Vo, at the time, did you
6 know that you were supposed to carry your license where
7 ever you worked?

8 THE WITNESS: Yes, ma'am.

9 MS. REYNOLDS: And this particular time you just
10 didn't have it?

11 THE WITNESS: Yeah. I forgot them. Yeah.

12 HEARING OFFICER AKIN-JONES: Okay. Any other
13 questions for Mr. Vo?

14 CHAIRMAN FORD: One more, please.

15 HEARING OFFICER AKIN-JONES: Go right ahead.

16 CHAIRMAN FORD: Mr. Vo, I noticed on your license,
17 your address is 7909 Club Drive, Apartment 65, and on
18 the driver's license that you submitted to the
19 inspector and the copy that we have here, it has a
20 different address. Are you aware of that?

21 THE WITNESS: Yes, ma'am.

22 I currently live at this address on the license,
23 that's where I live right now.

24 CHAIRMAN FORD: Okay. Are you aware that you need
25 to change that because it should match?

ADH, CTAC, 3/19/2012

1 You are supposed to notify the board of the change
2 of address, I believe it's within 30 days.

3 HEARING OFFICER AKIN-JONES: But he's saying his
4 license, his manicurist license is correct.

5 MS. LESTER: Is this correct?

6 THE WITNESS: No, ma'am.

7 MS. LESTER: So this needs to be changed?

8 CHAIRMAN FORD: There is two different addresses.

9 THE WITNESS: I will call and make a change.

10 CHAIRMAN FORD: No questions. No more questions.

11 HEARING OFFICER AKIN-JONES: Very well.

12 Mr. Hogan, anything in closing?

13 MR. HOGAN: Well, I didn't -- I know we've had
14 testimony about the posting of the licensure and so
15 forth, and I -- the only issue that we can take up
16 today is, that he's been charged with is performing the
17 acts of cosmetology or attempting to perform the acts
18 without a current valid Arkansas license, and that was
19 the only thing he was charged with under the inspection
20 report. And so just to -- so the record is clear,
21 that's really the only issue we can address today,
22 although there have been other issues that have come
23 up. And, I mean, it appears that the license wasn't at
24 the shop, there was some miscommunication about the
25 license, but -- and he's brought it with him today, so

ADH, CTAC, 3/19/2012

1 I'll rest at this time.

2 HEARING OFFICER AKIN-JONES: Mr. Vo, anything you
3 would like to tell the committee before they make their
4 decision?

5 MR. VO: No, ma'am.

6 HEARING OFFICER AKIN-JONES: Okay. At this time
7 we'll make the record closed and complete except for
8 the board's recess for deliberations.

9 Once the board has reached a decision we'll go
10 back on the record.

11 (WHEREUPON, the committee retired to deliberate,
12 off the record, from 10:54 a.m. to 10:56 a.m., and
13 returned with the following decision:)

14 HEARING OFFICER AKIN-JONES: Very well. We'll go
15 back on the record at this time. Is there a motion?

16 MS. FUENTES: I make a motion to dismiss the
17 charges.

18 MS. REYNOLDS: I second.

19 MR. BARNES: I second it.

20 CHAIRMAN FORD: The motion has been seconded. At
21 this time we'll take a vote. All in favor?

22 COMMITTEE MEMBERS: Aye.

23 CHAIRMAN FORD: All opposed.

24 HEARING OFFICER AKIN-JONES: Please let the record
25 reflect the decision of the board was unanimous.

ADH, CTAC, 3/19/2012

1 Please reduce that decision to writing and make or
2 attempt service upon all parties. Please notify the
3 parties that if they care to appeal the decision, one
4 can be taken under the Arkansas Code Annotated
5 §25-15-201, et seq., or any specific provisions of the
6 board.

7 If there are not any other questions or comments,
8 this record is closed and made complete.

9 (WHEREUPON, at 10:57 a.m., the above-entitled
10 proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: My name is Kendra
2 Akin Jones and I'm the Hearing Officer today for the
3 hearings before the Arkansas Department of Health
4 Cosmetology Technical Advisory Committee. Today is
5 March 19, 2012. We're located in Suite 801 of the
6 Freeway Medical Building.

7 We are going to start a batch of hearings for
8 which none of the respondents have shown up today.

9 Mr. Hogan, if you will, state your name for the
10 record.

11 MR. HOGAN: Rick Hogan, general counsel for the
12 health department.

13 HEARING OFFICER AKIN-JONES: We will read the case
14 name to start each new section, we're going to start
15 out with Just Kuttin Up Beauty & Barber.

16 IN THE MATTER OF: License No. N/A

17 ARKANSAS DEPARTMENT OF HEALTH PETITIONER

18 v.

19 JUST KUTTIN UP BEAUTY & BARBER RESPONDENT

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

21 HEARING OFFICER AKIN-JONES: For the benefit of
22 those present who may not have appeared before in an
23 administrative hearing, the board is going to base its
24 decision solely on the evidence presented here today.
25 This hearing is being held under the Administrative

ADH, CTAC, 3/19/2012

1 Procedures Act, which means the strict rules of
2 evidence do not apply. The board members will know of
3 this case only as it appears and is set forth in the
4 Order and Notice of Hearing. Anything that will be
5 considered today must be presented as evidence. These
6 hearings are open under the Freedom of Information Act
7 to all parties and the public, and that includes the
8 board's recess for deliberations.

9 For those of you who are going to be witnesses in
10 any of these hearings, please raise your right hand.

11 (WHEREUPON, the witnesses were sworn by the
12 Hearing Officer.)

13 HEARING OFFICER AKIN-JONES: Very well.

14 And on the first one, Department of Health versus
15 Just Kuttin Up Beauty & Barber, preliminary matters,
16 Mr. Hogan?

17 MR. HOGAN: We would ask that this packet of
18 documents be admitted as Board's Exhibit No. 1.

19 (WHEREUPON, Board's Exhibit No. 1 was received in
20 evidence.)

21 MR. HOGAN: And, just for the record, it -- Mr. --
22 oh, we have -- the gentleman did actually appear
23 earlier for this matter. I don't recall his name.
24 But --

25 MS. KERSEY: Shane Wyrick.

ADH, CTAC, 3/19/2012

1 MR. HOGAN: What is it, Shane Wyrick?

2 That's W-y-r-i-c-k.

3 CHAIRMAN FORD: Wyrick. All right.

4 MR. HOGAN: And he did admit to the charges and he
5 is -- was going to the office to pay the amount. So, I
6 think based on that, that we can just admit this
7 document into the record and -- and maybe just conclude
8 with that.

9 HEARING OFFICER AKIN-JONES: Very well. On this
10 one we will note that the \$275 was to be paid by
11 Mr. Wyrick after he did show up today and admitted to
12 the charges that were in the Order and Notice of
13 Hearing.

14 We'll make the record closed for this hearing and
15 move on to the next one, which is Arkansas Department
16 of Health versus Best Nails.

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ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 51845
2 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
3 v.
4 BEST NAILS RESPONDENT

P R O C E E D I N G S

6 HEARING OFFICER AKIN-JONES: Okay. Mr. Hogan,
7 preliminary matters for Best Nails?

8 MR. HOGAN: We would ask that this packet of
9 information for Best Nails be admitted as Board's
10 Exhibit No. 1 for the record, please.

11 HEARING OFFICER AKIN-JONES: Very well. That will
12 be so admitted.

13 (WHEREUPON, Board's Exhibit No. 1 was received in
14 evidence.)

15 HEARING OFFICER AKIN-JONES: Anything else?

16 MR. HOGAN: Notice of the rules and statutes can
17 be taken by the committee.

18 HEARING OFFICER AKIN-JONES: Very well. They can
19 take notice of those rules and regulations pertaining
20 to the cosmetology section.

21 MR. HOGAN: We would call Ms. Morgan to testify.

22 HEARING OFFICER AKIN-JONES: Are you going to
23 waive opening statement?

24 MR. HOGAN: Yes.

25 HEARING OFFICER AKIN-JONES: Okay. Go ahead,

ADH, CTAC, 3/19/2012

1 Ms. Morgan.

2 WHEREUPON,

3 BRENDA MORGAN,

4 having been called for examination, and having been first duly
5 sworn by the Hearing Officer, was examined and testified, as
6 follows:

7 DIRECT EXAMINATION

8 BY MR. HOGAN:

9 Q State your name and position with the department, please,
10 Brenda.

11 A Brenda Morgan, cosmetology inspector.

12 Q Brenda, you were at Best Nails on Geyer Springs on October 6
13 of last year, is that correct?

14 A Yes, sir, I was.

15 Q Explain to the committee what you found and go through the
16 inspection report that is in this packet of information and the
17 violations that you found?

18 A There were two practitioners working that day, they had
19 current license and everything was okay with them. But when I
20 walked into the salon, a male customer -- a male gentleman was
21 working on customers, he left the salon immediately. When I
22 opened the door and came in, he was actually doing acrylic set of
23 nails, because I looked at what was going on at the station. I
24 waited about 30-40 minutes, and he did not return. I spoke to
25 the other people there asking them where is he? Oh, he's not

ADH, CTAC, 3/19/2012

1 working there, but my two eyes saw differently.

2 So the violations that I found other than an unlicensed
3 person --

4 Q Did you determine from your discussions with people there
5 what this person's name was?

6 A Yes.

7 The owner said his name was Long Nguyen. That I have over
8 in my notes to the side.

9 Q All right. Go ahead, Brenda.

10 A I found health and safety, the floors were -- there was --
11 let me just start at the beginning there at the front.

12 Free from odors, clean, in good repair: No. The salon had
13 on an odor about it, the bathroom was very, very dirty, the
14 floors were dirty, they had a lot of nail clippings and dust on
15 them. Every station, which there were six of them, and every
16 pedicure spa, which was four, had used buffers, files, drill
17 bits, and then the counters were dusty and dirty. And -- and the
18 ones that are marked says, treatment table, sanitize, that
19 explains there the dust and dirt and everything on those.

20 Is there anything I'm missing there?

21 Q The supplies and instruments disinfected or disposed, did
22 you discuss that specifically?

23 A Yes. Where -- when there is used buffers and files and
24 drill bits, there was used buffers and files and used supplies
25 that had not been disinfected and had not been disposed of.

ADH, CTAC, 3/19/2012

1 Q Who signed this as the representative of the salon, Brenda?

2 Did you talk to that person that day?

3 A Yes, sir, but I don't know which one of them, I can't recall
4 which one of them signed it. I think Justin did, who is the
5 owner. I think I had him sign.

6 Q He's the owner?

7 A Yes. Justin Nguyen.

8 Q Did you go through this inspection report with him?

9 A Yes. I did.

10 Q What was the conversation? What did he say and what were
11 your questions to him?

12 A Obviously on the physical violations, he didn't argue with
13 me on those at all. But with the male working, he kept on
14 telling me he was not working, but that wasn't -- I saw
15 differently.

16 Q But you did see Mr. Long Nguyen --

17 A Yes.

18 Q -- leave?

19 A He was working on a customer when I walked in the door.

20 Q Okay. And he -- did you talk to the customer at all or did
21 you --

22 A I went to see what she was having done to her -- I walked
23 over to look at her nails. Yes.

24 Q What did you --

25 A It was in the middle of acrylic nails set being put on.

ADH, CTAC, 3/19/2012

1 Some --

2 Q Okay.

3 A Justin finished it up.

4 Q Justin did?

5 A (Nodding head up and down.)

6 Q Did you talk to the customer about whether she was paying
7 him for it or --

8 A No, sir.

9 Q -- if that was -- anything like that?

10 A No.

11 Q Okay. Let's go off the record just a minute.

12 (WHEREUPON, a brief discussion was held off the
13 record.)

14 MR. HOGAN: Go back on the record.

15 BY MR. HOGAN:

16 Q Okay. Is there anything further you want to make the
17 committee aware of?

18 A No, sir.

19 MR. HOGAN: All right. I'll pass the witness.

20 HEARING OFFICER AKIN-JONES: Committee, do you
21 have any questions for Ms. Morgan?

22 CHAIRMAN FORD: No.

23 HEARING OFFICER AKIN-JONES: If not, thank you --

24 MS. DAVIS: Oh, wait, I have one.

25 HEARING OFFICER AKIN-JONES: I'm sorry. Go right

ADH, CTAC, 3/19/2012

1 ahead.

2 MS. DAVIS: I'm not sure if I can ask this or not,
3 so y'all just tell me if it's a wrong question.

4 Have they been fined before? Do we know that?
5 Can I ask that question?

6 MS. KERSEY: You can, but I don't know, I couldn't
7 tell you so --

8 HEARING OFFICER AKIN-JONES: Wait. Probably not
9 one for Ms. Morgan. I'll let her respond.

10 MS. DAVIS: Okay.

11 MR. HOGAN: We're going to call Kelli in a second.

12 MS. DAVIS: Okay. I'll withdraw it.

13 THE WITNESS: I can answer it, though.

14 MS. FUENTES: In your past inspections, have you
15 had sort of the same issues?

16 THE WITNESS: I've had issues before with this
17 salon, yes.

18 MR. BARNES: And the only question I had was just
19 did it appear that the salon was dirty for one day or
20 did it take some time for that to develop?

21 And I think I know the answer.

22 HEARING OFFICER AKIN-JONES: Ms. Morgan, did
23 understand his question so that you could respond?

24 THE WITNESS: I understand his question, I'm
25 just -- I need to think about my response.

ADH, CTAC, 3/19/2012

1 Q Kelli, when you got a copy of the inspection report, do you
2 go through your records to determine in this case if there was a
3 current practitioner license for Long Nguyen?

4 A That information can't be determined if he has a license,
5 he/she has a license or not. I guess it's a he.

6 MS. MORGAN: It's a he. But --

7 MR. HOGAN: I'm hoping.

8 BY MR. HOGAN:

9 Q Was there anything else you need to make the committee aware
10 of?

11 A No.

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

13 HEARING OFFICER AKIN-JONES: Committee, do you
14 have any questions for Ms. Kersey?

15 MS. DAVIS: Yes, I have a question.

16 HEARING OFFICER AKIN-JONES: Go right ahead.

17 MS. DAVIS: Kelli, do you know if this salon has
18 been fined before for any of these offenses?

19 THE WITNESS: I currently do not know, but I know
20 on the third offense they have to come before you guys.
21 They don't even get a violation letter, they get a
22 notice that they have to appear before y'all.

23 MS. DAVIS: Okay.

24 THE WITNESS: So I'm assuming this is not the
25 third offense.

ADH, CTAC, 3/19/2012

1 MS. DAVIS: Okay. Thank you.

2 THE WITNESS: Uh-huh.

3 HEARING OFFICER AKIN-JONES: Any further questions
4 from the committee of Ms. Kersey?

5 If not, Ms. Kersey, thank you very much.

6 Please note for the record that the respondent,
7 Best Nails, is not here and was not present for the
8 hearing today.

9 Mr. Hogan, anything in closing?

10 MR. HOGAN: Nothing further.

11 HEARING OFFICER AKIN-JONES: Very well. At this
12 time this record, this portion of the record will be
13 closed and made complete. The board will recess for
14 deliberations and we'll go back on the record for the
15 decision.

16 (WHEREUPON, the committee retired to deliberate,
17 off the record, from 11:12 a.m. to 11:26 a.m., and
18 returned with the following decision:)

19 HEARING OFFICER AKIN-JONES: Very well. At this
20 time we'll go back on the record. Is there a motion?

21 MS. FUENTES: I make a motion that we -- that it
22 stands, but we're changing the fees for the license not
23 posted to \$50, the not free from odors \$50, mats \$50,
24 every remaining \$50, and 250 for the working without a
25 license, for a total of what, 550?

ADH, CTAC, 3/19/2012

1 MR. BARNES: I second it.

2 CHAIRMAN FORD: That motion has been seconded to
3 increase the fee to \$550. All in favor?

4 COMMITTEE MEMBERS: Aye.

5 CHAIRMAN FORD: All --

6 HEARING OFFICER AKIN-JONES: Go ahead.

7 CHAIRMAN FORD: All opposed?

8 HEARING OFFICER AKIN-JONES: Please let the record
9 reflect the decision of the board is unanimous. Please
10 reduce the decision to writing and notify the parties
11 of the board's decision, and that an appeal may be
12 taken, if they so choose to, under Arkansas Code
13 Annotated 25-15-201, et seq., or any specific
14 provisions of this board.

15 At this time the hearing on Best Nails is closed.

16 (WHEREUPON, at 11:26 a.m., the above-entitled
17 proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 68993
2 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
3 v.
4 SPECIAL FX SALON RESPONDENT

P R O C E E D I N G S

6 HEARING OFFICER AKIN-JONES: Moving along, we're
7 going to go to Special FX Salon, Department of Health
8 versus Special FX Salon.

9 Preliminary matters, Mr. Hogan?

10 MR. HOGAN: We would like to introduce this packet
11 or this document as Board's Exhibit No. 1, and the
12 committee be able to take notice of the rules and
13 statutes.

14 HEARING OFFICER AKIN-JONES: Those will be
15 admitted as the Board's Exhibit No. 1, and the rules
16 and regulations will be noted by the committee.

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

19 HEARING OFFICER AKIN-JONES: Anything in opening?

20 MR. HOGAN: No. We call Ms. Morgan to testify.

21 WHEREUPON,

22 BRENDA MORGAN,

23 having been called for examination, and having been first duly
24 sworn by the Hearing Officer, was examined and testified, as
25 follows:

ADH, CTAC, 3/19/2012

DIRECT EXAMINATION

1
2 BY MR. HOGAN:

3 Q Ms. Morgan, state your name and your position with the
4 department, please.

5 A Brenda Morgan, inspector.

6 Q Brenda, you've got a couple of inspection reports in here,
7 one dated 9/13 and one dated 9/14. I believe the substance of
8 your inspection is that this salon had moved or relocated and had
9 not filed or submitted the appropriate fees or paperwork. Is
10 that correct?

11 A Yes, sir.

12 Q Is there anything further you want to make the committee
13 aware of at this time?

14 A No, sir.

15 Q Have you had any communications with Ms. Cunningham or
16 anybody else at FX, Special FX?

17 A No, sir.

18 MR. HOGAN: And I'll pass the witness.

19 HEARING OFFICER AKIN-JONES: Does the committee
20 have any questions for Ms. Morgan?

21 If there are no questions from the committee,
22 thank you, Ms. Morgan.

23 Please note for the record that the respondent is
24 not present.

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

ADH, CTAC, 3/19/2012

1 WHEREUPON,

2 KELLI KERSEY,

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

6 DIRECT EXAMINATION

7 BY MR. HOGAN:

8 Q Ms. Kersey, state your name and position with the
9 department, please.

10 A Kelli Kersey, Section Chief, Arkansas Department of Health,
11 Cosmetology.

12 Q Ms. Kersey, when you received the inspection report, did you
13 search your records to determine if Special FX Salon had properly
14 and have they to date properly filed the appropriate paperwork
15 for a change or relocating the salon?

16 A I have, I did look. They had not relocated and they have
17 not to this date.

18 Q Have you had any communications with them?

19 A No, sir.

20 MR. HOGAN: I pass the witness and we rest.

21 HEARING OFFICER AKIN-JONES: Any questions from
22 the committee for Ms. Kersey?

23 MS. DAVIS: Did you say they had not relocated?

24 THE WITNESS: Right.

25 MR. HOGAN: No. They have --

ADH, CTAC, 3/19/2012

1 MS. DAVIS: They have not sent in the paperwork?

2 MR. HOGAN: They have not relocated or --

3 THE WITNESS: They have not.

4 MR. HOGAN: They have relocated but they have not
5 filed the appropriate paperwork?

6 THE WITNESS: Right. Right. Right. Sorry.

7 MS. DAVIS: Okay.

8 HEARING OFFICER AKIN-JONES: Any other questions
9 from the committee for Ms. Kersey?

10 If there are none, thank you very much.

11 Mr. Hogan, you said the board rests?

12 MR. HOGAN: We rest. Yes.

13 HEARING OFFICER AKIN-JONES: Very well. It is
14 noted that the respondent is not here to present their
15 side.

16 Is there anything in closing?

17 MR. HOGAN: Nothing.

18 HEARING OFFICER AKIN-JONES: At this time we'll
19 make the record closed and complete except for the
20 board's recess for deliberations on this case against
21 Special FX Salon. Once the board reaches their
22 decision, we will go back on the record.

23 (WHEREUPON, the committee retired to deliberate,
24 off the record, from 11:29 a.m. to 11:31 a.m., and
25 returned with the following decision:)

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: Okay. Very well. At
2 this time we'll go back on the record for a motion.

3 MS. DAVIS: I make a motion that the 75-dollar
4 fine stand as is.

5 MS. FUENTES: Second.

6 CHAIRMAN FORD: Motion has been seconded. At this
7 time, all in favor.

8 COMMITTEE MEMBERS: Aye.

9 CHAIRMAN FORD: All opposed.

10 HEARING OFFICER AKIN-JONES: Please let the record
11 reflect the decision of the board in Salon FX -- or
12 Special FX Salon is unanimous. Please reduce that
13 decision to writing and make or attempt service upon
14 all parties. Notify the respondent, if they care to
15 appeal this decision, that an appeal may be taken at
16 Arkansas Code Annotated 25-15-201, et seq.

17 If there are no other questions or comments
18 concerning the hearing against Special FX Salon, the
19 record of this case is closed.

20 (WHEREUPON, at 11:32 a.m., the above-entitled
21 proceedings were concluded.)

22 HEARING OFFICER AKIN-JONES: Let's go off the
23 record for just a quick second.

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

ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 55101
2 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
3 v.
4 STUDIO 265 RESPONDENT

P R O C E E D I N G S

6 HEARING OFFICER AKIN-JONES: Okay. We're going to
7 start with Studio 265, which is Rose.

8 She looks very ready.

9 MS. HORNER: I am.

10 HEARING OFFICER AKIN-JONES: We'll go ahead and
11 open the record back up for the Arkansas Department of
12 Health Cosmetology Section versus Studio 265. All the
13 witnesses have been sworn in.

14 Mr. Hogan, preliminary matters?

15 MR. HOGAN: I would like this ten-page packet, I
16 believe it's ten pages, we would like to admit as
17 Board's Exhibit No. 1 for the record. And also that
18 the board be able to take notice of the rules and
19 regulations and statutes.

20 HEARING OFFICER AKIN-JONES: That will be admitted
21 as Board's Exhibit No. 1. And the committee is --

22 MR. HOGAN: Nine-page packet. I'm sorry.

23 HEARING OFFICER AKIN-JONES: Nine-page packet.
24 And the committee is welcome to take note of the rules
25 and regulations for the board.

ADH, CTAC, 3/19/2012

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

3 MR. HOGAN: We call Ms. Rose Horner.

4 HEARING OFFICER AKIN-JONES: Go right ahead.

5 WHEREUPON,

6 ROSE HORNER,

7 having been called for examination, and having been first duly
8 sworn by the Hearing Officer, was examined and testified, as
9 follows:

10 DIRECT EXAMINATION

11 BY MR. HOGAN:

12 Q State your name, Rose, and what's your position with the
13 department?

14 A Rose Horner, cosmetology inspector.

15 Q Rose, did you have occasion to inspect Studio 265 at 3138
16 Old Missouri, No. 104, on October the 27th of last year?

17 A Yes, sir. I did.

18 Q And now where is -- what city is this located in?

19 A Springdale.

20 Q Springdale?

21 What did you find when you went there, Rose?

22 A That the salon license had lapsed December 31st of 2010.

23 Q And did you have any conversation with Ms. Finch or anybody
24 there at the salon?

25 A Ms. Finch was a stylist there, and before I left the owner

ADH, CTAC, 3/19/2012

1 came. And she looked through some folders, said she had her
2 salon license but she could not find it.

3 Q Did you check with the department or anybody here with
4 Ms. Kersey's office to determine if there was a current license
5 for the --

6 A I don't believe I did.

7 MR. HOGAN: All right. I'll pass the witness.

8 HEARING OFFICER AKIN-JONES: Committee, do you
9 have any questions for Ms. Horner?

10 CHAIRMAN FORD: No.

11 HEARING OFFICER AKIN-JONES: If there are none,
12 thank you very much, Ms. Horner.

13 MR. HOGAN: We call Ms. Kersey.

14 WHEREUPON,

15 KELLI KERSEY,

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

19 DIRECT EXAMINATION

20 BY MR. HOGAN:

21 Q State your name and position with the department, please.

22 A Kelli Kersey, Section Chief, Arkansas Department of Health,
23 Cosmetology.

24 Q Looking at the next to the last page of this packet that's
25 been introduced, what do the records reflect in terms of the

ADH, CTAC, 3/19/2012

1 licensure of this particular salon in Springdale, Studio 265?

2 A Well, I'm looking at the same thing and wondering why --

3 Q So that's a good point.

4 A Yeah.

5 Q What -- what is the cause --

6 A It reflects that they did have a license, actually. That's
7 what I see. Is that what you see?

8 Because I'm not -- I'm not really sure why we sent this out.

9 Q Well --

10 A Sorry.

11 Q Can I have some of your chips?

12 A Yeah. Go ahead.

13 MR. HOGAN: Is that on the record?

14 COURT REPORTER: Yep.

15 BY MR. HOGAN:

16 Q So based on your -- I mean let's assume for the purposes of
17 your hearing that I didn't look at this document beforehand --

18 A Yeah. We'll assume that.

19 Q So your records indicate that she had a license for the
20 salon or studio?

21 A That's what it looks like, looking at this printed off sheet
22 here.

23 Q So if she had one that was posted, that was out of date?

24 A Okay. I want to examine this.

25 HEARING OFFICER AKIN-JONES: Do y'all need to take

ADH, CTAC, 3/19/2012

1 a quick minute off the record?

2 THE WITNESS: Yes, we do.

3 HEARING OFFICER AKIN-JONES: We'll go off the
4 record at this time.

5 (WHEREUPON, a brief discussion was held off the
6 record.)

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

9 And, Mr. Hogan, you can go ahead and make your --

10 MR. HOGAN: We just -- I think, Madam Chair, a
11 motion to table this hearing for next time we meet
12 would be appropriate.

13 MS. KERSEY: Okay. Sounds good.

14 HEARING OFFICER AKIN-JONES: If there are no
15 objections from the committee to do as Mr. Hogan
16 stated, to table the Arkansas Department of Health
17 Cosmetology Section versus Studio 265 until the next
18 meeting to figure out some of the details.

19 Any objection by the committee?

20 Great. 265 will be tabled.

21 (WHEREUPON, at 11:48 a.m., the above-entitled
22 proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 follows:

2 DIRECT EXAMINATION

3 BY MR. HOGAN:

4 Q Ms. Lester, would you state your name and position with the
5 department?

6 A Lavonne Lester, inspector.

7 Q And did you have occasion on November 1st of last year to
8 inspect Wrap N Roll Hair Studio?

9 A I did.

10 Q And what did you find upon your inspection?

11 This is in West Memphis, Arkansas, I believe. Correct?

12 A Yes. West Memphis.

13 That Aleshia Dean was working that day and she had no
14 current license.

15 Q Did you --

16 A When I asked for her license, she gave me her driver's
17 license. It was a Tennessee driver's license.

18 Q You asked her where her license was or if she had one --

19 A Uh-huh.

20 Q -- or whether or not we are going to actually find that she
21 had one here in the next few minutes?

22 A She -- she had no current license.

23 Q Okay. Now --

24 A There was also another lady there, Mary Branch. She had no
25 license posted.

ADH, CTAC, 3/19/2012

1 Q Was Ms. Dean -- what was she doing on that day you were
2 there? Was she performing any --

3 A She was working on a customer. Yes.

4 Q And so when you asked her for a license, she gave you a
5 driver's license?

6 A Yes.

7 Q That's all you --

8 A (Nodding head up and down.)

9 Q Is there anything further you want to make the committee
10 aware of?

11 A That's it.

12 MR. HOGAN: I pass the witness.

13 HEARING OFFICER AKIN-JONES: Very well. Committee
14 members, any questions for Ms. Lester?

15 CHAIRMAN FORD: No.

16 MR. HOGAN: Call Ms. Kersey.

17 WHEREUPON,

18 KELLI KERSEY,

19 having been called for examination, and having been first duly
20 sworn by the Hearing Officer, was examined and testified, as
21 follows:

22 DIRECT EXAMINATION

23 BY MR. HOGAN:

24 Q State your name for the record, please, and your position
25 with the department.

ADH, CTAC, 3/19/2012

1 A Kelli Kersey, Section Chief, Arkansas Department of Health,
2 Cosmetology.

3 Q Although I hesitate to ask, do the -- did you look at the
4 records to determine whether or not Ms. Dean is a licensed
5 practitioner in the state?

6 A That says there are no license found for her.

7 MR. HOGAN: All right. I'll pass the witness.

8 I have nothing further.

9 HEARING OFFICER AKIN-JONES: Committee members,
10 any questions for Ms. Kersey?

11 MS. FUENTES: So, on that one, how are we able to
12 look her up? Because her name was specific? Do we
13 have a social security number for her? How did we find
14 her?

15 THE WITNESS: There was one Aleshia Dean in there.

16 MS. FUENTES: Just, yeah, because of the spelling
17 or --

18 THE WITNESS: The name. Yeah.

19 MS. FUENTES: So she had been in the system at
20 some point, just nothing current?

21 THE WITNESS: I would assume that she was applying
22 for reciprocity.

23 MS. FUENTES: Okay.

24 THE WITNESS: If she's already in the system with
25 no license.

ADH, CTAC, 3/19/2012

1 MS. FUENTES: Okay.

2 THE WITNESS: That's just an assumption, but
3 that's --

4 MS. FUENTES: But there was a reason she was in
5 there?

6 THE WITNESS: -- generally why they are in there
7 without a linings.

8 MS. FUENTES: Okay.

9 THE WITNESS: Because if she ever had a license,
10 it would be there, it would just be expired.

11 MS. FUENTES: Okay. Okay. So she is in there, it
12 just doesn't show anything?

13 THE WITNESS: Right.

14 HEARING OFFICER AKIN-JONES: Further questions
15 from the committee for Ms. Kersey?

16 CHAIRMAN FORD: Yes. What that means, since she
17 is already working, then you're saying her name is in
18 there because she's applying for reciprocity. What's
19 (inaudible) --

20 COURT REPORTER: I didn't hear the last question.
21 After reciprocity, what did you say?

22 CHAIRMAN FORD: Her name -- Ms. Kersey stated that
23 the person's name is in the computer, which would -- we
24 could assume that she's filed for reciprocity with the
25 state of Arkansas. However, now she's been found in

ADH, CTAC, 3/19/2012

1 violation in the state of Arkansas working without a
2 current Arkansas license, so I'm wondering how we're
3 going to handle that situation.

4 THE WITNESS: We sent her a violation. You
5 don't -- I mean I don't guess I know what you're
6 asking.

7 MR. HOGAN: Well, if the committee makes a
8 determination there is a violation of the law and that
9 the appeal date expires, then they would take that in
10 consideration before they issued a reciprocity or a new
11 license.

12 CHAIRMAN FORD: Yes. Will --

13 MR. HOGAN: They withhold any issuance of, until
14 she made good on all penalties.

15 CHAIRMAN FORD: Correct.

16 THE WITNESS: Okay.

17 CHAIRMAN FORD: He answered it.

18 I'm done. Thank you.

19 HEARING OFFICER AKIN-JONES: Further questions for
20 Ms. Kersey from the committee?

21 If there are none, thank you very much.

22 Mr. Hogan, anything in closing?

23 MR. HOGAN: That's all we have.

24 HEARING OFFICER AKIN-JONES: And it is noted for
25 the record that the respondent Aleshia Dean is not

ADH, CTAC, 3/19/2012

1 present here today.

2 At this time we'll make the record closed and
3 complete except for the recess for deliberation. When
4 the board has made a decision we'll go back on the
5 record.

6 (WHEREUPON, the committee retired to deliberate,
7 off the record, from 11:53 p.m. to 11:55 p.m., and
8 returned with the following decision:)

9 HEARING OFFICER AKIN-JONES: At this time we'll go
10 back on the record for the motion.

11 MS. FUENTES: I make a motion that we keep the
12 fine as it is, \$250.

13 MS. BONDS: Second that motion.

14 MR. HOGAN: Second?

15 CHAIRMAN FORD: Motion has been seconded. All in
16 favor?

17 COMMITTEE MEMBERS: Aye.

18 CHAIRMAN FORD: All opposed.

19 HEARING OFFICER AKIN-JONES: Please let the record
20 reflect the decision of the committee concerning
21 Aleshia Dean, that the decision was unanimous, reduce
22 that decision to writing and make or attempt service
23 upon all parties. Please notify the respondent if they
24 care to appeal that decision, an appeal can be taken
25 under the Administrative Procedures Act, found at

ADH, CTAC, 3/19/2012

1 Arkansas Code Annotated, 25-15-201, et seq., or any
2 specific provisions of this board. If there are no
3 other questions or comments, the hearing relating to
4 Aleshia Dean is closed.

5 (WHEREUPON, at 11:55 a.m., the above-entitled
6 proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 follows:

2 DIRECT EXAMINATION

3 BY MR. HOGAN:

4 Q Vera, state your name and position with the department,
5 please.

6 A Vera Wood, inspector.

7 Q Vera, did you have occasion on November of last year, the
8 15th, to investigate and inspect Petro's Beauty and Barber
9 Shop?

10 A Yes, sir.

11 Q In North Little Rock, is that right?

12 A Yes, sir.

13 Q And I have your inspection report here in front of us.

14 Can you tell the members of the committee what you found at
15 that time?

16 A It did not have a salon license posted anywhere.

17 Let's see.

18 Q You noted that there was --

19 A It wasn't posted in the reception area and it was -- there
20 was no current license to be found for the salon.

21 Q Did you -- it's got a signature there by a representative.
22 Who -- who signed the -- your inspection report, Vera?

23 A This Ms. Langley.

24 Q Okay.

25 A She is the cosmetologist. This is a joint barber beauty

ADH, CTAC, 3/19/2012

1 salon and she's the cosmetologist.

2 Q So that No. 666, is it 98 or 28?

3 A Uh-huh.

4 Q Is that her cosmetology license --

5 A Yes, it is.

6 Q -- or practitioner? And that expires March of next year?

7 A Of this year.

8 Q Oh, that's right.

9 And you talked to her about the salon license. What -- what
10 did she say?

11 A She said, I don't know where it is.

12 Q Okay.

13 A That's it.

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

15 A Just that as far as -- I went back through my records and
16 as -- since '09, I have not found that they had a license to
17 start with.

18 Q So you started a note there on your inspection report?

19 A Yeah.

20 Q "This salon has not had a" --

21 A I was going back to my territory report to check and see if
22 they have ever had a salon license posted. They didn't -- the
23 first two inspections on my territory report I didn't make a note
24 because I didn't know I really needed to. On 1/24/10, they had
25 no shop license, they were written up for it. They were closed

ADH, CTAC, 3/19/2012

1 on 1/27/11. I must have showed up at lunch.

2 It's inside a service station.

3 Q Oh, okay.

4 MS. FUENTES: Oh, that's like Petro?

5 THE WITNESS: Yes.

6 CHAIRMAN FORD: It's a truck stop.

7 MS. FUENTES: Okay.

8 THE WITNESS: Yes.

9 BY MR. HOGAN:

10 Q Is there a bait shop there, too?

11 A I couldn't tell you. There are showers, but I didn't
12 inspect them.

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

14 HEARING OFFICER AKIN-JONES: Does the committee
15 have any questions?

16 CHAIRMAN FORD: No.

17 MS. FUENTES: Do you remember seeing if they had a
18 barber salon license?

19 THE WITNESS: I remember seeing the barber
20 himself, his license, but I don't remember the
21 establishment.

22 MS. FUENTES: If there was a shop license?

23 THE WITNESS: Uh-huh.

24 HEARING OFFICER AKIN-JONES: Other questions for
25 the committee?

ADH, CTAC, 3/19/2012

1 If there are none, Mr. Hogan, call your next
2 witness.

3 MR. HOGAN: We call Ms. Kersey.

4 WHEREUPON,

5 KELLI KERSEY,

6 having been called for examination, and having been first duly
7 sworn by the Hearing Officer, was examined and testified, as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. HOGAN:

11 Q State your name and position with the department, please.

12 A Kelli Kersey, Section Chief, Arkansas Department of Health,
13 Cosmetology.

14 Q Kelli, did you have occasion to look through your records to
15 determine whether or not Petro's Beauty and Barber Shop had a
16 current Arkansas cosmetology establishment license?

17 A I did.

18 Q What did you find out in your examination?

19 A The last record of license we had for them is 12/31/2007.

20 Q 2007?

21 A Uh-huh.

22 Q And, I guess, you do have a license for Ms. Langley as a
23 practitioner, is that correct?

24 A Correct.

25 Q Have you heard anything from them? Have they attempted to

ADH, CTAC, 3/19/2012

1 communicate with the department since you sent the Order and
2 Notice of Hearing in this case?

3 A We have not.

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

5 HEARING OFFICER AKIN-JONES: Committee members, do
6 you have any questions for Ms. Kersey?

7 MS. DAVIS: (Inaudible.)

8 COURT REPORTER: I can't hear you.

9 MS. DAVIS: I asked her if it was since 2007,
10 making sure that that's what she said.

11 THE WITNESS: Yes.

12 HEARING OFFICER AKIN-JONES: Ms. Kersey, you
13 answered that?

14 THE WITNESS: Yes. I did.

15 Yes, that's correct.

16 HEARING OFFICER AKIN-JONES: If there are no other
17 questions from the committee for Ms. Kersey, very well.

18 Mr. Hogan, do you have any further witnesses?

19 MR. HOGAN: We have none.

20 HEARING OFFICER AKIN-JONES: It has been noted
21 that the respondent, Petro's Beauty and Barber Shop is
22 not present today.

23 This hearing at this time will be closed and made
24 complete, except for the board's recess for
25 deliberation. Once the board reaches a decision, we

ADH, CTAC, 3/19/2012

1 will go back on the record.

2 (WHEREUPON, the committee retired to deliberate,
3 off the record, from 12:01 p.m. to 12:02 p.m., and
4 returned with the following decision:)

5 HEARING OFFICER AKIN-JONES: At this time we'll go
6 back on the record for a motion.

7 MS. DAVIS: I make a motion that the fines stand
8 at \$1,025.

9 MS. FUENTES: I second.

10 CHAIRMAN FORD: Motion has been seconded. All in
11 favor of the fine standing.

12 COMMITTEE MEMBERS: Aye.

13 CHAIRMAN FORD: All opposed.

14 HEARING OFFICER AKIN-JONES: Please let the record
15 reflect the decision of the board is unanimous, reduce
16 that decision to writing, and note that the respondent
17 was not present. Make or attempt service upon the
18 respondent and inform them that if they care to appeal
19 the decision, one may be taken under Arkansas Code
20 Annotated 25-15-201, et seq., or any specific
21 provisions of this board.

22 If there are no other questions or comments, the
23 hearing related to the Arkansas Department of Health
24 Cosmetology Section versus Petro's Beauty and Barber
25 Shop is now closed.

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(WHEREUPON, at 12:03 p.m., the above-entitled
proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 IN THE MATTER OF: License No. 69484
2 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
3 v.
4 DISTINCTION SALON AND NAIL SPA RESPONDENT

P R O C E E D I N G S

6 HEARING OFFICER AKIN-JONES: We're going to move
7 on to the Arkansas Department of Health versus
8 Distinguish Salon and Nail Spa.

9 Mr. Hogan, preliminary matters?

10 MR. HOGAN: We ask that the packet of information
11 be admitted as Board's Exhibit No. 1, and that the
12 rules and statutes be noted by the committee.

13 HEARING OFFICER AKIN-JONES: The packet of
14 information will be entered as Board's Exhibit No. 1,
15 and the committee may take note of the rules and
16 regulations relating to the cosmetology section of the
17 department of health.

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

20 HEARING OFFICER AKIN-JONES: Please note for the
21 record the respondent is not present here today.

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

23 MR. HOGAN: Vera Wood.

24 WHEREUPON,

25 VERA WOOD,

ADH, CTAC, 3/19/2012

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

DIRECT EXAMINATION

BY MR. HOGAN:

6 Q Vera, state your name and your position with the department,
7 please.

8 A Vera Wood, inspector.

9 Q Vera, did you have occasion on October 6th of last year to
10 inspect Distinction Salon and Nail Spa in Fort Smith, Arkansas?

11 A Yes, sir.

12 Q What did you find upon your inspection?

13 A That they had no current salon license at this address, and
14 that the license was not posted in the reception area.

15 Q Did they have a licensee there by the name of Destiny Cox?

16 A Yes.

17 Q Need I say more.

18 What did you -- what did you --

19 MS. KERSEY: Wow.

BY MR. HOGAN:

21 Q What did you -- what did you find, that they did not have a
22 current license at that time?

23 A They did not have a salon license at the 305 Garrison Avenue
24 address. This salon had opened on July the 4th, but they had
25 no authorization letter posted. They relocated from Greenwood,

ADH, CTAC, 3/19/2012

1 Arkansas, sometime between the two different inspections. And I
2 did leave paperwork for them to re -- to relocate.

3 Q Vera, did you talk to Cindy -- what's that name there?

4 A Cynthia, yes.

5 Q And that's, is it Mainer? Mainer?

6 A Uh-huh.

7 Q What was the conversation? Was she the owner or was she one
8 of --

9 A She is the owner.

10 Q And what -- what did you talk to about -- with her and what
11 was her response?

12 A I asked her if she had applied for a relocation, she said
13 no, not at this time, in so many words.

14 Q And had this place opened on July 4th?

15 A That's what -- that's the date that they told me they
16 opened. Yes.

17 Q And did she express any intent to apply for -- with the
18 board or --

19 A I left her paperwork to do so.

20 Q Okay. Is there anything further about your conversation
21 with her or about your inspection that you want to make the
22 committee aware of?

23 A (Shaking head from side to side.)

24 MR. HOGAN: I pass the witness.

25 HEARING OFFICER AKIN-JONES: Please give verbal

ADH, CTAC, 3/19/2012

1 responses.

2 THE WITNESS: No.

3 I'm sorry. No.

4 Excuse me.

5 HEARING OFFICER AKIN-JONES: Okay. Thanks.

6 Committee, any questions for Ms. Wood?

7 If there are none, Mr. Hogan, call your next
8 witness.

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

10 WHEREUPON,

11 KELLI KERSEY,

12 having been called for examination, and having been first duly
13 sworn by the Hearing Officer, was examined and testified, as
14 follows:

15 DIRECT EXAMINATION

16 BY MR. HOGAN:

17 Q State your name for the record, please, and your position
18 with the department?

19 A Kelli Kersey, Section Chief, Arkansas Department of Health,
20 Cosmetology Section.

21 Q Ms. Kersey, did you have occasion to look through the
22 records and determine whether or not Distinction Salon and Nail
23 Spa had the appropriate license for that facility or that salon?

24 A I did.

25 Q What did you find?

ADH, CTAC, 3/19/2012

1 A They do not have a license for their location of 305
2 Garrison Avenue.

3 Q Where is their license issued to? What is the address?

4 A Six -- let me look.

5 16135 Highway 71 South, Greenwood.

6 Q This inspection was done back in October of last year. To
7 your knowledge, have they made application or have they
8 communicated with your section to have their license transferred
9 to the appropriate address?

10 A No, sir.

11 Q Have you had any conversations with Ms. Mainer or anyone
12 with Distinction Salon?

13 A Not Ms. Mainer or Ms. Cox.

14 Q Okay. Anything further you want to make the committee aware
15 of?

16 A No.

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

18 HEARING OFFICER AKIN-JONES: Do the committee
19 members have any questions for Ms. Kersey?

20 MS. FUENTES: I do.

21 On the printout it shows like in May of 2011 in
22 the status as closed permanently. Is that something
23 that the -- the office did or was that maybe a piece of
24 paper that they filed?

25 THE WITNESS: That was an inspection. When I get

ADH, CTAC, 3/19/2012

1 an inspection that says closed permanently, then we go
2 in and close their license permanently.

3 MS. FUENTES: Okay. So she went in to inspect and
4 it was closed down?

5 THE WITNESS: Yes. At this 16135.

6 HEARING OFFICER AKIN-JONES: Further questions
7 from the committee?

8 MS. DAVIS: I have one. Sorry.

9 Okay. So, when did the license expire at the one
10 address that you said it was still -- they still had a
11 license there?

12 THE WITNESS: 12/31/2011 is when that one would
13 have expired.

14 MS. DAVIS: Okay.

15 THE WITNESS: Yeah.

16 So, at 10/6/11, that license still would have been
17 in effect.

18 CHAIRMAN FORD: Had they been at the old address,
19 correct?

20 THE WITNESS: Yes.

21 HEARING OFFICER AKIN-JONES: Further questions
22 from the committee for Ms. Kersey?

23 CHAIRMAN FORD: No.

24 HEARING OFFICER AKIN-JONES: If there are none --

25 THE WITNESS: Thank you.

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: -- thank you,
2 Ms. Kersey.

3 Mr. Hogan, any other witnesses?

4 MR. HOGAN: No. That's all for us.

5 HEARING OFFICER AKIN-JONES: Anything in closing?

6 MR. HOGAN: No.

7 HEARING OFFICER AKIN-JONES: It has been noted for
8 the record that the respondent Distinction Salon and
9 Nail Spa is not present for today's hearing.

10 At this time we'll close the record and make it
11 complete except for the board's recess for
12 deliberations. Once the board has made a decision,
13 we'll go back on the record.

14 (WHEREUPON, the committee retired to deliberate,
15 off the record, from 12:09 p.m. to 12:10 p.m., and
16 returned with the following decision:)

17 HEARING OFFICER AKIN-JONES: Very well. At this
18 time we'll go back on the record for a motion.

19 MS. FUENTES: I make a motion that the fine
20 stands, \$100.

21 MS. DAVIS: I second.

22 CHAIRMAN FORD: Motion has been seconded. All in
23 favor?

24 COMMITTEE MEMBERS: Aye.

25 CHAIRMAN FORD: All opposed.

ADH, CTAC, 3/19/2012

1 HEARING OFFICER AKIN-JONES: Please let the record
2 reflect the decision of the board relating to
3 Distinction Salon and Nail Spa is unanimous. Please
4 reduce that decision to writing and make or attempt
5 service upon all parties, notifying the respondent that
6 even though -- that the hearing was conducted even
7 though they were not present, and that an appeal may be
8 taken, if they so desire, under Arkansas Code Annotated
9 25-15-201, et seq.

10 If there are no other questions or comments
11 relating to this hearing, the record is closed and made
12 complete concerning Distinction Salon and Nail Spa.

13 If there are no other questions or comments
14 relating to any of the batch of hearings we've just
15 done, we'll close the record.

16 Thank you very much.

17 (WHEREUPON, at 12:11 p.m., the above-entitled
18 proceedings were concluded.)

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ADH, CTAC, 3/19/2012

1 CERTIFICATE

2
3 STATE OF ARKANSAS)4 COUNTY OF PULASKI)
5

6 I, SUSAN B. WHITSON, Certified Court Reporter and
7 notary public in and for Pulaski County, State of Arkansas, do
8 hereby certify that the hearings held before the Arkansas
9 Department of Health, Cosmetology Technical Advisory Committee,
10 March 19, 2012, were taken by me in Stenotype and reduced to
11 computer-generated typewritten form by me or under my direction
12 and supervision; that the witnesses were duly sworn by the
13 Hearing Officer; and that the same is a true and correct
14 reflection of the proceedings that occurred, to the best of my
15 knowledge and ability.

16 I FURTHER CERTIFY that I am neither counsel for,
17 related to, nor employed by any of the parties to the action in
18 which these proceedings were taken; and, further that I am not a
19 relative or employee of any attorney or counsel employed by the
20 parties hereto, nor financially interested, or otherwise, in the
21 outcome of this action; and that I have no contract with the
22 parties, attorneys, or persons with an interest in the action
23 that affects or has a substantial tendency to affect
24 impartiality, that requires me to relinquish control of an
25 original transcript or copies of the transcript before it is

ADH, CTAC, 3/19/2012

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 _____.

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8 _____
SUSAN B. WHITSON, CCR, #158

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NOTARY PUBLIC IN AND FOR

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PULASKI COUNTY, ARKANSAS

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12 My Commission Expires: June 4, 2012.

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**Arkansas Department of Health
Cosmetology Technical Advisory Committee**

March 19, 2012

9 a.m.

Freeway Medical Building
5800 W. 10th Street, Ste. 801, Little Rock, AR

Cosmetology Technical Advisory Members:

Present:

Kimberly Ford	Roger Barnes
Sandy Davis	Jacqueline Reynolds
Andrea Fuentes	Jeannie Bonds

Not Present:

Rebecca Arguello

ADH – Cosmetology Staff Members:

Present:

Kelli Kersey, Cosmetology Section Chief
Rick Hogan, ADH Attorney
Rose Horner, Cosmetology Inspector
Lavonne Lester Cosmetology Inspector
Pat Jackson, Cosmetology Inspector
Amanda Weeks, Admin. Specialist II

Teri Preachers, Admin. Specialist III
Michelle Rudolph, Bus. Oper. Spec.
Brenda Morgan, Cosmetology Inspector
Vera Wood, Cosmetology Inspector
Renee Mallory, Branch Chief, Lic. & Reg.

Proceedings:

· *Meeting called to order* at 9:04 a.m.

· *Meeting Minutes* – A motion was made and seconded to accept the January 23, 2012 meeting minutes. Motion approved.

· *Paid Violations* – A motion was made and seconded to approve the listing of paid violations. Motion approved. (See attached list)

· *Program Updates*

- *New Staff Member* –Kelli Kersey introduced Amanda Weeks as the new Examination Coordinator.
- *Inspector Supervisor position* – Kelli Kersey informed the committee that the new inspector supervisor position was posted and has now closed as of 3/16/2012. She will go through the applications and start the interview process for this position.
- *CLIPS Software System* – Kelli Kersey informed the committee that things are going really great with the new software system.
- *Public Hearing* – Kimberly Ford and Kelli Kersey gave an update about the Public Hearing held for the renewal fee decrease.

- **Hearings** begin at 9:30 and the transcript of the hearings are in a separate attachment and will be made available for review at the next official meeting, or at the Office of Cosmetology in the Arkansas Department of Health.

· **Public Comments** – (none contributed)

· A motion was made and seconded to adjourn until the May 21, 2012 meeting.

· Minutes submitted by Administrative Specialist, Teri Preachers.