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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 18th day of May 2015, the meeting of the Arkansas Department of Health, Cosmetology Section, Cosmetology Technical Advisory Committee was held, at 9:00 a.m., at the Arkansas Department of Health, Freeway Medical Building, Suite 801, Little Rock, Pulaski County, Arkansas.

TECHNICAL ADVISORY COMMITTEE:

- JESSICA PECK, Chair
- ADRIAN TABB
- KIMBERLY FORD (not present)
- CYNTHIA STEELE (not present)
- ANGELA JACKSON
- TRISH ANDERSON
- WENDY SULLIVAN (not present)

REPORTED BY:

SUSAN B. WHITSON, CCR
Arkansas Supreme Court Certificate No. 158
9810 Woodland Drive
Mabelvale, Arkansas 72103
(501) 455-1170
WhitsonCCR@aol.com

CTAC MEETING, 5/18/2015

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 ELIZABETH PITMAN, ESQ.

4 HEARING OFFICER:

5 KEVIN WELLS, ESQ.
Office of the Attorney General
6 323 Center Street, Suite 200
Little Rock, Arkansas 72201
7

8 Staff Members Present:

9 KELLI KERSEY, Section Chief
RENEE MALLORY, ADH Branch Chief
10 TERI PREACHERS, Business Operations Specialist
AMANDA WEEKS, Administrative Specialist
11 TERRIE NASH, Inspector Supervisor

12 Inspectors Present:

13 LAVONNE LESTER
VERA WOOD
14 SONDRA JONES
CHRISTOPHER NICKLAUS
15 ROSELYN SMITH

16

17 Court Reporter:

18 Susan B. Whitson, CCR
Arkansas Supreme Court Certificate No. 158
19

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P R O C E E D I N G S

The May meeting of the Cosmetology Technical Advisory Committee was called to order by Jessica Peck. Additional committee members present: Trish Anderson, Angela Jackson, Adrian Tabb.

Angela Jackson made a motion to approve the minute from the March 2015 CTAC meeting; second by Adrian Tabb; passed unanimously.

Adrian Tabb made a motion to approve the paid violations; second by Angela Jackson; passed unanimously.

MS. PECK: And we'll turn it over to Elizabeth.

MS. PITMAN: I'll turn it over to Mr. Wells.

HEARING OFFICER WELLS: All right. Is -- is everyone who is going to be in the hearing in the room right now, or --

MS. KERSEY: We actually have two that are here.

HEARING OFFICER WELLS: So only two?

MS. KERSEY: Only two that are here right now.

HEARING OFFICER WELLS: Are they scheduled

CTAC MEETING, 5/18/2015

1 to come later?

2 MS. KERSEY: We don't schedule them. We
3 tell them all to be here at nine.

4 HEARING OFFICER WELLS: So only two people
5 are here?

6 Okay. Sounds good.

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
3 (CTAC)

4 IN THE MATTER OF:

5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER

6 v.

7 NAILS SPA RESPONDENT

8 HEARING OFFICER WELLS: Well, I'll give my
9 introduction speech for everybody who is here
10 now, and that way we don't have to do it at
11 every hearing. But my name is Kevin Wells, I'm
12 the Hearing Officer today before the
13 Cosmetology Technical Advisory Committee. Is
14 that correct?

15 MS. PITMAN: (Nodding head up and down.)

16 HEARING OFFICER WELLS: Okay. Are the
17 respondents present?

18 Please identify yourselves, and for the
19 record -- well, actually, I'm sorry, who is the
20 first hearing?

21 MS. PITMAN: The first hearing appears to
22 be Blytheville.

23 HEARING OFFICER WELLS: Blytheville School
24 of Cosmetology?

25 MS. PITMAN: Well, I don't know who is

CTAC MEETING, 5/18/2015

1 here though.

2 HEARING OFFICER WELLS: Is someone here
3 from Blytheville School of Cosmetology?

4 MS. KERSEY: No. Nail Spa is here,
5 though.

6 HEARING OFFICER WELLS: All right. Is
7 someone here to represent Nail Spa?

8 MR. TRAN: Yes.

9 HEARING OFFICER WELLS: All right. If you
10 could have a seat. Where is best for you?

11 COURT REPORTER: (Indicating.)

12 HEARING OFFICER WELLS: All right. All
13 right. Could you identify yourself and spell
14 your name for the court reporter? Yeah, for
15 her.

16 COURT REPORTER: You can sit right there,
17 just state your name and spell it.

18 HEARING OFFICER WELLS: Yeah, sit right
19 there.

20 What's your name?

21 MR. JOHNY TRAN: My name is Johny Tran.

22 HEARING OFFICER WELLS: Johny?

23 MR. JOHNY TRAN: Tran.

24 HEARING OFFICER WELLS: Chan, C-h-a-n?

25 MR. JOHNY TRAN: T-r-a-n.

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: C-r-a-n?

2 MR. JOHNY TRAN: T, not a C.

3 HEARING OFFICER WELLS: Tran. Okay. Got
4 you.

5 And you don't have counsel?

6 MR. JOHNY TRAN: No.

7 HEARING OFFICER WELLS: Okay. You can
8 have a seat, you don't have to stand up.

9 Did you receive a copy of the Order and
10 Notice of Hearing?

11 MR. JOHNY TRAN: Yes.

12 HEARING OFFICER WELLS: Are you ready to
13 proceed?

14 MR. JOHNY TRAN: Yes.

15 HEARING OFFICER WELLS: Okay. And the
16 State is represented by counsel today. If you
17 could identify yourself.

18 MS. PITMAN: Elizabeth Pitman.

19 HEARING OFFICER WELLS: All right. For
20 the respondent's benefit, and for anyone else
21 present today, let me explain what the board
22 will base their decisions on, it will be only
23 on the evidence presented here today. This is
24 held under the Administrative Procedures Act,
25 which means that the strict rules of evidence

CTAC MEETING, 5/18/2015

1 that would be applied in a regular court of law
2 do not apply. That means as a Hearing Officer
3 I have certain latitude as to allow evidence to
4 be entered; for example, I may allow hearsay
5 statements to be received or photocopies of
6 documents to be introduced. To ensure the
7 efficiency, I may grant some objections or
8 caution the parties as the hearing proceeds.
9 The board members know of the case as it
10 appears and is set forth in the notice of
11 hearing. If there is anything you have
12 submitted to the staff or that the staff has in
13 its possession or that you have in your
14 possession and you want the board to consider,
15 you must offer it into evidence today.

16 All participants should be aware that
17 these proceedings are subject to the Freedom of
18 Information Act; as such, all parts of the
19 hearing are open to the public.

20 All right. If you could stand, if
21 everyone who will be a witness in this matter,
22 please, stand and raise your right hand to be
23 sworn. If you could stand. Will you swear
24 them in?

25 COURT REPORTER: Actually, the Hearing

CTAC MEETING, 5/18/2015

1 Officer does.

2 HEARING OFFICER WELLS: Oh, I do?

3 Okay.

4 (WHEREUPON, the witnesses were sworn by
5 the Hearing Officer.)

6 HEARING OFFICER WELLS: All right. Any
7 preliminary matters?

8 MS. PITMAN: There is a packet behind
9 Tab 5 -- 6, it's the Arkansas Department of
10 Health Notice of Hearing packet, and it's 11
11 pages long. I would ask to have that
12 introduced.

13 HEARING OFFICER WELLS: Okay.

14 (WHEREUPON, State's Exhibit No. 1 was
15 marked for identification.)

16 MS. PITMAN: And I also ask that notice be
17 taken of the Cosmetology Act and rules
18 governing cosmetology.

19 HEARING OFFICER WELLS: So taken.

20 COURT REPORTER: And could you speak up,
21 Ms. Pitman, please?

22 MS. PITMAN: I'll try.

23 HEARING OFFICER WELLS: And do you have a
24 copy of the --

25 COURT REPORTER: (Nodding head up and

CTAC MEETING, 5/18/2015

1 down.)

2 HEARING OFFICER WELLS: Okay. All right.
3 Go ahead.

4 MS. PITMAN: All right. I'll call my
5 first witness, Vera Wood.

6 WHEREUPON,

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

11 DIRECT EXAMINATION

12 BY MS. PITMAN:

13 Q Please state your name and where you work.

14 MS. KERSEY: Wood? Does it have an s?

15 THE WITNESS: No, just one stick.

16 Vera Wood, Cosmetology Inspector,
17 Department of Health.

18 BY MS. PITMAN:

19 Q Okay. Thank you, Ms. Wood.

20 And did you inspect Nail Spa?

21 A Yes.

22 Q Okay. And what day?

23 A 3/4/15.

24 Q Okay. And was that a routine inspection or in
25 response to a complaint?

CTAC MEETING, 5/18/2015

1 A Routine.

2 Q And, Ms. Wood, when you went to Nail Spa on March
3 4th, what did you find?

4 A When I entered the salon, I found two men and one
5 woman working -- just a second -- on three customers.
6 One gentleman got up and left. I assumed he was not
7 licensed with the State of Arkansas.

8 I talked to Mr. Tran, is -- if -- and he had gave me
9 the information that is on your second sheet of the
10 gentleman that was working.

11 Q All right. Tell us about that gentleman you're
12 referring to, the one that got up and left?

13 A Mr. Tran told me his name was Tony Le and he has a
14 Texas license; he's a male; about 5'5" -- 5'5", 165, dark
15 eyes, dark hair, Asian/Vietnamese decent.

16 Q Did you see his Texas license?

17 A No. He -- he left.

18 Q He left?

19 A Uh-huh.

20 Q So you didn't speak to Mr. Le?

21 A No.

22 Q Okay. Did Mr. Tran indicate that he had an Arkansas
23 license?

24 A That -- no.

25 Q And what was Mr. Le doing before he got up and left?

CTAC MEETING, 5/18/2015

1 A He was doing a pedicure on an African-American
2 female, the fifth chair back in their line.

3 Q Okay. Did he seem --

4 A He had his hands in the water at the time.

5 Q His hands were in the water?

6 A (Nodding head up and down.)

7 Q Did you see anything else that day? It doesn't
8 appear anything else was checked. Did you see any other
9 violation?

10 A No.

11 Q Okay. Did Mr. Tran offer any reason why Mr. Le was
12 working unlicensed?

13 A (Shaking head from side to side.)

14 Q Thank you.

15 Have you been back to Nail Spa since March 4?

16 A No.

17 Q So you don't know if these violations are
18 continuing?

19 A No.

20 Q Anything else you would like the CTAC to consider
21 today?

22 A No.

23 MS. PITMAN: Thank you.

24 No other questions.

25 HEARING OFFICER WELLS: Mr. Tran, if you

CTAC MEETING, 5/18/2015

1 have any questions for the witness, you can ask
2 her, but you don't have to.

3 MR. JOHNY TRAN: I would just -- we --
4 this Nail Spa we just -- I just buy, take over
5 about -- on the max about -- before one month
6 before she inspects, and the guy, he still over
7 there and he set up everything, help me for to
8 buy the new shop in the Hope city.

9 HEARING OFFICER WELLS: Mr. Tran, I'll
10 interrupt you now. We can -- we're going to
11 let you give a statement later. Actually, I'm
12 sorry, we should -- probably should have
13 allowed opening statements at this point. But
14 we will let do you a closing statement after
15 all the questions have been asked, we have to
16 just establish the case first. So you will get
17 to speak in just a second, if that's okay.

18 MR. JOHNY TRAN: That's okay, you know,
19 because my English is not very well.

20 HEARING OFFICER WELLS: No, I --

21 MR. JOHNY TRAN: I understand okay maybe
22 about 50 or 70 or 60 percent, okay, because you
23 talk slowly a little bit. Okay.

24 HEARING OFFICER WELLS: I understand. I
25 apologize.

CTAC MEETING, 5/18/2015

1 Nail Spa?

2 A I did.

3 Q Okay. And did you sign off on this inspection?

4 A I did.

5 Q Approved it, I guess?

6 A Yes.

7 Q Is this Nail Spa's first violation?

8 A No, ma'am.

9 Q Okay. Would you, please, tell us about the previous
10 ones?

11 A This is their third violation. On 5/2 -- I mean,
12 5/4/2012, they had an unlicensed person -- they,
13 actually, had four unlicensed practitioners at that
14 inspection; on 2/28/13, they had an unlicensed person
15 working; and then this inspection.

16 Q Okay. The previous two, the ones for 2/28 and 5 --

17 A Uh-huh.

18 Q -- sometime in May of 2012, have those been paid?

19 A Yes. They have all been paid.

20 Q And so the reason we're bringing Mr. Tran here today
21 is because it's his third violation?

22 A Correct.

23 Q And that's a policy of the CTAC?

24 A Yes.

25 Q Okay. Did Mr. Tran receive his notice, Order and

CTAC MEETING, 5/18/2015

1 Notice of Hearing?

2 A He did.

3 Q And did it explain the violation of allowing a
4 person to work without a cosmetology license?

5 A Yes, ma'am.

6 Q Okay. And did it also tell him to be here in Room
7 801 at the Freeway Medical Building at 9:00 a.m.?

8 A Yes, ma'am.

9 Q Okay. And on Page 3, what day did he sign for that?

10 A 4/17.

11 Q Okay. Thank you.

12 Ms. Kersey, what is the recommended violation for
13 penalty today?

14 A \$250.

15 Q Is there anything else that you would like the CTAC
16 to know?

17 A No, ma'am.

18 MS. PITMAN: Nothing further.

19 HEARING OFFICER WELLS: All right. Did
20 you hear what she responded to?

21 MR. JOHNY TRAN: Yeah.

22 HEARING OFFICER WELLS: Okay. Do you have
23 any disagreements with those questions -- with
24 what she said or do you have any further
25 questions just of this witness?

CTAC MEETING, 5/18/2015

1 MR. JOHNY TRAN: The Nail Spa, I just -- I
2 just take over --

3 HEARING OFFICER WELLS: Okay.

4 MR. JOHNY TRAN: -- for, okay, my -- this
5 year, and something about before that, I don't
6 know.

7 HEARING OFFICER WELLS: Okay. When did
8 you take over?

9 MR. JOHNY TRAN: Yeah, I take over -- I
10 buy this one, I take it over.

11 HEARING OFFICER WELLS: When?

12 MR. JOHNY TRAN: On March 15th.

13 HEARING OFFICER WELLS: March 15th?
14 Okay.

15 We'll have the next witness. Would you
16 have --

17 MS. PITMAN: I have no other witnesses.

18 HEARING OFFICER WELLS: You have no other
19 witnesses?

20 Okay. If you want -- I'm sorry -- okay.
21 Okay. We'll move on to this -- do you have any
22 witnesses or anyone you would like to ask
23 questions of, Mr. Tran?

24 MR. JOHNY TRAN: No. No.

25 HEARING OFFICER WELLS: Okay.

CTAC MEETING, 5/18/2015

1 WHEREUPON,

2 JOHNY TRAN,

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

6 DIRECT TESTIMONY

7 THE WITNESS: Because for the day for the
8 hearing stay here, you know, because that's --
9 I the new owner, before that, everything, I
10 don't know that. But this violate notation,
11 can he -- okay, he came to inspect for the
12 April, right, and that's only thing, only one,
13 okay, I know about that, you know. And I send
14 the money for the penalty, 500. Correct?

15 HEARING OFFICER WELLS: Okay.

16 THE WITNESS: And today I get the letter
17 come here for the hearing. That's the only,
18 okay, I know.

19 HEARING OFFICER WELLS: Okay. So you've
20 already paid the --

21 THE WITNESS: Yeah. I paid a fine there,
22 correct.

23 HEARING OFFICER WELLS: Okay. All right.
24 At this time the record is closed.

25 We can have closing statements. Do you

CTAC MEETING, 5/18/2015

1 have a closing statement or --

2 MS. PITMAN: I don't have a closing
3 statement. Could we open the record back up
4 for --

5 HEARING OFFICER WELLS: Yes. Absolutely.

6 MS. PITMAN: -- clarification? He said he
7 paid the fine already? I'm not sure --

8 HEARING OFFICER WELLS: Yeah, go ahead.

9 MS. PITMAN: Okay. I'll just ask
10 Ms. Kersey, if I may.

11 WHEREUPON,

12 KELLI KERSEY,
13 having been recalled for examination, and having been
14 previously duly sworn by the Hearing Officer, was
15 examined and testified, as follows:

16 REDIRECT EXAMINATION

17 BY MS. PITMAN:

18 Q Ms. Kersey, you have records of what has been paid?

19 A Correct.

20 Q Has Mr. Tran sent in any money since the March 4
21 violation?

22 A He has not. When they get a third offense, we do
23 not give them the option to pay, they have to come to a
24 hearing. He has not paid yet.

25 Q So explain for us what the typical process would be

CTAC MEETING, 5/18/2015

1 when you go out and send a letter, before the third
2 violation? Like, for the first violation?

3 A We would -- I would review the inspection, we would
4 sent them a violation letter, they would have the option
5 to pay or they can request a hearing if they dispute it.

6 Q Okay. And when it's the third violation, you don't
7 send out that letter?

8 A No. We just send them a Notice of Hearing.

9 Q Okay. And that's per a policy? Who established the
10 policy?

11 A The office just established it when the CTAC
12 decided, on the third offense, that was just our policy.

13 Q Okay. So the CTAC voted that every third offense
14 had to come to them?

15 A Correct.

16 Q Okay. So Mr. Tran has not submitted the 250 for
17 this fine but he has paid all the previous fines?

18 A Correct.

19 MS. PITMAN: Okay. No other questions for
20 Ms. Kersey.

21 HEARING OFFICER WELLS: Okay. Do you have
22 any other witnesses you would like to add?

23 MS. PITMAN: No.

24 HEARING OFFICER WELLS: Would you like to
25 make a closing statement?

CTAC MEETING, 5/18/2015

1 MS. PITMAN: My only closing statement is
2 we're here today on the March 4, 2015,
3 violation for having Mr. Lee working without a
4 license, the two previous violations have been
5 paid, we're here today because this is the
6 third offense and the CTAC voted we are
7 required to bring him here.

8 HEARING OFFICER WELLS: Okay. Mr. Tran,
9 would you like to say anything else to the
10 board you would like them to consider? Or, I
11 mean, you've already told them your story, if
12 you would like to say anything else?

13 MR. JOHNY TRAN: Yeah. I mean, I was
14 talking about a story where, okay, when she go
15 inside my Nail Spa to inspect. And she told
16 me, okay, the man, he okay to tech the feet for
17 the customer, and I copy her, because I just
18 take over, okay, the nail shop just about one
19 month. The guy, he still stay here, okay, he
20 the old owner before he help, okay, help us our
21 Texas -- Arkansas license for to do the
22 pedicure, but I think the fact he do something
23 but he still have the license on the Texas, but
24 he just helped over there before I take over
25 because we still help locate -- I accept a new

CTAC MEETING, 5/18/2015

1 one and I want he stay and help about one week
2 only, he say okay. And before I still don't
3 know, okay, how about they do something
4 Arkansas.

5 I have a license, okay, Georgia and Texas,
6 and we have a lot of nail shop, okay, around
7 Georgia and Texas, and I just come to Arkansas
8 about one month and they cover we don't hire
9 anybody don't have a license Arkansas, because
10 he only owner. I told them that and I tell
11 her, okay, he have a license, he have a license
12 in Texas, and I don't hire him. And --

13 HEARING OFFICER WELLS: So let me -- let
14 me make sure I understand what you're saying,
15 just for the board. The man who had a Texas
16 license who is the subject of the investigation
17 or who is the subject of the penalty, for those
18 penalties, is the old owner of the salon?

19 MR. JOHNY TRAN: Yeah. He old owner
20 salon, Nail Spa.

21 HEARING OFFICER WELLS: The Nail Spa?
22 Okay.

23 MR. JOHNY TRAN: And I told her, I don't
24 hire him, he want to stay and help but I don't
25 hire him. He try helping me, and before he

CTAC MEETING, 5/18/2015

1 knew we get this. And right now we still have
2 three people work on the nail shop and all we
3 have the new worker get a license Arkansas.

4 HEARING OFFICER WELLS: Okay. They do you
5 have license in Arkansas?

6 MR. TRAN: Yeah. All new people.

7 HEARING OFFICER WELLS: All new people?

8 MR. TRAN: Yeah. I tell her too. And we
9 have a license in Texas and Georgia, but we
10 have come here still wait for the apply, okay,
11 for the tech for the license Arkansas. Now we
12 got it. And she told me how about, okay, come
13 help you Arkansas, I say we will, but give me
14 okay about a few time. We can't quit nail.
15 Okay. Some -- some people come here, tech,
16 they have wait one month or two -- two month,
17 you know. Now we got it all right.

18 HEARING OFFICER WELLS: Okay.

19 MR. JOHNY TRAN: The only thing I said.

20 HEARING OFFICER WELLS: All right. Do you
21 have any follow up?

22 MS. PITMAN: (Shaking head from side to
23 side.)

24 HEARING OFFICER WELLS: Okay.

25 MR. JOHNY TRAN: I speak, you

CTAC MEETING, 5/18/2015

1 understanding, right?

2 HEARING OFFICER WELLS: Uh-huh.

3 Does anybody have any questions?

4 Does any of the board members have any
5 questions?

6 All right. We'll consider the record
7 closed and complete and now the board will
8 recess for deliberations and decisions.

9 Do you guys do the deliberations on the
10 record?

11 MS. PITMAN: No.

12 HEARING OFFICER WELLS: Okay. Then we
13 will go off the record for deliberations.

14 (WHEREUPON, the Committee retired to
15 deliberate, off the record, and returned with
16 the following motion.)

17 MS. PECK: Okay. Back on the record.

18 Do I have a motion?

19 MS. ANDERSON: Yes. We have a motion that
20 we will fine Nail Spa \$250 for an unlicensed
21 person working.

22 MS. PECK: And a second?

23 MS. JACKSON: I'll second that.

24 MS. PECK: All in favor?

25 COMMITTEE MEMBERS: Aye.

CTAC MEETING, 5/18/2015

1 MS. PECK: All opposed?

2 HEARING OFFICER WELLS: All right. Let
3 the record reflect that the decision is
4 unanimous, it will be reduced to writing and
5 service will be made upon all the parties.

6 If you would like to appeal, you may
7 appeal, but you will be given a copy of the
8 record, Mr. Tran.

9 Thank you very much.

10 MR. TRAN: All right.

11 (WHEREUPON, at 9:20 a.m., the
12 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
3 (CTAC)
4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
6 v.
7 GOLDEN NAILS RESPONDENT
8 HEARING OFFICER WELLS: Okay. Next?
9 Okay. Golden Nails. Is there someone here for
10 Golden Nails?
11 MS. LEE: Yes.
12 HEARING OFFICER WELLS: Could you identify
13 yourself? Give her your name.
14 MS. LEE: My name is Sandy Lee.
15 HEARING OFFICER WELLS: All right.
16 Mr. Tran, you can leave the table and go.
17 You're free to leave if you would like.
18 Okay. Did you get that, Ms. Court
19 Reporter?
20 COURT REPORTER: (Nodding head up and
21 down.)
22 HEARING OFFICER WELLS: All right. And
23 you do not have counsel?
24 MS. LEE: No.
25 HEARING OFFICER WELLS: Okay. Did you

CTAC MEETING, 5/18/2015

1 receive a copy of the Order and Notice of
2 Hearing?

3 MS. LEE: Yes, I do.

4 HEARING OFFICER WELLS: Okay. All right.
5 Well, have you been sworn?

6 Could you stand up and raise your right
7 hand, and any witnesses for this matter who
8 haven't been sworn already?

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

11 HEARING OFFICER WELLS: All right. Have a
12 seat.

13 MS. LEE: Thank you, sir.

14 HEARING OFFICER WELLS: Are there any
15 preliminary matters?

16 MS. PITMAN: There is a 14-page packet
17 behind the tab, I would like to have those
18 introduced.

19 HEARING OFFICER WELLS: All right.

20 (WHEREUPON, State's Exhibit No. 1 was
21 received in evidence.)

22 HEARING OFFICER WELLS: Do you have any
23 documents or papers or any information that you
24 would like to introduce into the record?

25 MS. LEE: So I bring in here today?

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: What's that?

2 MS. LEE: What you mean? Excuse me?

3 HEARING OFFICER WELLS: If you have any
4 evidence or papers or anything like that that
5 you want the board to look at. You don't have
6 to.

7 MS. LEE: No.

8 HEARING OFFICER WELLS: I'm just checking.

9 MS. LEE: No, sir.

10 HEARING OFFICER WELLS: All right. Okay.
11 Do either of you want to make an opening
12 statement?

13 MS. PITMAN: No opening. I would like the
14 board to take notice of the Cosmetology Act and
15 the rules and regs.

16 HEARING OFFICER WELLS: Okay. All right.
17 State, you can call your first witness.

18 MS. PITMAN: Call Chris Nicklaus.

19 THE WITNESS: Chris Nicklaus, with the
20 Arkansas Department of Health for Cosmetology,
21 a Cosmetology Inspector.

22 WHEREUPON,

23 CHRIS NICKLAUS,
24 having been called for examination, and having been first
25 duly sworn by the Hearing Officer, was examined and

CTAC MEETING, 5/18/2015

1 testified, as follows:

2 DIRECT EXAMINATION

3 BY MS. PITMAN:

4 Q Thank you.

5 Mr. Nicklaus, did you perform an inspection of
6 Golden Nails?

7 A Yes.

8 Q What day?

9 A March 12, 2015.

10 Q Was that a routine inspection or in response to a
11 complaint?

12 A Routine.

13 Q Okay. And when you went there on March 12th, what
14 did you find?

15 A The salon license that she had posted had expired
16 and she actually couldn't find the current license, I had
17 to call the office to get the information for that.
18 That's why I marked -- I marked "salon license current"
19 off but I did leave the "all posted license are current"
20 marked; and I also marked "all supplies and instruments
21 that can't be disinfected or disposed of" and "separation
22 of disinfected and contaminated implements" for the fact
23 of there were used flip flops in just about every
24 pedicure station.

25 Q Did you take a picture of that, Mr. Nicklaus?

CTAC MEETING, 5/18/2015

1 A Yes.

2 Q And what page is that on?

3 A 12, 13, and 14.

4 Q If you would just kind of take us through these
5 pictures and tell us what we're looking at?

6 A These are used flip flops that were in the drawer of
7 the pedicure station. If you -- once you open the
8 drawer, if they have been used or washed, they usually
9 have an odor to them. If you flip them over, you can
10 usually tell if they have been used because they are
11 usually scuffed or they have dirt on the bottom of the
12 flip flops.

13 Q Okay. And these did have scuff marks or dirt?

14 A Yes.

15 Q And what rules did this violate?

16 A (21)a, "all supplies and instruments that can't be
17 disinfected are disposed of immediately after use," and
18 "separation of disinfected and contaminated implements."

19 Q Okay. So to make sure we're clear, these should
20 have been thrown away after they were used on how many
21 customers?

22 A One.

23 Q One? Okay.

24 And there was clean --

25 A There were clean ones in there also; yes.

CTAC MEETING, 5/18/2015

1 Q Okay. Mr. Nicklaus, was there anything else about
2 your inspection that you would like the CTAC to know?

3 A That was it.

4 Q And have you been back to Golden Nails?

5 A No.

6 MS. PITMAN: Okay. No other questions.

7 HEARING OFFICER WELLS: Okay. Do you have
8 any questions to ask him specifically?

9 MS. LEE: No, sir.

10 HEARING OFFICER WELLS: Okay. All right.
11 State, next witness?

12 MS. PITMAN: Ms. Kelli Kersey.

13 THE WITNESS: Kelli Kersey, Arkansas
14 Department of Health, Cosmetology Section,
15 Section Chief.

16 WHEREUPON,

17 KELLI KERSEY,

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

21 DIRECT EXAMINATION

22 BY MS. PITMAN:

23 Q Ms. Kersey, did you review the inspection of
24 Mr. Nicklaus?

25 A I did.

CTAC MEETING, 5/18/2015

1 Q And did you sign off on it?

2 A Yes, ma'am.

3 Q And on Mr. Nicklaus' inspection sheet there is a
4 check for "all posted licenses are current"?

5 A Uh-huh.

6 Q Okay. But the Order and Notice of Hearing does not
7 list that violation. Could you explain that for us?

8 A We only send the Notice of Hearing for the
9 violations that are the third offense. This is the third
10 offense for the two previous violations, that one was not
11 a third offense; so they actually get a violation letter
12 and a Notice of Hearing letter.

13 Q And on the violation letter for the "all posted
14 licenses are current," has that been paid?

15 A I'm not -- I'm not certain. I'm sorry.

16 Q Okay. But it's not here today, regardless?

17 A Right.

18 Q Okay. On the other two, "all supplies and
19 instruments that cannot be disinfected" -- "that cannot
20 be disinfected are disposed of immediately after use,"
21 and "separation of disinfected and contaminated
22 implements," can you please tell us about these
23 violations?

24 A Yes. On 2/14/14, they had an inspection and they
25 were cited for both of those (21)a and (22), those have

CTAC MEETING, 5/18/2015

1 been paid. On 8/7/14, they were also cited for the same
2 thing, (21)a and (22), and those have also been paid.

3 Q Okay. And so the two previous violations have been
4 paid?

5 A Correct.

6 Q All right. And what is the recommended penalty for
7 today?

8 A \$100.

9 Q Okay. Did you send an Order and Notice of Hearing
10 to Golden Nails?

11 A We did.

12 Q And can you tell me what day that was signed for?

13 A Looks like 4/17.

14 Q And that Order and Notice of Hearing did list out
15 the violations for (21)a and (22)?

16 A Correct.

17 Q And also told Golden Nails' representative to be
18 here at 9:00 a.m. in Room 801 at the Freeway Medical
19 Building?

20 A Yes, ma'am.

21 Q Okay. Is there anything else you would like the
22 CTAC to consider?

23 A No.

24 MS. PITMAN: Nothing further.

25 HEARING OFFICER WELLS: Do you have any

CTAC MEETING, 5/18/2015

1 questions for her?

2 MS. LEE: No, sir.

3 HEARING OFFICER WELLS: Okay. Do the
4 board members have any questions for her?

5 All right. Do you have any further
6 witnesses?

7 MS. PITMAN: No.

8 HEARING OFFICER WELLS: Okay. Would you
9 like to make a closing statement? Or would you
10 like to tell the board any part -- your side of
11 the story or anything?

12 MS. LEE: No, sir.

13 HEARING OFFICER WELLS: Okay.

14 MS. PITMAN: I have no other.

15 HEARING OFFICER WELLS: Okay. At this
16 time the record is closed and complete and the
17 board go off the record for deliberation.

18 (WHEREUPON, the Committee retired to
19 deliberate, off the record, and returned with
20 the following question:)

21 HEARING OFFICER WELLS: We'll go back on
22 the record for one more question.

23 MR. TABB: Were you the owner for the --
24 when you guys received the previous violations?

25 MS. LEE: Yes, sir.

CTAC MEETING, 5/18/2015

1 MR. TABB: Okay.

2 HEARING OFFICER WELLS: Okay. Then off
3 the record.

4 (WHEREUPON, the Committee retired to
5 deliberate, off the record, and returned with
6 the following decision:)

7 HEARING OFFICER WELLS: We'll go back on
8 the record and ask if there is any motion.

9 MS. PECK: Do we have a motion?

10 I guess I can make -- Angela, would you
11 like to make a motion?

12 MS. JACKSON: I make a motion that the
13 recommended fine for Golden Nails of \$100
14 stands, with a reinspection within 30 days.

15 MR. TABB: I second.

16 MS. PECK: All in favor?

17 COMMITTEE MEMBERS: Aye.

18 MS. PITMAN: Can we clarify that you're
19 finding -- we're making a finding on the actual
20 facts, the allegations?

21 MS. JACKSON: Say that one more time.

22 MS. PITMAN: Make a finding on the actual
23 allegations, just to --

24 MS. PECK: What they are being fined for.

25 MS. PITMAN: Okay. Thank you. Thank you.

CTAC MEETING, 5/18/2015

1 I was trying to phrase it.

2 MS. PECK: Dumb it down.

3 MS. JACKSON: Okay. So start all over?

4 I make a motion that the recommended fine
5 of \$100 for Golden Nails for (21)a and (22) --
6 there is not an extra number -- stand, for
7 \$100, with a reinspection in 30 days.

8 MS. PITMAN: Thank you.

9 MS. PECK: All in favor?

10 MR. TABB: Aye.

11 MS. PECK: Second?

12 MR. TABB: I second.

13 MS. PECK: Okay. All in favor?

14 COMMITTEE MEMBERS: Aye. Angela?

15 MS. JACKSON: I said, "Aye."

16 HEARING OFFICER WELLS: All right. The
17 record is unanimous, there will be a \$100 fine
18 and a reinspection in 30 days.

19 Thank you very much. You are free to go.

20 MS. LEE: Thank you, sir.

21 (WHEREUPON, at 9:31 a.m., the
22 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
3 (CTAC)
4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
6 v.
7 FOREVER NAILS
8 HEARING OFFICER WELLS: Who's next?
9 MS. PITMAN: Whoever else is here.
10 HEARING OFFICER WELLS: All right. And
11 are you here for Forever Nails?
12 MR. LE: Yes, sir.
13 HEARING OFFICER WELLS: All right. If you
14 could stand, and if you're going to be a
15 witness, if you can stand?
16 INTERPRETER: No, I just translate for
17 him.
18 HEARING OFFICER WELLS: Okay. Great.
19 (WHEREUPON, the witnesses were sworn by
20 the Hearing Officer.)
21 HEARING OFFICER WELLS: Okay.
22 COURT REPORTER: Could you swear the
23 interpreter, please?
24 HEARING OFFICER WELLS: Yes.
25 WHEREUPON,

CTAC MEETING, 5/18/2015

1 IRENE NGUYEN,
2 was duly sworn by the Hearing Officer to interpret
3 accurately, to the best of her ability.

4 HEARING OFFICER WELLS: Okay. And could
5 you introduce him and yourself, please.

6 INTERPRETER: My name is Irene, and this
7 is -- name is Thanh Le.

8 HEARING OFFICER WELLS: I'm sorry. Could
9 you --

10 INTERPRETER: My name is Irene, and this
11 is Thanh Le.

12 HEARING OFFICER WELLS: Irene what?

13 INTERPRETER: Nguyen, N-g-u-y-e-n.

14 HEARING OFFICER WELLS: And what's his
15 full name?

16 MR. TABB: Thanh Le, T-h-a-n-h, L-e.

17 HEARING OFFICER WELLS: Okay. And did you
18 receive a copy of the Order and Notice of
19 Hearing?

20 MR. LE: Yes, sir.

21 HEARING OFFICER WELLS: Okay. And State
22 has counsel.

23 Okay. If you need us to slow down or
24 anything like that or if you have any
25 questions, can you please let us know?

CTAC MEETING, 5/18/2015

1 MR. LE: Okay.

2 HEARING OFFICER WELLS: But we'll allow
3 the State to go first.

4 MS. PITMAN: All right. There is a
5 14-page packet behind the fourth tab that we
6 would like introduced.

7 HEARING OFFICER WELLS: Okay. That's
8 fine. That's taken into evidence.

9 (WHEREUPON, State's Exhibit No. 1 was
10 received in evidence.)

11 MS. PITMAN: And also take notice of the
12 Cosmetology Act and the rules and regs.

13 HEARING OFFICER WELLS: Okay. So taken.

14 MS. PITMAN: No opening statements.

15 COURT REPORTER: I can't hear you.

16 MS. PITMAN: No opening statement.

17 HEARING OFFICER WELLS: Okay. Then go
18 ahead and call your first witness.

19 Or do you -- do you -- does he have an
20 opening statement he would like to make, or he
21 can say that after.

22 MR. LE: No.

23 HEARING OFFICER WELLS: Okay. Go ahead.

24 MS. PITMAN: Call Lavonne Lester.

25 WHEREUPON,

CTAC MEETING, 5/18/2015

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

5 DIRECT EXAMINATION

6 BY MS. PITMAN:

7 Q Ms. Lester, please, state your name and where you
8 work.

9 A Lavonne Lester, Cosmetology Inspector, Arkansas
10 Department of Health.

11 Q Okay. Thank you.

12 And, Ms. Lester, did you do an inspection of Forever
13 Nails?

14 A I did.

15 Q What date?

16 A February 13th of this year.

17 Q And, Ms. Lester, what did you find on February
18 13th?

19 A Several things were wrong. They had been reusing
20 their toe separators and their flip flops; they were
21 reusing their foot buffers; they reuse files; their pedi
22 bowls were not sanitized; the toe separators and flip
23 flops were being stored all together; we found used
24 instruments in the drawers at the manicure tables; the
25 waxing supplies were not stored properly; and there were

CTAC MEETING, 5/18/2015

1 used dremel bits in the drawers also and there was lots
2 of nail dust in the drawers.

3 Q Who did you speak with when you did the inspection?

4 Who signed for it? Do you remember?

5 Was it Mr. Le?

6 A I think so --

7 Q Okay.

8 A -- but I'm not sure.

9 He remembers me, I know that.

10 Q Did you take pictures?

11 A I did.

12 Q Will you, please -- I believe they start on Page 11.

13 Will you, please, walk us through those?

14 A Okay. Okay. The first picture on Page 11, that
15 would be the waxing supplies, you can see none of them
16 are stored properly. They are to be stored in closed
17 containers.

18 Q Okay. What is this stick looking thing here in
19 front of the blue basket?

20 A A used stick.

21 Q A used stick?

22 A Uh-huh.

23 Q Should that be there?

24 A No. Huh-uh.

25 Q And what's on Page 12?

CTAC MEETING, 5/18/2015

1 A Oh, that's the flip flops and toe separators. As
2 you can see, they have definitely be used.

3 Q And how can we tell they have been used?

4 A Well, if you will notice the toe separators, they
5 have been pulled apart, that's a good indication. And on
6 the flip flops, there is dirty areas on several of the
7 flip flops. And there is also cleaned ones all -- they
8 were all stored together.

9 Q Okay. On Page 13?

10 A Pretty much the same.

11 Q Page 14?

12 A Okay. That's the -- at the pedi bowls, using that
13 file on the feet, and it's not been sanitized or
14 anything.

15 Q Ms. Lester, what -- do you know what that is around
16 the edges of the nail file or the file?

17 A It's probably skin.

18 Q Probably skin?

19 A Uh-huh.

20 Q Ms. Lester, have you been back out to Forever Nails
21 since your inspection?

22 A No. I have not.

23 Q So you don't know if any of these violations have
24 been corrected. Do you?

25 A No.

CTAC MEETING, 5/18/2015

1 Q Okay. Is there anything else you would like the
2 CTAC to know about your inspection?

3 A No.

4 Q And did anyone you spoke with at the salon that day
5 offer any reason for these violations?

6 A I really -- no.

7 Q No?

8 A (Shaking head from side to side.)

9 MS. PITMAN: No other questions.

10 HEARING OFFICER WELLS: Ms. Nguyen, does
11 Mr. Le have any questions for this witness?

12 MR. LE: No.

13 HEARING OFFICER WELLS: Okay. You can
14 call your next witness.

15 MS. PITMAN: Call Kelli Kersey.

16 WHEREUPON,

17 KELLI KERSEY,

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

21 THE WITNESS: Kelli Kersey, Arkansas
22 Department of Health, Cosmetology Section,
23 Section Chief.

24 HEARING OFFICER WELLS: All right. Make
25 sure that you guys speak up.

CTAC MEETING, 5/18/2015

1 DIRECT EXAMINATION

2 BY MS. PITMAN:

3 Q Ms. Kersey, will you please --

4 A Yes.

5 Q Did you review the inspection from February 13?

6 A I did.

7 Q Okay. And will you please -- is any of this a third
8 violation?

9 A Yes.

10 Q Okay.

11 A (21)a is a third violation.

12 Q Is that the only thing we're here today on?

13 A Yes.

14 Q Was a violation notice sent out on the remaining
15 violations?

16 A Yes.

17 Q The Order and Notice of Hearing that was sent, it
18 states that (21)a was the violation for the hearing?

19 A Correct.

20 Q And it also tells someone from Forever Nails to be
21 here today at 9:00 a.m. at Room 801 in the Freeway
22 Medical Building?

23 A Yes, ma'am.

24 Q What day was it signed for?

25 A 4/16.

CTAC MEETING, 5/18/2015

1 Q Ms. Kersey, will you please tell us about the
2 previous violations?

3 A I'll get there. Sorry.

4 They had an inspection on 7/23/2014, they had (21)a,
5 separated, disinfected, or need to be disposed; on
6 10/11/2013 -- sorry we've got those out of order --
7 (21)a; and then this -- this one.

8 Q Was the one on 7/23 paid for?

9 A Yes.

10 Q And the one on 10/11?

11 A Yes.

12 Q So the only one that is left outstanding here today
13 is the one for today?

14 A Correct.

15 Q That made no sense, sorry.

16 A Yeah.

17 Q What is the recommended penalty?

18 A On Page 5, I'm sorry, I want to explain a little
19 bit. This one -- we forgot to separate this, it's only
20 \$50 today. The other violations have been sent out, so
21 the only thing we're coming back for is (21)a, which is
22 \$50. Okay.

23 Q Okay. So the recommended penalty today is \$50?

24 A Yes.

25 Q All right. Thank you.

CTAC MEETING, 5/18/2015

1 A Sorry. \$50 today.

2 Q Is there anything else you would like the CTAC to
3 consider?

4 A No.

5 MS. PITMAN: No other questions.

6 HEARING OFFICER WELLS: All right. Does
7 Mr. Le have any questions for her?

8 INTERPRETER: He said that he would do a
9 better job at it, but otherwise he has no other
10 questions.

11 HEARING OFFICER WELLS: Okay. Do you have
12 any further witnesses?

13 MS. PITMAN: No.

14 HEARING OFFICER WELLS: Okay. Does he --
15 does he want to make a statement or anything
16 else besides that?

17 MR. LE: No.

18 HEARING OFFICER WELLS: Okay.

19 MS. ANDERSON: I have a question.

20 HEARING OFFICER WELLS: Yes.

21 MS. ANDERSON: I had a question for
22 Ms. Kersey.

23 HEARING OFFICER WELLS: Uh-huh.

24 MS. ANDERSON: Can we go back?

25 You are saying that we are looking at

CTAC MEETING, 5/18/2015

1 (21)a, with a third violation --

2 THE WITNESS: Correct.

3 MS. ANDERSON: -- of \$50. The other
4 violations that are shown here are going to be
5 at a later time? Will they return to us at a
6 later time for those?

7 THE WITNESS: They are not a third -- only
8 if they are a third offense.

9 MS. ANDERSON: Okay.

10 THE WITNESS: (21)a is the only one that's
11 a third offense.

12 MS. ANDERSON: Okay. Thank you.

13 HEARING OFFICER WELLS: All right. Then
14 we'll consider the record closed and
15 we'll -- the board will deliberate. We'll be
16 off the record.

17 (WHEREUPON, the Committee retired to
18 deliberate, off the record, and returned with
19 the following decision:)

20 HEARING OFFICER WELLS: We'll go back on
21 the record and you can ask for a motion.

22 MS. PECK: Do I have a motion?

23 MS. ANDERSON: I would like to make a
24 motion that we fine Forever Nails for the
25 violations in this for (21)a, for a \$100 fine,

CTAC MEETING, 5/18/2015

1 being repeat violations, and a reinspection in
2 30 days.

3 MS. PECK: Second?

4 MS. JACKSON: I second.

5 MS. PECK: All in favor?

6 COMMITTEE MEMBERS: Aye.

7 HEARING OFFICER WELLS: All right. Let
8 the record reflect that it's unanimous, we'll
9 reduce it to writing, and the notice will be
10 served on the defendant.

11 And he is free to go.

12 MR. LE: Thank you.

13 HEARING OFFICER WELLS: Thank you.

14 (WHEREUPON, at 9:43 a.m., the
15 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: We're done?

2 MS. KERSEY: Well, sometimes we proceed
3 without them.

4 HEARING OFFICER WELLS: Okay.

5 MS. PITMAN: The first one, if you don't
6 mind.

7 HEARING OFFICER WELLS: Okay.

8 MS. PITMAN: Blytheville School of
9 Cosmetology. We would ask that that one be
10 postponed. It doesn't look like -- unless
11 someone is here.

12 HEARING OFFICER WELLS: Is someone here
13 for the Blytheville School of Public -- or of
14 Cosmetology? All right.

15 MS. PITMAN: We would ask that that be
16 postponed, we don't see where they signed for
17 it.

18 HEARING OFFICER WELLS: Okay. Blytheville
19 School of Cosmetology will be postponed.

20 Forever Nails -- no.

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
3 (CTAC)
4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
6 v.
7 SMARTSTYLE #349 RESPONDENT
8 HEARING OFFICER WELLS: Smartstyle #349,
9 is anyone here for them?
10 Okay.
11 MS. PITMAN: This one, they did sign for
12 it, and I believe this one was continued from
13 the previous CTAC meeting.
14 HEARING OFFICER WELLS: Okay. Then do you
15 do hearings in absentia?
16 MS. PITMAN: We do.
17 HEARING OFFICER WELLS: All right. Then
18 let's do it.
19 All right. You've already been sworn;
20 correct?
21 MS. WOOD: Correct.
22 HEARING OFFICER WELLS: All right. Let's
23 let the record reflect that the respondent is
24 not -- in the case of Smartstyle #349, let the
25 record note that the respondent is not present.

CTAC MEETING, 5/18/2015

1 And we will establish that the Order and Notice
2 of Hearing was sent and we'll go from there.
3 So go ahead.

4 MS. PITMAN: We're actually going to do
5 this out of order and call Ms. Kersey first.

6 WHEREUPON,

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

11 THE WITNESS: Okay. Kelli Kersey,
12 Arkansas Department of Health, Cosmetology
13 Section, Section Chief.

14 DIRECT EXAMINATION

15 BY MS. PITMAN:

16 Q Ms. Kersey, on the Smartstyle, let's start with the
17 Order and Notice of Hearing, were they sent an Order and
18 Notice of Hearing?

19 A Yes.

20 Q And did that Order and Notice of Hearing state the
21 violations that we're here today on?

22 A It did.

23 Q Okay. And that was, it looks like, No. (8),
24 cleanliness and repair?

25 A Floors, yes. Yeah, uh-huh.

CTAC MEETING, 5/18/2015

1 Q All right. It also told them to be here Monday,
2 May 18, at 9:00 a.m., in Room 801, of the Freeway Medical
3 Building?

4 A Correct.

5 Q And was it signed for?

6 A It was.

7 Q And who signed for it?

8 A Looks like John Persons.

9 Q And what day?

10 A 3/23.

11 Q And where is Smartstyle's office located?

12 A It's in Minneapolis, Minnesota.

13 Q Okay. Is this the second time we've scheduled a
14 hearing for them?

15 A We have.

16 Q What was the first time?

17 A What was the first time?

18 Q Yeah. When was the first time?

19 A Oh, it was last CTAC, whenever that was, sorry,
20 in --

21 MS. ANDERSON: January.

22 BY MS. PITMAN:

23 Q March?

24 A March.

25 MS. ANDERSON: March?

CTAC MEETING, 5/18/2015

1 THE WITNESS: Yeah. March 2015. Yeah.

2 BY MS. PITMAN:

3 Q And why did we not go forward on it in March?

4 A I believe the Notice of Hearing had the wrong rule
5 on there is why we rescheduled it.

6 Q Okay.

7 A They actually signed for it on 3/9, but it wasn't --
8 we had put the Rule No. 5 on there, which is allowing a
9 person engaged -- but that was the wrong rule.

10 Q Okay. Was anyone here in March?

11 A No.

12 Q Okay. Have you heard from anyone out of the
13 Minneapolis office?

14 A We actually, I believe, got an email from them that
15 said proceed without them.

16 MS. PITMAN: Okay. Also, Mr. Wells, there
17 is a 13-page packet that I would like
18 introduced.

19 HEARING OFFICER WELLS: Uh-huh. The
20 packet is introduced into evidence.

21 (WHEREUPON, State's Exhibit No. 1 was
22 received in evidence.)

23 MS. PITMAN: Thank you.

24 Sorry about that.

25 HEARING OFFICER WELLS: No problem.

CTAC MEETING, 5/18/2015

1 BY MS. PITMAN:

2 Q Ms. Kersey, is this the third violation for

3 Smartstyle?

4 A It is. Yes.

5 Q Where is the actual Smartstyle located?

6 A It is on Magnolia, on Highway 79 in Magnolia,

7 Columbia County.

8 Q And Smartstyle is the salon connected to the Walmart

9 store?

10 A Correct.

11 Q Okay. Can you tell us about the previous

12 violations?

13 A I can.

14 On 5/7/2014 floors, mats clean and in good repair,

15 it was paid. On 12/12/2012, they had floors, mats clean

16 and in good repair.

17 Q And were those paid?

18 A They were also paid, yes.

19 Q Okay. So all violations have been paid except for

20 the one that they incurred on 12/12/2014?

21 A Correct.

22 Q Okay. Is there anything else you would like the

23 CTAC to know?

24 A No.

25 MS. PITMAN: No other questions.

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: Okay. Call your
2 next witness.

3 MS. PITMAN: I call Vera Wood.

4 WHEREUPON,

5 VERA WOOD,

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

9 THE WITNESS: Vera Wood, Arkansas

10 Department of Health, Cosmetology.

11 DIRECT EXAMINATION

12 BY MS. PITMAN:

13 Q Ms. Wood, did you do the inspection on December 12,
14 2014?

15 A Yes, I did.

16 Q Okay. And what did you find that day?

17 A On the floors, as the pictures show, some of it is
18 color. A lot of it is just dirt.

19 Q Okay. And those pictures start on Page 11, I
20 believe?

21 A Yes, sir [sic].

22 Q And if you will just kind of walk us through those?

23 A The black spots on the floor is color, but if you
24 will look along the edges and around the chair, that's
25 just where it's just built up dirt.

CTAC MEETING, 5/18/2015

1 Q Page 12?

2 A 12, the corners are just -- they are just dirty.

3 Q And 13?

4 A And along the edges of the wall you can see that it

5 hasn't been cleaned in some time.

6 Q Have you -- our did anyone at Smartstyle that day

7 offer any reasons for why the floors were this dirty?

8 A They had someone to come and clean them, they are

9 just not doing their job.

10 Q Okay. Have you been back to the Smartstyle since?

11 A Yes, ma'am.

12 Q Okay.

13 A Tuesday of last week.

14 Q And did you notice that the floors were cleaner at

15 that time?

16 A No. They are not.

17 Q Okay.

18 A The girls -- the girls that work there did say that

19 they were supposed to be cleaned that evening, but I

20 can't tell you if they were.

21 Q Okay. Thank you.

22 Did they mention if they had gotten a new cleaning

23 service?

24 A Walmart themselves were supposed to come in and do

25 the cleaning.

CTAC MEETING, 5/18/2015

1 MS. PITMAN: Okay. Thank you.

2 No other questions.

3 HEARING OFFICER WELLS: Do any of the
4 board members have questions?

5 MS. ANDERSON: No. Just statement of
6 fact, but no.

7 HEARING OFFICER WELLS: Okay. Do you have
8 any more witnesses?

9 MS. PITMAN: No.

10 HEARING OFFICER WELLS: All right. Well,
11 the record will be closed and complete and
12 we'll go off the record for deliberation.

13 (WHEREUPON, the Committee retired to
14 deliberate, off the record, and returned with
15 the following decision:)

16 HEARING OFFICER WELLS: We'll go back on
17 the record.

18 MS. PECK: Do I have a motion?

19 MR. TABB: I'm looking for the one.

20 I would like to make a motion to fine
21 Smartstyle #349, according to the violation of
22 the floors not being clean, in the amount of
23 \$50.

24 MS. PECK: Do I have a second?

25 MS. ANDERSON: I second that.

CTAC MEETING, 5/18/2015

1 MS. PECK: All in favor?

2 COMMITTEE MEMBERS: Aye.

3 HEARING OFFICER WELLS: Let the record
4 reflect that it's unanimous and it will be
5 reduced to writing and sent to the respondent.

6 MS. PITMAN: Thank you.

7 (WHEREUPON, at 9:52 a.m., the
8 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE ARKANSAS TECHNICAL ADVISORY COMMITTEE
3 (CTAC)
4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
6 v.
7 BLYTHEVILLE SCHOOL OF COSMETOLOGY RESPONDENT
8 HEARING OFFICER WELLS: So is someone here
9 for Blytheville School of Cosmetology?
10 MS. BROWN: Yes.
11 HEARING OFFICER WELLS: Okay. If you
12 could stand up and -- or come seat -- sit at
13 the table.
14 MS. BROWN: Anywhere?
15 HEARING OFFICER WELLS: Just right here.
16 MS. BROWN: Come on.
17 HEARING OFFICER WELLS: Actually, we're
18 going to take a break, a quick break.
19 (WHEREUPON, a break was held from
20 9:52 a.m. to 10:00 a.m.)
21 HEARING OFFICER WELLS: All right. We'll
22 call the hearing back to order.
23 All right. Okay. I understand that
24 representatives respondents are here for the
25 Blytheville School of Cosmetology. Are you all

CTAC MEETING, 5/18/2015

1 going to be witnesses?

2 MS. BROWN: (Nodding head up and down.)

3 HEARING OFFICER WELLS: Okay. If you
4 could stand and raise your right hands, and
5 anyone else who is going to be a witness who
6 has not been sworn?

7 (WHEREUPON, the witnesses were sworn by
8 the Hearing Officer.)

9 HEARING OFFICER WELLS: All right. The
10 witnesses have been sworn.

11 Are you represented by counsel?

12 MS. BROWN: No. We didn't know that we
13 could be.

14 HEARING OFFICER WELLS: Okay. Could
15 you -- did you receive a copy of the Order and
16 Notice of Hearing?

17 MS. BROWN: Yes.

18 HEARING OFFICER WELLS: Okay. All right.
19 Basically, just for your benefit, we're going
20 to go through, the State will call witnesses,
21 you will have the opportunity to ask those
22 witnesses questions, the board will have the
23 opportunity to ask, and then you will be able
24 to call witnesses or testify as you need to,
25 and they will be able to cross-examine. It's

CTAC MEETING, 5/18/2015

1 kind of informal, it's not a full trial, but if
2 you have any questions, then be sure to let us
3 know, and then we'll go ahead.

4 So are there any preliminary matters or
5 evidence that you would like?

6 MS. PITMAN: Yes. There is a packet that
7 is 16 pages long that I would like to have
8 introduced.

9 HEARING OFFICER WELLS: Okay. Do you have
10 a copy of that packet, of the information?

11 MS. BROWN: Yes. She has one.

12 HEARING OFFICER WELLS: Okay. Great.
13 We'll introduce that into evidence.

14 (WHEREUPON, State's Exhibit No. 1 was
15 received in evidence.)

16 HEARING OFFICER WELLS: Do you have any
17 other papers or anything that you would like to
18 have introduced?

19 MS. BROWN: Uh-huh.

20 HEARING OFFICER WELLS: Okay. Could you
21 present -- do you have copies for the board?

22 MS. BROWN: All that.

23 HEARING OFFICER WELLS: So we're going to
24 make copies of those?

25 MS. PITMAN: Yes.

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: Do we want to wait
2 until they --

3 We'll just proceed until we --

4 Okay. All right. While she's making
5 copies we'll proceed and then we'll have a
6 chance to look at those.

7 All right. You may call your first
8 witness.

9 MS. PITMAN: Call Kelli Kersey.

10 WHEREUPON,

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

15 THE WITNESS: Kelli Kersey, Arkansas
16 Department of Health, Cosmetology Section,
17 Section Chief.

18 DIRECT EXAMINATION

19 BY MS. PITMAN:

20 Q Ms. Kersey, someone from Blytheville stated that
21 they did receive the Order and Notice --

22 COURT REPORTER: Wait a minute. I didn't
23 hear that.

24 MS. PITMAN: Sorry.

25 BY MS. PITMAN:

CTAC MEETING, 5/18/2015

1 Q Someone from Blytheville stated that they did
2 receive the Order and Notice Of Hearing. Is that -- we
3 all read that?

4 A Right.

5 Q Did that Order and Notice of Hearing tell them to be
6 here at the Freeway Medical Building, Room 801, on
7 Monday, May 18th?

8 A Yes.

9 Q Okay. And what violation does it list?

10 A That -- we marked that they wouldn't allow us to do
11 an inspection because they wouldn't give us their
12 records.

13 Q Okay. So what was the rule that they violated --
14 that we're here today because we're saying they violated?
15 Sorry.

16 A Yes. Refusal to permit or interference with an
17 inspection or audit constitutes cause for disciplinary
18 action, which is Rule No. 5.1(A)(3).

19 Q Okay. And it was because they did not give us their
20 student records?

21 A Correct.

22 Q Tell us a little bit about how we got here today.

23 A Okay. We -- we went out on a complaint, and Lavonne
24 and I and Chris went out. And we arrived at the school,
25 and Ms. Brown was there, the owner was there, and she was

CTAC MEETING, 5/18/2015

1 working on someone's hair, doing someone's hair when we
2 got there.

3 She -- we asked her for her student records and she
4 stated that they were locked in a file cabinet and she
5 did not have the key. She called somebody a couple of
6 times while we were there and they never brought us the
7 key. So when I got back to the office -- I mean we -- I
8 stated to her that day that I needed her to send me those
9 records so that we could go over them. We didn't get
10 them so I emailed her and asked her for them. We -- we
11 corresponded several times back and forth.

12 She actually stated one time that she was going to
13 bring them to the office. She didn't bring them. So I
14 emailed her again and she never sent them. And so the
15 only thing that we had left to do was to bring her here.

16 Q Okay. What day was the inspection?

17 A 11/19/14.

18 Q So November 19, 2014?

19 A Yes.

20 Q Okay. And that was the day that they couldn't get
21 the key to get the records?

22 A Correct.

23 Q And then what was the next step?

24 A The next step was that I had -- I emailed her when I
25 got back to the office, telling her that I wanted -- that

CTAC MEETING, 5/18/2015

1 I needed the records. Go back. Sorry.

2 Q It's on Page -- looks like Page 6 and 7?

3 A Okay. Yes.

4 Q Is this the first email?

5 A Yes.

6 Q Okay. Looks to be dated November 20, 2014?

7 A Correct.

8 Q And what did you say in that email?

9 A Sorry.

10 I just stated, you know, since she was unable to
11 produce any records for the inspection, that I needed her
12 to send them to me within five days; they are the time
13 cards, sign-in sheets, attendance book for all students
14 that were on the enrollment record during the last six
15 months.

16 Q And the next email up is dated December 11, 2014?

17 A Uh-huh.

18 Q It appears to also be from you?

19 A Yes.

20 Q Was there no response from Blytheville?

21 A No. We -- I believe she had called me on the first
22 one, and then she -- then I had -- I sent another one.

23 Q One is dated December 11, looks like you just sent
24 her back the same email from before?

25 A Yes. Yes.

CTAC MEETING, 5/18/2015

- 1 Q Okay. And then the next one is dated April 9th?
- 2 A Yes.
- 3 Q What did you send her on April 9th?
- 4 A I gave her a deadline for all the records for the
5 schools again, and then we -- we needed some additional
6 information on -- I mean we -- I asked specifically for
7 three students.
- 8 Q Okay. Did you receive the three students' records?
- 9 A No.
- 10 Q And did you receive any other students' records?
- 11 A No.
- 12 Q Okay. There is -- between December 11th and April
13 9th, those last two emails --
- 14 A Uh-huh.
- 15 Q -- did you speak to anyone from Blytheville?
- 16 A I believe we spoke on the phone a couple of times.
- 17 Q Okay. What did they say about getting these
18 records?
- 19 A She stated that the files were very big to either
20 fax or email so that she was -- she was going to bring
21 them up on a Monday, I guess, because maybe, I'm assuming
22 because they are closed on Monday, and she did not come.
- 23 Q Okay. And then the last email appears to be dated
24 April 21, 2015?
- 25 A Uh-huh.

CTAC MEETING, 5/18/2015

1 Q And what does it say?

2 A It just is telling her that we were going to
3 schedule her for a hearing, since we did not see the
4 records.

5 Q And did they respond to that email?

6 A No.

7 Q Okay. And then the top email to Teri Preachers --
8 who is Teri Preachers?

9 A Teri Preachers is my budget coordinator who handles
10 the hearings.

11 Q So that was just to let her know?

12 A Yes.

13 Q Why is that on there?

14 A So she can put it in our file.

15 Q Okay.

16 A Yeah. For the hearing, sorry. So she could put it
17 in the record for the hearing.

18 Q Sorry. Let me make sure I asked her everything.

19 A And can I say one more thing?

20 Q Sure. I guess.

21 A When we -- she didn't sign the green sheet or when
22 we -- we send it certified -- we always send Notice of
23 Hearing certified and regular. She didn't sign the green
24 receipt for that. We actually -- I actually sent her all
25 this information, the Notice of Hearing and everything in

CTAC MEETING, 5/18/2015

1 an email last week also and she -- it was just read this
2 morning --

3 Q Okay.

4 A -- so --

5 MS. PITMAN: No other questions of
6 Ms. Kersey.

7 HEARING OFFICER WELLS: Do you have any
8 questions to ask this particular witness?

9 And, actually, before we get into that --
10 I'm sorry -- can I have you identify yourself
11 and give your name for the record?

12 MS. BROWN: My name is Juana Brown.

13 HEARING OFFICER WELLS: Uh-huh.

14 MS. BROWN: And I'm the owner/director.

15 HEARING OFFICER WELLS: Okay. Can you
16 spell your first name?

17 MS. BROWN: J-u-a-n-a.

18 HEARING OFFICER WELLS: Okay. All right.
19 And then do you have any questions for Ms. --

20 THE WITNESS: Kersey.

21 MS. BROWN: Well, I don't know if it's
22 actually a question.

23 HEARING OFFICER WELLS: Uh-huh.

24 MS. BROWN: I can just say, Kelli did come
25 by. And this is my secretary, and she had --

CTAC MEETING, 5/18/2015

1 Dorothy Tunstall, and she had a fire, so when
2 they called she just left, and so that is what
3 I explained to her.

4 HEARING OFFICER WELLS: Uh-huh.

5 MS. BROWN: Did -- I did send it by fax.

6 CROSS-EXAMINATION

7 BY MS. BROWN:

8 Q Do you remember getting the fax?

9 A Huh-uh.

10 Q And on the fax, Kathryn -- you and Kathryn was
11 together, and you said, well, we can't read it all the
12 way.

13 A (Shaking head from side to side.)

14 Q You don't remember? Okay.

15 A (Nodding head up and down.)

16 Q All right.

17 MS. PITMAN: Can you say your answer out
18 loud for her?

19 THE WITNESS: Oh. No, I don't recall
20 that.

21 HEARING OFFICER WELLS: Okay. Do the
22 board members have any questions for Ms. -- is
23 it Keeseey?

24 MS. PITMAN: Kersey.

25 HEARING OFFICER WELLS: Kersey. I'm

CTAC MEETING, 5/18/2015

1 sorry.

2 MS. ANDERSON: I do have a question.

3 So had this school at one time been
4 accredited?

5 THE WITNESS: I don't believe so.

6 MS. ANDERSON: Okay. Thank you.

7 HEARING OFFICER WELLS: All right. Would
8 you like to call your next witness?

9 MS. PITMAN: Call Lavonne Lester.

10 WHEREUPON,

11 LAVONNE LESTER,

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

15 DIRECT EXAMINATION

16 BY MS. PITMAN:

17 Q Ms. Lester, did you go out on the inspection on
18 11/19/2014?

19 A Yes, I did.

20 Q And was that in response to a complaint or part of a
21 routine school inspection?

22 A Complaint.

23 Q What was the complaint?

24 A Without reading it, I don't know.

25 Q Is it in here?

CTAC MEETING, 5/18/2015

1 A It was a student complaining, I know that much. He
2 said he signed himself and everyone else in class. And
3 that Juana was always at her place on Kentucky Street
4 doing something -- remodeling it, I guess.

5 Q Ms. Lester, is the thing you're looking at on Page
6 13?

7 A Yes.

8 Q Okay. And it's a handwritten letter?

9 A Yes.

10 Q Okay. Who is it from?

11 A Oh, Larry Williams.

12 Q And who is Larry Williams?

13 A A former student, I believe.

14 Q And, Ms. Lester, is this letter the reason you
15 needed the student records?

16 A Yes.

17 Q Okay. Why? What about this letter made you want to
18 see the student records?

19 A Well, to prove whether the students were clocking in
20 on their own, and the classroom time that the students
21 had --

22 Q Okay.

23 A -- whether they were there on the dates that they
24 were given hours, that -- that's pretty much routine.

25 Q Okay. There were some other things that Ms. Kersey

CTAC MEETING, 5/18/2015

1 mentioned in the inspection, and I think they are on
2 Page 15 and 16. We're not here on any of that today, are
3 we?

4 A No.

5 Q Okay. Was the school given a 30-day plan of
6 correction?

7 A I believe so.

8 Q And as far as you know -- that's probably a question
9 for Ms. Kersey. But as far as you know, none of that is
10 here today?

11 A Yeah.

12 MS. PITMAN: Okay. Sorry about that.

13 BY MS. PITMAN:

14 Q Anything else about your inspection you would like
15 the CTAC to consider?

16 A Well, there were other things, but, you know, I have
17 been back to the school recently, and I know that she's
18 working on a lot of the physical part of the building, so
19 that's about all have.

20 MS. PITMAN: Okay.

21 HEARING OFFICER WELLS: Ms. Brown, do you
22 have any questions for the witness?

23 MS. BROWN: No, sir.

24 HEARING OFFICER WELLS: All right. Do any
25 of the board members have any questions?

CTAC MEETING, 5/18/2015

1 All right.

2 MS. ANDERSON: The school address --
3 excuse me, I'm sorry.

4 Is the school address the 100 East Main
5 Street?

6 THE WITNESS: Yes, ma'am.

7 MS. ANDERSON: Okay. Thank you.

8 HEARING OFFICER WELLS: All right. You
9 may call your next witness.

10 MS. PITMAN: No other witnesses.

11 HEARING OFFICER WELLS: Okay. Do you have
12 any objection to the documents?

13 MS. PITMAN: I do not.

14 HEARING OFFICER WELLS: Okay. We'll deem
15 these documents that you provided entered into
16 the record for the board to review in making
17 their decision.

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

20 HEARING OFFICER WELLS: And you have no
21 further witnesses?

22 MS. PITMAN: No.

23 HEARING OFFICER WELLS: Okay. Do you have
24 any witnesses that you would like to call and
25 ask questions of?

CTAC MEETING, 5/18/2015

1 MS. BROWN: Yes.

2 HEARING OFFICER WELLS: Okay. We'll start
3 with whoever you would like.

4 MS. BROWN: Okay. Dorothy.

5 HEARING OFFICER WELLS: Okay.

6 WHEREUPON,

7 DOROTHY TUNSTALL,

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

11 DIRECT TESTIMONY

12 THE WITNESS: I can only say that the day
13 that they came for the inspection in November,
14 and I did actually have the keys for the file
15 cabinet, that's the day that I had an emergency
16 at my home with my dryer, so I wasn't up there.

17 HEARING OFFICER WELLS: Okay. Well,
18 before, could you say your name for the record.

19 THE WITNESS: Dorothy Tunstall.

20 HEARING OFFICER WELLS: Ms. Tunstall, can
21 you please spell that for the court reporter?

22 THE WITNESS: D-o-r-o-t-h-y,
23 T-u-n-s-t-a-l-l.

24 HEARING OFFICER WELLS: Okay. All right.

25 THE WITNESS: So that basically I did have

CTAC MEETING, 5/18/2015

1 it.

2 HEARING OFFICER WELLS: Okay. Do you have
3 any questions for her?

4 MS. PITMAN: No. Not --

5 HEARING OFFICER WELLS: Okay. All right.
6 Thank you.

7 And then if you would like to ask her any
8 questions.

9 MS. BROWN: Yes.

10 HEARING OFFICER WELLS: To get further
11 information? Okay.

12 DIRECT EXAMINATION

13 BY MS. BROWN:

14 Q Going back to the --

15 MS. BROWN: Well, I guess we're not here
16 because of the letter, we're only here because
17 of the records? Correct?

18 MS. PITMAN: Yes.

19 BY MS. BROWN:

20 Q Ms. Dorothy, did you fax in all of the paperwork,
21 all of the time cards and the roll book, our monthly
22 calendar or syllabus?

23 A On my take on that, we were faxing it in, but they
24 said it was too bulky and it was not legible, and I know
25 Juana had said that she would bring them or we will try

CTAC MEETING, 5/18/2015

1 some other way to get them to you. That's all I can say
2 on that.

3 HEARING OFFICER WELLS: Okay. Then you
4 can -- do you have any questions?

5 MS. PITMAN: Well, I don't know if she's
6 done asking questions.

7 HEARING OFFICER WELLS: Are you done
8 asking questions of her?

9 It doesn't have to be formal, we're just
10 trying to make -- this is just procedural, so
11 don't worry too much, this is informal, so
12 that's okay. If you don't have anything else
13 for Ms. Tunstall to say?

14 THE WITNESS: No. That's basically --

15 HEARING OFFICER WELLS: Okay. All right.
16 Then you can call your other witness.

17 MS. PITMAN: May I ask her?

18 HEARING OFFICER WELLS: Yes. Sorry.

19 CROSS-EXAMINATION

20 BY MS. PITMAN:

21 Q Ms. Tunstall, I'm looking at this packet.
22 Typically, a fax machine prints out a confirmation page.
23 Do you have that?

24 A Well, we probably did, but we didn't know to bring
25 all of that with us today.

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1 Q Okay. So you don't have any proof that you did
2 attempt to fax it?

3 A I see what you're saying too.

4 Q We --

5 MS. BROWN: Well, we spoke with the other
6 lady too, Kathryn. I didn't -- I don't
7 actually talk with Kelli unless they go to ask
8 her a question and put her on the phone, so
9 that's how she don't know whether or not -- I
10 did actually come to bring them, and when I
11 called before I came, they told me she was out
12 that Monday.

13 WHEREUPON,

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

18 EXAMINATION

19 BY MS. PITMAN:

20 Q Ms. Kersey was out?

21 A Yes. She was out that Monday. Then I received a
22 letter, and in this letter that I received, it said
23 that --

24 Q Is the letter in here? Sorry.

25 A I don't know if the letter is in y'all packet, but I

CTAC MEETING, 5/18/2015

1 keep all of these.

2 Q The letter in our packet? So the letter in our
3 packet?

4 A Let me see.

5 Q The January 21st letter?

6 A Yes, ma'am.

7 Q Okay. Sorry. Continue. What about the letter?

8 A Okay. And so when I got this letter, and I also
9 told the -- Kelli, when she sent me -- Kathryn, I'm
10 sorry, they both last name Kersey -- it says, "The
11 inspector will follow up on this matter with future
12 visits and if found again this matter will be referred to
13 the Arkansas Department of Cosmetology Technical --
14 Technical Advisory Committee. If you have any questions,
15 call."

16 Okay. So I told her, since I received this, I'm not
17 going to scan it. She asked me, well, can I scan it?
18 You have to put each page in the scanner, press "scan,"
19 go back to the computer, all of that. I told her, no, I
20 don't have time for all that. I told her I was not going
21 to do that. Yes, I did.

22 And I know maybe the time card she couldn't read,
23 because on our time card, it's light, but you can see it
24 if you're looking at it, but if you try to print it out,
25 the only thing you will see, because I write on it, I

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1 write on it how many hours, how many days you have, so
2 that's the only way -- that's the only thing that
3 probably just didn't come through.

4 Q So it's like a stamped time card so the stamp --

5 A Yes.

6 Q Okay.

7 A Yes. We do the fingerprint as well as the -- but
8 the regular time clock does better.

9 Q Okay. Well, I'm asking about the fax confirmation
10 in part because, you know, sometimes you send it but it
11 doesn't go through, and so you may have sent it but that
12 doesn't mean that we got it and sometimes the fax
13 confirmation will show that.

14 A Well, she said that she did get it.

15 Q Who said that?

16 A Kathryn.

17 Q Okay.

18 A But she said that on some of them it didn't --
19 like -- like, when you print the roll book.

20 Q Uh-huh.

21 A She said, like, on one page of it, it was like the
22 whole page didn't go through. You know like when you
23 break the book in half, so but I'm only actually got
24 giving you both pages, I'm only giving you one page
25 anyway.

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1 Q Okay. So you talked to Ms. Kersey, Ms. Kathryn
2 Kersey?

3 A Uh-huh.

4 Q She said she received it. She's not here today, so
5 we will take -- we don't have any reason to dispute that,
6 but she said she couldn't read it. What did you do to
7 try to get it to her after that?

8 A That's when she asked me to scan it, and I told her
9 it couldn't scan it because that was too --

10 Q Okay.

11 A -- it's so much. She wants six months month, and
12 six months worth of 15 students going to school every
13 day, that is a lot of work. Plus it's only me, another
14 instructor, and her. You know, I can't just stay in
15 there.

16 Q Okay.

17 A I can't just stay in there.

18 Q And so you told her you could bring them?

19 A Yes, I told her I could bring them.

20 Q Okay.

21 A That Monday she was out.

22 Q But was Ms. Kersey in? Ms. Kathryn Kersey?

23 A No. That's who I was calling -- that's who I was
24 bringing them to. Her.

25 Q Was Ms. Preachers, who is her budget analyst in?

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1 Was the lady sitting at the front desk in? Could you
2 have brought them and left them with any of those people?

3 A No, no, no, I'm not driving for three hours for
4 nothing. I called first.

5 Q Right. I understand that. But the office has
6 staff, probably about five or six people that could --

7 A Oh, look, she said she didn't -- she wanted to see
8 them, I didn't know what she was going to do with them, I
9 just was going to bring them.

10 Q What about the following Monday?

11 A Then I got -- no. I got this letter.

12 Q Okay.

13 A And on the letter it said, the inspector will follow
14 up with this matter and if it happened again, then they
15 will bring me here.

16 Q Does this letter mention anything about the --

17 A Yes. It mentioned everything they said; the grounds
18 for disciplinary action, requirements -- and you want me
19 to read the whole letter?

20 Q No, I'm just looking. You're fine.

21 I don't see anything about the records in this
22 letter, first off.

23 Second, that letter is dated January 21, 2015; is
24 that correct?

25 A Yes.

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1 Q Okay. And did you receive an email on --

2 A I don't check the emails, honey.

3 Q And at --

4 A The reason why I checked them this morning is

5 because -- and I'm not -- I'm not big on that.

6 Q Okay.

7 A I'm big on working on the floor. If you've got a

8 problem with me or you want me to know something, pick up

9 the phone and call me. I don't even answer my cell

10 phone. They will tell you, I'm terrible with the cell

11 phone.

12 Q All right.

13 A I never have it.

14 Q Got it. But you can see here that emails were sent

15 after that letter, April 9, April 21st?

16 A Okay. But when I got this letter I called them and

17 told them I got this letter. She said that I don't worry

18 about what the letter says, I do what they say. I said,

19 no, no, no, no, no, this is --

20 Q So who said that?

21 A Kathryn. She said that. I said, y'all certified

22 this letter to me, not meaning her per se, but I got a

23 certified letter.

24 Q Okay.

25 A Now, what I don't like is, well, let me call and ask

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1 them. If -- if -- if the rule say this and then you ask
2 them about it, then they got to talk amongst themselves
3 or see if this and this. I don't like that. So I got
4 this letter and I said, forget it, after then, and that's
5 what I did.

6 Q Okay. So you admit you forgot it after this letter?

7 A No, I'm not saying as if it slipped my mind.

8 MS. PITMAN: I have no other questions.

9 THE WITNESS: I'm saying, as in --

10 MS. PITMAN: I'm done.

11 THE WITNESS: -- since I got this
12 certified letter, it over rode anything else.

13 HEARING OFFICER WELLS: Okay. Well, we'll
14 get -- did you want to call your other witness
15 or did you have any questions for her?

16 MS. BROWN: Well, no. Not about that.

17 HEARING OFFICER WELLS: Okay. Well, do
18 you have any questions for her in general that
19 you need the board to hear?

20 MS. BROWN: (Shaking head from side to
21 side.)

22 HEARING OFFICER WELLS: Okay. All right.
23 Now, we can go to closing statements.

24 Or do you have any other questions for
25 Ms. Dorothy Tunstall? Is that --

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1 MS. TUNSTALL: Tunstall.

2 HEARING OFFICER WELLS: Okay. Sorry.

3 MS. BROWN: No. Nothing, but besides that
4 we did try to send them and --

5 HEARING OFFICER WELLS: Okay. Do you have
6 a closing statement?

7 MS. PITMAN: Sure.

8 HEARING OFFICER WELLS: Okay. Who goes
9 first with those?

10 I'm sorry.

11 MS. PITMAN: Me.

12 MS. ANDERSON: I have a question, please.

13 HEARING OFFICER WELLS: Okay.

14 MS. ANDERSON: Okay. Ms. Dorothy
15 Tunstall?

16 MS. TUNSTALL: Tunstall, yes.

17 WHEREUPON,

18 DOROTHY TUNSTALL,

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

22 MS. ANDERSON: Okay. You made a statement
23 that you had an emergency and that was the same
24 date as this. Is this the statement from that
25 emergency, Blytheville Fire Department?

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1 THE WITNESS: No.

2 MS. ANDERSON: This is -- this is the --

3 MS. BROWN: That's for something else.

4 THE WITNESS: That's not me.

5 MS. ANDERSON: Okay. So I'm just checking
6 to see, because this was on a different date,
7 so that's why I was asking if that was the same
8 statement.

9 So your fire was on what date?

10 THE WITNESS: It was the same date as the
11 inspection was.

12 MS. PITMAN: 11/15/14.

13 MS. ANDERSON: Do we have --

14 THE WITNESS: I didn't -- you know, it
15 wasn't an actual fire that was on -- it wasn't
16 clear what the --

17 MS. ANDERSON: Do we have a statement for
18 that?

19 THE WITNESS: Yeah.

20 MS. ANDERSON: Because this is a statement
21 for --

22 THE WITNESS: No, I don't have a statement
23 for that.

24 MS. ANDERSON: -- House of Legacy. Is
25 that your salon or -- what is that related to,

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1 Ms. Tunstall?

2 You're the secretary. What is this
3 related to?

4 MS. BROWN: Ain't nothing to do with that.
5 I thought that we were coming for the whole
6 thing.

7 MS. PITMAN: So that's what all of this is
8 about?

9 MS. BROWN: Right.

10 MS. PITMAN: Okay.

11 HEARING OFFICER WELLS: All right.

12 MS. PITMAN: I think your -- when you say
13 "the whole thing," you mean everything listed
14 in that January 21st letter?

15 MS. BROWN: The Page 13 letter.

16 MS. PITMAN: Oh, okay. The complaint
17 letter?

18 MS. BROWN: Yes.

19 MS. PITMAN: Just one other question. You
20 understand we're not here on everything in this
21 letter today?

22 MS. BROWN: Yes, I understand. That's why
23 I didn't --

24 MS. PITMAN: All right.

25 MS. BROWN: -- we didn't talk about

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1 anything else.

2 MS. PITMAN: Just wanted to make sure you
3 understand.

4 Nothing else.

5 HEARING OFFICER WELLS: Okay. Would
6 you -- any other questions from the board
7 members?

8 MS. ANDERSON: I do have a question for
9 Ms. Brown.

10 WHEREUPON,

11 JUANA BROWN,

12 having been recalled for examination, and having been
13 previously duly sworn by the Hearing Officer, was
14 examined and testified, as follows:

15 MS. ANDERSON: Okay. So how long have you
16 had your school?

17 THE WITNESS: Since December -- November
18 of 2010.

19 MS. ANDERSON: Of 2010?

20 Okay. And you do have a biometric time
21 clock as well as a time card time clock?

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

23 MS. ANDERSON: Okay. So you have a bio
24 and a time card?

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

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1 MS. ANDERSON: This letter states
2 something -- I'm just going to go to this
3 letter just for --

4 THE WITNESS: Yeah, go ahead.

5 MS. ANDERSON: -- direction. This letter
6 states that someone signed people in. So you
7 had a sign-in sheet as well?

8 THE WITNESS: We have a sign-in sheet for
9 our classroom.

10 MS. ANDERSON: Okay. So that's in your
11 theory classroom? Is that what you're talking
12 about?

13 THE WITNESS: That's what they are talking
14 about, no. They are talking --

15 MS. ANDERSON: Are you referring to a time
16 card that they come in at --

17 THE WITNESS: And clock in.

18 MS. ANDERSON: -- at the first of the day?

19 THE WITNESS: And you clock in and also
20 you put your finger on it.

21 MS. ANDERSON: Okay. So you have two
22 forms of time?

23 THE WITNESS: Yes.

24 MS. ANDERSON: Okay. All right. So
25 you -- this also states there is, like, eight

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1 permits. How many students do you have in your
2 school at this current time?

3 THE WITNESS: I don't know.

4 MS. ANDERSON: Okay.

5 THE WITNESS: I think it's 15. I don't
6 know.

7 MS. ANDERSON: Okay. So you have 15
8 students at this time but eight permits on
9 11/19/14; is that correct?

10 THE WITNESS: Well, on then, I don't
11 think -- I think we -- I'm not exactly sure we
12 had then, but -- I don't know.

13 MS. ANDERSON: Okay.

14 THE WITNESS: If there was eight up
15 there -- well, we got one on maternity leave.

16 What your sister on -- a medical leave,
17 another one on medical leave. We got two of
18 them, I know.

19 MS. ANDERSON: Okay. All right. And
20 you're saying the reason you couldn't bring
21 these records or you didn't bring these records
22 was just because Ms. Kersey was out of town
23 on --

24 THE WITNESS: Yeah. That Monday -- that
25 Monday that she asked me to bring them to her,

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1 that's the day I talked -- well, I talked to
2 her I think a week before that and we decided
3 on that Monday I would bring them to her.
4 Well, I called her first, and the lady said
5 that she was out of town, she would be out a
6 couple of days, well she was out the office,
7 and I said okay and I did not come. Then I
8 received a letter, and once I received the
9 certified letter, then I said, okay, well, I
10 don't have to come.

11 MS. ANDERSON: Do you report your
12 attendance at -- on the 10th or before --

13 THE WITNESS: Yes.

14 MS. ANDERSON: -- of each month?

15 THE WITNESS: Yes.

16 MS. ANDERSON: Okay. And those reports
17 you have verified with Ms. Kersey?

18 THE WITNESS: What do you mean?

19 MS. ANDERSON: Have you verified those
20 records of attendance yet with Ms. Kersey at
21 this time?

22 Have you shown her any documents that
23 sustain those reports at this time?

24 THE WITNESS: No.

25 MS. ANDERSON: Okay.

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1 THE WITNESS: Like I said, once I received
2 this certified letter, I shouldn't have to.

3 MS. ANDERSON: No, ma'am. Everybody
4 has -- if you're requested to, that's part of
5 the rules and regulations that we follow as
6 school owners.

7 THE WITNESS: Okay. Well, what is the
8 purpose of sending me something certified? I
9 didn't receive it uncertified but I received it
10 certified. What is the purpose to send me this
11 certified and then you come back and tell me,
12 well, no, don't worry about that, yes, this is
13 what I want, when you didn't even have to send
14 it, if you can kind of understand what I'm
15 saying.

16 MS. ANDERSON: I perfectly understand
17 because I run a school. But I understand that
18 my records have to match what my time clock
19 does. If you have a biometric time clock,
20 that's -- that's one sheet to print off, it's
21 real simple. So that could have easily gone to
22 Ms. Kersey to verify, not --

23 THE WITNESS: She asked for -- she did not
24 ask for just a time card or just attendance.
25 She asked for everything I had on that student,

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1 on my students.

2 MS. ANDERSON: Uh-huh.

3 THE WITNESS: Everything you have is a lot
4 of stuff. If you run a school, then you will
5 know what I'm talking about.

6 MS. ANDERSON: I do run a school. Yes,
7 ma'am. But I understand also that three
8 students is what she asked for and that --

9 THE WITNESS: She asked -- she just asked
10 me for the three students --

11 MS. ANDERSON: Uh-huh. Uh-huh.

12 THE WITNESS: -- and she told me she would
13 give me five days. Well, okay. She asked for
14 those additional.

15 MS. ANDERSON: You realize that this
16 committee has the ability to reinvestigate
17 this, to come into your school, to do all those
18 things?

19 THE WITNESS: I have no problem with them
20 coming back in.

21 The way we even do it now is, I'm just
22 terrible with the keys, all this, so I let her
23 keep all of that. But the way we do now is she
24 lock the keys in her office, I have a key to
25 her office, so she don't take the keys home

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1 anymore. We had the problem with this same
2 student who wrote in, he actually stole our
3 license, the school license and some other
4 little stuff. So after then we was like, okay,
5 no, we keep everything locked all the way down.

6 I didn't even know -- actually, when the
7 problem arose, I wasn't even there, I was in
8 the hospital, so I didn't know what was going
9 on. If it was not for her telling me about the
10 altercation, that the student just went on a
11 rampage, and then that's when I said, okay, we
12 kick him out, we go ahead and we make sure we
13 keep the keys and stuff just locked down.

14 MS. ANDERSON: I would say that you need
15 to read the rules and regulations, because
16 those fines can be really steep. That's a
17 thousand dollars per thing that's on here, and
18 so that could be a lot of money that you would
19 have to be paying to keep your school.

20 THE WITNESS: Yes, ma'am. Well, I felt
21 that since I had this right here, I didn't have
22 to comply. It did not say in your handbook
23 that if you get a certified letter from us,
24 discard what the letter means.

25 MS. ANDERSON: You do have a copy of the

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1 actual inspection report on the 19th? 11/19?
2 You have a keep of this, the yellow copy that
3 you post --

4 THE WITNESS: Yes.

5 MS. ANDERSON: Is it posted in your
6 school?

7 THE WITNESS: Yes.

8 MS. ANDERSON: Okay.

9 THE WITNESS: The actual complaint,
10 everything that's wrote on there --
11 Ms. Lavonne, everything is right there in the
12 little thing, isn't it?

13 MS. LESTER: (Nodding head up and down.)

14 THE WITNESS: The yellow sheet, is it
15 yellow or pink?

16 MS. LESTER: Yellow.

17 THE WITNESS: Yellow. The yellow sheet is
18 right there with everything, what it says. And
19 if you have a problem with me, with one thing,
20 you bring it to me, bring it to my attention,
21 don't I go ahead and correct it, Ms. Lavonne?

22 MS. LESTER: Uh-huh.

23 THE WITNESS: Every time they say, well,
24 don't do this or don't do this or you need
25 this, I go ahead and I correct everything that

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1 I need. I don't just say, ah, whatever, and
2 keep going.

3 MS. ANDERSON: Thank you.

4 HEARING OFFICER WELLS: Do you have a
5 closing statement that you would like to make?

6 MS. PITMAN: Yes.

7 HEARING OFFICER WELLS: All right.

8 MS. PITMAN: We are here today on what's
9 stated in the Order and Notice of Hearing,
10 which is the refusal to permit or interference
11 with an inspection and/or audit. We received a
12 complaint. I don't know whether or not the
13 complaint is valid or not because we couldn't
14 get to the records to verify anything in that
15 complaint or to say that it wasn't true. That
16 was all we were trying to do. I understand a
17 fire happened, that's perfectly understandable.
18 That's why the emails came, that's why the
19 follow up to try to get those records for six
20 months. The inspection was in November, it's
21 May, we told you in April that we were not
22 going to try to keep getting them and we were
23 going to bring you in to a hearing, so we're
24 talking about a six-month time period where we
25 were trying to get those records, because you

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1 had a reason to not get them that day, an
2 understandable reason, but that's why the six
3 months. We still haven't been able to get
4 those records to verify whether that complaint
5 was true or not. That's all we were trying to
6 do.

7 The letter, I understand that you're
8 saying the letter means you should disregard it
9 all, I get that, that that's what you're
10 telling us. That letter was your plan of
11 correction from all the things that were
12 checked on that sheet by Ms. Lester. You say
13 you understand that and you correct them. I'm
14 sure that's true. But the records is are
15 something separate. They were just trying to
16 find out whether or not something else was
17 true, and we never could because we couldn't
18 get your records, because we couldn't read the
19 fax, or because you didn't want to drop them
20 off to Ms. Kersey. But it's been six months
21 and we still can't tell you whether or not what
22 Mr. Williams said is true our not because we
23 haven't been able to verify those time cards,
24 and that's why we're here today. That's the
25 only reason. And that's my closing statement.

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1 HEARING OFFICER WELLS: Do you have a
2 statement that you would like to make to the
3 board, final statement?

4 MS. BROWN: Yes. Well, Ms. Kersey were
5 not -- was not asking for just time cards.
6 That is not the issue, because I could have
7 mailed that. Ms. Kersey asked for everything.
8 And she asked for one -- asked for them for six
9 months. That is a lot. We are not a big
10 business or whatever, we're small. Now, yes, I
11 did believe once I received the letter that I
12 did not have to comply with whatever she said
13 because she's not the advisory or whoever sent
14 me this. And my thing is, you say one thing
15 but then you come back and you say something
16 else. How -- how do I know what to believe,
17 but I know what I have in writing and I can
18 just go from that.

19 She did not just say, well, Juana,
20 Ms. Brown, or whatever she want to call me, she
21 did not say, well, look, I'm trying to verify
22 this complaint that he made or whatever. No.
23 I just need this. Okay.

24 HEARING OFFICER WELLS: Okay. Then the
25 record is closed and we will go off the record

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1 for deliberations.

2 MS. PECK: Oh, Trish.

3 HEARING OFFICER WELLS: Oh, sorry.

4 MS. ANDERSON: Do we have a recommendation
5 from the Department of Health, please?

6 MS. KERSEY: The recommended penalty is
7 \$500.

8 HEARING OFFICER WELLS: Okay.

9 MR. TABB: Can we ask one more question?

10 HEARING OFFICER WELLS: Yeah, if you want
11 to ask one more question.

12 MR. TABB: I don't know if I missed this
13 or not, but did you happen to bring all of the
14 information today that was requested?

15 MS. BROWN: I didn't know if I could or
16 not. All I know is I got the letter, and it
17 said be here, so that's just what I did.

18 MR. TABB: So you didn't bring it?

19 MS. BROWN: No. No.

20 MR. TABB: Okay.

21 MS. BROWN: I didn't know what to expect,
22 I've never come here before, I didn't -- I
23 don't know.

24 MR. TABB: Thank you.

25 HEARING OFFICER WELLS: All right. The

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1 record is closed and we'll go off the record
2 for deliberations.

3 (WHEREUPON, the Committee retired to
4 deliberate, off the record, and returned with
5 the following decision:)

6 MS. PECK: I guess we're on the record.

7 MS. PITMAN: Is that business days or
8 calendar days?

9 MS. ANDERSON: Calendar days. Schools go
10 on calendar days.

11 MS. PITMAN: Because Memorial Day is in
12 that ten-day period, so you might want working
13 days, just because we wouldn't be there on
14 Memorial Day.

15 Just a suggestion. It's up to you.

16 MS. JACKSON: What would ten calendar days
17 be?

18 MS. ANDERSON: I don't know. Someone is
19 trying to call me, I can't tell you.

20 MS. JACKSON: So Memorial Day is next
21 month; right?

22 MS. PITMAN: Uh-huh. I think Monday is a
23 good day for them, that's why I was suggesting
24 Monday.

25 MS. JACKSON: So ten calendar days would

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1 be the 28th of May.

2 MS. ANDERSON: So by May 28th they will
3 have all their records, on or before.

4 MS. PECK: Are you going to do calendar or
5 business?

6 MS. JACKSON: Calendar.

7 MS. PECK: Okay. Okay. Do I have a
8 motion?

9 MS. ANDERSON: You do have a motion, Madam
10 Chairman.

11 I make a motion that in the behalf of the
12 Blytheville School of Cosmetology, that we fine
13 them on the findings presented in this case
14 today, a \$500 fine for noncompliance of
15 records, as well as the other findings, and
16 that they have until May 28th to bring those
17 records to the Department of Health Cosmetology
18 Section for them to review, and if those
19 records have any other findings, they will come
20 before the board on our next appointed day of
21 July 20th.

22 MS. PECK: And do I have a second?

23 MR. TABB: Second.

24 MS. PECK: All in favor?

25 COMMITTEE MEMBERS: Aye.

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1 HEARING OFFICER WELLS: Any opposed?

2 MS. PECK: No.

3 HEARING OFFICER WELLS: Okay. Let the
4 record reflect that the decision is unanimous,
5 it will be reduced to writing and you will have
6 the opportunity to appeal that decision, if you
7 wish, but you will be seeing -- receiving
8 notice of it.

9 MS. BROWN: Okay.

10 HEARING OFFICER WELLS: Thank you very
11 much.

12 MS. BROWN: Thank you.

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

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ADMINISTRATIVE HEARING
BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
(CTAC)

ARKANSAS DEPARTMENT OF HEALTH PETITIONER

v.

OP NAILS RESPONDENT

HEARING OFFICER WELLS: Is anyone here for
OP Nails?

MR. QUOC TRAN: Yes, sir.

HEARING OFFICER WELLS: Okay. If you
could have a seat and identify yourself for the
record.

Please state your name to the court
reporter.

MR. QUOC TRAN: The what?

HEARING OFFICER WELLS: To her.

MR. QUOC TRAN: Oh, my name Quoc, Q-u-o-c;
last name Tran, T-r-a-n.

I come here and I guess see the court.

HEARING OFFICER WELLS: Okay. You don't
have to -- she's just keeping a record of
everything, so you will be talking to the
board.

But is she going to speak as well?

CTAC MEETING, 5/18/2015

1 MR. QUOC TRAN: Yeah.

2 MS. PHUONG: Yes, I will.

3 HEARING OFFICER WELLS: Okay. If you
4 could both stand and raise your right hand, and
5 any other witnesses for the State.

6 (WHEREUPON, the witnesses were sworn by
7 the Hearing Officer.)

8 HEARING OFFICER WELLS: Okay. Thank you.
9 All right, sir.

10 Do you have any --

11 MS. PITMAN: There is a --

12 HEARING OFFICER WELLS: Go for it.

13 MS. PITMAN: If that's what you were going
14 to say. There is a 15-page packet in the
15 binder, behind, I think, the sixth tab, that I
16 would like to have introduced.

17 HEARING OFFICER WELLS: Okay. These
18 records are in the record of evidence.

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

21 HEARING OFFICER WELLS: Did you receive a
22 copy of the Order and Notice of Hearing?

23 MR. QUOC TRAN: Yes, sir.

24 HEARING OFFICER WELLS: Okay.

25 MR. QUOC TRAN: But -- but that, on that

CTAC MEETING, 5/18/2015

1 night and I work late, about 10 o'clock, and
2 next morning I come in -- come in, open the
3 salon up, and --

4 MS. PHUONG: We know it happened --

5 MR. QUOC TRAN: -- and we, we try to
6 clean, but she come in -- come in rushed, take
7 pictures. I mean, I don't know what's going
8 on. I mean we do clean salon but --

9 HEARING OFFICER WELLS: Okay. All right.
10 We'll let you speak to that. What we're going
11 to -- the order of what we're going to do is
12 we're going to have to -- the attorney for the
13 State is going to call witnesses and ask
14 questions, and then after that's finished, then
15 you will be able to testify or give your side
16 of the story. So if you have any questions for
17 the witnesses, then you can ask at that time.
18 Okay?

19 So we'll go ahead with the State, if you
20 want to call your first witness.

21 MS. PITMAN: Yes. Call Vera Wood.

22 WHEREUPON,

23 VERA WOOD,

24 having been called for examination, and having been first
25 duly sworn by the Hearing Officer, was examined and

CTAC MEETING, 5/18/2015

1 testified, as follows:

2 THE WITNESS: Vera Wood. Inspector,
3 Arkansas Department of Health, Cosmetology.

4 DIRECT EXAMINATION

5 BY MS. PITMAN:

6 Q Ms. Wood, did you do an inspection of OP Nails?

7 A Yes. I did.

8 Q What day?

9 A 3/18/15.

10 Q Is that a routine inspection?

11 A Yes. It was.

12 Q What did you find on that day?

13 A On that day, I found the pedicure chairs were not
14 clean, there were buffers and files that had not been
15 disposed of after use, and wax sticks left on the wax
16 pot.

17 Q Ms. Wood, did you take pictures?

18 A Yes. I did.

19 Q And if you turn to Page 11, would you tell us what
20 we're looking at?

21 A This is the wax pot as I found it. It has a stick
22 in it and it has no lid on it. That's against --

23 Q And the next page?

24 A Okay. These are buffers and files that were in the
25 little basket that was pushed into the station. They had

CTAC MEETING, 5/18/2015

1 not been disposed of after they had been used.

2 Q How can you tell that?

3 A By the white stuff on them.

4 Q Okay. On Page 13?

5 A This is a container that was back toward the back
6 part of the salon that was setting on a table, I can't
7 remember exactly what it was setting on. You can see
8 that there are pumice scrubs that have been used over and
9 over under the pink scrubber, and files and buffers that
10 had not been disposed of.

11 Q Okay. Page 14?

12 A This is the jet or -- excuse me -- part of the
13 pedicure chair, and you can see it had not been cleaned.

14 Q And then Page 15?

15 A I don't have 15.

16 MS. ANDERSON: We don't have 15.

17 MS. PITMAN: Well, that's good because it
18 appears to be exactly the same thing as 14.

19 THE WITNESS: Okay.

20 MS. PITMAN: Okay. Good to know.

21 BY MS. PITMAN:

22 Q All right. Ms. Wood, can you remember about what
23 time of day you went to their salon?

24 A Yes, ma'am. It was, probably, between 9:30 and ten.

25 Q Were there any customers in there?

CTAC MEETING, 5/18/2015

1 MS. PHUONG: Not yet.

2 BY MS. PITMAN:

3 Q Did you say not yet?

4 A I don't remember.

5 Q You don't remember?

6 A I don't think there was but I don't remember.

7 Q Okay. Ms. Wood, do you know if any of these
8 violations have been corrected?

9 A I have not been back.

10 MS. PITMAN: Okay. No other questions.

11 HEARING OFFICER WELLS: Okay. Do you have
12 any questions specifically for her?

13 MR. QUOC TRAN: Okay. Every time she --
14 she go inspection, inspection, and you have to
15 go on a front -- front door and try to check
16 the board, check license and everything, but
17 she don't do all that. She have --

18 MS. PHUONG: She will take the picture.

19 MR. QUOC TRAN: She go take picture,
20 picture. I mean that not the -- and sometime
21 she come in, she in -- as inspection, but all
22 my customer don't like it. You -- she happy to
23 do, you know, look like, you know, you go
24 inspection, you know, really my -- you know,
25 but she have to do your -- make customer, I

CTAC MEETING, 5/18/2015

1 mean, make you really mad, you know. I don't
2 like it either, you know. You have to make
3 everybody unhappy, you don't come in, look like
4 you go rob somebody and do some crazy like
5 that. I mean, that -- that not now -- not how
6 inspection, you know.

7 MS. PHUONG: One morning we just open and
8 she come and then she should go all the way to
9 wax and she take pictures. And then she tell
10 me --

11 MS. PITMAN: I'm going to object. There
12 is not a question.

13 HEARING OFFICER WELLS: Yeah, sorry.
14 This -- at this point we're just asking
15 questions.

16 And then could you identify yourself as
17 well for the record?

18 MS. PHUONG: Yes.

19 MR. QUOC TRAN: Tell your name.

20 HEARING OFFICER WELLS: What's your name?

21 MS. PHUONG: My name Phuong.

22 HEARING OFFICER WELLS: Spell that for
23 her.

24 MS. PHUONG: P-h-u-o-n-g.

25 HEARING OFFICER WELLS: Okay. And what do

CTAC MEETING, 5/18/2015

1 you do with the salon or --

2 MS. PHUONG: Yeah. We just open the door
3 and then --

4 MR. QUOC TRAN: No, no.

5 HEARING OFFICER WELLS: No, no, no, what
6 is your role? Do you work there or are you an
7 owner?

8 MS. PHUONG: Yeah, I work there.

9 HEARING OFFICER WELLS: Okay. Just making
10 sure.

11 We're not doing statements or closing
12 statements. Basically we're just asking
13 questions. So if you have something that she
14 said or you want to ask a question of this
15 witness, but you will have a chance to speak
16 further later on.

17 MS. PHUONG: Okay. So sorry.

18 HEARING OFFICER WELLS: Yeah. That's
19 okay.

20 So do you have any questions for her
21 specifically?

22 CROSS-EXAMINATION

23 BY MR. QUOC TRAN:

24 Q Okay. Every time you go inspection you have to, you
25 know, my --

CTAC MEETING, 5/18/2015

1 MS. PHUONG: She slow --

2 BY MR. QUOC TRAN:

3 Q Yeah. You don't do --

4 MS. PHUONG: She drop like she went and
5 blew like --

6 HEARING OFFICER WELLS: Object. That's
7 not the kind of question -- that's not the kind
8 of question that we're going for here. This --
9 we're -- it's more -- this is just the
10 procedure. So we'll talk about that later or
11 you could talk to the board later.

12 Do you have any questions for her? Any
13 follow-up questions?

14 MS. PITMAN: For Ms. Wood?

15 HEARING OFFICER WELLS: For Ms. Wood.

16 MS. PITMAN: No.

17 HEARING OFFICER WELLS: Okay. Would you
18 like to call your next witness?

19 MS. PITMAN: Call Ms. Kersey.

20 HEARING OFFICER WELLS: All right.

21 WHEREUPON,

22 KELLI KERSEY,

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

CTAC MEETING, 5/18/2015

1 THE WITNESS: Kelli Kersey, Arkansas
2 Department of Health, Cosmetology Section,
3 Section Chief.

4 DIRECT EXAMINATION

5 BY MS. PITMAN:

6 Q Ms. Kersey, did OP Nails receive an Order and Notice
7 of Hearing?

8 A They did.

9 Q Okay. What day did they sign for it?

10 A They didn't actually put the date on there.

11 Q But they did sign for it?

12 A They did sign for it. Yes.

13 Q What day it was it sent?

14 A April 14th.

15 Q Okay. In that Order and Notice of Hearing, what --
16 what violations does it say we're here for today?

17 A (8) which is equipment and furnishing, and (21)a.

18 Q Which is?

19 A Separation -- or disposed of disinfected has to be
20 disposed of immediately. Sorry.

21 Q Okay. And does that Order and Notice of Hearing
22 tell OP Nails to be here Monday, May 18, 9:00 a.m., at
23 Room 801 in the Freeway Medical Building?

24 A Yes.

25 Q Okay. And it lists No. (8) and No. (21)a?

CTAC MEETING, 5/18/2015

1 A Yes.

2 Q Why does it not list the other violations?

3 A These are third offenses.

4 Q Okay. I think those might be the only violations?

5 A Yeah. I think they are the only two, but they are
6 both third offense.

7 Q Okay. And can you tell us about the previous
8 violations?

9 A Uh-huh. There was one on January 30, 2014. And
10 that's when we weren't separating them, so all that's on
11 there. It has been paid. There was one on -- that was
12 on Page 9, by the way. Page 10 is July 18, 2014, was the
13 (21)a, and we already talked about that. On June 18,
14 2013, it was No. (8) and No. (21)a, and that's also been
15 paid.

16 Q Okay.

17 A And then this one.

18 Q Ms. Kersey, what is the recommended penalty today?

19 A \$100.

20 MS. PITMAN: All right. No other
21 questions.

22 HEARING OFFICER WELLS: Do you have any
23 questions about what she just testified or for
24 Ms. Kersey that would be relevant to this
25 hearing?

CTAC MEETING, 5/18/2015

1 THE WITNESS: That's me.

2 HEARING OFFICER WELLS: No?

3 MS. PHUONG: Because I say she come and
4 she take the picture and say the last time we
5 checked our work about ten o'clock for last
6 customer --

7 HEARING OFFICER WELLS: Well, that's not
8 what --

9 MS. PHUONG: -- and we just opened then
10 up, and she -- this -- she -- let him say. I
11 don't want to say.

12 HEARING OFFICER WELLS: Yeah. No, that's
13 okay. Yeah. We'll get to that.

14 Do you have any other witnesses?

15 MS. PITMAN: I have no other witnesses.

16 HEARING OFFICER WELLS: Okay. Well, then,
17 if you would like to give your side of the
18 story, go for it. Now is the time.

19 WHEREUPON,

20 QUOC TRAN,

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

24 DIRECT TESTIMONY

25 THE WITNESS: I mean because, you know, we

CTAC MEETING, 5/18/2015

1 work, you know, late, you know, and ten
2 o'clock, we don't have time for clean. And,
3 you know, in morning we just do and open up and
4 we try clean everything up before customer come
5 in, you know.

6 That -- and every time she come in she
7 take, I -- mean, rushing, take picture. I mean
8 that not how it supposed to -- State Board do.
9 You know, you have to check the board or check
10 everything before she can go on the back there
11 and do all that, you know. I mean but we do
12 clean it, you know. Everybody clean and saw
13 her like that, you know, that.

14 HEARING OFFICER WELLS: Okay. Do you --
15 do you have any questions or do the board
16 members have any questions?

17 MS. ANDERSON: I do.

18 HEARING OFFICER WELLS: Okay.

19 MS. ANDERSON: When I look at your
20 pictures, I see things that are reused, not new
21 for every client. Do you understand that every
22 client that comes in, if I come in, he comes
23 in, she comes in, she comes in, each one of us
24 need a brand new file, a brand new buffer, a
25 brand new luffa?

CTAC MEETING, 5/18/2015

1 MS. PHUONG: Yeah. That's why the --
2 that's what the -- you see the tray?

3 MS. ANDERSON: Yes.

4 MS. PHUONG: We put out -- one person sit
5 there and when they finish that we leave, but
6 they too late and they leave it. The -- the
7 worker, if they leave it and they keep it there
8 and in the morning they come back and they
9 clean up all before they working.

10 MS. ANDERSON: Yeah, on your wax pot --

11 MS. PHUONG: Yeah, that's one -- it's the
12 same thing, like -- like, if you see that way,
13 we -- we cover the wax, and in the morning --

14 MS. ANDERSON: On the wax pot --

15 MS. PHUONG: Yeah, that --

16 MS. ANDERSON: May I ask a question,
17 please? Just one moment.

18 On your wax pot, it looks like it hasn't
19 been changed in more than one day. The stick
20 being inside the wax, that whole pot of wax is
21 contaminated. Because if somebody had a
22 fungus, they had a bacterial infection, it
23 could go right into that pot and go right to
24 the next person. Same thing with your luffa.
25 You cannot reuse things. If you're not

CTAC MEETING, 5/18/2015

1 sanitizing and pulling them out of a very
2 container every time, you are --

3 THE WITNESS: Every customer. I clean
4 every day --

5 MS. PHUONG: Every customer we clean
6 everything.

7 MS. ANDERSON: We can't -- we can't see
8 that from this, so if we can't see that, so
9 that means there is a violation in your salon.
10 If your people are leaving these in the drawer
11 and they are not clean, then we can't see that.
12 So if you don't understand that, then we have a
13 challenge. But Ms. Vera has said that to you,
14 I'm sure before, because she's inspected me
15 before. I know she knows how to tell you and
16 ask you questions, because she always does.

17 But your pedicure spa, it should be
18 cleaned every time. Those jets, these have to
19 come off. Did she take this off or did you
20 guys take this off?

21 THE WITNESS: I did.

22 MS. ANDERSON: You took --

23 THE WITNESS: She don't know how to take
24 it off, but --

25 MS. ANDERSON: Okay. So do you take this

CTAC MEETING, 5/18/2015

1 off every time a pedicure -- new pedicure
2 starts?

3 THE WITNESS: Every person I take the
4 thing off. If you all day, you see whole bunch
5 trash in the -- the pump, not for -- not for
6 like that. You know, every customer --

7 MS. PHUONG: Because we do the sea salt
8 and we do a lot of stuff --

9 THE WITNESS: A lot of -- yeah, a lot of
10 stuff.

11 MS. PHUONG: -- in the pedicure.

12 MS. ANDERSON: Okay.

13 MS. PHUONG: If we don't leave, not look
14 like that.

15 HEARING OFFICER WELLS: Okay. Does anyone
16 else have any questions?

17 All right. Do you have any further
18 statements or anything or do you think we've
19 gone over everything?

20 MR. QUOC TRAN: Yeah.

21 MS. JACKSON: I have one question. Is
22 there ever a way that you guys could tell
23 whether they are a licensed manicurist or
24 cosmetologist or --

25 MS. ANDERSON: This one is an --

CTAC MEETING, 5/18/2015

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

2 MS. ANDERSON: The first one is an
3 esthetician. I was just clarifying.

4 MS. JACKSON: Okay.

5 MS. ANDERSON: You're an esthetician,
6 because you --

7 MR. QUOC TRAN: Uh-huh.

8 MS. ANDERSON: Is that correct? She's an
9 esthetician.

10 MS. JACKSON: Okay.

11 HEARING OFFICER WELLS: Okay. The record
12 will be closed and complete and now the board
13 will recess for deliberations and then we'll
14 come back on the record once they have made a
15 decision.

16 MS. PHUONG: And before she take the
17 picture and she tell me it's a -- you know,
18 need to -- I put them for you the ticket 1,000
19 and these are 1,000, and say why -- we just
20 open, we not clean up yet, you know. We just
21 writing for me, okay, next time you don't do
22 that, why you take the picture and you tell me
23 1,000 for this, 1,000 for this, you see, I
24 got -- I got only five dollar. How many people
25 I do for the 1,000?

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: All right. Okay.

2 Was that on the record?

3 COURT REPORTER: (Nodding head up and
4 down.)

5 HEARING OFFICER WELLS: Okay. Good.

6 MS. PITMAN: I have nothing.

7 HEARING OFFICER WELLS: Continue.

8 (WHEREUPON, the Committee retired to
9 deliberate, off the record, and returned with
10 the following motion.)

11 HEARING OFFICER WELLS: All right. Back
12 on the record.

13 MR. TABB: Okay. I would like to make a
14 motion that we fine OP Nails in the matter of
15 Rule 5.1(C)(8), and Rule (21)a, both about
16 cleanliness and repair and instruments and
17 supplies being disposed of properly, in the
18 amount of \$100.

19 MS. PECK: Second?

20 MS. JACKSON: I'll second that.

21 MS. PECK: All in favor?

22 COMMITTEE MEMBERS: Aye.

23 HEARING OFFICER WELLS: Let the record
24 reflect that it's unanimous, they will send you
25 a copy in writing and you are able to appeal

CTAC MEETING, 5/18/2015

1 that if you would like, but they will send it
2 to you.

3 MR. QUOC TRAN: All right.

4 HEARING OFFICER WELLS: All right. Thank
5 you very much.

6 MS. PHUONG: Thank you.

7 MR. QUOC TRAN: Thank you.

8 (WHEREUPON, at 11:04 a.m., the
9 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

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ADMINISTRATIVE HEARING

BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH PETITIONER

v.

SPA BOTANICA RESPONDENT

HEARING OFFICER WELLS: All right. We'll call the hearing back to order and go back on record and give her an opportunity to use the gavel. I understand that there is no one here from Spa Botanica, or Salon Studio A & Co., or Amy's Cut N Style?

All right. Then we'll just proceed in order.

As I understand, the next hearing is Spa Botanica, that's B-o-t-a-n-i-c-a; the respondent is not present.

Would anyone who is going to be a witness in the matter, please, stand and raise your right hand.

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

HEARING OFFICER WELLS: All right. Okay. Go ahead.

MS. PITMAN: Call Sandra Jones -- Sondra

CTAC MEETING, 5/18/2015

1 Jones, sorry.

2 HEARING OFFICER WELLS: Could you identify
3 yourself for the record.

4 WHEREUPON,

5 SONDRA JONES,

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

9 THE WITNESS: Sondra Jones, Arkansas
10 Department of Health, Cosmetology Inspector.

11 HEARING OFFICER WELLS: And are there
12 preliminary matters?

13 MS. PITMAN: There are.

14 There is an 8-page packet I would like to
15 have introduced.

16 HEARING OFFICER WELLS: Okay. They are
17 in.

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

20 HEARING OFFICER WELLS: Go ahead.

21 DIRECT EXAMINATION

22 BY MS. PITMAN:

23 Q Ms. Jones, did you do an inspection of Spa Botanica?

24 A Yes.

25 Q What day?

CTAC MEETING, 5/18/2015

- 1 A April 1st.
- 2 Q And was it routine?
- 3 A Yes.
- 4 Q All right. And what did you find on April 1st?
- 5 A We had three marks that day, files in the
- 6 disinfectant jar, the disinfectant had a lot of debris
- 7 floating in it, and the pedicure basins where the filter
- 8 cover is was covered -- was dirty on one and then just
- 9 the top section of the silver one just had all the scrub
- 10 left on top of the surface where it hadn't even been
- 11 cleaned.
- 12 Q Okay. And I believe you have pictures of these
- 13 violations?
- 14 A Yes.
- 15 Q Would you please tell us what they are?
- 16 A The first one is the pedicure plates that had all
- 17 the scrub, it's just brown scrub laying all over it.
- 18 Q Okay.
- 19 A And then the second one is the filter, this is where
- 20 the cover goes over where the jets are and it catches all
- 21 that debris from previous pedicures that were performed.
- 22 Q And what do these -- what violations do these show?
- 23 A For just the pictures?
- 24 Q Yes.
- 25 A For just the pictures it's the pedicure basin not

CTAC MEETING, 5/18/2015

1 being cleaned or disinfected with a disinfectant.

2 Q So is that No. (22), Rule (22)?

3 A It is, yes.

4 Q Okay. Have you been back to Spa Botanica since
5 April 1st?

6 A No.

7 Q So you have no knowledge of whether or not these
8 have been corrected?

9 A No.

10 MS. PITMAN: No other questions.

11 HEARING OFFICER WELLS: All right. You
12 may -- unless -- do the board members have any
13 questions for this witness?

14 All right. You may call your next
15 witness.

16 MS. PITMAN: Call Kelli Kersey.

17 WHEREUPON,

18 KELLI KERSEY,

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

22 THE WITNESS: Kelli Kersey, Arkansas
23 Department of Health, Cosmetology Section,
24 Section Chief.

25 DIRECT EXAMINATION

CTAC MEETING, 5/18/2015

1 BY MS. PITMAN:

2 Q Ms. Kersey, did we send an Order and Notice of
3 Hearing to Spa Botanica?

4 A We did.

5 Q Okay. That Order and Notice of Hearing, was that a
6 violation for No. (22)?

7 A Yes.

8 Q And does it tell someone from Spa Botanica to be
9 here Monday, May 18, at 9:00 a.m., Room 801, Freeway
10 Medical Building?

11 A Yes, ma'am.

12 Q Did anyone from Spa Botanica sign for this?

13 A They did.

14 Q Who was it?

15 A Lance something, K-l-o-t-c, maybe.

16 Q Okay. What day did he sign for it?

17 A 4/29/15.

18 Q Okay. Have you heard from anyone from Spa Botanica?

19 A I have not.

20 Q Okay. There were several things listed on the
21 inspection sheet that are not in this Order and Notice of
22 Hearing. Would you please explain that?

23 A This was a third offense for violation of (22). I
24 apologize, we don't have the other printouts, but the
25 inspections were on 5/20/2014 and 10/22/2014 that were

CTAC MEETING, 5/18/2015

1 the same violations.

2 Q Okay. And have those previous ones been paid?

3 A I apologize, I don't have that either. Sorry.

4 I'm going to assume that they --

5 Oh. Yes, they are paid in full.

6 Q Okay.

7 A It's not on mine.

8 Q Okay. Regardless of whether or not it's paid in
9 full, they are only here for the April 4th -- or April
10 1st inspection; is that correct?

11 A Correct.

12 Q And the other violations listed on the sheet, did
13 you send out a violation notice?

14 A Yes.

15 Q Is there anything else you would like the CTAC to
16 consider today?

17 A No.

18 MS. PITMAN: No other questions.

19 HEARING OFFICER WELLS: Do the board
20 members have any questions for Ms. Kersey?

21 MS. JACKSON: What was the recommendation?

22 COURT REPORTER: I didn't hear you.

23 HEARING OFFICER WELLS: What was the
24 recommendation?

25 Ms. Jackson said that. Sorry.

CTAC MEETING, 5/18/2015

1 THE WITNESS: I believe it was \$50.

2 HEARING OFFICER WELLS: All right. Any
3 closing statements?

4 MS. PITMAN: No closing.

5 HEARING OFFICER WELLS: All right. We'll
6 go off the record for deliberations.

7 (WHEREUPON, the Committee retired to
8 deliberate, off the record, and returned with
9 the following decision:)

10 HEARING OFFICER WELLS: All right. We'll
11 go back on the record.

12 MS. PECK: Do I have a motion?

13 MS. JACKSON: Yes. I would like to make a
14 motion that Spa Botanica be fined \$100 for the
15 violation of (22), their third violation.
16 That's it.

17 MS. PECK: Do I have a second?

18 MS. ANDERSON: I'll second it.

19 MS. PECK: All in favor?

20 COMMITTEE MEMBERS: Aye.

21 HEARING OFFICER WELLS: Let the record
22 reflect that it is unanimous, and it will be
23 reduced to writing and sent to them.

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

CTAC MEETING, 5/18/2015

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ADMINISTRATIVE HEARING

BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH PETITIONER

v.

SALON STUDIO A & CO.

HEARING OFFICER WELLS: All right. Next,
In The Matter of Salon Studio A & Co., I
understand that the respondent is not present.

Did -- okay. Go ahead, present your case.

MS. PITMAN: Okay. There is a --

HEARING OFFICER WELLS: The witnesses have
already been sworn today.

MS. PITMAN: Okay. There is a 12-page
packet that I would like to have introduced.

HEARING OFFICER WELLS: This is in
evidence.

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

MS. PITMAN: Okay. I call Chris Nicklaus.

WHEREUPON,

CHRIS NICKLAUS,

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

CTAC MEETING, 5/18/2015

1 DIRECT EXAMINATION

2 BY MS. PITMAN:

3 Q Would you please introduce yourself.

4 A Chris Nicklaus, Arkansas Department of Health for
5 Cosmetology, Cosmetology Inspector.

6 Q And did you do an inspection of Salon Studio A &
7 Co.?

8 A Yes.

9 Q On what day?

10 A February 20, 2015.

11 Q And was that routine or part of a complaint?

12 A It was routine.

13 Q What did you find on February 20th?

14 A Their establishment license had expired, there was a
15 practitioner license that had expired, and all supplies
16 and instruments that can't be disinfected -- I believe
17 that was a wax pot, as seen on Page 12.

18 Q You said there was a practitioner whose license had
19 expired?

20 A Yes.

21 Q And who was that?

22 A That was Rebecca Dixon.

23 Q When did her license expire?

24 A 5/5/14.

25 Q And you said the salon license had also expired?

CTAC MEETING, 5/18/2015

1 A Yes.

2 Q And when did it expire?

3 A 12/31/14.

4 Q And you said that there was a picture on Page 12.

5 Tell us what we're looking at here.

6 A You're looking at a stick resting over a wax pot

7 that had been used.

8 Q And what should have happened here?

9 A The stick should have been disposed of immediately
10 after use.

11 Q Okay. Thank you.

12 Mr. Nicklaus, do you know if any of these violations
13 have been corrected?

14 A That I have no idea.

15 Q And have you been back to Salon Studio A since then?

16 A No.

17 Q Is there anything else that we have not discussed
18 that you would like the CTAC to consider today?

19 A I did also write them for not having license posted
20 at their stations. Rebecca Dixon's was not posted at her
21 station, and -- yeah. That was it. That was it.

22 MS. PITMAN: Okay. Thank you. No other
23 questions.

24 HEARING OFFICER WELLS: Any members of the
25 board have any questions?

CTAC MEETING, 5/18/2015

1 All right. Call your next witness.

2 MS. PITMAN: Call Ms. Kersey.

3 WHEREUPON,

4 KELLI KERSEY,

5 having been called for examination, and having been first

6 duly sworn by the hearing officer, was examined and

7 testified, as follows:

8 THE WITNESS: Kelli Kersey, Arkansas

9 Department of Health, Cosmetology Section,

10 Section Chief.

11 DIRECT EXAMINATION

12 BY MS. PITMAN:

13 Q Ms. Kersey, did you send an Order and Notice of
14 Hearing to Salon Studio A?

15 A We did.

16 Q What violations are listed?

17 A 5.1(A)(6) and 5.1(C)(21).

18 Q Okay. What are those?

19 A Allowing a person to work without a license, and all
20 supplies that can't be disinfected has to be thrown away.

21 Q So Rebecca Dixon's license and the wax pot, that's
22 what you're talking about here?

23 A Yes, uh-huh.

24 Q Why is the license not being current not brought?

25 A It was this would -- those two are for a third

CTAC MEETING, 5/18/2015

1 offense.

2 Q And the salon license was not?

3 A No, ma'am. Correct.

4 Q The Order and Notice of Hearing tells someone from
5 Salon Studio A to be here today, Monday, May 18, at
6 9 a.m., Room 801, of the Freeway Medical Building?

7 A Yes, ma'am.

8 Q And was this signed for?

9 A Yes, it was.

10 Q By who?

11 A Maybe, looks like Chris Tubbs maybe.

12 Q Someone?

13 A Yeah.

14 Q And what day did they sign for it?

15 A 4/16/15.

16 Q Thank you.

17 And you said that it was the third violation for
18 allowing an unlicensed practitioner and not disposing of
19 supplies immediately?

20 A Correct.

21 Q When were those previous violations?

22 A On, looks like, January 2012, they actually had
23 three practitioners that weren't licensed that day, and
24 health and safety; that was paid. On 8/22/2013, a person
25 not licensed and (21)a; that one is paid. And then on

CTAC MEETING, 5/18/2015

1 6/27/2014, there was the (21)a.

2 Q Okay. What is the recommended penalty today?

3 A I'm sorry. That was Page 6. \$400.

4 Q And, Ms. Kersey, just to clarify, all of the
5 previous violations have been paid in full?

6 A Yes.

7 MS. PITMAN: Okay. No other questions.

8 HEARING OFFICER WELLS: Do any of the
9 board members have any questions for
10 Ms. Kersey?

11 MS. ANDERSON: The first one, did -- I got
12 8/22 and 6/26. What was the first date?

13 THE WITNESS: One -- I think it was
14 1/15/2012.

15 MS. ANDERSON: And it was for -- was it
16 for 5.1 and (21)a? That's right?

17 THE WITNESS: Uh-huh. 5.1(A)(6) and
18 (21)a, I think. Yeah.

19 MS. ANDERSON: So are we looking at 5.1(2)
20 then as a third offense also?

21 HEARING OFFICER WELLS: Could you -- could
22 you repeat that louder for her?

23 MS. ANDERSON: I was saying, are we
24 looking at 5.1(2) as a third offense also?

25 THE WITNESS: No.

CTAC MEETING, 5/18/2015

1 MS. ANDERSON: No? Just the two?

2 THE WITNESS: Yes. Just the two.

3 MS. ANDERSON: Okay. Thank you.

4 HEARING OFFICER WELLS: Any other
5 questions?

6 Closing statement?

7 MS. PITMAN: No closing.

8 HEARING OFFICER WELLS: All right. We'll
9 consider the record closed and complete. We'll
10 go off the record for deliberations.

11 (WHEREUPON, the Committee retired to
12 deliberate, off the record, and returned with
13 the following decision:)

14 HEARING OFFICER WELLS: All right. Back
15 on the record.

16 MS. PECK: Angela?

17 MS. ANDERSON: Okay. In the case of Salon
18 Studio A & Co. -- does she need to make her
19 statement?

20 Go ahead.

21 MS. JACKSON: I'm Angela Jackson and both
22 of the owners of Salon Studio A & Co. have been
23 and are clients of mine and one of the sisters
24 work for me.

25 HEARING OFFICER WELLS: So you will recuse

CTAC MEETING, 5/18/2015

1 yourself from this vote?

2 MS. JACKSON: I am recusing myself for
3 this case.

4 HEARING OFFICER WELLS: And also let's let
5 it be noted for the record, we didn't do it
6 before, but in the case of Golden Nails, I
7 believe --

8 MS. ANDERSON: Yes.

9 HEARING OFFICER WELLS: Trish Anderson
10 recused herself from the vote.

11 And you recused yourself, Mr. Tabb, in
12 which case was that?

13 MR. TABB: Forever Nails.

14 HEARING OFFICER WELLS: Forever Nails,
15 Adrian Tabb recused himself from the vote as
16 well, just so we have that for the record.

17 MS. PECK: Do I have a motion?

18 MS. ANDERSON: Yes. You have a motion.

19 In the case of Salon Studio A & Co., we
20 have the findings of the 5.1(6), the
21 practitioner -- or (7), it's (6), I believe,
22 the practitioner, excuse me, (6), the person
23 not working with a license; and also No. (21),
24 the dirty implements; at this time we would
25 like to make that finding for \$400 for their

CTAC MEETING, 5/18/2015

1 civil penalty.

2 MS. PECK: And a second?

3 MR. TABB: Second.

4 MS. PECK: All in favor?

5 COMMITTEE MEMBERS: Aye.

6 HEARING OFFICER WELLS: Let the record
7 reflect the decision was unanimous, it will be
8 reduced to writing and sent to the respondent.

9 And we'll go off the record for lunch
10 time, I guess.

11 (WHEREUPON, at 11:30 a.m., the
12 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

1 ADMINISTRATIVE HEARING
2 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
3 (CTAC)
4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
6 v.
7 AMY'S CUT N STYLE RESPONDENT
8 HEARING OFFICER WELLS: All right. Let's
9 go.
10 In the matter of Amy's Cut N Style, there
11 is -- the respondent is not present. So I'll
12 let you present your case.
13 MS. PITMAN: Okay.
14 HEARING OFFICER WELLS: Are there any
15 preliminary matters?
16 MS. PITMAN: Yes. There is a packet that
17 is nine pages that I would like to introduce.
18 HEARING OFFICER WELLS: That is in
19 evidence.
20 (WHEREUPON, State's Exhibit No. 1 was
21 received in evidence.)
22 MS. PITMAN: Okay. I will call Lavonne
23 Lester.
24 WHEREUPON,
25 LAVONNE LESTER,

CTAC MEETING, 5/18/2015

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

4 DIRECT EXAMINATION

5 BY MS. PITMAN:

6 Q Ms. Lester, if you could introduce yourself.

7 A Lavonne Lester, Cosmetology Inspector, Arkansas
8 Department of Health.

9 Q And did you do an inspection of Amy's Cut N Style?

10 A I did.

11 Q What day?

12 A The 18th of March.

13 Q And was it a routine inspection or was it a --

14 A Yes, ma'am.

15 Q All right. What did you find on the 18th of
16 March?

17 A Just that she had not renewed her license, either
18 her personal or the salon.

19 Q Okay. When did her personal license expire?

20 A 6/19/14.

21 Q And the salon license?

22 A I think the same.

23 Q Okay. On her birthday?

24 A Uh-huh.

25 Q Ms. Lester, everything else about the salon was

CTAC MEETING, 5/18/2015

1 fine? There were no health and safety issues?

2 A Uh-huh. Yes.

3 Q Have you been back out to Amy's Cut N Style?

4 A No.

5 Q So you don't know if she's obtained her license to
6 this date?

7 A I do not.

8 Q Is there anything else you would like the CTAC to
9 know?

10 A No.

11 Q Ms. Catt, is that her last name? C-a-t-t?

12 A Yeah.

13 Q Did she have any reason for why she had not renewed
14 her license?

15 A She does it all the time, it's habitual; so --

16 Q So, no, she did not?

17 A Huh-uh.

18 MS. PITMAN: Okay. Thank you.

19 No other questions.

20 HEARING OFFICER WELLS: Do the board
21 members have any questions for the witness?

22 All right. Call your next witness.

23 MS. PITMAN: Call Ms. Kersey.

24 WHEREUPON,

25 KELLI KERSEY,

CTAC MEETING, 5/18/2015

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

4 THE WITNESS: Kelli Kersey, Arkansas
5 Department of Health, Cosmetology Section,
6 Section Chief.

7 DIRECT EXAMINATION

8 BY MS. PITMAN:

9 Q Okay. Ms. Kersey, do we have an Order and Notice of
10 Hearing today?

11 A We do.

12 Q What violations does it list?

13 A It lists the salon license not being current and the
14 license that was posted was not current.

15 Sorry. I couldn't spit that out.

16 Q So the personal license is not on this one?

17 A No.

18 Q Okay. Why is that?

19 A I'm assuming it wasn't a third offense. This is a
20 third offense.

21 Q So the salon license is a third offense?

22 A Yes.

23 Q But the practitioner's license is not?

24 A Correct.

25 Q Okay. And did the Order and Notice of Hearing tell

CTAC MEETING, 5/18/2015

1 Ms. Catt to be here Monday, May 18th, 9:00 a.m., Room
2 801 of the Freeway Medical Building?

3 A Yes.

4 Q Okay. Did Ms. Catt sign for it?

5 A She did.

6 Q What day?

7 A She did not put a date on it.

8 Q Okay.

9 A It was sent April 27, 2015.

10 Q Thank you.

11 Please tell me about the two previous violations.

12 A Okay. This is actually -- we have -- we have two
13 different salon license in here, because what she has
14 done is she had violations on her salon called Amy's
15 Styles first, she had let it go so long that she had to
16 open a new salon. And so now she's opened a new salon,
17 and it -- the old license is still suspended, which means
18 she has not paid the previous violations either. And so
19 now she's done it again. So it looks like the dates were
20 7/6/2012, 3 -- I mean 1/30/2013, and this one.

21 Q Okay. Have you heard from Ms. Catt?

22 A I have not.

23 Q Okay. Do you know at this time if she's renewed her
24 license?

25 A I would assume no because she would have to pay her

CTAC MEETING, 5/18/2015

1 violations first.

2 Q Okay. And you don't -- she has not paid --

3 A No.

4 Q She has not been offered the opportunity to pay the
5 violations?

6 A Correct.

7 Q What is your recommended penalty?

8 A \$250.

9 Q Is there anything else you would like the CTAC to
10 consider today?

11 A No.

12 MS. PITMAN: No other questions.

13 HEARING OFFICER WELLS: Do the board
14 members have any questions for this witness?

15 MS. ANDERSON: So all these fines, she's
16 not paid any of these fines for her salon
17 license?

18 THE WITNESS: Not to my knowledge.

19 MS. ANDERSON: Okay.

20 HEARING OFFICER WELLS: All right. Any
21 other witnesses?

22 MS. PITMAN: No other witnesses.

23 HEARING OFFICER WELLS: Okay. The record
24 will be closed and complete.

25 MS. PITMAN: I may need to clarify.

CTAC MEETING, 5/18/2015

1 HEARING OFFICER WELLS: Oh, absolutely.

2 MS. PITMAN: Just to clarify, Ms. Catt is
3 here today for the violations found on
4 March 18, 2015, there was nothing else
5 contained in the Order and Notice of Hearing.
6 I don't know if she has paid those previous
7 violations or not but they are not noticed in
8 here.

9 HEARING OFFICER WELLS: Okay. Any
10 questions?

11 All right. The record is closed, we'll go
12 for deliberations.

13 (WHEREUPON, the Committee retired to
14 deliberate, off the record, and returned with
15 the following questions:)

16 HEARING OFFICER WELLS: Okay. We'll go
17 back on the record.

18 MS. PITMAN: You can revoke her license
19 for a certain period of time.

20 MS. PECK: Her practitioner's license?

21 MS. PITMAN: Her practitioner's or salon
22 license. I mean, really, indefinitely is
23 probably not going to --

24 MS. PECK: But could she open another
25 salon?

CTAC MEETING, 5/18/2015

1 MS. PITMAN: No. You put it on her, she
2 can't open another salon, practice in a salon,
3 whatever. I mean, actually the practitioner
4 license is not on the table today, so --

5 MS. ANDERSON: Salon.

6 MS. PITMAN: Salon license is. You can
7 revoke it for up to 2-3 years, something that
8 would be considered reasonable, and in time she
9 would be allowed to apply. I don't know how
10 you can force her to close her business, you
11 don't have that enforcement capability. But, I
12 mean, she would be in trouble for operating
13 without a license, which she is already in
14 trouble for.

15 MR. TABB: That's what I was thinking.

16 MS. ANDERSON: Uh-huh.

17 MR. TABB: We've already done what we can
18 do.

19 MS. PITMAN: So you can revoke it for a
20 certain period of time. That's action you can
21 take.

22 MS. ANDERSON: And we can just revoke her
23 personal license -- we can only revoke her
24 salon license?

25 MS. PITMAN: Yeah. Her personal license

CTAC MEETING, 5/18/2015

1 was not brought today so that's not really an
2 option.

3 MS. PECK: Okay. We'll go back off the
4 record.

5 HEARING OFFICER WELLS: Okay.

6 (WHEREUPON, the Committee retired to
7 deliberate, off the record, and returned with
8 the following decision:)

9 MS. PECK: Do we have a motion?

10 MS. ANDERSON: We do.

11 The final one of the day. Amy's Cut N
12 Style, we have this presented before us, and we
13 would like to make a motion on the offense of a
14 nonlicensed salon, that she would have 30 days
15 to pay the fines that are due on this license,
16 as well as if not, to revoke that license for a
17 two-year period.

18 MS. PECK: Second?

19 MR. TABB: I'll second.

20 MS. PECK: All in favor?

21 COMMITTEE MEMBERS: Aye.

22 HEARING OFFICER WELLS: Let the record
23 reflect that it was unanimous and a copy of the
24 judgment will be mailed to her as well.

25 Thank you. That concludes our hearings

CTAC MEETING, 5/18/2015

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for today.

(WHEREUPON, a lunch break was held at this time.)

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CTAC MEETING, 5/18/2015

1 Motion was made by Trish Anderson to
2 approve the rules and regulations as they were
3 posted for the 30 days, to go to the board of
4 health; second by Angela Jackson; passed
5 unanimously.

6 Ms. Elizabeth Pitman gave an update on
7 what happens with the rules going through the
8 board of health and to the legislature.

9 Discussion was had about early testing.

10 Ms. Kelli Kersey gave an update about
11 staff changes in the office.

12 Public comment was made about competitions
13 at the schools.

14 The committee discussed bringing
15 respondents to a hearing for a third violation.

16 (WHEREUPON, at 12:37 p.m., the
17 above-entitled proceedings were concluded.)

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CTAC MEETING, 5/18/2015

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CERTIFICATE

STATE OF ARKANSAS)
COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the hearings and meeting of the Cosmetology Technical Advisory Committee, May 18, 2015, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision; that the witnesses were duly sworn by the Hearing Officer; and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish

CTAC MEETING, 5/18/2015

1 control of an original transcript or copies of the
2 transcript before it is certified and delivered to the
3 custodial attorney, or that requires me to provide any
4 service not made available to all parties to the action.

5 SIGNED AND SWORN this _____ day of
6 _____.

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SUSAN B. WHITSON, CCR, #158
NOTARY COMMISSION #12388076
NOTARY PUBLIC IN AND FOR
PULASKI COUNTY, ARKANSAS

My Commission Expires: June 4, 2022.

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