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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 20th day of July 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:

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

REPORTED BY:

SUSAN B. WHITSON, CCR
Arkansas Supreme Court Certificate No. 158
9810 Woodland Drive
Mabelvale, Arkansas 72103
(501) 455-1170
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1 APPEARANCES:
2 ON BEHALF OF THE COMMITTEE:
3 ELIZABETH PITMAN, ESQ.
4 HEARING OFFICER:
5 JAMIE EWING, ESQ.
6 Office of the Attorney General
7 323 Center Street, Suite 200
8 Little Rock, Arkansas 72201
9
10 STAFF MEMBERS PRESENT:
11 KELLI KERSEY - Section Chief
12 RENEE MALLORY, ADH Branch Chief, Health Systems Licensing
13 and Reg
14 TERI PREACHERS, Business Operations Specialist
15 AMANDA WEEKS, Administrative Specialist
16 TERRIE NASH, Inspector Supervisor
17 INSPECTORS PRESENT:
18 LAVONNE LESTER (not present)
19 VERA WOOD
20 SONDRA JONES
21 CHRISTOPHER NICKLAUS
22 ROSELYN SMITH
23 ALSO PRESENT:
24 Deana Labriola (by telephone)
25 Carla Jones
26 Anna Nguyen
27 Thinh Nguyen

1 Linda Lee

2 Niramol Smith

3 Gail Davenport

4 Tuan Phan

5 INTERPRETERS: (by telephone)

6 Mark Wynn

7 Malai Manowkhon 347211

8 Vieng No. 347234

9

10 Court Reporter:

11 Susan B. Whitson, CCR
12 Arkansas Supreme Court Certificate No. 158

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I N D E X		
	AGENDA ITEM	PAGE
1		
2	AGENDA ITEM	PAGE
3	Call to order - Roll Call	7
4	Paid violations	7
5	ADMINISTRATIVE HEARING	
6	PARK WEST BARBER SCHOOL	8
7	DBA PARK WEST BEAUTY SCHOOL	
8	Consent order discussed	9
9	Motion	14
10	REGAL NAILS SALON & SPA	16
11	Roselyn Smith	
12	Direct by Ms. Pitman	25
13	KELLI KERSEY	
14	Direct by Ms. Pitman	33
15	THINH NGUYEN	
16	Direct testimony	37
17	Examination by the Committee	37
18	CTAC exhibits received	24
19	Motion	39
20	NIRAMOL SMITH	41
21	Roselyn Smith	
22	Direct by Ms. Pitman	48
23	KELLI KERSEY	
24	Direct by Ms. Pitman	59
25	CTAC Exhibits received	47

1	Motion	62
2	T'S NAILS	64
3	Chris Nicklaus	
4	Direct by Ms. Pitman	68
5	Kelli Kersey	
6	Direct by Ms. Pitman	71
7	Anna Nguyen	
8	Direct testimony	72
9	CTAC Exhibits received	68
10	Motion	77
11	KIMBERLY'S BEAUTY SHOP	78
12	KIMBERLY WALTON	
13	Kelli Kersey	
14	Direct by Ms. Pitman	79
15	Roselyn Smith	
16	Direct by Ms. Pitman	81
17	Examination by the Committee	83
18	Kelli Kersey	
19	Direct by Ms. Pitman	84
20	CTAC Exhibits received	86
21	Motion	90
22	THE CUTTING COUTURE	92
23	Kelli Kersey	
24	Direct by Ms. Pitman	93
25	Chris Nicklaus	

P R O C E E D I N G S

1
2 The Cosmetology Technical Advisory
3 Committee meeting was called to order by Vice
4 Chair, Kimberly Ford. Present were Trish
5 Anderson, Angela Jackson, Jessica Peck, and
6 Kimberly Ford. Not present were Wendy
7 Sullivan, Adrian Tabb, and Cynthia Steele.
8 Wendy Sullivan arrived and continued the
9 meeting.

10 Trish Anderson made a motion to accept the
11 minutes as written; second by Jessica Peck,
12 unanimous approval.

13 Kimberly Ford made the motion that the
14 paid violations stand approved; second by Trish
15 Anderson, unanimous approval.

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

4 IN THE MATTER OF:
5 ARKANSAS DEPARTMENT OF HEALTH
6 vs.
7 PARK WEST BARBER SCHOOL,
8 DBA PARK WEST BEAUTY SCHOOL

9 MS. PITMAN: All right. Before I turn it
10 over to you, do you want us to handle the
11 consent order?

12 HEARING OFFICER: Why don't we -- my name
13 is Jamie Ewing, I'm the Administrative Hearing
14 Officer today for this board. I'm going to
15 turn it back over to Elizabeth Pitman to handle
16 a consent order.

17 MS. PITMAN: Thank you very much,
18 Ms. Ewing.

19 And I'm Elizabeth Pitman, Deputy General
20 Counsel for the Department of Health. We have
21 on the phone Ms. Deana Labriola.

22 Ms. Labriola, could you identify yourself
23 for us.

24 MS. LABRIOLA: Deana Labriola, General
25 Counsel for the Park West Barber School.

1 MS. PITMAN: Thank you.

2 Ms. Labriola and I worked with her client,
3 the Park West Barber School, and the
4 cosmetology -- cosmetology program to come to
5 this consent order here, which everyone should
6 have received a copy of.

7 The issue here was students earning hours
8 when the school was not licensed. They have
9 agreed to the penalty of \$3,000 for, I believe
10 it was 500 a month; is that correct?

11 MS. KERSEY: Uh-huh.

12 MS. PITMAN: And also for submitting
13 verification of all students' hours for three
14 months following this order, because we did
15 have some problems verifying the orders -- or
16 the hours. But they did eventually get us all
17 of the records for the students who had been
18 enrolled, all of the hours have been credited
19 for those students, and they worked with us to
20 do that and to do this consent order.

21 So if the board will take a look at it,
22 ask any questions of either me or Ms. Labriola,
23 and then go to the approval of it, if that's
24 what you want to do.

25 MS. ANDERSON: I do have a question.

1 Where is -- this doesn't tell us where
2 it's located. Is it here in --

3 MS. KERSEY: It is in Blytheville.

4 MS. ANDERSON: In Blytheville? Okay.

5 MS. KERSEY: Uh-huh.

6 MS. ANDERSON: And how many students are
7 we speaking of?

8 MS. KERSEY: I believe there was 18 in
9 question at the time of this, that this was
10 happening, that this --

11 MS. ANDERSON: So this order is just being
12 brought to us, we don't have any other
13 information, you guys have already taken care
14 of all of the other preliminaries to this; is
15 that correct?

16 MS. KERSEY: Correct.

17 MS. PITMAN: Yes. And Park West is
18 licensed now and operating as a licensed
19 school.

20 MS. ANDERSON: And what date was that on?

21 MS. KERSEY: November 2014.

22 MS. LABRIOLA: '13, I believe.

23 MS. KERSEY: Oh, '13. I'm sorry.

24 Thanks, Deana.

25 MS. LABRIOLA: Sure.

1 MS. ANDERSON: November '13 it became
2 licensed as a cosmetology establishment. These
3 people -- when did she find this out? When was
4 this reported or how was this found out?
5 That's my question.

6 MS. KERSEY: They -- we started having
7 students question about their hours from June
8 to November, and --

9 MS. PITMAN: Of?

10 MS. LABRIOLA: Last year.

11 MS. KERSEY: Of two -- yeah, that's right,
12 yeah. And they had registered with their
13 school in Virginia. Is that correct, Deana?

14 MS. LABRIOLA: Correct.

15 MS. KERSEY: And we started talking to the
16 Virginia Board. We could not verify that they
17 were actually licensed at that time to do
18 online courses, it was online courses that they
19 were doing. And, anyway, we -- we got in touch
20 with Virginia, they sent us what they had for
21 their online courses, and they were actually
22 doing what they were supposed to with that, but
23 they wouldn't certify the hours, so we worked
24 with them to and we got them to say that their
25 hours were good in Virginia and so their hours

1 transferred to us.

2 MS. PITMAN: That's why this all took so
3 long to get to you, because we worked on
4 getting everything from Virginia and getting
5 the students' hours, which is not what this is
6 actually on. This is on the unlicensed portion
7 of the school.

8 MS. KERSEY: Right.

9 MS. PITMAN: Before we ever got to this,
10 that's why -- we've been working about,
11 probably, six months?

12 MS. KERSEY: At least, and we had probably
13 in the office worked probably six months before
14 that, before we started contacting them.

15 MS. ANDERSON: This is online courses in
16 the state of Arkansas or this is cosmetology
17 in-house course?

18 MS. KERSEY: Okay. The hours from June to
19 November are online with Virginia.

20 MS. ANDERSON: Okay. So we can accept --
21 our law allows us to accept online hours?

22 MS. KERSEY: We don't ask how they got
23 their hours.

24 MS. ANDERSON: Okay.

25 MS. KERSEY: When they -- we just ask for

1 hours, it doesn't specifically say either way.

2 MS. PITMAN: We set it up as a transfer
3 from Virginia.

4 MS. KERSEY: Yes.

5 MS. PITMAN: Certifying Virginia's hours,
6 and it is allowed in Virginia to do online
7 courses.

8 MS. KERSEY: Yes. Right.

9 MS. PECK: So what, we need a motion?

10 MS. KERSEY: I will say too, though, we
11 did not accept all the hours. There were
12 certain things that we went by that we did not
13 consider online classes, so we --

14 MS. PITMAN: Well, we went by the Virginia
15 guidance.

16 MS. KERSEY: Yes, we went by the Virginia
17 guidance. They sent us a guidance of what is
18 online and we could not justify it, so we did
19 not accept all their hours that they had
20 submitted from Virginia.

21 MS. FORD: Which is how you got to -- I
22 guess, that person came and enrolled at this
23 school, which prompted you in doing that
24 investigation to see if they were licensed, I
25 guess, that's how it all came about?

1 MS. PITMAN: Yes. That's correct.

2 MS. FORD: Okay.

3 MS. KERSEY: Yes.

4 MS. SULLIVAN: Do we want to make a motion
5 to accept the consent -- consent order? Is
6 that what we're needing?

7 MS. PITMAN: That's what we need.

8 MS. KERSEY: Yes, that's what we need from
9 you guys.

10 MS. FORD: I'll make a motion that we
11 accept the consent order in the manner in which
12 it is presented and that we will approve this.

13 MS. JACKSON: I'll second that.

14 MS. SULLIVAN: We have a second. And all
15 in favor?

16 MS. FORD: Aye.

17 MS. PECK: Aye.

18 MS. JACKSON: Aye.

19 MS. SULLIVAN: Any opposed?

20 MS. ANDERSON: Aye.

21 MS. SULLIVAN: We'll let the record show
22 we have one opposed and three in favor.

23 MS. KERSEY: Thank you. All right.

24 MS. PITMAN: All right. We do have just a
25 little order here.

1 Ms. Labriola, I'm handing this short order
2 of approval by the CTAC to the Chairman,
3 Ms. Sullivan, to sign.

4 MS. LABRIOLA: Okay.

5 MS. PITMAN: And we'll get that and the
6 consent order, which has also been signed by
7 Ms. Kersey, in the mail to you today.

8 MS. LABRIOLA: Okay. Great. Thank you
9 very much for all your help.

10 MS. PITMAN: Thank you.

11 MS. LABRIOLA: All right. Bye-bye.

12 (WHEREUPON, at 9:08 a.m., the
13 above-entitled proceedings were concluded.)

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1 Will you please identify yourself for the
2 record, please.

3 MR. THINH NGUYEN: Yeah. I don't
4 understand a lot, you know, so very well.

5 HEARING OFFICER: Okay.

6 MR. THINH NGUYEN: But because I don't
7 understand, do you have an interpreter or
8 something?

9 HEARING OFFICER: Do we have an
10 interpreter for him?

11 MS. KERSEY: We're getting one. Yeah. We
12 were supposed to have one in person.

13 HEARING OFFICER: Okay. Do we -- do we
14 want to -- do we want to -- we have the
15 interpreter ready to go?

16 MS. PITMAN: I think they are going to go
17 on the phone.

18 MS. KERSEY: Yes.

19 HEARING OFFICER: Okay.

20 MR. THINH NGUYEN: And I think him, my
21 friend --

22 AUDIENCE MEMBER: I can translate for him
23 if --

24 HEARING OFFICER: Do you have a concern of
25 having someone else interpret, or do you want

1 an official interpreter?

2 MS. PITMAN: Can we get them on the phone?

3 MS. KERSEY: Yeah.

4 MS. PITMAN: If we could get them on the
5 phone --

6 MS. KERSEY: We had one but they called in
7 Friday after hours and canceled.

8 HEARING OFFICER: So we are getting
9 someone on the phone.

10 MR. THINH NGUYEN: Okay, ma'am.

11 MS. KERSEY: Do you need Vietnamese?

12 MR. THINH NGUYEN: Yes.

13 (Interpreter joined via speakerphone.)

14 HEARING OFFICER: Good morning. This is
15 Jamie Ewing, I am an Administrative Hearing
16 Officer for an Administrative Hearing before
17 the Arkansas Cosmetology Technical Advisory
18 Committee. We are in need of interpretive
19 services for an individual that's having a
20 hearing before this board.

21 We have you on speakerphone, and you will
22 need to speak up to -- for the court reporter
23 to understand you. I'm going to --

24 INTERPRETER: Okay.

25 HEARING OFFICER: So what's the best way

1 to proceed in asking the questions of the
2 respondent for you to do your job?

3 INTERPRETER: I mean, you can ask one
4 question at a time, if that's possible.

5 HEARING OFFICER: Yes. So you want me to
6 ask the question and then you will repeat it
7 and then he will answer to you and then you
8 will tell me what he said?

9 INTERPRETER: Yes.

10 HEARING OFFICER: Okay. So, please,
11 identify yourself for the record, sir.

12 MR. THINH NGUYEN: Hello?

13 I am Think Nguyen.

14 HEARING OFFICER: Sir, are you represented
15 by counsel today?

16 MR. THINH NGUYEN: No, I'm not.

17 HEARING OFFICER: Do you understand that
18 you could be represented by counsel today?

19 MR. THINH NGUYEN: (Nodding head up and
20 down.)

21 No, I'm not. I don't.

22 HEARING OFFICER: All right. Let the
23 record reflect he did initially nod his head
24 yes when I asked the question.

25 Did you receive a copy of the Order and

1 Notice of Hearing for this matter?

2 MR. THINH NGUYEN: (In English) Yeah.

3 HEARING OFFICER: Okay. And are you ready
4 to proceed?

5 MR. THINH NGUYEN: (In English) Yeah.

6 HEARING OFFICER: All right. Board's
7 counsel, would you identify yourself for the
8 record, please.

9 MS. PITMAN: Yes. My name is Elizabeth
10 Pitman. I am Deputy General Counsel for the
11 Department of Health.

12 HEARING OFFICER: All right. I'm going
13 to -- Mr. Interpreter, I'm sorry, I didn't
14 catch your name.

15 INTERPRETER: My name is Mark.

16 HEARING OFFICER: Yes. Can I have you
17 state your name for the record, please? The
18 court reporter may have gotten it but I didn't,
19 so let's get it, please.

20 INTERPRETER: Yes, my name is Mark.

21 HEARING OFFICER: What's your last name,
22 sir?

23 INTERPRETER: Mark Wynn, W-y-n-n.

24 HEARING OFFICER: Thank you.

25 I'm going to next go through a series of

1 preliminaries. Mr. Wynn, I would like for you
2 to repeat those to our respondent so he will
3 understand how this proceeding is going to go.
4 So I'll go through this slowly and, you know, a
5 statement at a time so that you can repeat each
6 statement after I say it so that he will
7 understand what is -- is going on today. So --

8 INTERPRETER: Okay.

9 HEARING OFFICER: Okay. This is an
10 administrative hearing, and so anything -- so
11 the board bases its decision solely on what's
12 brought before it today.

13 MR. THINH NGUYEN: (In English) Yeah.

14 HEARING OFFICER: So if there is anything
15 you want the board to know, you need to tell
16 them today, you need to present any evidence
17 today.

18 Go ahead, sir. Go ahead.

19 MR. THINH NGUYEN: I'm sorry.

20 INTERPRETER: I'm sorry. I am not able to
21 hear.

22 Is he speaking English or Vietnamese?

23 MR. THINH NGUYEN: Vietnamese.

24 INTERPRETER: I can hear you but I cannot
25 hear him too well, ma'am.

1 HEARING OFFICER: You cannot hear him?

2 Okay.

3 Sir, we're testing our equipment.

4 MS. KERSEY: Yeah. The light is not on.

5 INTERPRETER: Sure. No problem.

6 MS. PITMAN: Try it now.

7 HEARING OFFICER: Okay. I'm just going to
8 keep going, I think he understands that -- that
9 he has to present evidence today.

10 This hearing is under the Administrative
11 Procedures Act, therefore the strict rules of
12 evidence do not apply, we offer latitude in the
13 evidence that can be presented today.

14 MR. THINH NGUYEN: (In English) Yeah.

15 HEARING OFFICER: And this hearing is open
16 under the Freedom of Information Act, hearing
17 section, therefore the public is -- all the
18 hearing, including deliberations of the board,
19 are open to the public.

20 MR. THINH NGUYEN: (In English) Yeah.

21 HEARING OFFICER: Okay. Next, sir, I'm
22 going to swear you in as a witness for this
23 hearing. So I will --

24 Yes, ma'am?

25 COURT REPORTER: Swear the interpreter

1 first, please.

2 HEARING OFFICER: Yes. Okay. Let's
3 swear -- we're going to swear, Mr. Wynn, the
4 interpreter, we will swear you in for the
5 record. So I will state the oath and you can
6 answer.

7 (Interpreter sworn by the Hearing
8 Officer.)

9 INTERPRETER: Yes.

10 HEARING OFFICER: Okay. And, sir, I'm
11 going to -- I'm going to read the oath again
12 and have you repeat it to him, and you will
13 answer the oath, sir. Do you swear for affirm
14 that the testimony you're about to give will be
15 the truth, the whole truth and nothing but the
16 truth.

17 MR. THINH NGUYEN: (In English) Yeah,
18 true.

19 HEARING OFFICER: Okay. Thank you.

20 So now that we have sworn in the
21 respondent, do you have witnesses to present
22 today?

23 MS. PITMAN: Yes, Ms. Roselyn Smith and
24 Ms. Kelli Kersey.

25 HEARING OFFICER: All right. Ms. Smith

1 and Ms. Kersey, will you please raise your
2 right hand?

3 Okay. Sorry.

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

6 HEARING OFFICER: Okay. The board's
7 witnesses have been sworn in.

8 If there are no other preliminary matters,
9 we will go ahead and begin.

10 MS. PITMAN: I would like to have
11 introduced for the record the 21-page packet
12 behind the tab Regal Nails.

13 HEARING OFFICER: Okay. Please ask the
14 respondent if he has any objections to entering
15 the packet of exhibits proffered by the
16 department.

17 MR. THINH NGUYEN: No. I don't.

18 HEARING OFFICER: Okay. If there is no
19 objections, we will enter this packet into the
20 record.

21 (WHEREUPON, CTAC Exhibits were received in
22 evidence.)

23 MS. PITMAN: Thank you. And to take
24 notice of the Cosmetology Act and the rules and
25 regulations for cosmetology in Arkansas.

1 HEARING OFFICER: That will be noticed.

2 MS. PITMAN: Thank you.

3 No opening statement.

4 HEARING OFFICER: Okay. Do you want to go
5 ahead and call your first witness, please?

6 MS. PITMAN: Yes. Call Ms. Smith.

7 WHEREUPON,

8 ROSELYN SMITH,

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

12 DIRECT EXAMINATION

13 BY MS. PITMAN:

14 Q Ms. Smith, will you please identify yourself for the
15 committee.

16 A Roselyn Smith, Arkansas Department of Health,
17 inspector.

18 Q Thank you. And did you do an inspection of Regal
19 Nails Salon & spa?

20 A Yes.

21 MS. PITMAN: Do they need to interpret for
22 them?

23 HEARING OFFICER: Sir, do you want us to
24 interpret what she's saying for you?

25 MR. THINH NGUYEN: (In English) Yeah.

1 HEARING OFFICER: So would you like the
2 interpreter to --

3 MR. THINH NGUYEN: (In English) Yeah.
4 Yeah. She did.

5 Okay. Yes.

6 HEARING OFFICER: Go ahead and ask your
7 second question.

8 BY MS. PITMAN:

9 Q Okay. Was that done on May 19, 2015?

10 A Yes.

11 Q And was it a routine inspection.

12 A Yes.

13 HEARING OFFICER: Well, again. Slow down.
14 We will let's maybe set some ground
15 rules --

16 MS. PITMAN: Yeah.

17 HEARING OFFICER: -- on how we will do
18 this.

19 MS. PITMAN: Sorry.

20 HEARING OFFICER: We will have Ms. Pitman
21 ask the question and get the answer, and then
22 we will stop and have the interpreter give the
23 question and answer to -- to the respondent.

24 MS. PITMAN: Sounds good.

25 HEARING OFFICER: So let's go back and

1 ask --

2 MS. PITMAN: All right.

3 HEARING OFFICER: -- that second question
4 again and let that be for the record that it's
5 been translated.

6 BY MS. PITMAN:

7 Q Okay. Was the inspection on May 19, 2015?

8 A Yes.

9 MR. THINH NGUYEN: (In English) Yeah.

10 BY MS. PITMAN:

11 Q Ms. Smith, was that a routine inspection or was it
12 in response to a complaint?

13 A It was a routine inspection.

14 INTERPRETER: I'm sorry. The response was
15 a repeat, you said?

16 THE WITNESS: Routine.

17 INTERPRETER: Oh, routine. Okay.

18 MR. THINH NGUYEN: Okay.

19 BY MS. PITMAN:

20 Q Okay. Ms. Smith, what did you find on May 19th?

21 A I found used cotton balls, files, buffers, used flip
22 flops, and toe separators.

23 And do you want me to go ahead and discuss all of it
24 or just the -- what do I do?

25 INTERPRETER: I'm sorry. I'm not able to

1 hear you. You said used cotton and then what
2 else?

3 HEARING OFFICER: No, just -- she'll --
4 can he hear you if you speak up and talk into
5 the telephone there beside it?

6 THE WITNESS: Yes.

7 I said used cotton, files, buffers, flip
8 flops, and toe separators.

9 BY MS. PITMAN:

10 Q What else? What else did you find, Ms. Smith?

11 A I also found that the solution wasn't covered, the
12 clean brushes wasn't covered in a closed container, the
13 dirty brushes weren't labeled. We had the separation of
14 disinfected and contaminated items was put together. And
15 I think that was it.

16 Q And you took some pictures that day?

17 MS. PITMAN: Oh, I'm sorry. I'm sorry,
18 please --

19 BY MS. PITMAN:

20 Q Ms. Smith, you took some pictures that day?

21 A Yes.

22 Q I believe they are starting on Page 12 of the
23 packet?

24 A Yes.

25 Q Okay. If you could walk us through those pictures?

1 A Do you want me to do one page at a time?

2 Q Yes.

3 HEARING OFFICER: Yes, let's do one page
4 at a time, and after you finish describing the
5 page, let the interpreter repeat what you've
6 said to him.

7 THE WITNESS: Okay. On Page 12 you see
8 clean brushes that's not covered and you also
9 see dirty brushes that's not labeled.

10 Okay. Page 13, you have a coffee cup with
11 used files and buffers and a toe nail clipper,
12 and I think that's all on that one.

13 MR. THINH NGUYEN: (In English) Yeah.

14 THE WITNESS: Page 14, you have a pedicure
15 drawer with used cotton balls and with the toe
16 separators.

17 Page 15 you have the same thing, it's in
18 with the toe separators and the flip flops,
19 there is used cotton balls.

20 Page 16 you have used flip flops in with
21 the new ones in a pedicure drawer.

22 Page 17 you have used buffers in with the
23 manicure drawer with other stuff that they use.

24 MR. THINH NGUYEN: (In English) Yeah.

25 BY MS. PITMAN:

1 Q And that was all the pictures?

2 A Yes.

3 Q Ms. Smith, was Mr. Nguyen there that day?

4 A Yes.

5 Q And who else was --

6 Thank you. And who else was there?

7 A It was -- I can't read these names. Everybody on
8 the inspection sheet was there that day.

9 Q Okay. And nobody was unlicensed?

10 A No. They all were licensed.

11 MR. THINH NGUYEN: (In English) Yeah, we
12 understand.

13 MS. PITMAN: You understand?

14 MR. THINH NGUYEN: (Nodding head up and
15 down.)

16 BY MS. PITMAN:

17 Q Okay. All right. And, Ms. Smith, did anyone have
18 any reason for the pictures, the clean and dirty
19 instruments not being covered or separated, the things
20 not being thrown away? Did anybody offer any reason for
21 that?

22 A Not that I remember.

23 MS. PITMAN: Hello? Mr. Wynn?

24 HEARING OFFICER: Hello? Is our
25 interpreter there?

1 INTERPRETER: Yes. I'm here. I'm not
2 sure that I heard -- that anybody said
3 anything.

4 HEARING OFFICER: Please repeat your last
5 question and answer, have that interpreted,
6 please.

7 BY MS. PITMAN:

8 Q Ms. Smith, when you were there on the 19th, did
9 anyone offer any reason for the flip flops and cotton
10 balls and things like that not being thrown away or the
11 clean and dirty implements not being stored properly?

12 A Not that I remember.

13 MR. THINH NGUYEN: For reasons the
14 previous day was a Sunday, I was there, it was
15 very crowded. My -- my employees were working
16 and they left things like that. So by the time
17 I get up there on Monday morning at nine
18 o'clock, open the door, and the inspector was
19 there ready so, you know, didn't have time to
20 do anything. But next time I will be sure
21 to -- to -- to clean up better.

22 BY MS. PITMAN:

23 Q Ms. Smith, my only other question for you is, have
24 you been back to Regal Nails and Spa since May 19?

25 A No.

1 MR. THINH NGUYEN: (In English) Yeah.

2 Yeah.

3 INTERPRETER: Okay.

4 HEARING OFFICER: Please ask if he has any
5 questions for Ms. Smith.

6 MR. THINH NGUYEN: No, I don't have any
7 questions. Just that this happened, I didn't
8 want it to happen. But after that we've
9 labeled, we've -- everything as should be as
10 well as, you know, all the things being taken
11 care of the right way.

12 HEARING OFFICER: Thank you.

13 Are you done with this witness?

14 MS. PITMAN: Yes.

15 HEARING OFFICER: Okay. Go ahead and call
16 your next witness, please.

17 MS. PITMAN: Call Ms. Kersey.

18 MS. KERSEY: Kelli Kersey, Arkansas
19 Department of Health, Cosmetology Section,
20 Section Chief.

21 HEARING OFFICER: All right. We'll do the
22 same thing, have a question, then answer, and
23 then the interpretation.

24 WHEREUPON,

25 KELLI KERSEY,

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. Kersey, have you reviewed the inspection of
7 Regal Nails Salon & Spa?

8 A Yes.

9 MR. THINH NGUYEN: (In English) Yeah.

10 INTERPRETER: Yeah.

11 BY MS. PITMAN:

12 Q Okay. Ms. Kersey, what is today's proposed
13 violation?

14 A It's only for the repeat offense, and it was \$50 --
15 oh, \$100. I'm sorry, two things. \$100.

16 Q What were those two things?

17 INTERPRETER: I'm sorry. That --

18 HEARING OFFICER: Let's let him go ahead.

19 THE WITNESS: Okay. Sorry.

20 HEARING OFFICER: Did you understand the
21 question and answer, sir?

22 INTERPRETER: No. I understood the
23 question but not the answer.

24 HEARING OFFICER: Okay. Your answer, the
25 question was about what was the violation

1 today. Could you repeat your answer, please?

2 THE WITNESS: Yes. It was for their --
3 their third offense on two instances, which is
4 (21)a and (22), and it's \$100.

5 INTERPRETER: Okay.

6 BY MS. PITMAN:

7 Q Okay. Ms. Kersey, you said it was only on the
8 repeat violations?

9 A Yes.

10 Q Have they paid the other violations listed on the
11 inspection sheet?

12 A They have.

13 MR. THINH NGUYEN: (In English) Yeah.

14 BY MS. PITMAN:

15 Q All right. Ms. Kersey, and also, can you tell us
16 what the other previous violations were?

17 A Yes. On 9/26/2014 it was the -- it was the same two
18 violations, (21)a and (22).

19 And on 4/16/14, (21)a and (22).

20 Q And to clarify, Ms. Kersey, (21)a, is that all
21 supplies and instruments that cannot be disinfected are
22 disposed of immediately after use?

23 A Correct.

24 INTERPRETER: I'm sorry. Could you say
25 that -- ask the question again, please?

1 MS. PITMAN: Yes. Sorry.

2 BY MS. PITMAN:

3 Q (21)a is, all supplies and instruments that cannot
4 be disinfected are disposed of immediately after use.

5 And No. (22), is that disinfected instruments are
6 stored in a clean and covered place?

7 A Correct.

8 Q Ms. Kersey, the violation from 9/16/2014, has that
9 been paid in full?

10 A Yes.

11 MR. THINH NGUYEN: (In English) Yeah.

12 BY MS. PITMAN:

13 Q And the violation from April 16, 2014, was that also
14 paid?

15 A Yes.

16 Q Ms. Kersey, did we send an Order and Notice of
17 Hearing to Mr. Nguyen?

18 A Yes.

19 MR. THINH NGUYEN: (In English) Yeah.

20 INTERPRETER: I'm sorry, what is the
21 question again, please?

22 MS. PITMAN: Did we send an Order and
23 Notice of Hearing to Mr. Nguyen?

24 MR. THINH NGUYEN: (In English) Yeah.

25 BY MS. PITMAN:

1 Q And that Order and Notice of Hearing told Mr. Nguyen
2 to be here Monday, July 20, at 9:00 a.m., in Room 801 of
3 the Freeway Medical board [sic]?

4 A Yes.

5 MR. THINH NGUYEN: (In English) Yeah.

6 BY MS. PITMAN:

7 Q And was that Order and Notice of Hearing signed for?

8 A It was.

9 It doesn't have a date on it but it was signed for.

10 MR. THINH NGUYEN: (In English) Yeah.

11 BY MS. PITMAN:

12 Q And, Ms. Kersey, did you hear anything from anyone
13 at Regal Nails Salon and Spa after you sent this Order
14 and Notice of Hearing?

15 A I did not.

16 Q Just to summarize, it's a \$100 total violation -- or
17 penalty, for two violations, one for not disposing of
18 disposable supplies immediately, and one for not
19 disinfecting instruments or not keeping them in a clean
20 and covered place?

21 A Correct.

22 MR. THINH NGUYEN: (In English) Yeah.

23 BY MS. PITMAN:

24 Q Ms. Kersey, is there anything else you would like
25 the advisory committee to consider today?

1 A No.

2 HEARING OFFICER: Ask -- please ask if he
3 has any questions for Ms. Kersey.

4 MR. THINH NGUYEN: None.

5 HEARING OFFICER: Okay. Do you have any
6 questions of the respondent?

7 MS. PITMAN: Not at this time.

8 HEARING OFFICER: Okay. Please ask if he
9 would like to make a brief statement to the
10 board at this time.

11 WHEREUPON,

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

16 DIRECT TESTIMONY

17 THE WITNESS: No. I -- I receive the
18 order, the notice of hearing or the order, and
19 also I've been in compliance with the things
20 that were in violation. That's all.

21 HEARING OFFICER: Do any members of the
22 board have questions for Mr. Nguyen?

23 MS. ANDERSON: I do have a question.

24 How long has Mr. Nguyen owned this salon,
25 nail salon?

1 MR. THINH NGUYEN: (In English) Four
2 year.

3 INTERPRETER: I'm sorry. What is the
4 question? I didn't hear you.

5 MS. ANDERSON: He answered it. Four
6 years.

7 Thank you.

8 INTERPRETER: Oh, okay. No problem.

9 HEARING OFFICER: All right. Seeing no
10 more questions, are you ready for the board to
11 go off the record and make their deliberations?

12 Okay. At this time -- and, please, tell
13 him that we are about to go off the record for
14 the board to make their deliberations on this
15 matter.

16 MR. THINH NGUYEN: (In English) Yeah.

17 HEARING OFFICER: All right. At this time
18 we are off the record.

19 (WHEREUPON, the CTAC retired to
20 deliberate, off the record, from 9:45 a.m. to
21 9:48 a.m., and returned with the following
22 decision:)

23 MS. SULLIVAN: All right. We're back on
24 the record.

25 HEARING OFFICER: All right. We're back

1 on the record for the board to make their
2 decision.

3 MS. SULLIVAN: Do we have a motion?

4 MS. FORD: I'll make a motion. I'll make
5 a motion that we go with the section's
6 recommendation for the \$100 fine.

7 MS. SULLIVAN: Is there a second?

8 MS. JACKSON: I'll second that.

9 MS. SULLIVAN: We have a motion and a
10 second. All in favor?

11 BOARD MEMBERS: Aye.

12 MS. SULLIVAN: Any opposed?

13 Let the record show that all is in favor,
14 none is opposed.

15 HEARING OFFICER: All right. This -- how
16 do you usually proceed?

17 MS. PITMAN: Well, I was just asking, does
18 he need to interpret the order for him?

19 HEARING OFFICER: Yes. Yes. Let's
20 interpret that they -- please tell him that the
21 board has adopted the section's recommendation
22 of a \$100 fine and that notice of this decision
23 will be sent to him.

24 MR. THINH NGUYEN: Yes.

25 HEARING OFFICER: Yes. And the notice --

1 the notice of the decision will tell you how to
2 pay that find and also how to appeal it if you
3 wish to appeal this decision.

4 MR. THINH NGUYEN: (In English) Yes.

5 HEARING OFFICER: Okay. If there are no
6 other matters on this, we will call this
7 hearing concluded and this matter closed.

8 MR. THINH NGUYEN: (In English) Yes.

9 Thank you.

10 HEARING OFFICER: Thank you.

11 Do we know if the next -- next hearing
12 needs an interpreter as well?

13 MS. KERSEY: They may.

14 MS. ANDERSON: Tell me your name.

15 MS. NIRAMOL SMITH: I speak Thai.

16 HEARING OFFICER: Okay. Mr. Interpreter,
17 thank you so much for your help today.

18 We now need a Thai interpreter, so we will
19 seek that person.

20 Thank you so much for your help today.

21 INTERPRETER: You're welcome. Thank you.
22 Have a good night. Bye-bye.

23 (WHEREUPON, at 9:51 a.m., the
24 above-entitled proceedings were concluded.)

25 ---o---

1 HEARING OFFICER: Thank you, very much.

2 We are going to go through some
3 preliminary matters before we get into the
4 questions of the hearing, and what we have done
5 is that I will ask the question, and -- for
6 this preliminary part I will ask the question
7 and have you repeat it to the respondent and
8 have her give her answer and then you can
9 repeat her answer back to us and then -- and
10 I'll let you know when we get into the question
11 and answer part, but we do it a little bit
12 differently.

13 So the first --

14 INTERPRETER: Yeah. Okay. If you --
15 ma'am, the interpreter can introduce herself to
16 the respondent just to make sure we speak the
17 same language.

18 HEARING OFFICER: Ma'am, you're going to
19 have to speak up, please, so that we can hear
20 you.

21 INTERPRETER: I am -- the interpreter is
22 speaking at the highest volume as possible.
23 May the interpreter introduce herself to the
24 respondent just to make sure we speak the same
25 language?

1 MS. PITMAN: She wants to talk to her to
2 make sure they speak the same language.

3 HEARING OFFICER: Okay. Yes. Go ahead,
4 please. Please do that.

5 INTERPRETER: Thank you.

6 Okay. We understand each other. Please
7 go ahead when you're ready.

8 HEARING OFFICER: Okay. Thank you.

9 This is Monday, July 20, 2015. This
10 matter is The Matter of the Arkansas Department
11 of Health versus Niramol Smith.

12 Please have the respondent identify
13 herself for the record.

14 MS. NIRAMOL SMITH: Hello. Niramol Smith.

15 HEARING OFFICER: Ma'am -- okay. Ma'am,
16 we are going to have you -- swear you in for
17 the record, so I'm going to give you the oath
18 and if you will please just answer.

19 This is the oath for the interpreter so we
20 need to have you sworn in for the record.

21 INTERPRETER: Ma'am, the interpreter does
22 not give testimony.

23 COURT REPORTER: Interpret true and
24 accurately.

25 HEARING OFFICER: Okay. I'm sorry. You

1 will forgive me, I do not have it in my script.

2 Do you swear or affirm that you will
3 interpret true and accurate what the respondent
4 says.

5 INTERPRETER: I do as -- as they -- as
6 they testify.

7 HEARING OFFICER: Thank you.

8 All right. Please ask the respondent if
9 she is represented by counsel today.

10 MS. NIRAMOL SMITH: No.

11 HEARING OFFICER: Please ask her if she
12 understands she could be represented by counsel
13 today?

14 MS. NIRAMOL SMITH: I did not know.

15 HEARING OFFICER: Do you -- do you --
16 please ask her does she want to be represented
17 by counsel?

18 MS. NIRAMOL SMITH: Why?

19 HEARING OFFICER: Okay. Let's -- please
20 let her know that she can be represented by an
21 attorney at this proceeding.

22 MS. NIRAMOL SMITH: Is it necessary?

23 HEARING OFFICER: No.

24 MS. NIRAMOL SMITH: No.

25 HEARING OFFICER: Okay. Please let her

1 know that's just a question I have to ask for
2 the record. You do not have to be represented
3 by an attorney.

4 MS. NIRAMOL SMITH: Okay.

5 HEARING OFFICER: Please ask her if she
6 understands the matter that we are about to
7 enter into, the matter that we are going to
8 hear today.

9 MS. NIRAMOL SMITH: Yes, I do.

10 HEARING OFFICER: Okay. Board's counsel,
11 please, identify yourself for the record.

12 MS. PITMAN: My name is Elizabeth Pitman,
13 I am Deputy General Counsel for the Department
14 of Health.

15 HEARING OFFICER: All right. We have
16 another few matters to interpret, preliminary
17 matters to interpret to her. They are just
18 statements, I will go through these one by one
19 and tell you when to repeat -- I'll -- I'll
20 give you, you know, a signal of when to repeat
21 them back to her.

22 So please tell her that this is an
23 administrative proceeding today before the
24 Cosmetology Technical Advisory Committee, and
25 that this -- any matters will be decided on

1 what's presented to the board today.

2 Please repeat that to her.

3 INTERPRETER: Can you repeat the name of
4 the organization that you are finding --
5 findings?

6 HEARING OFFICER: Do you want me to repeat
7 that? The --

8 INTERPRETER: Please.

9 HEARING OFFICER: It's the Arkansas
10 Cosmetology Technical Advisory Committee.

11 MS. NIRAMOL SMITH: Yes.

12 HEARING OFFICER: Okay. So anything she
13 wants the board to know she needs to tell them
14 or give them today.

15 MS. NIRAMOL SMITH: Yes.

16 HEARING OFFICER: Okay. This proceeding
17 is held under the Administrative Procedures Act
18 and is open to the public under the Arkansas
19 Freedom of Information Act.

20 MS. NIRAMOL SMITH: Okay.

21 HEARING OFFICER: Okay. Thank you. Those
22 are all of our preliminary matters.

23 Do we have witnesses for the -- for the
24 board?

25 MS. PITMAN: Yes. Ms. Roselyn Smith and

1 Ms. Kelli Kersey.

2 HEARING OFFICER: Okay. Ms. Smith and
3 Ms. Kersey, I would like to swear you in under
4 this matter.

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

7 HEARING OFFICER: For the record, I do --
8 go ahead, Ms. Pitman, begin.

9 MS. PITMAN: Okay. We have a nine-page
10 hearing packet that is behind the Niramol Smith
11 tab that we would like introduced.

12 HEARING OFFICER: Please tell Ms. Smith
13 that there is a nine-page packet that we would
14 like that to be introduced into evidence, and
15 ask her if she has any objections to this
16 evidence being introduced into the record.

17 MS. NIRAMOL SMITH: Yes. No objection.

18 HEARING OFFICER: Thank you.

19 (WHEREUPON, CTAC Exhibits were received in
20 evidence.)

21 HEARING OFFICER: Would you like to
22 proceed with your first witness?

23 For the interpreter, what we've done in a
24 previous hearing we had with a different
25 interpreter was that we had a question -- we

1 asked the question and then had the answer and
2 then had you -- had the interpreter repeat
3 that. Would that be an acceptable practice for
4 you?

5 INTERPRETER: Yes.

6 HEARING OFFICER: Okay. What we'll do is
7 we'll have Ms. Pitman ask the question of her
8 witness and have the witness answer, and you
9 can let us know if you don't understand either
10 the question or the answer, and then we'll have
11 you repeat that back for us. Thank you.

12 Please begin, Ms. Pitman.

13 MS. PITMAN: Thank you. Call Ms. Roselyn
14 Smith.

15 WHEREUPON,

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

20 DIRECT EXAMINATION

21 BY MS. PITMAN:

22 Q Ms. Smith, will you please identify yourself.

23 A Roselyn Smith, with the Arkansas Department of
24 Health, Cosmetology, Inspector.

25 HEARING OFFICER: Okay.

1 MS. PITMAN: Did she --

2 MS. ANDERSON: She gave her the paper,
3 she's reading the paper.

4 HEARING OFFICER: I'm sorry. Can you --
5 did you understand the question and answer and
6 repeat it back to her?

7 INTERPRETER: I -- I interpreted yes. Did
8 you not hear that?

9 MS. PITMAN: It broke up. If you could
10 repeat it.

11 HEARING OFFICER: Yeah. I think that we
12 just have a connection that's not working very
13 well, so --

14 INTERPRETER: It -- the line is bad,
15 ma'am.

16 HEARING OFFICER: The line is bad.

17 MS. PITMAN: It's the only line we've got.

18 HEARING OFFICER: Let's go ahead and
19 ask -- I think that we understand that
20 Ms. Smith is the inspector.

21 MS. PITMAN: Okay.

22 HEARING OFFICER: Let's go ahead and move
23 forward to the next question, please.

24 INTERPRETER: The line is broken up,
25 ma'am.

1 HEARING OFFICER: So you are having
2 trouble hearing us?

3 INTERPRETER: Yes, ma'am. The line is
4 broken up, you're sort of cutting in and out.

5 HEARING OFFICER: Okay.

6 MS. PITMAN: We can try hanging up and
7 calling her back.

8 HEARING OFFICER: I believe that we're
9 going to have to terminate this interpretive
10 session and try again, to see if we could get a
11 better line. I do appreciate your patience
12 with us and we will hang up now and get on
13 to -- try to get on to a better line.

14 Thank you.

15 INTERPRETER: Okay. (Indiscernible.)

16 HEARING OFFICER: Okay. Let's let the
17 record reflect that we have had some technical
18 difficulties with this interpretive session.
19 We're going to take a little break off the
20 record to get a new interpreter.

21 Hello?

22 INTERPRETER: Hi.

23 HEARING OFFICER: Hi, there.

24 Can we turn up that?

25 MS. KERSEY: Yeah. Can you turn --

1 MS. WEEKS: It's up as far as it goes.

2 HEARING OFFICER: Okay. We -- can you
3 hear me?

4 INTERPRETER: Yes. I can hear you. Can
5 you hear me?

6 HEARING OFFICER: This is Jamie Ewing with
7 the Arkansas Cosmetology Technical Advisory
8 Committee.

9 INTERPRETER: Okay.

10 HEARING OFFICER: And we are doing an
11 administrative hearing, and I'm going to need
12 you to speak up, if you can, into the phone.
13 We are -- this will be recorded by a court
14 reporter.

15 INTERPRETER: Let me get on my other
16 phone. Hold on just a second. Okay?

17 HEARING OFFICER: Okay.

18 INTERPRETER: Okay.

19 HEARING OFFICER: Can you hear her, Susan?

20 COURT REPORTER: A little better.

21 HEARING OFFICER: Yes. We can hear you
22 better now.

23 INTERPRETER: Okay. Perfect.

24 HEARING OFFICER: Thank you.

25 We have -- we were in the middle of a

1 hearing, we've gone through some preliminary
2 matters already and we had some trouble with
3 the connection to our last interpreter.

4 Are there any preliminary matters that you
5 need for us to go through before we just jump
6 back in?

7 INTERPRETER: No. No. That's fine. We
8 can just start where you left off.

9 HEARING OFFICER: Okay. Well, the next --
10 the one thing I had forgotten to do is that we
11 need to swear in our witness, the young lady
12 that needs the interpreter. So I will ask, can
13 you ask her, please, to --

14 INTERPRETER: Oh, you know what, I need to
15 introduce myself and have them introduce me so
16 make sure we have the same dialect.

17 HEARING OFFICER: Yes. So let's have you,
18 for the record state your name, your full name,
19 your first and your last name for the record.

20 INTERPRETER: The interpreter? The
21 interpreter's name?

22 HEARING OFFICER: Yes. The interpreter's
23 name, please.

24 INTERPRETER: Okay. Yes. This is Vieng.

25 HEARING OFFICER: Can you please spell

1 that, please, for the court reporter?

2 INTERPRETER: V, as in Victor, I, India,
3 E, echo, N, November, G, God, and my ID is
4 346234, that's my last name.

5 HEARING OFFICER: Okay. Thank you. And I
6 do have --

7 INTERPRETER: Can you have the defendant
8 or the witness to say something to me, please,
9 so I know what language, make sure it's the
10 right language and dialect?

11 MS. PITMAN: Yes. Could you speak to her
12 briefly?

13 INTERPRETER: Hello?

14 Okay. Okay. That's -- that's fine.
15 She's Thai and we understand each other.

16 HEARING OFFICER: Okay. Thank you.

17 And, Ms. Interpreter, we -- will you --
18 I'm going to swear you in for the purpose of
19 giving accurate interpretation.

20 (Interpreter sworn by the Hearing
21 Officer.)

22 INTERPRETER: Yes, I do.

23 HEARING OFFICER: Thank you.

24 Next we need to swear in the witness. So
25 can you please let her know that we're going to

1 swear her in for her testimony?

2 INTERPRETER: Okay.

3 HEARING OFFICER: Okay. Here is the oath.

4 Yes.

5 (WHEREUPON, the witness was sworn by the
6 Hearing Officer.)

7 MS. NIRAMOL SMITH: (In English) Yes, I
8 do.

9 HEARING OFFICER: Okay. Thank you.

10 We will -- what we've been doing is we're
11 now to the part where the board's attorney is
12 going to ask the board's witness a question,
13 and what we've done with the previous
14 interpreter was to have the question and then
15 the answer and then the interpretation. Will
16 that work for you?

17 INTERPRETER: Yeah. Okay.

18 HEARING OFFICER: Okay. So we'll let
19 Ms. Pitman go ahead.

20 Please identify the witness that you are
21 speaking to and then go ahead and begin your
22 questions.

23 MS. PITMAN: Okay.

24 BY MS. PITMAN:

25 Q I had called Ms. Roselyn Smith, the inspector for

1 cosmetology, cosmetology section. And I had asked her if
2 she had performed an inspection of Modern Nails and Spa.

3 A Yes.

4 HEARING OFFICER: Please repeat that.

5 INTERPRETER: I'm sorry. I need to
6 translate her the questions that are being
7 asked right now?

8 HEARING OFFICER: Yes. Please translate
9 the questions and the answers because this is
10 to allow Ms. Smith to understand the
11 proceeding.

12 INTERPRETER: Yeah, I'm so sorry. Can you
13 repeat the question again slowly and in short
14 sentences?

15 MS. PITMAN: Sure. I have called as a
16 witness Ms. Roselyn Smith, an inspector for the
17 cosmetology section.

18 INTERPRETER: Okay. Yes.

19 MS. PITMAN: And now I'll ask Ms. Smith a
20 question.

21 BY MS. PITMAN:

22 Q Ms. Smith, did you do an inspection of Modern Nails
23 and Spa?

24 A Yes.

25 Q Was that inspection on April --

1 INTERPRETER: What's her question --
2 what's her answer?

3 MS. PITMAN: Her answer was yes.

4 BY MS. PITMAN:

5 Q And, Ms. Smith, was that inspection on April 28,
6 2015?

7 A Yes.

8 Q Ms. Smith, was Ms. Niramol -- Niramol Smith working
9 that day?

10 A Yes.

11 Q And did you speak with her --

12 MS. NIRAMOL SMITH: Yes.

13 BY MS. PITMAN:

14 Q Ms. Roselyn Smith, what did you and Ms. Niramol
15 Smith talk about that day?

16 A I noticed that she didn't have her license posted so
17 I called the office to verify them.

18 Q Okay. When you say you noticed she did not have her
19 license posted, can you tell me what you mean by that?

20 A She didn't have them there with her.

21 Q And is that a violation of our rules, Ms. Smith?

22 A Yes.

23 Q Which rule?

24 A Rule No. 5, license posted at station or reception
25 area.

1 Q And, Ms. Smith, you said you called the office to
2 verify. What did you find out when you called the
3 office?

4 A She was licensed.

5 Q You said she is licensed?

6 A She is licensed.

7 Q When does that license expire?

8 A I think it's 8/14/15.

9 MS. NIRAMOL SMITH: The license expired on
10 August 15, 2015.

11 (In English) 1/4/15, yes.

12 BY MS. PITMAN:

13 Q Ms. Smith, what kind of license does Ms. Niramol
14 Smith have?

15 A They were manicurist license.

16 Q Did you notice any other violations that Ms. Smith
17 was committing that day?

18 A No.

19 INTERPRETER: I'm sorry. Could you repeat
20 the question one more time?

21 MS. PITMAN: Are there any violations that
22 Ms. Niramol Smith had done that day of the
23 inspection?

24 INTERPRETER: Okay.

25 BY MS. PITMAN:

1 Q Ms. Smith, have you had any chance to follow up and
2 find out if Ms. Niramol Smith has gotten her license
3 posted?

4 A No. I haven't been back.

5 Q Haven't been back?

6 A (Shaking head from side to side.)

7 MS. PITMAN: I have no other questions of
8 the witness.

9 HEARING OFFICER: Please ask Ms. Niramol
10 Smith if she has any questions for Ms. Roselyn
11 Smith.

12 MS. NIRAMOL SMITH: No questions.

13 HEARING OFFICER: Okay. We'll call the
14 next witness, please.

15 MS. PITMAN: Call Ms. Kelli Kersey.

16 MS. KERSEY: Kelli Kersey, Arkansas
17 Department of Health, Cosmetology Section,
18 Section Chief.

19 WHEREUPON,

20 KELLI KERSEY,
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 HEARING OFFICER: Proceed with your
25 questions, please.

1 DIRECT EXAMINATION

2 BY MS. PITMAN:

3 Q Ms. Kersey, did you review the inspection --

4 Ms. Kersey, did you review the inspection from 4/28/15?

5 A Yes, ma'am.

6 Q And what is the recommended penalty today?

7 A Fifty dollars.

8 INTERPRETER: Sorry. What's the answer
9 for her? What's the question and answer?

10 MS. PITMAN: The question --

11 INTERPRETER: Is there any way they can
12 have me translate first before they answer so
13 it's not confused?14 HEARING OFFICER: Yes, that will be fine.
15 We'll ask the question, let her translate the
16 question, and then answer and she will
17 translate the answer.18 INTERPRETER: All right. Yes. That's how
19 it goes.

20 HEARING OFFICER: Thank you.

21 BY MS. PITMAN:

22 Q The question is what is the recommended penalty
23 today?

24 A Fifty dollars.

25 Q And that is for violating the consumer information

1 Rule 5.1(B)?

2 A Yes.

3 Q Ms. Kersey, did Ms. Smith receive an Order and

4 Notice of Hearing for today's hearing?

5 A Yes. Oh, sorry.

6 Yes.

7 Q Did that Order and Notice of Hearing tell her to

8 appear here, Room 801 of the Freeway Medical Building, at

9 9:00 a.m. on July 20th?

10 A Yes.

11 Q And was that Order and Notice of Hearing signed for?

12 A Yes.

13 Q Do you know what date?

14 A No.

15 Q Ms. Kersey, do you know if Ms. Smith has -- have you

16 talked to Ms. Smith since she received the Order and

17 Notice of Hearing?

18 A No. Oh.

19 No.

20 Q And did she request a hearing today?

21 A Yes.

22 Q And is there anything else you would like the

23 Cosmetology Advisory Committee to consider in this

24 matter?

25 A No.

1 MS. PITMAN: No other questions.

2 HEARING OFFICER: Ms. Smith, do you have
3 any questions for Ms. Kersey?

4 MS. NIRAMOL SMITH: No questions.

5 HEARING OFFICER: Okay. Ms. Pitman, do
6 you have questions for Ms. Smith today?

7 MS. PITMAN: No, ma'am.

8 HEARING OFFICER: Okay. Ms. Smith, would
9 you like to make a brief statement to the board
10 today?

11 MS. NIRAMOL SMITH: No.

12 HEARING OFFICER: Okay. Thank you.

13 At this time if -- does the board have any
14 questions for Ms. Smith?

15 I do not see any questions from the board;
16 therefore, we will go off the record for the
17 board to make their deliberations at this time.
18 At this time we are off the record.

19 (WHEREUPON, the CTAC retired to
20 deliberate, off the record, from 10:32 a.m. to
21 10:33 a.m., and returned with the following
22 decision:)

23 HEARING OFFICER: Okay. We're going to go
24 back on the record now.

25 INTERPRETER: Okay.

1 HEARING OFFICER: Yes. So we are back on
2 the record and the board will now give their
3 decision.

4 MS. SULLIVAN: Do we have a motion in this
5 matter?

6 MS. ANDERSON: I would like to make a
7 motion that we recommend the advised 50-dollar
8 fine for the license not being posted.

9 MS. PECK: And I'll second.

10 HEARING OFFICER: Okay.

11 MS. SULLIVAN: Did it get her second?

12 HEARING OFFICER: Yes.

13 MS. SULLIVAN: Okay. We have a motion and
14 we have a second. All in favor.

15 BOARD MEMBERS: Aye.

16 MS. SULLIVAN: Any opposed?

17 Any opposed? No.

18 Let the record reflect -- let the record
19 show all is in favor, no opposing.

20 HEARING OFFICER: All right. Ms. Smith,
21 the board will send the notice of this decision
22 to you. It will tell you how to pay the fine
23 or how to appeal the decision if you wish to.

24 All right. And with that this hearing is
25 closed and this matter is closed.

1 Thank you.

2 Thank you to you, Madam Interpreter, and
3 thank you, Ms. Smith.

4 MS. NIRAMOL SMITH: Thank you.

5 HEARING OFFICER: Okay. This completes
6 our needs for a Thai interpreter service. We
7 thank you again for that.

8 INTERPRETER: Thank you, everybody. Have
9 a good day. Bye now.

10 (WHEREUPON, at 10:35 a.m., the
11 above-entitled proceedings were concluded.)

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1 identify yourself for the record.

2 MS. ANNA NGUYEN: My name is Anna Nguyen.

3 HEARING OFFICER: Okay. And do you
4 represent T's Nails today?

5 MS. ANNA NGUYEN: Yes, ma'am.

6 HEARING OFFICER: Okay. And are you
7 represented by counsel today? By an attorney?

8 MS. ANNA NGUYEN: No.

9 HEARING OFFICER: Okay. You realize you
10 could have an attorney if you wanted one, you
11 do not have to have one?

12 MS. ANNA NGUYEN: No.

13 HEARING OFFICER: Okay. And you will need
14 to speak up for the court reporter. Say yes
15 and no.

16 MS. ANNA NGUYEN: Okay.

17 HEARING OFFICER: I know it's really easy
18 for us to shake our heads or nod our heads, but
19 for the record we need to say yes or no so the
20 court reporter can record that.

21 So did you receive a copy of the Order and
22 Notice of Hearing for this matter today?

23 MS. ANNA NGUYEN: Yes, ma'am.

24 HEARING OFFICER: And you understand what
25 we are about to -- the proceeding we're about

1 to go into?

2 MS. ANNA NGUYEN: Yes, ma'am.

3 HEARING OFFICER: Okay. Board's counsel,
4 would you identify yourself for the record?

5 MS. PITMAN: Yes. My name is Elizabeth
6 Pitman. I am Deputy General Counsel for the
7 Department of Health.

8 HEARING OFFICER: Okay. As we've stated
9 in the previous hearing, this is an
10 administrative hearing, and the board bases its
11 decision solely on the evidence presented here
12 today. This hearing is held under the
13 Administrative Procedures Act, not the strict
14 rules of evidence, so we give latitude in
15 presenting evidence.

16 Ms. Nguyen, when -- anything that you want
17 the board to consider today, you need to give
18 to them today, whether it's a statement you
19 want to make to them or any evidence you want
20 to give to them, they have to have it before
21 them today in order to consider it.

22 We only -- we -- as I said, this is not
23 under the strict rules of evidence, therefore
24 we only -- I grant objections and cautions only
25 as necessary. Also this proceeding is held

1 under the Arkansas Freedom of Information Act,
2 therefore all the parts of the hearing,
3 including the deliberations of the board, are
4 open to the public.

5 With that, let's swear in all the
6 witnesses that we're going to have today. That
7 includes you, Ms. Nguyen. And we'll go ahead
8 and swear you in and then we'll identify you as
9 we go forward.

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

12 HEARING OFFICER: Okay. Thank you.

13 Are there any other preliminary matters?

14 MS. PITMAN: There is is a ten-page packet
15 that is behind the T's Nails tab I would like
16 introduced.

17 HEARING OFFICER: All right. Ms. Nguyen,
18 do you have any objections to introducing the
19 packet of evidence today?

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

22 HEARING OFFICER: Let the record
23 reflect -- let the record reflect she shook her
24 head no. So that, with no objections, we will
25 enter this packet of evidence into the record.

1 (WHEREUPON, CTAC Exhibits were received in
2 evidence.)

3 HEARING OFFICER: And I'll let you go
4 ahead and begin, Ms. Pitman.

5 MS. PITMAN: Thank you. I'll call Chris
6 Nicklaus.

7 WHEREUPON,

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

12 THE WITNESS: Chris Nicklaus, the Arkansas
13 Department of Health, Cosmetology Section,
14 Cosmetology Inspector.

15 DIRECT EXAMINATION

16 BY MS. PITMAN:

17 Q Thank you.

18 Did you complete an inspection of T's Nails and Spa?

19 A Yes.

20 Q And what day was that?

21 A 4/30/15.

22 Q Was that a routine inspection or in response to a
23 complaint?

24 A Routine.

25 Q And what did you find on the 30th of April?

1 A Dremels were not being cleaned and disinfected or
2 sanitized after each customer.

3 Q Did you take a picture of that?

4 A Yes. On Page 8.

5 Q Page 10? Page 8 or 10? It's 10?

6 MS. ANNA NGUYEN: Eight.

7 BY MS. PITMAN:

8 Q Eight.

9 A Eight.

10 Q Okay. Page 8.

11 All right. Was there anything else that day?

12 A Yeah. Yes.

13 Q And that's on your inspection sheet?

14 A Yes.

15 Q And I have no idea what page that is, so --

16 MS. PECK: Six.

17 BY MS. PITMAN:

18 Q Tell us what else you found.

19 A I also found cuticle oil with the nailbrushes in
20 them and that was all.

21 Q That was it?

22 A That was it.

23 Q Okay. And was Ms. --

24 MS. PITMAN: Is it Nguyen?

25 MS. ANNA NGUYEN: Yes.

1 BY MS. PITMAN:

2 Q Was Ms. Nguyen there that day?

3 A I honestly can't recall.

4 Q Can't recall?

5 A No.

6 Q Do you remember if anyone who was there that day
7 offered any reason for the dremels not being disinfected?

8 A No.

9 Q No?

10 And, Mr. Nicklaus, have you been back out to T's
11 Nails since April 30th?

12 A No.

13 Q So you don't know if any of these violations have
14 been corrected?

15 A No.

16 Q Is there anything else about your inspection you
17 would like the advisory committee to consider?

18 A No.

19 MS. PITMAN: No other questions.

20 HEARING OFFICER: Ms. Nguyen, do you have
21 any questions for Mr. Nicklaus?

22 MS. ANNA NGUYEN: No.

23 HEARING OFFICER: All right. Thank you.

24 Thank you, sir.

25 Or does the board have any questions for

1 this witness? I'm sorry.

2 No? Okay. To your next witness,
3 Ms. Pitman.

4 MS. PITMAN: Okay. Call Ms. Kelli Kersey.

5 MS. KERSEY: Kelli Kersey, Arkansas
6 Department of Health, Cosmetology Section,
7 Section Chief.

8 WHEREUPON,

9 KELLI KERSEY,

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

13 DIRECT EXAMINATION

14 BY MS. PITMAN:

15 Q Ms. Kersey, did you review the inspection for T's
16 Nails?

17 A I did.

18 Q What violation are they being brought to hearing on
19 today?

20 A (21)a, all supplies and instruments that cannot be
21 disinfected are disposed of immediately.

22 Q And what is the proposed penalty for that violation?

23 A Fifty dollars.

24 Q Why is that violation the only one brought today?

25 A It's the only one that's a third offense.

1 Q Have the other violations been paid in full?

2 A Yes, they have.

3 Q And will you please walk us through the first two
4 offenses in violation (21)a?

5 A Okay. On 3/21/2013 they had a violation of all
6 supplies and instruments; it has been paid. On 10/21/14,
7 same offense, (21)a, all supplies and instruments cannot
8 be disinfected are disposed of immediately; it also has
9 been paid.

10 Q Did you send an Order and Notice of Hearing to T's
11 Nails?

12 A We did.

13 Q And does that Order and Notice of Hearing tell them
14 to be here at Room 801 at the Freeway Medical Building at
15 9:00 a.m.?

16 A Yes.

17 Q On Monday, July 20?

18 A Yes.

19 Q And was that received by T's Nails?

20 A It was.

21 Q Can you tell me what day that was signed for?

22 A It was signed on June 20th.

23 Q Thank you. Is there anything else about this
24 inspection you would like the advisory committee to
25 consider today?

1 A No.

2 Q And also have you heard from anyone from T's Nails
3 since June 20th?

4 A I have not.

5 MS. PITMAN: No other questions.

6 HEARING OFFICER: Ms. Nguyen, do you have
7 any questions for Ms. Kersey?

8 MS. ANNA NGUYEN: No.

9 HEARING OFFICER: Does the board have any
10 questions for this witness?

11 If not, then we will -- thank you.

12 We will move on.

13 Ms. Nguyen, do you have anything you would
14 like to tell -- tell the board, a brief
15 statement?

16 WHEREUPON,

17 ANNA NGUYEN,

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 TESTIMONY

22 THE WITNESS: I'm might. But I'm also --
23 I want -- well, I have, like, two shops, I'm
24 not at that shop he was that time. And, I
25 mean, every station have a license for

1 themselves, so is there any way that if you
2 have -- if you give them a ticket themselves so
3 they might take care of station better?

4 HEARING OFFICER: I believe what she's
5 asking is that each station has their own
6 license.

7 THE WITNESS: Yeah.

8 HEARING OFFICER: And that she feels that
9 the station should -- that --

10 THE WITNESS: Keep them better.

11 HEARING OFFICER: -- that person should be
12 getting the citation.

13 Does the board have any -- want to follow
14 up?

15 MS. ANDERSON: I can make a suggestion. I
16 have a suggestion for you.

17 If -- I have someone that works with me
18 that has a salon, and if someone gets a
19 violation in his salon, they pay that
20 violation. That's his agreement with them in
21 their rental agreement.

22 THE WITNESS: If it's on them's names they
23 pay, but it's on my name so they say, "I
24 won't."

25 MS. ANDERSON: Right. It would still be

1 in your name.

2 THE WITNESS: Yeah.

3 MS. ANDERSON: It's your salon license.

4 THE WITNESS: Sometimes it's hard to make
5 them listen, you know.

6 Thank you, though.

7 MS. ANDERSON: Uh-huh.

8 HEARING OFFICER: All right. Any more
9 questions for Ms. Nguyen?

10 THE WITNESS: No.

11 MS. FORD: I don't have a suggestion, but
12 I do have a recommendation for her. When the
13 stylists come to you to go to work, you have a
14 contract, and you have -- you can have what I
15 call house rules, and you let them know that if
16 you get written up and you have to pay a fine
17 for them, then you have to write in some terms
18 of agreement and also what the punishment is
19 going to be within your salon. Because it's
20 yours, it's your name, it's your business
21 reputation, and it's your money.

22 THE WITNESS: Yes.

23 MS. FORD: You write that into your
24 contract agreement, that they agree to abide by
25 the Arkansas State Board of Cosmetology Rules,

1 Laws, and Regulations, and then you have to
2 enforce that if they don't, then you will have
3 some consequences, and you have to -- you have
4 to consider maybe, if you're going to have to
5 carry their offenses, then maybe if your
6 commission for them is whatever -- I'm just
7 going to throw something out there -- if you
8 work -- if they work 60/40, you tell them they
9 get a violation, then you go 70/30 or, you
10 know, whatever the case is, but you have to
11 figure that out. Okay?

12 THE WITNESS: Thank you.

13 HEARING OFFICER: All right. Any other
14 matters before the board goes off the record
15 for deliberations?

16 If not, we are now off the record for the
17 board to make their decisions.

18 (WHEREUPON, the CTAC retired to
19 deliberate, off the record, from 10:47 a.m. to
20 10:48 a.m., and returned with the following
21 decision:)

22 MS. SULLIVAN: All right. We're back on
23 the record.

24 HEARING OFFICER: All right. Back on the
25 record for the board's decision.

1 MS. ANDERSON: Make a motion that we fine
2 T's Nails the fine of \$50 for (21)a, for the
3 violation of disinfecting implements.

4 MS. SULLIVAN: Do I have a second?

5 MS. JACKSON: I'll second that.

6 MS. SULLIVAN: We have a second. All in
7 favor?

8 BOARD MEMBERS: Aye.

9 MS. SULLIVAN: Any opposed?

10 Let the record reflect all are in favor,
11 none are opposed.

12 HEARING OFFICER: Okay. That decision
13 will be sent to you with the information on how
14 to pay the fine and also how to appeal it if
15 you wish to do so.

16 MS. ANNA NGUYEN: Thank you.

17 HEARING OFFICER: All right. With that,
18 this hearing is closed and this matter is
19 closed.

20 (WHEREUPON, at 10:29 a.m., the
21 above-entitled proceedings were concluded.)

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1 Kimberly's Beauty Shop and we have not received
2 any answer to that; therefore, we will assume
3 that they are not present here today for this
4 hearing.

5 Would the board's counsel, please,
6 identify yourself for the record.

7 MS. PITMAN: Yes. My name is Elizabeth
8 Pitman. I am Deputy General Counsel for the
9 Arkansas Department of Health.

10 HEARING OFFICER: Okay. Ms. Pitman, go
11 ahead and establish your record for this matter
12 today.

13 MS. PITMAN: Okay. If I could call
14 Ms. Kelli Kersey for that.

15 HEARING OFFICER: Ms. Kersey, let's swear
16 you in to make this record.

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 HEARING OFFICER: Okay. Please proceed
23 Ms. Pitman.

24 MS. PITMAN: Thank you.

25 DIRECT EXAMINATION

1 BY MS. PITMAN:

2 Q Was an Order and Notice of Hearing prepared and sent
3 to Kimberly Walton?

4 A Yes.

5 Q Okay. Did that Order and Notice of Hearing tell her
6 to be here at the Freeway Medical Building in Room 801 at
7 9:00 a.m. on Monday, July 20, 2015?

8 A Yes.

9 Q And was that sent -- when was that sent?

10 A Oh, it was sent June 16, 2015.

11 Q Was it signed for?

12 A It was, June 20, 2015.

13 Q Thank you.

14 What address was it sent to?

15 A P.O. Box 421.

16 Q And that's Marianna?

17 A Marianna. I'm sorry.

18 Q And that's the address you have on file for
19 Ms. Walton?

20 A Yes.

21 MS. PITMAN: Okay. Nothing else.

22 HEARING OFFICER: No other questions?

23 Does the board have any questions of this
24 witness?

25 If none, I believe, are there any other

1 matters you want to establish before the board
2 makes the decision?

3 MS. PITMAN: I want to call Ms. Smith real
4 fast too.

5 HEARING OFFICER: All right. Ms. Smith
6 let's have you sworn in as well for this
7 matter.

8 WHEREUPON,

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

13 HEARING OFFICER: Okay. Thank you. Go
14 ahead, Ms. Pitman.

15 DIRECT EXAMINATION

16 BY MS. PITMAN:

17 Q Yes. Ms. Smith, did you do an inspection of
18 Kimberly's Beauty Shop?

19 A Yes.

20 Q All right. And, I'm sorry, I think I forgot to ask
21 you to identify yourself. Can you do that too.

22 A My name is Roselyn Smith, with the Arkansas
23 Department of Health, in cosmetology, and I'm an
24 inspector.

25 Q Okay. Thank you.

1 And you said you did do an inspection?

2 A Yes.

3 Q What day?

4 A It was 2/13/15.

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

6 A Unlicensed salon, practitioner's license was not
7 current, and she was working on a client.

8 Q When you walked into the salon that day she was
9 working on a client?

10 A Yes.

11 Q And she had no license at all?

12 A She had expired -- her practitioner's license was
13 expired.

14 Q It was expired?

15 A But she had no salon license.

16 Q She had never had a salon license?

17 A She didn't have any posted.

18 Q Okay. Did she -- did you talk to her about it?
19 Ms. Walton?

20 A Yes.

21 Q What did she say?

22 A She didn't know.

23 Q And that was all she ever said about it?

24 A As far as I can remember, that's what she said.

25 Q Okay. Ms. Smith, have you been back out to

1 Kimberly's Beauty Shop?

2 A No.

3 Q So you don't know if she's licensed at this time?

4 A No. I don't know.

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

7 HEARING OFFICER: Does the board have any
8 questions of Ms. Smith?

9 MS. FORD: I do.

10 HEARING OFFICER: Yes, ma'am.

11 MS. FORD: Ms. Smith, is this your first
12 time to inspect this particular salon?

13 THE WITNESS: Yes.

14 MS. FORD: Do you know if we have any
15 other inspections of this facility on record?
16 Did it show in your records or were you able to
17 access that information?

18 THE WITNESS: I have to call the office to
19 verify it, but I didn't -- I don't know of any
20 other records.

21 MS. FORD: That's all.

22 HEARING OFFICER: Any other questions for
23 Ms. Smith?

24 Seeing none, do you have any more
25 witnesses?

1 MS. PITMAN: If I can have Ms. Kersey tell
2 us about the penalty.

3 HEARING OFFICER: Yes, let's --
4 Ms. Kersey, you're still under oath, so let's
5 proceed.

6 WHEREUPON,

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

11 DIRECT EXAMINATION

12 THE WITNESS: Okay. For Kimberly, the
13 salon is \$700 -- I mean \$600, I'm sorry, \$500
14 for being an unlicensed salon and allowing a
15 practitioner to work without a current Arkansas
16 license. And then the practitioner has a
17 violation of \$100 because her license is
18 expired.

19 BY MS. PITMAN:

20 Q Okay. So that we're clear on the record, there is
21 two separate respondents here, Kimberly's Beauty Shop and
22 Kimberly Walton?

23 A Yes.

24 Q Is that right?

25 A Yes.

1 Q And Ms. Walton owns Kimberly's Beauty Shop?

2 A Correct.

3 Q The beauty shop itself has a \$600 penalty?

4 A Yes.

5 Q And Ms. Walton has a \$100 penalty?

6 A Correct.

7 Q Okay. Do you know if Kimberly's Beauty Shop has
8 applied for renewed -- or applied for a license?

9 A Not to my knowledge.

10 Q Okay. And do you know if Ms. Walton has renewed her
11 practitioner's license?

12 A Not to my knowledge on that either.

13 Q Can you tell us if Kimberly's Beauty Shop has ever
14 been licensed?

15 A They have not.

16 Q Do you know if Ms. Walton has ever owned another
17 salon?

18 A Not that I'm aware of.

19 Q Is there anything else you would like the
20 Cosmetology Technical Advisory Committee to consider
21 today?

22 A No.

23 MS. PITMAN: No other questions.

24 HEARING OFFICER: All right. Does the
25 board have any more questions for this witness?

1 All right. Seeing none and the respondent
2 still being absent, I believe we will go off
3 the record to let the board make their decision
4 in the matter. We're off the record.

5 (WHEREUPON, the CTAC retired to
6 deliberate, off the record, from 10:56 a.m. to
7 10:58 a.m., and returned with the following
8 proceedings:)

9 MS. SULLIVAN: We're going back on the
10 record.

11 HEARING OFFICER: We're back on the
12 record.

13 MS. PITMAN: Thank you. We would like to
14 introduce this 17-page packet behind Kimberly's
15 Beauty Shop.

16 HEARING OFFICER: Okay. Assuming no
17 objections to the introduction of the -- of the
18 packet of evidence, we'll have that introduced
19 into the record.

20 (WHEREUPON, CTAC Exhibits were received in
21 evidence.)

22 HEARING OFFICER: Okay. Now we're going
23 to go back off the record to continue
24 deliberations.

25 MS. ANDERSON: We have a question.

1 HEARING OFFICER: Okay. Let's stay on the
2 record. I'm sorry. We are still on the record
3 for a question from the board.

4 MS. ANDERSON: Clarification, please.
5 This is how many violations of her license?

6 MS. KERSEY: She's not here for a third
7 offense. We -- with the violations, we send
8 out a ten-day letter if they have not paid
9 them. If they have not paid them after the ten
10 day, then we bring them to hearing.

11 MS. ANDERSON: Okay. So she's just not
12 paid her violations?

13 MS. KERSEY: She has not paid her fines,
14 yes.

15 MS. ANDERSON: The salon itself has been
16 licensed prior to this?

17 MS. KERSEY: No.

18 MS. ANDERSON: This is her first year to
19 ever be licensed?

20 MS. KERSEY: It's not licensed.

21 MS. ANDERSON: Is it a new salon?

22 MS. KERSEY: It's not licensed. It's an
23 unlicensed salon.

24 MS. ANDERSON: It's never been a salon?

25 MS. JACKSON: But she told her she didn't

1 know it needed to be.

2 MS. PECK: How did she know to inspect it?

3 MS. FORD: Just drive down the road and
4 look at the signs.

5 MS. ANDERSON: We can ask her that
6 question. Okay. So -- but basically she's
7 working out of an establishment that's
8 nonlicensed and has never been licensed;
9 correct?

10 MS. KERSEY: Correct.

11 MS. SULLIVAN: Without a license herself;
12 right?

13 MS. KERSEY: Well, it's expired.

14 MS. ANDERSON: And she doesn't have a
15 license that's current?

16 MS. KERSEY: Well, it's expired. Yes.

17 MS. ANDERSON: Ms. Roselyn, thank you. So
18 how did you find that this was an unlicensed
19 establishment? Did you just see her out there
20 working and stopped?

21 MS. ROSELYN SMITH: She was next door to
22 another salon and it said Kimberly's, so I went
23 in.

24 MS. ANDERSON: Okay. So you just stopped
25 and said, "Hey, I'm the inspector?"

1 MS. ROSELYN SMITH: She was next door to a
2 previous salon that I was going in.

3 MS. ANDERSON: But she didn't offer any
4 reason why she didn't have a license for her
5 salon?

6 MS. ROSELYN SMITH: All I remember is her
7 saying that she didn't know.

8 MS. ANDERSON: She didn't know she needed
9 a license?

10 MS. ROSELYN SMITH: Yeah. That's all I
11 can remember her saying.

12 MS. ANDERSON: Okay. Thank you,
13 Ms. Roselyn.

14 MS. SULLIVAN: Are we ready to go back off
15 the record then?

16 We're going back off the record.

17 HEARING OFFICER: Okay. We're off the
18 record now.

19 (WHEREUPON, the CTAC retired to
20 deliberate, off the record, from 11:00 a.m. to
21 11:04 a.m., and returned with the following
22 decision:)

23 HEARING OFFICER: All right. We're back
24 on the record for the board's decision.

25 MS. FORD: I would like to make a

1 motion --

2 MS. SULLIVAN: Does anyone want to make a
3 motion?

4 MS. FORD: I would like to make a motion
5 In The Matter of Kimberly's Beauty Shop and
6 Kimberly Walton as a practitioner, the findings
7 be true and correct and that the beauty
8 salon -- Kimberly's Beauty Salon be fined the
9 \$600, and Kimberly Walton, the individual
10 practitioner, be fined the \$100, and that a
11 30-day reinspection notice be sent with the
12 findings. And if -- if these matters are not
13 taken care of, that a cease and desist be sent
14 out after the 30-day period.

15 MS. SULLIVAN: Okay. Do we have a second?

16 MS. JACKSON: I'll second that.

17 MS. SULLIVAN: All in favor?

18 BOARD MEMBERS: Aye.

19 MS. SULLIVAN: Any opposed?

20 Let the record show it was unanimous, no
21 opposing.

22 HEARING OFFICER: Okay. This decision
23 will be reduced to writing and sent to the
24 respondent. If there is nothing further, then
25 we will call this hearing concluded and this

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matter closed.

(WHEREUPON, at 11:06 a.m., the
above-entitled proceedings were concluded.)

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1 that I would like to introduce.

2 HEARING OFFICER: Okay. With no
3 objections, we will introduce this packet into
4 the record as evidence.

5 (WHEREUPON, CTAC Exhibits were received in
6 evidence.)

7 MS. PITMAN: Okay. I'll call Kelli
8 Kersey.

9 WHEREUPON,

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

14 HEARING OFFICER: Okay. Please proceed.

15 DIRECT EXAMINATION

16 BY MS. PITMAN:

17 Q Ms. Kersey, did you send an Order and Notice of
18 Hearing to the Cutting Couture?

19 A Yes, we did.

20 Q Okay. Does that Order and Notice of Hearing tell
21 them to be here today, Monday, July 20, 2015, at
22 9:00 a.m., in Room 801, at the Freeway Medical Building?

23 A Yes.

24 Q And was that delivered?

25 A It was delivered.

1 Q Can you please tell us, how do you know that?

2 A We have a -- we tracked it, and it was delivered

3 June 16, 20 -- no. I'm sorry. June 17, 2015.

4 Q You're looking at Page 3 of the exhibit packet?

5 A I am.

6 Q It was not signed for, it does not look like?

7 A It does not appear that it was signed for.

8 Q But it was delivered to 1700 Sanford Drive,

9 Apartment 4?

10 A Yes.

11 Q Who is Katreas Ellis?

12 A She was the stylist that was at the salon when Chris

13 Nicklaus did the inspection.

14 Q Okay. Is she the owner of the salon?

15 A Yes. If it was licensed, I would assume she would

16 be the owner.

17 Q Okay. And that is the address she gave us?

18 A Yes.

19 Q And, Ms. Kersey, what is the recommended penalty

20 today?

21 A \$500.

22 Q Okay. And what is that for?

23 A For having an unlicensed salon.

24 Q Has Ms. -- Ms. Ellis' salon ever been licensed?

25 A Not to my knowledge.

1 Q You have no records indicating that it had ever been
2 licensed?

3 A Correct.

4 Q And do you know if she had ever owned another salon?

5 A Not to my knowledge.

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

8 HEARING OFFICER: Does the board have any
9 questions of Ms. Kersey?

10 None. Do you have other witnesses?

11 MS. PITMAN: Mr. Nicklaus.

12 WHEREUPON,

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

17 HEARING OFFICER: Please identify yourself
18 for the record, please.

19 THE WITNESS: Chris Nicklaus, Arkansas
20 Department of Health, Cosmetology Section,
21 Cosmetology Inspector.

22 HEARING OFFICER: Thank you.

23 Go ahead.

24 DIRECT EXAMINATION

25 BY MS. PITMAN:

1 Q Mr. Nicklaus, did you do an inspection of the
2 Cutting Couture?

3 A Yes.

4 Q And what day?

5 A Excuse me. 1/28/15.

6 Q And it is not a licensed salon; is that correct?

7 A Correct.

8 Q How did you know to do an inspection of it?

9 A I was actually at another salon and the salon is
10 next door to this other salon, and it used to be on my
11 territory report as In Vogue, and the name was still on
12 the door and it was open for business again when I was
13 going for a routine inspection on the salon next door.

14 Q So it just happened to be in your line of sight when
15 you were doing another inspection?

16 A Right.

17 Q And it was open for business?

18 A Yes.

19 Q Were they working on customers?

20 A Yes.

21 Q And that was Ms. Ellis?

22 A Yes.

23 Q And what did she say when you asked her why she had
24 no license?

25 A She said she didn't know she was supposed to.

1 Q Did she have a practitioner's license?

2 A Yes, she did.

3 Q And that was current?

4 A Yes.

5 Q Did she identify herself as the owner of the salon?

6 A Yes.

7 Q Okay. Were there any other problems with the salon
8 that day?

9 A No.

10 Q Is there anything else you would like the
11 Cosmetology Advisory Committee to consider?

12 A (Shaking head from side to side.) No.

13 MS. PITMAN: No other questions.

14 HEARING OFFICER: Does the board have any
15 questions for Mr. Nicklaus?

16 Seeing none, and knowing -- still no word
17 from the respondent, I suppose, do you have any
18 more matters before the board goes off the
19 record?

20 MS. PITMAN: No.

21 HEARING OFFICER: Does the board have any
22 questions they want to ask before they go off
23 the record for deliberations?

24 Seeing none, I'll let you -- we will
25 call -- we will go off the record for the board

1 to make their decisions.

2 MS. SULLIVAN: I want to ask a question.

3 HEARING OFFICER: Okay. I'm sorry. We're
4 back -- we're back on the record. We have a
5 question.

6 MS. SULLIVAN: Why is it five for this one
7 for the same violation and it was six for a
8 previous?

9 MS. KERSEY: The previous one had two
10 violations. They were -- had an unlicensed
11 practitioner.

12 MS. SULLIVAN: Right. Which was charged
13 100 for that, so I just -- and so it was \$700?

14 MS. KERSEY: Right. But the practitioner
15 had one too.

16 MS. SULLIVAN: Okay. I was just curious.
17 I thought --

18 MS. PITMAN: There was two fines for the
19 unlicensed practitioner, one for the salon, one
20 for the practitioner.

21 MS. KERSEY: Right.

22 MS. JACKSON: I have one other question.
23 How long has she been personally licensed as a
24 cosmetologist?

25 MS. KERSEY: I do -- I don't know that

1 personally. I know that we could find it out
2 if you want us to.

3 MS. JACKSON: I just wonder why they don't
4 know they are supposed to have a licensed
5 facility.

6 MS. KERSEY: I don't know.

7 MS. JACKSON: I didn't know if she was a
8 new stylist or --

9 MS. KERSEY: I don't know that. Sorry. I
10 didn't look her up, since she is licensed.

11 MS. ANDERSON: She is a corporation, she
12 did a lot to become a corporation, though. In
13 the back page, Page 11, it's the business
14 information, and then on the back, Page 12,
15 with her business license, it doesn't give the
16 date started, it just gives the update of
17 1/21/15, but the page before it says she's a
18 corporation. That's --

19 MS. KERSEY: 2001. She was licensed in
20 2001.

21 MS. JACKSON: She knows she has to be
22 licensed.

23 MS. SULLIVAN: We're ready to go back off
24 the record or off the record then.

25 HEARING OFFICER: Okay. We're off the

1 record for the board to make their
2 deliberations.

3 (WHEREUPON, the CTAC retired to
4 deliberate, off the record, from 11:13 a.m. to
5 11:14 a.m., and returned with the following
6 decision:)

7 HEARING OFFICER: Okay. We'll go on the
8 record for the board to make their decision.

9 MS. SULLIVAN: Do we have a motion?

10 MS. ANDERSON: Go ahead.

11 MS. PECK: I would like to make a motion
12 that Cutting Couture be fined \$500.

13 MS. SULLIVAN: Do we have a second --

14 MS. JACKSON: I'll second that.

15 MS. PECK: -- for unlicensed salon, no
16 current license for the salon.

17 MS. SULLIVAN: Do we have a second?

18 MS. JACKSON: I'll second that.

19 MS. SULLIVAN: All in favor?

20 BOARD MEMBERS: Aye.

21 MS. SULLIVAN: All opposed?

22 Let the record show that it was a
23 unanimous decision and none are opposing.

24 HEARING OFFICER: All right. Then if
25 there are no further matters, we will call this

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hearing concluded and this matter closed.

(WHEREUPON, at 11:14 a.m., the
above-entitled proceedings were concluded.)

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1 Ms. Kelli Kersey provided an update on
2 electronic inspections, "I think we're really
3 getting close."

4 An update was provided on the act that
5 passed for the early testing. It takes effect
6 90 days after the session closes in July.
7 There will be a new form for early testers.
8 Early testing should start in September.

9 The CTAC members were thanked for their
10 service on the committee, as a new CTAC will be
11 appointed.

12 Meeting was adjourned.

13 (WHEREUPON, at 11:24 a.m., the
14 above-entitled proceedings were concluded.)

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3 CERTIFICATE

4 STATE OF ARKANSAS)

5 COUNTY OF PULASKI)

6 I, SUSAN B. WHITSON, Certified Court Reporter
7 and notary public in and for Pulaski County, State of
8 Arkansas, do hereby certify that the meeting and hearings
9 held before the Arkansas Department of Health,
10 Cosmetology Technical Advisory Committee, July 20, 2015,
11 were taken by me in Stenotype and reduced to
12 computer-generated typewritten form by me or under my
13 direction and supervision; that the witnesses were duly
14 sworn by the Hearing Officer; and that the same is a true
15 and correct reflection of the proceedings that occurred,
16 to the best of my knowledge and ability.

17 I FURTHER CERTIFY that I am neither counsel
18 for, related to, nor employed by any of the parties to
19 the action in which these proceedings were taken; and,
20 further that I am not a relative or employee of any
21 attorney or counsel employed by the parties hereto, nor
22 financially interested, or otherwise, in the outcome of
23 this action; and that I have no contract with the
24 parties, attorneys, or persons with an interest in the
25 action that affects or has a substantial tendency to

1 affect impartiality, that requires me to relinquish
2 control of an original transcript or copies of the
3 transcript before it is certified and delivered to the
4 custodial attorney, or that requires me to provide any
5 service not made available to all parties to the action.

6 SIGNED AND SWORN this _____ day of
7 _____.

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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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