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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 11th day of April 2016, the meeting of the Arkansas Department of Health, Cosmetology Section, Cosmetology Technical Advisory Committee was held, at 9:00 a.m., at the Freeway Medical Building, Suite 801, Little Rock, Pulaski County, Arkansas.

TECHNICAL ADVISORY COMMITTEE:

- ANGELA JACKSON, Chair
- TRISH ANDERSON
- JESSICA PECK
- CARLA JONES
- TONYA BOYDSTUN (not present)

REPORTED BY:

SUSAN B. WHITSON, CCR
Arkansas Supreme Court Certificate No. 158
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1 APPEARANCES :

2 ON BEHALF OF THE COMMITTEE :

3 ELIZABETH HARRIS, ESQ.

4 HEARING OFFICER :

5 PEGGY JOHNSON, 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
CONNIE MELTON, ADH Branch Chief, Health Systems Licensing
10 and Reg
TERI PREACHERS - Administrative Specialist
11 KATHRYN KERSEY, School Liaison
AMANDA WEEKS
12 TERRIE NASH
BRIAN NATION
13

14 Inspectors Present :

15 LAVONNE LESTER
VERA WOOD
16 LINDSEY TORRENCE

17 PUBLIC :

18 Alan Anderson
Juana Brown
19 Whitney Babel
Chelsea Aragon
20 Wendy Sullivan

21 Court Reporter :

22 Susan B. Whitson, CCR
Arkansas Supreme Court Certificate No. 158
23
24
25

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P R O C E E D I N G S

1
2 The April 11, 2016, Arkansas Department of
3 Health, Cosmetology Technical Advisory
4 Committee meeting was opened by Chairman Angela
5 Jackson. Committee members present were Carla
6 Jones, Jessica Peck, Trish Anderson, and Angela
7 Jackson.

8 Motion was made by Ms. Anderson, second by
9 Ms. Jones, to amend the minutes of the November
10 11, 2015, meeting to add that although the
11 subject was discussed, there was no conclusion
12 made as to a conversion table for student
13 hours. Motion passed unanimously.

14 Motion was made by Ms. Anderson, second by
15 Ms. Jones, to accept the minutes of the
16 November 11, 2015, meeting, as amended. Motion
17 passed unanimously.

18 Motion was made by Ms. Peck, second by Ms.
19 Anderson, to accept the paid violations.
20 Motion passed unanimously.
21
22
23
24
25

1 it looks like an Order and Notice of Hearing
2 was -- was issued, so Ms. Harris, are you
3 wanting to proceed with this matter before the
4 board?

5 MS. HARRIS: Yes, please.

6 HEARING OFFICER: Okay. Well, then I will
7 ask you, do you have any witnesses that you
8 want to give testimony?

9 MS. HARRIS: I do.

10 HEARING OFFICER: And who are they?

11 MS. HARRIS: Vera Wood and Kelli Kersey.

12 HEARING OFFICER: Vera Wood and Kelli
13 Kersey. K-e-l-l-i?

14 MS. KERSEY: Yes.

15 Where is she?

16 MS. TORRENCE: She just went to get the
17 rules out of her car.

18 HEARING OFFICER: Okay. Well, we'll wait
19 until she gets back to do that.

20 And while she's doing that, let me ask, do
21 you have any documents that you want the board
22 to consider?

23 MS. HARRIS: We do. We have an 11-page
24 packet that we would like to introduce.

25 HEARING OFFICER: Okay. 11-page packet of

1 documents. You may go ahead and those will be
2 entered into the record as Board Exhibit 1, and
3 those are Pages 1 through 11.

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

6 HEARING OFFICER: And, please, provide the
7 court reporter with a copy.

8 And you have a copy?

9 COURT REPORTER: (Nodding head up and
10 down.)

11 HEARING OFFICER: Good. All right. And
12 you may go ahead and make sure that everybody
13 on the board has a copy. Does everyone have a
14 copy?

15 MS. HARRIS: Yes, ma'am.

16 HEARING OFFICER: And you all will have to
17 help me out on the names today, because it's
18 been a while since I've been here.

19 MS. JACKSON: We need to turn our name
20 tags.

21 HEARING OFFICER: No, no, no, no, no, so
22 the court reporter can see them, she needs
23 them; but of course you might, if I look at you
24 like, identify yourself, you can say your name
25 for the record.

1 All right. Y'all let me know when
2 Ms. Vera Wood is back. In the meantime --

3 MS. KERSEY: There she is.

4 HEARING OFFICER: -- let me go ahead and
5 swear you in.

6 MS. KERSEY: There she is.

7 HEARING OFFICER: Oh, wonderful.

8 Now, Ms. Wood, since you're going to be a
9 witness, why don't you just come on up here and
10 have a seat near the court reporter, so we can
11 hear you and she can hear you fine. And I will
12 ask you to raise your right hand and I'll swear
13 you in as well as Ms. Kersey.

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

16 HEARING OFFICER: All right. Thank you.

17 All right. With that said, is there
18 anything that you -- we need to take up as a
19 preliminary matter or do you want an opening
20 statement?

21 MS. HARRIS: I have no opening.

22 If we could take notice of the cosmetology
23 act and the rules and regulations governing
24 cosmetology.

25 HEARING OFFICER: All right. We will take

1 notice of the cosmetology act and the rules and
2 regulations that govern the cosmetology board.

3 All right. Then you may begin.

4 MS. HARRIS: Thank you.

5 Call 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. HARRIS:

13 Q Ms. Wood, would you tell us your name and where you
14 work.

15 A Vera Wood, Arkansas Department of Health,
16 Cosmetology Inspector.

17 Q Thank you.

18 And, Ms. Wood, did you do an inspection of
19 Smartstyle No. 1171?

20 A Yes.

21 Q And where is this Smartstyle -- where is this
22 Smartstyle located?

23 A Malvern.

24 Q Malvern?

25 A Martin Luther King, Malvern, Arkansas.

1 Q Is it inside of a Walmart?

2 A Yes.

3 Q Okay. And what day did you do your inspection?

4 A 1/19/16.

5 Q I think your inspection sheet is on page --

6 A Nine.

7 Q Nine?

8 A Uh-huh.

9 Q Thank you.

10 When you went to that Smartstyle on Malvern -- in

11 Malvern, what did you find?

12 A I found that the salon license was not current,

13 which they were still in their 30-day grace; all posted

14 license are not current; the floors were nasty; the

15 equipment was not clean; the things were not labeled that

16 had been taken out of their original container; and I

17 found several pairs of clippers that were dirty.

18 Q Okay. And it looks like you kind of highlighted the

19 note here on Page 9?

20 A Yes.

21 Q Is that the note about the dirty -- the violations

22 you just told me about?

23 A Yes.

24 Q Okay. Looking at Page 10, can you tell us what we

25 see here?

1 A That's a trashcan that's -- just has stuff laying in
2 the floor around it and it's just dirty.

3 Q Okay. And Page 11?

4 A That's hair that was collected in the corner under
5 all the cording.

6 Q Not only is that dirty, is that any other kind of
7 concern, that there is hair and everything under cords
8 there?

9 A Well, it's a hazard. It's a trip hazard.

10 Q Okay.

11 (Ms. Babel and Ms. Aragon entered the
12 room.)

13 HEARING OFFICER: Let the record show that
14 one -- two people just entered, and I believe
15 that someone is being indicated as they are
16 representing Smart -- from Smartstyle?

17 MS. BABEL: That's me.

18 HEARING OFFICER: Yes. Are you with
19 Smartstyle?

20 MS. BABEL: Yes.

21 HEARING OFFICER: What is your name?

22 MS. BABEL: Whitney Babel.

23 HEARING OFFICER: Whitney?

24 MS. BABEL: Uh-huh.

25 HEARING OFFICER: Spell the last name.

1 MS. BABEL: B-a-b-e-l.

2 HEARING OFFICER: B-a-b-e-l?

3 MS. BABEL: Uh-huh.

4 HEARING OFFICER: Okay. And the person
5 who is with you?

6 MS. BABEL: This is Chelsea Aragon.

7 HEARING OFFICER: Chelsea, A-r --

8 MS. BABEL: -- a-g-o-n

9 HEARING OFFICER: Okay. We -- we had just
10 begun the hearing so, please, come up and --

11 MS. BABEL: Okay. Sorry.

12 HEARING OFFICER: You can just have a
13 seat.

14 MS. BABEL: Sorry.

15 HEARING OFFICER: Chelsea Aragon,
16 A-r-a-g-o-n; is that right?

17 MS. BABEL: Yes, ma'am.

18 HEARING OFFICER: All right. And -- and
19 let me go ahead and swear both of you in.

20 The attorney for the board is Elizabeth
21 Harris, and she was just beginning to question
22 Ms. Vera Wood, who is the inspector.

23 MS. BABEL: Okay.

24 HEARING OFFICER: So at this time, if you
25 will both raise your right hand, so I will

1 swear you in so you can both give testimony to
2 the board today.

3 MS. BABEL: Okay.

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

6 HEARING OFFICER: All right. Thank you.

7 And the court reporter is right there
8 across from Ms. -- I mean, beside Ms. Wood, and
9 if you will speak up so that she can hear you
10 because she's recording all of the testimony.

11 MS. BABEL: Okay.

12 HEARING OFFICER: And if you just want to
13 sort of recap what's been testified to up to
14 this point to get Ms. Babel and Ms. Aragon up
15 to speed.

16 MS. HARRIS: Do you just want me to do it
17 or --

18 HEARING OFFICER: You can sort of
19 summarize.

20 MS. HARRIS: Okay. I've just questioned
21 Ms. Wood on her inspection of November 19th,
22 we've gone through the inspection sheet here,
23 which is in that packet in front of you.

24 MS. BABEL: Okay.

25 MS. HARRIS: And also the two pictures

1 that are attached showing the floors.

2 HEARING OFFICER: And I believe she had
3 been -- you had been questioning Ms. Wood about
4 the condition of -- well, particularly with
5 reference to Exhibit 10 and 11 with reference
6 to the condition of the floors when she -- on
7 the date of her inspection.

8 MS. BABEL: Yes. Okay.

9 MS. HARRIS: Yes.

10 HEARING OFFICER: Okay. You may continue.

11 BY MS. HARRIS:

12 Q Okay. And just because I think we had to do all of
13 this there, Ms. Wood, what were you saying could be
14 another hazard to having those cords?

15 A Okay. There was hair collected around the cords,
16 the cords are a trip hazard for anybody getting in and
17 out of their chair.

18 Q Thank you.

19 Ms. Wood, have you been back to Smartstyle in
20 Malvern since November 19, 2016?

21 A I don't think so.

22 Q Okay. So do you know if they have addressed these
23 violations?

24 A I do not.

25 HEARING OFFICER: Okay. November --

1 November 19, 2015, right, was when she as
2 there?

3 MS. HARRIS: Yes. I'm sorry.

4 HEARING OFFICER: Okay.

5 MS. PECK: And it shows here --

6 THE WITNESS: It's January 19, '16.

7 HEARING OFFICER: Okay. January 19, 20 --

8 MS. HARRIS: Let the record reflect I
9 can't read.

10 HEARING OFFICER: -- 16 was the date of
11 your inspection?

12 THE WITNESS: Yes.

13 HEARING OFFICER: Okay. Thank you for
14 clearing me up on that.

15 MS. HARRIS: Me too, apparently.

16 Apparently, I can't read.

17 HEARING OFFICER: Okay.

18 BY MS. HARRIS:

19 Q So you haven't been back since January of this year?

20 A I do not believe I have.

21 MS. HARRIS: Okay. Good to know. Thank
22 you.

23 HEARING OFFICER: Thank you, Ms. Wood.

24 Does the board have any questions for
25 Ms. Wood?

1 Now, Ms. Whitney --

2 MS. BABEL: Yes.

3 HEARING OFFICER: -- or Ms. Chelsea, you
4 can ask Ms. Wood any questions you want about
5 that report, what she just testified to, any
6 questions you have, you may ask her.

7 MS. BABEL: I don't have any questions.

8 HEARING OFFICER: All right. Ms. Aragon?

9 MS. ARAGON: I don't have any either.

10 HEARING OFFICER: Okay. All right. All
11 right. Then you may call your next witness.

12 MS. HARRIS: Call Kelli Kersey.

13 WHEREUPON,

14 KELLI KERSEY,

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 THE WITNESS: Kelli Kersey, Arkansas
19 Department of Health, Cosmetology Section,
20 Section Chief.

21 DIRECT EXAMINATION

22 BY MS. HARRIS:

23 Q Ms. Kersey, did you get a report of the
24 January 19th inspection of the Smartstyle in Malvern?

25 A I did, yes.

1 Q Okay. And you will note on the inspection sheet on
2 Page 9 there are several check marks there?

3 A Yes.

4 Q What are we actually here today on?

5 A We are actually only here on the floors, mats in
6 clean and good repair, because it was the only one that
7 was three inspections in a row that was the same offense.

8 Q Okay. So the other ones, have they already been
9 paid?

10 A Yes, they have.

11 Q And those got approved today?

12 A Yes.

13 Q Okay. And, Ms. Kersey, did we send out an Order and
14 Notice of Hearing to the Smartstyle?

15 A Yes.

16 Q Okay. And that's on Page 1, 2, and 3?

17 A Uh-huh. Correct.

18 Q What address did we send it to?

19 A 70 -- 7201 Metro Boulevard, Minneapolis, Minnesota.

20 Q Okay. And then that's the address we have on file?

21 A Yes. That is their mailing address.

22 Q Was it signed for?

23 A Yes.

24 Q What date?

25 A March 28th.

1 Q All right. And that tells them to be here and they
2 were, obviously, so --

3 A Correct.

4 Q -- we have the right day and time?

5 A Yes.

6 Q Okay. Tell me about the other violations on the
7 dirty floors.

8 A Okay. It looks like on -- okay. Let me go back.
9 I'm sorry.

10 On 8/29/2013, they paid that one; and on 9/14/2015,
11 they had the same violations.

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

14 A Fifty dollars.

15 Q Fifty dollars?

16 A Yes.

17 Q Is there anything else you would like the CTAC to
18 consider?

19 A Yes. We passed the -- the new rule passed for the
20 third offense, but it didn't take effect until February
21 18th, so this did not fall into that, that's why we're
22 at this hearing. Okay?

23 MS. HARRIS: Okay.

24 THE WITNESS: Okay.

25 MS. ANDERSON: Uh-huh.

1 MS. HARRIS: I have no other questions.

2 HEARING OFFICER: All right. Do you have
3 any questions, Ms. Whitney, or Ms. Chelsea, for
4 Ms. Kelli Kersey?

5 MS. BABEL: I don't have any questions.

6 MS. ARAGON: No.

7 HEARING OFFICER: Okay. Does the board
8 have any questions, clarifications, or --
9 Okay. All right. Anything further from
10 you?

11 MS. HARRIS: I'm just going to ask them a
12 couple of questions real fast.

13 HEARING OFFICER: All right. Go right
14 ahead.

15 WHEREUPON,

16 WHITNEY BABEL,
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. HARRIS:

22 Q Ms. Babel or Bable?

23 A Babel.

24 Q Babel?

25 A Uh-huh.

1 Q Okay. Do you work at the Smartstyle in Malvern?

2 A I do not. I am District Leader and I just took over
3 in March.

4 Q Okay.

5 A So I didn't even know about this until about a week
6 ago.

7 Q Okay.

8 A I do have pictures of it now, I don't know if that
9 matters, but we did take pictures of the floor of how it
10 is now.

11 Q Okay. Yes. Hold on a second.

12 A Okay.

13 Q What is your district?

14 A District 4A.

15 Q What does that mean?

16 A That's just how they know who I am.

17 Q Like what is your area?

18 A I have 11 right now, and it's from Batesville to
19 Malvern, so it's quite a big area.

20 Q Okay. So all over the state?

21 A Yes.

22 Q And that's for Walmart Corporation?

23 A It's for Regis.

24 Q Regis?

25 A Uh-huh.

1 Q Okay. All right. So Smartstyle is a subdivision
2 of --

3 A Yes.

4 Q Okay. Oh, I didn't know.

5 A Okay.

6 Q All right. You said you have pictures?

7 A Uh-huh.

8 Q Do you have them printed?

9 A They are on my phone. I do not get them printed. I
10 was in there very briefly the other day and I just took
11 them.

12 MS. HARRIS: How do we do that?

13 HEARING OFFICER: Well, you can -- you can
14 let the -- pass them around to the board
15 members. I've had a hearing once before where
16 they actually showed texts that were on the
17 phone and you can let the board member
18 individuals see them.

19 MS. HARRIS: Okay.

20 THE WITNESS: Okay. And if you don't
21 mind, I'll put them into a file really fast so
22 you don't have to look at extra stuff.

23 HEARING OFFICER: Sure. And then if you
24 want to describe what you see on them verbally,
25 you certainly may do that.

1 COURT REPORTER: Hang on. Could she text
2 them to me so I can have them for the record?

3 HEARING OFFICER: Certainly.

4 COURT REPORTER: Thank you.

5 HEARING OFFICER: And that was the court
6 reporter asking for those photographs to be
7 texted to her.

8 THE WITNESS: Sure.

9 MS. HARRIS: And if you could, when you
10 describe them, if you could tell me the date
11 that you took them, that would be great.

12 THE WITNESS: Okay. That should be on
13 here too.

14 HEARING OFFICER: And it might not be a
15 bad idea for her to text them to you as well,
16 to Ms. Harris, attorney for the board.

17 THE WITNESS: Okay. I can do that.
18 The date was April 7th.

19 HEARING OFFICER: Of 2016?

20 THE WITNESS: Yes, ma'am.

21 And there is five pictures. Do you want
22 me to pass them around or --

23 HEARING OFFICER: Okay. Ms. Harris, just
24 write your number there, and I'll get you to
25 write your number. Ms. Sue's the court

1 reporter and Ms. Harris', the attorney.

2 THE WITNESS: Okay. Thank you.

3 (WHEREUPON, Respondent's Exhibit No. 1 was
4 received in evidence.)

5 HEARING OFFICER: All right. Let the
6 record reflect show that I've given the
7 numbers, the cell phone numbers for Ms. Sue
8 Whitson, the court reporter, and Ms. Elizabeth
9 Harris, the board attorney, so that Ms. Babel
10 can -- can text those.

11 Oh, she texted them to you?

12 MS. PECK: Do what?

13 HEARING OFFICER: She texted them to you?

14 MS. PECK: No. That's her phone. She's
15 passing them around.

16 HEARING OFFICER: I'm behind.

17 MS. HARRIS: If I could ask her --

18 HEARING OFFICER: Yes. You may go ahead
19 and question Ms. Babel.

20 BY MS. HARRIS:

21 Q Ms. Babel, I just have one other thing.

22 So you cleaned up the floors at the Smartstyle?

23 A Yes.

24 Q Okay. Have you addressed some of the other
25 violations that are listed on the sheet here today?

1 I know we're not here on that today but --

2 A No, that's fine. I have not -- there is -- let me
3 look at it. There is new management in there as well.
4 And everything has been pretty deep cleaned so -- thank
5 you.

6 Q So you're in the process of addressing everything
7 listed there?

8 A Yes, ma'am.

9 MS. HARRIS: Okay. That's all the
10 questions I have for Ms. Babel.

11 THE WITNESS: Okay.

12 HEARING OFFICER: And just for my, for
13 clarification, Ms. Wood, did you get a chance
14 to look at the photographs that Ms. Babel
15 passed around?

16 MS. WOOD: I did not. No. I took them
17 over there.

18 HEARING OFFICER: Oh, okay. They are on
19 their way to you? Okay.

20 MS. WOOD: No. I took them over there.
21 But it wouldn't matter because it has to be
22 when I go in there.

23 HEARING OFFICER: Well, I -- I understand
24 that, but I didn't know if --

25 MS. HARRIS: If you don't mind looking at

1 them.

2 HEARING OFFICER: Yeah. Everyone got a
3 chance to look at them.

4 All right. Did you have any further
5 questions?

6 MS. HARRIS: Not of Ms. Babel, no.

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

9 Any questions?

10 MS. JONES: No.

11 HEARING OFFICER: Okay. Then you may
12 question Ms. Aragon.

13 WHEREUPON,

14 CHELSEA ARAGON,

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 DIRECT EXAMINATION

19 BY MS. HARRIS:

20 Q Ms. Aragon, do you work at the Smartstyle 1171?

21 A No, ma'am. I'm currently the manager over
22 Batesville, but I have worked there on four different
23 occasions.

24 Q Okay. When were -- when did you work there on those
25 four occasions? Not exact dates, just kind of

1 approximate?

2 A I was in there twice in March -- three times in
3 March and then once in February.

4 Q Okay. So after this inspection on January 19th?

5 A Yes.

6 Q So -- so you've seen it since then?

7 A Yes.

8 Q So what does it look like now?

9 A I've been in to do some training and cleaning and
10 we've pretty much torn the shop apart and put it back
11 together.

12 Q Okay. So you've addressed a lot of these
13 violations?

14 A Yes.

15 MS. HARRIS: Okay. Good to know. Thank
16 you.

17 I don't think I have any more questions
18 for these witnesses.

19 HEARING OFFICER: Okay. Does anybody on
20 the board have any questions for Ms. Aragon?

21 No questions?

22 MS. JONES: No.

23 MS. PECK: No.

24 HEARING OFFICER: Okay. All right. Now,
25 we've questioned you. Now, do you want to

1 state anything? This is your opportunity to
2 just say whatever it is you want the board to
3 know with regard to this.

4 WHEREUPON,

5 WHITNEY BABEL,

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 DIRECT TESTIMONY

10 THE WITNESS: Well, there won't be any
11 other violations, I can be sure of that.
12 That's really all I have to say.

13 HEARING OFFICER: Just for -- one question
14 I had. How often is the -- you said you were
15 the Regional Manager?

16 MS. BABEL: I'm District Leader.

17 HEARING OFFICER: District Leader?

18 MS. BABEL: Uh-huh. I'm one of them.

19 HEARING OFFICER: And how often do you
20 have occasion to visit that location?

21 MS. BABEL: I'm there at least once every
22 two weeks.

23 HEARING OFFICER: Okay. All right. Any
24 questions?

25 Anything else that you want to state,

1 Ms. Aragon?

2 MS. ARAGON: No.

3 HEARING OFFICER: Okay.

4 MS. HARRIS: I think Ms. Kersey wanted to
5 let the CTAC to know something about their
6 license.

7 MS. KERSEY: They did renew their license
8 on 1/21, so the license is current; so --

9 MS. HARRIS: We just forgot to say that
10 before.

11 MS. KERSEY: Yeah. Sorry.

12 HEARING OFFICER: All right. Well, if
13 there is no further questions that you have,
14 Ms. Harris, or nothing further that you want to
15 state, Ms. Babel or Ms. Aragon, is the board
16 ready to conclude the testimony phase and go
17 into deliberations?

18 MS. PECK: Yes.

19 HEARING OFFICER: All right. Hearing no
20 objection, then the testimony phase is
21 concluded and the board will -- we'll go off
22 the record and allow the board to deliberate.

23 (WHEREUPON, the Committee retired to
24 deliberate, off the record, from 9:24 a.m. to
25 9:26 a.m., and returned with the following

1 decision:)

2 HEARING OFFICER: Okay. All right. We're
3 back on the record before the -- before the
4 Cosmetology Technical Advisory Committee in the
5 matter of Smartstyle. The board has
6 deliberated and is now ready to announce their
7 findings with respect to the allegations before
8 the board in the form of a motion and then any
9 disciplinary action.

10 MS. PECK: I would like to make a motion
11 that we double the fine --

12 HEARING OFFICER: Well, first of all,
13 you're making a finding --

14 MS. PECK: On the -- okay.

15 HEARING OFFICER: -- that the allegations,
16 address that first, if you will.

17 MS. PECK: Okay.

18 HEARING OFFICER: The allegations that
19 were made against Smartstyle, you have to find
20 that they have been proven. Uh-huh.

21 MS. PECK: Okay. I would like to make a
22 motion that the allegations against Smartstyle,
23 with them not keeping their floors clean, has
24 been proven, and I would like to make a motion,
25 did I just say that, that --

1 MS. HARRIS: One motion at a time.

2 MS. PECK: -- we double the fine.

3 HEARING OFFICER: Yeah. Just one at a
4 time. So you're making the motion --

5 MS. PECK: Okay. So we're voting twice?

6 HEARING OFFICER: Right.

7 MS. PECK: Okay.

8 HEARING OFFICER: The allegations, as
9 contained in the Order and Notice of Hearing
10 listing violations against Smartstyle, you're
11 saying that they have been proven, and that's
12 your motion.

13 MS. JACKSON: Okay.

14 MS. PECK: Okay.

15 HEARING OFFICER: So is there a second?

16 MS. JACKSON: Is there a second?

17 MS. ANDERSON: I'll second that motion.

18 HEARING OFFICER: Okay.

19 MS. JACKSON: All in favor?

20 COMMITTEE MEMBERS: Aye.

21 MS. JACKSON: All opposed?

22 Okay.

23 HEARING OFFICER: Okay. Let the record
24 show that the motion passed unanimously.

25 Now, with respect to any disciplinary

1 action?

2 MS. PECK: Okay. I would like to make a
3 motion that the fine is doubled against
4 Smartstyle to \$100.

5 MS. JACKSON: Okay. Do we have a second?

6 MS. JONES: I second that motion.

7 MS. JACKSON: All in favor?

8 COMMITTEE MEMBERS: Aye.

9 MS. JACKSON: All opposed?

10 HEARING OFFICER: All right. Let the
11 record show that the action taken by the board
12 today, which is a fine of \$100 for the
13 violations that is contained in the Order and
14 Notice of Hearing, was adopted unanimously, and
15 that board's -- the board's action today
16 will -- you will be formally notified of that
17 in a written order.

18 MS. BABEL: Okay.

19 HEARING OFFICER: And from which you will
20 have a right to appeal if you decide to appeal
21 it.

22 If there is nothing further, then you --
23 if you have any questions regarding how to pay
24 the fine, you certainly may see --

25 MS. HARRIS: Terrie.

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HEARING OFFICER: Terrie.

All right. If there is anything further,
then thank you for being present today, and
this matter is closed -- is concluded.

MS. BABEL: Thank you.

(WHEREUPON, at 9:29 a.m., the
above-entitled hearing was concluded.)

---o---

1 and all of the exhibits are contained in a --
2 it's a voluminous, at least an inch and a half
3 thick --

4 MS. KERSEY: 307.

5 HEARING OFFICER: -- 307 page --

6 MS. HARRIS: Some of it is from the first
7 hearing, so some of it they have seen.

8 MS. KERSEY: Yeah.

9 HEARING OFFICER: Okay. So I will give
10 the board ample opportunity to look through any
11 and all the documents that you need to look
12 through.

13 Is there anything that you need to take up
14 before we do that?

15 MS. HARRIS: Ms. Brown is here, I believe.

16 HEARING OFFICER: Okay. Representing
17 Blytheville School of Cosmetology, Ms. --

18 MS. BROWN: Juana Brown.

19 HEARING OFFICER: Juana Brown?

20 MS. BROWN: Yes, ma'am.

21 HEARING OFFICER: All right. Could you
22 spell the first name?

23 MS. BROWN: It's J-u-a-n-a.

24 HEARING OFFICER: Juana Brown.

25 Okay. Anybody else with you, Ms. Brown?

1 MS. BROWN: No, ma'am.

2 HEARING OFFICER: Okay. Okay. Okay. And
3 you will be having witnesses in this matter?

4 MS. HARRIS: Yes.

5 HEARING OFFICER: And who will they be?

6 MS. HARRIS: They will be Lavonne Lester,
7 Kathryn Kersey, and Kelli Kersey.

8 HEARING OFFICER: That Kathryn with a --

9 MS. KERSEY: K.

10 HEARING OFFICER: K?

11 And Lavonne, can you spell the name?

12 MS. LESTER: Lavonne, L-a-v-o-n-n-e.

13 HEARING OFFICER: And the last name?

14 MS. LESTER: Lester.

15 HEARING OFFICER: Okay. All right.

16 Ms. Brown, Lester, Kersey, and Kersey, if you
17 will raise your right hand, I will swear you
18 in.

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

21 HEARING OFFICER: All right. Thank you.

22 Okay. And as I stated, the 307 page
23 documents are -- you know, there is a lot of
24 them, and if -- we will go off the record and
25 allow the board time to look through them. So

1 let's go off the record right now and you all
2 just let me know when you're through.

3 And, Ms. Brown, you have a copy?

4 MS. BROWN: Yes, ma'am.

5 HEARING OFFICER: Okay. Just making sure.
6 Okay.

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

9 (WHEREUPON, a brief recess was held.)

10 HEARING OFFICER: All right. We are back
11 on the record in the Matter of Arkansas
12 Department of Health versus Blytheville School
13 of Cosmetology. The board has had an
14 opportunity to review some 307 pages of
15 exhibits, including a complete transcript of
16 the prior hearing before the board.

17 And at this time I will turn it over to
18 you, Ms. Harris, to question your first
19 witness.

20 MS. HARRIS: Okay. Do you want me to
21 do -- if you don't mind --

22 HEARING OFFICER: Well, yes, if you want
23 to briefly open and summarize what's happened
24 to date.

25 MS. HARRIS: Okay. This case started back

1 in November of 2014, when we did an inspection,
2 a routine -- no, it was in response to a
3 complaint, I believe, an inspection of the
4 Blytheville School of Cosmetology. At the time
5 we asked for some records and they were not --
6 she was not -- Ms. Brown was not able to turn
7 them over. Several months worth of
8 correspondence took place after that date in
9 which we requested them, all of that is in this
10 packet. We had a hearing May 18, 2015,
11 regarding those records. The CTAC found that
12 Ms. Brown had -- had not -- not cooperated with
13 the investigation, that is the finding, and
14 it's Rule 5.1(C) (3), I believe, and it's listed
15 in the Order and Notice of Hearing. That's the
16 rule that we are here today for.

17 After that, Ms. Brown appealed that
18 decision to the Board of Health; was supposed
19 to go before them in July; Ms. Brown requested
20 a continuance, it was continued until October.
21 The board heard the matter, Ms. Brown came to
22 that hearing in Petit Jean and the board
23 decided that we needed further information on
24 the correspondence that took place between
25 Ms. Brown and the Arkansas Department of Health

1 regarding those records, it was a little
2 unclear what communications had taken place
3 regarding those records, so that is primarily
4 why we are here today and why this packet is so
5 much larger than it was before.

6 We initially scheduled this hearing for
7 January. Ms. Brown then asked for a
8 continuance, we continued it until March, but
9 for several reasons we could not have it in
10 March and we moved it until today. Ms. Brown
11 was able to come today so we are ready to go on
12 this matter.

13 HEARING OFFICER: Okay. So this is
14 basically to supplement the record?

15 MS. HARRIS: Yes.

16 HEARING OFFICER: Okay. All right.
17 Great. You may call your first witness.

18 MS. HARRIS: Call Ms. Lavonne Lester.

19 WHEREUPON,

20 LAVONNE LESTER,
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 EXAMINATION

25 BY MS. HARRIS:

1 Q State your name and where you work.

2 A Lavonne Lester, Arkansas Department of Health,
3 Cosmetology.

4 Q Are you an inspector?

5 A I am an inspector, yes.

6 Q And back in November of 2014, did you do an
7 inspection of the Blytheville School of Cosmetology?

8 A Yes, ma'am. We had gone out there on a complaint.

9 Q Okay. And the complaint, when did you receive it?

10 A 10/28/14.

11 Excuse me.

12 Q Okay. Is that actually Page 15 of the hearing
13 packet, I believe, before you?

14 A Uh-huh.

15 Q Okay. What did that complaint say?

16 A It's lengthy. I guess, basically, he was saying
17 that -- I'm just remembering, I don't know here. That he
18 would -- he would go to school and really actually didn't
19 do anything while he was there to obtain his hours, and
20 that he was mostly working on a halfway house that --
21 that the owner was starting up.

22 Q Okay.

23 A And that's -- that's just the gist of it.

24 Q So you went out to Blytheville, and your inspection
25 sheet is on Page 17?

1 A Yes, ma'am.

2 Q While you were there, I mean, can you kind of tell
3 us what an inspection of the school would be like when
4 you go out? Briefly, if you can tell us that?

5 A Briefly? Okay. Well, we always check the
6 attendance, check their time cards.

7 Q Okay.

8 A Do just a physical with the cleanliness of the
9 school.

10 Q Okay.

11 A And then I always have asked for them to print the
12 student, the list of the students, and we have each
13 student that is present that day sign.

14 Q Okay.

15 A And if they are not -- I have a copy of that
16 somewhere in this mess. And if they are not present,
17 then I ask the instructor or owner or whatever to put in
18 there LOA, leave of absence, or if they have dropped or
19 if they are absent that day.

20 Q Okay.

21 A That kind of gives you something to go by. You know
22 who is there and when they sign their name, you know
23 that's a real person, you know. Okay.

24 Q Okay. So you said it's routine for you to ask for
25 records of students in inspections?

1 A Uh-huh. Yes, ma'am.

2 Q Okay. And did you get them that day on 11/19?

3 A No. We had asked for specific records. We were
4 told that their file cabinet was locked and they didn't
5 have the key.

6 Q Okay. So she didn't have a key? Did she tell you
7 where --

8 A That's what she told.

9 Q Did she tell you where the key was?

10 A Her instructor had it and that -- that she had had a
11 fire in her home that morning and was unable to be
12 present.

13 Q Okay. Did you attempt to make arrangements to get
14 the records some other day or some other time?

15 A I believe that we left it as is that day, but had
16 requested for her to mail them to the office.

17 Q Okay. And, Ms. Lester, did Ms. Brown sign the
18 inspection sheet acknowledging the violations that were
19 present that day?

20 A Yes, she did.

21 Q Does that include the -- that you could not get into
22 the records?

23 A She signed both of my copies, and, yes, she signed
24 that also.

25 Q All right. Thank you.

1 Hang on a second to go through my notes here.

2 Ms. Lester, on May 12 of last year, 2015, it looks
3 like you did another inspection of Blytheville. Do you
4 remember that?

5 A Yes.

6 Q Okay. And I don't think we're really here on
7 anything that happened that day during that inspection,
8 but did you happen to get the records that were in
9 question when you went back out there on the 12th of
10 May?

11 A No.

12 MS. HARRIS: Okay. And now, I think
13 that's all I have for Ms. Lester.

14 HEARING OFFICER: Okay. Ms. Brown, do you
15 have any questions of Ms. Lester?

16 MS. BROWN: No, ma'am.

17 HEARING OFFICER: Okay. Does the board
18 have any questions of Ms. Lester?

19 Okay. Then you may call your next
20 witness.

21 MS. HARRIS: Call Kelli Kersey.

22 WHEREUPON,

23 KELLI KERSEY,

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

1 testified, as follows:

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

5 DIRECT EXAMINATION

6 BY MS. HARRIS:

7 Q Ms. Kersey, are you Ms. Lester's supervisor?

8 A Yes, ma'am.

9 Q And did Ms. Lester report back to you her inspection
10 from the Blytheville School of Cosmetology?

11 A I was actually with her.

12 Q You were with her that day?

13 A I was with her that day.

14 Q And if you will look on Page 19?

15 A Okay.

16 Q This is a summary that Ms. Lester prepared of that
17 inspection?

18 A Yes.

19 Q Does Ms. Lester's testimony and this summary match
20 what you remember from that day?

21 A Yes. It does.

22 Q Okay. What did you do to follow up on getting those
23 records from Ms. Brown?

24 A I sent her an email the very next day asking her to
25 send us the records.

1 Q Is that email on Page 21?

2 A It is Page 21. And I did not hear from her, no
3 response from that email, so I sent it again on December
4 11th, and --

5 Q That's on Page 22?

6 A 22; correct.

7 Q And did you get a response back from the December
8 11th email?

9 A No. I did not.

10 Q Did she read it?

11 A Yes. And that's on Page 24.

12 Q Okay. That's a read receipt?

13 A Yes.

14 Q Okay. On Page 25 and 26 we have phone records.
15 What are these showing?

16 A It's showing that on January 21st that we spoke on
17 the telephone.

18 Q Okay. Where is that?

19 A It is, if you look at the names, it's my name, the
20 only one that's mine at the bottom, like, four up, you
21 can kind of put the 25 and 26 together, and that shows
22 that that is her phone number.

23 Q Okay.

24 A Yeah.

25 Q And on that 21st of January, what did you speak

1 about?

2 A She -- I believe that she had received the letter --
3 no, she didn't get the actual plan of correction letter
4 until the 24th. She -- they signed for it on the
5 24th. But we did speak about the records on that day.

6 Q Okay. And then on Page 27, 28, and 29 is the letter
7 you're referring to; is that right?

8 A Yes, correct.

9 Q Okay. And that is the plan of correction letter,
10 the inspection findings letter?

11 A Correct.

12 Q What does this tell us?

13 A It's just, every -- a school gets a plan of
14 correction instead of a violation letter, and anything
15 that was checked on the inspection letter for November is
16 in this, just telling them so they know what they need to
17 do to correct what was wrong.

18 Q Okay. That letter it says 5.1(A), (A)(3)?

19 A (A)(3), yeah.

20 Q Refusal to permit or interference with an inspection
21 and/or audit?

22 A Correct.

23 Q Is that what you're referring to, the records?

24 A Yes.

25 Q And on in a plan of correction or an inspection

1 letter like this you don't have penalties; is that right?

2 A Correct.

3 Q What does the school do?

4 A They generally, whatever is on here they correct it;

5 and if it's not corrected is when we go further and take

6 them -- bring them to a hearing.

7 Q So is everything else on this letter corrected?

8 A I believe it was.

9 Q Okay.

10 A Yeah.

11 Q But the records were never provided?

12 A Correct.

13 Q And I believe Ms. Brown has had some communication

14 with Kathryn Kersey in your office after that so we'll

15 let her address that.

16 A Okay.

17 Q Looks like your next email would have been on April

18 9, 2015?

19 A Okay. Let me get there in this one.

20 Q It's back toward the back.

21 A Yeah.

22 Q I think it's on Page 214 -- no, it's not.

23 A It's on 88. Page 88.

24 Q All right. What does this email tell us,

25 Ms. Kersey?

1 A This email is asking for, actually, three specific
2 students' -- we had heard from these three students that
3 their hours, they did not have the hours that they
4 thought that they had when they were dropped from
5 Blytheville School of Cosmetology. And so we asked for
6 these specific, and I still -- and I had actually asked
7 again for all the other records.

8 Q Can you tell us the specific date of all the other
9 records that you're referring to? What were you asking
10 for in that?

11 A The records from the November inspection.

12 Q What were they, specifically?

13 A Oh -- oh, specifically. I needed the time in -- the
14 time cards and sign-in sheets, attendance books; and, I
15 mean, it actually says "all records for these students."

16 Q From what time period?

17 A From May 2014 to April 2015.

18 Q Okay. And that's the -- that's the request that
19 goes back to the November 19th inspection?

20 A Correct.

21 Q Okay. And the Taylor Day, Janecia Brown, Christa
22 Williams records are new as of April 9th?

23 A Yes.

24 Q Okay. Did you hear back from Ms. Brown about this
25 email?

1 A She did -- she came to the office, actually, and
2 brought these records.

3 Q When you say "these records," what records do you
4 mean?

5 A Sorry. Taylor Day, Janecia Brown, and Christa
6 Williams.

7 Q And those are also in this packet; is that right?

8 A Right. They start on Page 91 and go through -- I
9 looked a while ago -- 203.

10 COURT REPORTER: Could you all speak up a
11 little bit more, please?

12 MS. HARRIS: I'm sorry.

13 BY MS. HARRIS:

14 Q Did she tell you why she did not bring the records
15 from April -- no, May 2014 to April 2015?

16 A She -- because she had gotten the letter.

17 Q That's what she said that day?

18 A Yes.

19 Q Okay. She had gotten the letter? What letter?

20 A The plan of correction letter, so she thought it was
21 all taken care of.

22 Q And what did you tell her?

23 A That we still needed the records.

24 Q Okay. Then we have some more phone records on
25 Page 204 and 205?

1 A Yes, correct.

2 Q And --

3 A And, let's see, I've got to make sure which one it
4 is.

5 If -- you can kind of barely see, like, a little
6 gray on my name, it's the fourth one down, April 14th.
7 That is -- I believe that's the actual day that she
8 brought in the Taylor Day and the Janecia Brown, she
9 called to make sure I was going to be there, at 8:30 in
10 the morning, 8:27 in the morning.

11 Q And that's all that's showing?

12 A Yeah, that's all it's showing.

13 Q Okay. All right. Looks like the next email is
14 dated April 21st?

15 A Correct.

16 Q And what is this email?

17 MS. BROWN: What page is that on?

18 MS. HARRIS: 206.

19 THE WITNESS: 206.

20 We had not received the records for all
21 the students that were legible, so this was
22 telling her she was going to receive a notice
23 of hearing for the May 18th hearing.

24 BY MS. HARRIS:

25 Q Did you hear back from Ms. Brown in response to this

1 email?

2 A I did not.

3 Q Okay. But she did read it?

4 A She read it the day of the hearing.

5 Q May 18th?

6 A Yes.

7 HEARING OFFICER: And how do we know that

8 she read it the day of the hearing?

9 THE WITNESS: I have a read receipt from

10 her on Page 208.

11 BY MS. HARRIS:

12 Q So we had a hearing on May 18th?

13 A Correct.

14 Q Okay. Was Ms. Brown present that day?

15 A She was. Yes.

16 Q Okay. So she didn't read the initial email telling

17 her about the hearing until May, actually, May 19th,

18 the day after the hearing?

19 A Well, you're right. Correct. Sorry.

20 Q Did she receive the Order and Notice of Hearing by

21 mail?

22 A Yes.

23 Q She did?

24 A Well, it was delivered. It was never signed for,

25 sorry. It was delivered.

1 Q Is that on Page 211?

2 A 211, yes.

3 Q And when you didn't get a signed green card back,
4 did you email Ms. Brown again letting her know about the
5 hearing?

6 A I did.

7 Q What day was that?

8 A On May 5th, I actually emailed her the notice of
9 hearing because the -- the notice was left but it was
10 never signed for, so we emailed it to her.

11 Q And did she reply?

12 A She did, she read that this morning -- that morning,
13 it was May 18th.

14 Q Okay. Did she ever call you about that hearing?

15 A I don't believe so.

16 Q But she did come?

17 A Yes, she was present.

18 Q Okay. Do you remember -- do you remember that
19 hearing on May 18th?

20 A I do remember. Yes.

21 Q Okay. And the transcript is in here?

22 A It is.

23 Q Did Ms. Brown bring any documents with her the day
24 of the hearing?

25 A She did.

1 Q What did she bring?

2 A She brought -- it was, like, electric bills,
3 something from the fire department, some referral
4 letters, I believe.

5 Q Did she bring the records?

6 A She did not bring the records.

7 Q Did she tell you why she did not bring the records?
8 Did she say anything that day?

9 A She -- I believe she said she didn't know that's
10 what she was here for.

11 Q Okay. Let's look at the Order and Notice of Hearing
12 that was sent to her.

13 A Okay.

14 HEARING OFFICER: And, please, speak up.

15 THE WITNESS: I'm sorry.

16 MS. HARRIS: Sorry.

17 THE WITNESS: I'm generally pretty loud.

18 Sorry about that.

19 MS. HARRIS: I'm generally not.

20 BY MS. HARRIS:

21 Q The Order and Notice of Hearing on Page 209?

22 A Uh-huh.

23 Q What does it say that we're here for on May 18th?

24 A Let me get there.

25 Failure for a person, corporation, establishment --

1 Q Please go up to the statement of facts --

2 A Oh, sorry.

3 Q -- and read me the four statements of fact.

4 A The four statements. "Blytheville School of

5 Cosmetology is licensed. An inspection of Blytheville

6 School of Cosmetology was performed on 11/19/2014. The

7 Cosmetology Section has requested copies of student

8 records on numerous occasions. Blytheville School of

9 Cosmetology has refused to submit the requested

10 information."

11 Q So it was pretty clear on that that we were there on

12 the records?

13 A Correct.

14 Q Okay. And what did the CTAC find that day?

15 A They fined her \$500.

16 Q And did they ask her to bring the records?

17 A Yes. I believe so.

18 Q Where is that one?

19 A Do what? Let's see.

20 Q I'm trying to find the order.

21 A Me too.

22 Q Oh, there.

23 A Did you found it?

24 Q Page 292.

25 A All right.

1 Q Said they assessed her a penalty of \$500. What did
2 they tell her about the records?

3 A This one?

4 Oh, sorry. My apologies.

5 "Required to submit the requested files within ten
6 business days."

7 Q Okay. Did you get the requested files within ten
8 business days?

9 A No.

10 Q Did Ms. Brown decide to appeal that finding?

11 A She did.

12 Q When did you get the request for appeal?

13 A I'm not exactly sure. That wasn't in the packet,
14 but we do have a letter that says, "We received your
15 request for appeal," and we sent that to her on July
16 1st.

17 Q So it's safe to assume it was before July 1st?

18 A Correct.

19 Q Okay.

20 A In between May 18th and July 1st.

21 Q All right. Okay. And what day did you initially
22 set the appeal for?

23 A July 23, 2015.

24 Q And that date was because why?

25 A That's when the Board of Health -- the next Board of

1 Health meeting.

2 Q Okay. Did you hear back from Ms. Brown about that
3 date, the July 23rd date?

4 A We did.

5 Q And what did she say?

6 A She wanted to post -- do a continuance because she
7 was going to be out of town on vacation.

8 Q Okay. And so we continued it?

9 A We did.

10 Q All right. And what date was that set for?

11 A October 22, 2015.

12 Q Okay. And that -- that letter telling her about
13 that is also in here?

14 A 299.

15 Q Okay. And I believe Ms. Brown came to the
16 October 2015 Board of Health meeting?

17 A She did.

18 Q And that was at Petit Jean; is that right?

19 A Yes, ma'am.

20 Q And those minutes are in here?

21 A They are.

22 Q What did the Board of Health decide?

23 A The Board of Health -- they made a motion to refer
24 the appeal back to the CTAC.

25 Q Do you remember what their discussion was primarily

1 regarding?

2 A That she had gotten the letter and she was confused
3 about the letter and that's why she didn't give us the
4 records.

5 Q So it was my understanding, and you tell me if this
6 was your understanding as well, that we were sent back to
7 kind of clarify that letter and other communications
8 around the same time?

9 A Correct.

10 Q Okay. So that's what we're here today to do?

11 A Yes.

12 Q And why I've walked through each and every time
13 you've talked to her?

14 A Yes.

15 Q Do you recall any time you may have spoke to
16 Ms. Brown?

17 A She may have called us. We don't have phone records
18 of who calls us, I only have phone records of who calls
19 out. I do know that Kathryn did speak to her January --
20 well, she sent her an email on January 28th and she
21 spoke to her February 13th.

22 Q Okay. We'll talk about that when we call
23 Ms. Kersey.

24 A Yeah. Right.

25 Q Okay. So did you have any other communications with

1 Ms. Brown leading up to this hearing?

2 A No, I don't think so.

3 Q Okay. So we were told by the October -- at the
4 October board to reset the hearing. Did you do that?

5 A We did.

6 Q When did you originally reset it for?

7 A We set it for January.

8 Q Okay.

9 A And I believe she was going to be present -- no, she
10 asked for a continuance -- no, you were going -- she
11 wasn't going to be here in January so we had to put it
12 off until March, and then we had to cancel the meeting so
13 that's why we're here.

14 Q And we canceled the board meeting, not Ms. Brown?

15 A Correct.

16 Q Okay. And so we noticed her for today and she's
17 here today?

18 A Correct.

19 Q Ms. Kersey, do you -- do you have the records that
20 you requested back on November 19, 2014?

21 A No.

22 Q Okay. So we still don't have those records?

23 A Correct.

24 Q Have you been able to answer the complaint that was
25 filed by this student back in October of 2014?

1 A No.

2 Q Why not?

3 A Because we don't have the records.

4 I admit, I will say, we have some records, but they
5 are not legible, we cannot read them. You're going to
6 see that when you talk to the other Ms. Kersey.

7 Q Okay. So that complaint, dated October 28, 2014,
8 has still not been able to be closed?

9 A Correct.

10 MS. HARRIS: All right. Thank you. No
11 other questions.

12 HEARING OFFICER: Okay. Ms. Brown, do you
13 have any questions for Ms. Kersey?

14 MS. BROWN: Yes, ma'am, I do.

15 HEARING OFFICER: Okay.

16 CROSS-EXAMINATION

17 BY MS. BROWN:

18 Q My first question is, you stated that when you guys
19 sent the document dated -- Page -- I mean noted Page 28,
20 you said that everything was corrected except the files,
21 but if you had not come back out, how can you confirm
22 that?

23 A She did go back out in May.

24 HEARING OFFICER: When you say "she," who
25 are you --

1 THE WITNESS: Oh, I'm sorry. Lavonne.

2 BY MS. BROWN:

3 Q No. You sent this in January?

4 A Right.

5 Q So if you sent it January of 2015, and she didn't

6 come back out until May of 2015 --

7 A Right.

8 Q -- how can you say everything on here was corrected?

9 A In May they were corrected.

10 Q But I already received a letter in January. On

11 Page 28, so it's 27 and 28.

12 A Okay.

13 Q And --

14 A Right. I don't guess I know what you're asking.

15 Q I'm saying that you said that you sent out an

16 update.

17 A Uh-huh.

18 Q You normally send these out without any fines or

19 anything.

20 A Right.

21 Q And you sent it out and you said that everything on

22 here that you knew of was already corrected?

23 A Okay.

24 Q Okay. So that was in January; correct?

25 A Okay. But everything that's on that inspection

1 sheet is on this letter.

2 Q Okay. So if everything is on that inspection
3 sheet --

4 A Uh-huh.

5 Q -- is on here --

6 A Uh-huh.

7 Q -- and then on here you said it has been
8 corrected --

9 A No. That's what you said.

10 Q You stated that everything was corrected. I wrote
11 it down, what you just said.

12 A Okay.

13 Q So if everything was corrected -- or everything
14 wasn't corrected, why would you send me this?

15 MS. JACKSON: Where does it say that?

16 MS. HARRIS: It doesn't.

17 HEARING OFFICER: It doesn't -- well,
18 okay, to clarify --

19 MS. HARRIS: Everybody stop talking,
20 please.

21 HEARING OFFICER: Yeah. Ms. --

22 Ms. Brown --

23 MS. BROWN: Yeah, because if I'm talking
24 to her, everybody else don't need to be --

25 HEARING OFFICER: Right.

1 Ms. Brown, you're not saying that it says
2 on this piece of paper, which is on Page 27 and
3 28, that everything is corrected? You're not
4 saying that?

5 MS. BROWN: No, ma'am.

6 HEARING OFFICER: You're saying that
7 Ms. Kersey, in her testimony a moment ago --

8 MS. BROWN: Yes.

9 HEARING OFFICER: -- said verbally that
10 everything was corrected? That's what you're
11 saying you heard her say?

12 MS. BROWN: Yes.

13 HEARING OFFICER: Now, I'll allow you to
14 respond to that, Ms. Kersey.

15 THE WITNESS: Okay. She asked me if
16 everything on this letter was corrected --

17 MS. BROWN: And --

18 THE WITNESS: -- and I said yes, okay, but
19 it didn't say this letter said that. But it
20 has been corrected because she went back out on
21 May --

22 MS. BROWN: No, no, no.

23 THE WITNESS: -- and there is not any
24 checks.

25 BY MS. BROWN:

1 Q You said that everything was corrected from -- and
2 from January --

3 A If I did --

4 Q -- and so my thing is, if you hadn't been back out
5 there, how would you know?

6 HEARING OFFICER: But she just -- she just
7 stated that the lady came back out in May and
8 that's why she is saying --

9 THE WITNESS: That it has been
10 corrected --

11 HEARING OFFICER: -- everything was --
12 everything was corrected. That's what she
13 based that statement on.

14 MS. BROWN: Where is 27?

15 HEARING OFFICER: She -- she wasn't saying
16 that it was corrected in January, she's saying
17 that it was corrected in May --

18 MS. BROWN: Okay.

19 HEARING OFFICER: -- or by May it had been
20 corrected.

21 THE WITNESS: Right.

22 HEARING OFFICER: And you correct me if
23 I'm --

24 THE WITNESS: No, that's what I --

25 HEARING OFFICER: -- inaccurately

1 portraying your testimony.

2 THE WITNESS: No. Yeah, that's -- she
3 asked me if these have been corrected and I
4 said, yes, except we haven't got the student
5 records, because she went back out in May, I
6 think it was -- what was it, May 19th or --

7 MS. LESTER: 12th.

8 THE WITNESS: 12th? Sorry.

9 HEARING OFFICER: Okay. And you're saying
10 all violations had been corrected by May 2015
11 except you had still hadn't gotten the student
12 records?

13 THE WITNESS: Correct.

14 HEARING OFFICER: That was what she was
15 testifying to.

16 MS. BROWN: Okay.

17 BY MS. BROWN:

18 Q Okay. And also at the bottom of this paper it says,
19 "The inspector will follow up on this matter with future
20 visits and, if found again, you will be referred to the
21 Arkansas Department of Health Technical Advisory
22 Committee." Okay. Did it happen again?

23 A I believe she asked you for the records again and
24 you -- and we were in the appeal process at that point --

25 Q No, she never asked me.

1 A Well, we were in the appeal process at that point,
2 so you still hadn't given them to us.

3 Q We were -- we were not in the appeal process when
4 she came back and inspected, because when she came and
5 inspected it was in May, and then they asked had the
6 inspector been back out, and she told them yeah. Had
7 they found any violations, and said no, so that was
8 during the first hearing.

9 A Okay.

10 HEARING OFFICER: Okay. And you will be
11 allowed to expound on that --

12 MS. BROWN: Yeah. But I -- okay. But --

13 HEARING OFFICER: -- when it's --

14 MS. BROWN: -- she asked the question that
15 was pertaining to her so I answered it.

16 HEARING OFFICER: Right. But right now
17 it's your time to be questioning her.

18 MS. BROWN: But I was and everybody --
19 like I keep saying, everybody else jumped in.
20 She said when she came back out there. I'm
21 supposed to say something back, and then --

22 HEARING OFFICER: Well, not right -- not
23 right now.

24 MS. BROWN: Okay.

25 HEARING OFFICER: You can question her but

1 you have to take whatever her response is and
2 then you can -- you can -- you can refute it
3 when it's your turn to testify. You can say,
4 well, I disagree with what she said because,
5 and you can -- you can expound on it at that
6 time, but right now you're supposed to just be
7 questioning her.

8 MS. BROWN: Okay.

9 HEARING OFFICER: And -- okay. And any
10 more questions?

11 MS. BROWN: No. I'm through.

12 HEARING OFFICER: Okay. Okay. Did --
13 now, does the board have any questions
14 additional for Ms. Kersey?

15 MS. ANDERSON: So just so my notes are
16 clear -- just so my notes are clear, as I have
17 logged this by date, at this current time we
18 still don't have records that are legible?

19 THE WITNESS: Correct.

20 MS. ANDERSON: We've received the records
21 that we see but, as we can tell, they are not
22 real legible?

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

24 HEARING OFFICER: Now, for the record,
25 please --

1 MS. ANDERSON: Uh-huh.

2 HEARING OFFICER: -- can you refer
3 specifically to the page number of the records
4 that you've received that you say are not
5 legible, just from what page to what page?

6 MS. ANDERSON: Oh, okay. Sure.

7 HEARING OFFICER: And I'm going to let
8 Ms. Kersey do that because she's the one who is
9 giving the testimony right now and you're
10 merely questioning her. You haven't been sworn
11 in, so I'm going to let Ms. Kersey respond to
12 that --

13 THE WITNESS: Thirty-two --

14 HEARING OFFICER: -- so we're all on the
15 same page.

16 THE WITNESS: Okay. Page 32 through 58.

17 HEARING OFFICER: Pages 32 through 58?

18 THE WITNESS: Yes.

19 HEARING OFFICER: Okay.

20 THE WITNESS: There are some stuck in
21 there that are legible and some notes that I've
22 made, but the actual time card ones are the
23 ones that we cannot tell.

24 HEARING OFFICER: Okay. All right. Now,
25 you can continue questioning her if you have

1 any more questions about it.

2 MS. ANDERSON: Okay. So these are the
3 records from those pages, 32 through 58?

4 THE WITNESS: Yes.

5 MS. ANDERSON: And then the rest of the
6 records, when they came in, were they clearer,
7 as far as the other students than the students
8 in question? The --

9 THE WITNESS: The Taylor Day and the --

10 MS. ANDERSON: Yes.

11 THE WITNESS: She actually brought them to
12 us and we copied them. Like, it wasn't a fax.

13 MS. ANDERSON: Okay.

14 THE WITNESS: So that's why they are a
15 little more legible.

16 We -- the -- the times were wrote in on
17 there. You still can't see the time punch card
18 but the time is wrote in there, so -- so you
19 still can't really see how they punch but the
20 time is there, so -- meaning -- my meaning
21 legible is that they actually -- she had
22 actually wrote the times in there; so --

23 MS. ANDERSON: Okay.

24 HEARING OFFICER: Any more questions?

25 Do you have any more questions for

1 Ms. Kersey?

2 MS. ANDERSON: I don't, no.

3 HEARING OFFICER: Okay. Anybody else?

4 Okay. You may go to the next witness

5 then.

6 MS. HARRIS: Call Kathryn Kersey.

7 WHEREUPON,

8 KATHRYN KERSEY,

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: Kathryn Kersey, Arkansas
13 Department of Health, Cosmetology Section,
14 School Liaison.

15 DIRECT EXAMINATION

16 BY MS. HARRIS:

17 Q The School Liaison? What does that job entail?

18 A I look over all records, student permits,
19 certificate of trainings, time for schools, all schools
20 in Arkansas for cosmetology.

21 Q You've received a fax from the Blytheville School of
22 Cosmetology, and do you know about what date you received
23 that fax?

24 A I do, because on Page 85 is my email the exact day
25 that I received that fax.

1 Q Okay.

2 A Stating that I received her fax but I was unable to
3 read the time cards and that I needed a more legible
4 copy.

5 Q This fax that we received from Ms. Brown --

6 A Uh-huh.

7 Q -- from Blytheville School of Cosmetology, what
8 records does it contain?

9 A Going through -- it's time cards for Mr. Williams,
10 who we -- and Ms. Crosby. I think it was just a handful
11 of students, to be honest with you, I don't think it was
12 her full attendance of students. But the time cards
13 are -- are -- as you can see, for instance, on Page 35,
14 you cannot see a punch time one on the time cards.

15 Q Well, what request was she responding to when she
16 sent us these records?

17 A I had -- when Ms. Lester and Ms. Kersey came back
18 from their inspection, they had asked me to correspond
19 with Ms. Brown on getting those records, so that way we
20 could do -- to look over the records for her students.

21 Q And how did you correspond with her?

22 A Through email, I did correspond through email.

23 Let's see. I do apologize. I don't --

24 Actually, let me correct myself. Ms. Kelli Kersey
25 responded through email asking for those records and

1 asked me to look out for them.

2 Q Okay.

3 A And that's when I received this fax.

4 Q On January 28th?

5 A Yes, ma'am.

6 Q And that was after the January 21st letter was sent
7 out?

8 A Yes, ma'am.

9 Q Where she said everything was okay?

10 A Um --

11 Q Okay. That's all right.

12 A That -- yeah. I mean, it doesn't -- I mean I did
13 not -- I did not know about the letter being sent out.

14 Q No, I know, it was --

15 A But --

16 Q But it was after January 21st?

17 A It was.

18 Q Okay.

19 A Yes.

20 Q So you email her back on January 28th?

21 A Yes.

22 Q And said you were unable to read the time cards?

23 A Correct.

24 Q Can you tell us specifically what you mean by that?

25 A Meaning on a time card, when it's a punched card, I

1 need to be able to read the time in and time out, so I
2 can calculate the amount of hours the student received.
3 And, like for instance, Page 37, for this student, I
4 cannot read but what was written in in pen. I cannot
5 read what the student did themself with the machine.

6 They are kind of up and down. I'm sorry.

7 Q Okay. I got you. No, that's okay.

8 Did Ms. Brown respond to your email on January
9 28th?

10 A No, ma'am. I did not receive a response.

11 Q And what did you do?

12 A I did a -- she called me on February 13th. On
13 Page 87 you will see a note that I put in our system, and
14 it does state that she called in regards to the time card
15 records that I emailed her on January 28th needing more
16 legible documents. And she told me she ignored my email
17 due to getting the plan of correction letter in the mail,
18 and she also told me she will not send me any documents,
19 that she will wait until they, meaning the inspectors,
20 will come to her school again.

21 Q Okay. And did you respond to her --

22 A I mean, being that it was a phone call, I just
23 simply stated that I will take this over with my
24 supervisor.

25 Q Okay. Was that the only communication you had with

1 Ms. Brown?

2 A It is.

3 MS. HARRIS: No other questions.

4 HEARING OFFICER: Okay. Ms. Brown, do you
5 have any questions for Ms. Kersey?

6 MS. BROWN: Yes.

7 CROSS-EXAMINATION

8 BY MS. BROWN:

9 Q Does every school have to have a time card machine
10 or something to record their time?

11 A Absolutely. Yes. All schools have to have some
12 type of recordkeeping for their time for the students to
13 accrue hours.

14 Q Okay. So can a student just write in a book their
15 time?

16 A No.

17 Q No? Okay.

18 A No. That's the school's responsibility, to have a
19 time card -- a time clock or, like, a smart system; I
20 know that's a system that some schools have.

21 Q Okay. And is it required that we have email or
22 Internet access?

23 A I mean, it's not required by us.

24 Q Okay. So it's not required for me to answer an
25 email?

1 A I mean --

2 Q Yes or no?

3 A I've -- I mean, I would assume that if any of the
4 section emails you, you would respectfully respond.

5 Q I'm asking is it required that I answer an email?

6 A And it's not written in our rules or laws, but it is
7 suggested that --

8 Q But is it required? Yes or no?

9 A No.

10 MS. HARRIS: Asked and answered.

11 MS. BROWN: No, it wasn't answered.

12 HEARING OFFICER: She just said no, it's
13 not required.

14 MS. BROWN: Okay. That's it.

15 HEARING OFFICER: Okay.

16 MS. HARRIS: May I ask her?

17 HEARING OFFICER: Sure.

18 REDIRECT EXAMINATION

19 BY MS. HARRIS:

20 Q Ms. Kersey, since it's not required for you to have
21 an email on file --

22 A (Nodding head up and down.)

23 Q -- did we have one on school for Blytheville School
24 of Cosmetology?

25 A Actually, we do. And I will -- let me correct

1 myself, I do apologize.

2 An email is required for student permits to be sent
3 to schools, for correspondence with that.

4 Q But you did have one for Ms. Brown --

5 A Yes.

6 Q -- and for her school?

7 A Yes.

8 MS. BROWN: Okay. Can I --

9 BY MS. HARRIS:

10 Q And she provided that to you? Did she provide that
11 to you?

12 A Yes. When a school opens it's a required field.

13 MS. HARRIS: That's all I have.

14 RE CROSS EXAMINATION

15 BY MS. BROWN:

16 Q Okay. My question is, is it required that I have
17 Internet access at my school? I understand about having
18 an email, because that is required to send your time in.
19 I'm asking is it required for a facility to have Internet
20 access?

21 A If you would like to receive your student permits,
22 yes, because that's how we send --

23 Q But can I go to the library, can I go to another
24 facility or something?

25 And what I'm getting at --

1 A Your -- your e-mail -- your student permit
2 information that's sent through our system will go to the
3 email that we have on file. How you receive it is not
4 what we --

5 MS. BROWN: Thank you.

6 THE WITNESS: -- that's not up to us.

7 MS. BROWN: Thank you.

8 HEARING OFFICER: Okay. All right. Any
9 other questions?

10 MS. BROWN: No, ma'am.

11 HEARING OFFICER: Okay. Any questions by
12 the board of Ms. Kersey?

13 Do you have anything further?

14 MS. HARRIS: No.

15 HEARING OFFICER: All right. Now it's
16 your turn to state whatever you -- you've
17 questioned their witnesses. Now is your turn
18 to give your testimony. And we swore you in;
19 right?

20 MS. BROWN: Yes, ma'am.

21 HEARING OFFICER: Okay. So you may now
22 address the matters, the issues that are before
23 the board.

24 WHEREUPON,

25 JUANA BROWN,

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 TESTIMONY

5 THE WITNESS: Okay. They did come in and
6 inspect on this day. I have a secretary as
7 well as another instructor. The secretary is
8 the one who had the house fire, and it's their
9 office. My office is separate, I don't have
10 any files in my office, because if they come
11 and I'm not there, no one else has the keys.
12 Although we have corrected that situation, if
13 she isn't there we still have access to the
14 keys. One of the things is they said we have
15 to have the files kept locked at all times, so
16 if you only have one instructor there and I'm
17 working, I can't watch the files and, you know,
18 do the work, so that was the reasoning for
19 that.

20 Okay. The next day she did not tell me to
21 send the files. She did email me and they told
22 me I could not bring anything else to the
23 hearing, so me seeing all of this here, this is
24 added, but if I can't add anything, they
25 shouldn't have been able to add anything as

1 well.

2 HEARING OFFICER: Well, now, what you see
3 there are records that were already
4 introduced --

5 THE WITNESS: No, ma'am.

6 MS. HARRIS: Those are the March
7 supplemental to address the --

8 THE WITNESS: All of the -- there were
9 only -- it was probably about 20 pages --

10 HEARING OFFICER: Okay.

11 THE WITNESS: -- before, so I think that I
12 should -- maybe that was the reason why she
13 asked me was I going to be here Friday, so she
14 could go ahead and have this. But, anyway,
15 because I would have had -- go ahead and
16 brought my records.

17 HEARING OFFICER: You mean the records
18 that they have been requesting all along?

19 THE WITNESS: No, no, no, I wasn't going
20 to bring those because I appealed it.

21 HEARING OFFICER: Okay.

22 THE WITNESS: And they said if I appealed
23 it then you go from there, that's the reason
24 why I didn't bring them.

25 Now, the other three students that was not

1 involved in this, yes, I had to come up here
2 anyway and, yes, I brought them. I did try to
3 send them.

4 Now, you're asking for, well, as you can
5 see, all of this here, and you've got to scan
6 page by page and that's what I did and I sent
7 it all in.

8 Now, I did get the letter and it says that
9 they will come back. I told her, if -- she
10 said, "Don't go by what you read, go by what I
11 tell you." I say, "No, ma'am. If it's in
12 black and white, that's what I'm going to
13 follow." Now, you can resend me something, and
14 she said, "Well, I sent you emails." I told
15 her, "Well, I don't answer emails."

16 HEARING OFFICER: But do you read them?

17 THE WITNESS: Now I do. I have them on my
18 phone.

19 We have Internet as well at the school,
20 but I don't -- that's not my thing. I'm not
21 computer literate, I do not do that, I just
22 don't.

23 I had a flip phone so my son talked me
24 into getting a new phone, and when I came the
25 last time I opened my email, all of the emails.

1 Q Okay. Did you receive this Order and Notice of
2 Hearing that's on Page 1, 2, and 3? Did you sign for it?
3 Somebody did.

4 On Page 4, 3/26/16, it looks like somebody signed
5 for it at Blytheville School of Cosmetology.

6 A What page is it?

7 Q Page 4.

8 A Okay. Ms. Doris.

9 Q Okay. So somebody at your office signed for it?

10 A Yes.

11 Q And on Page 2 of that Order and Notice of Hearing,
12 does it say you can present witnesses and other evidence
13 to the Technical Advisory Committee in your defense at
14 that time?

15 HEARING OFFICER: On Page 2? Where,
16 specifically?

17 MS. HARRIS: The bottom, last paragraph.

18 HEARING OFFICER: Okay. The last
19 paragraph?

20 Okay. Ms. Brown?

21 THE WITNESS: Yeah, I read -- yeah, I see
22 this now.

23 From the letter that -- that I got before,
24 they told us that we couldn't bring anything.

25 BY MS. HARRIS:

1 Q Was that to the appeal in October?

2 A Yes.

3 Q Because that is correct, you cannot bring --

4 A And so, since they referred it back to here, I'm
5 assuming, they --

6 Q But you didn't read the letter that was sent to you?

7 A No. I didn't get the letter.

8 MS. HARRIS: Okay. No other questions.

9 THE WITNESS: I got it by e -- well, they
10 also sent it through email.

11 BY MS. HARRIS:

12 Q Okay. Somebody in your office got it there, you
13 just testified to?

14 A Yes. They did.

15 MS. HARRIS: Thank you. All right. No
16 other questions.

17 HEARING OFFICER: Does the board have any
18 questions? Anybody else on the board have any
19 questions, further questions for Ms. Brown?

20 MS. JACKSON: Are you recording us?

21 THE WITNESS: Yes, ma'am.

22 MS. JACKSON: Is that okay?

23 MS. HARRIS: (Nodding head up and down.)
24 We're recording us too.

25 HEARING OFFICER: Yes. We have a paid

1 court reporter that's recording the entirety of
2 the hearing, so all of the questions and all of
3 the testimony is on the record, and -- and for
4 which you can obtain a copy if you so desire.

5 THE WITNESS: Okay. I didn't --

6 HEARING OFFICER: Uh-huh. Uh-huh.

7 Any other questions for Ms. Brown by the
8 board?

9 Anything else you wish to say? I'm going
10 to give you ample opportunity, Ms. Brown.

11 THE WITNESS: Really, um, all I can say is
12 everything has been corrected. Some things
13 that I found that I wasn't compliance in, I
14 don't know if it was just through y'all, but
15 we've changed our system totally.

16 HEARING OFFICER: Okay. So you're saying
17 you've given them the records that they
18 requested --

19 THE WITNESS: No.

20 HEARING OFFICER: -- that they testified
21 to today that they don't have?

22 THE WITNESS: Actually, no, because once
23 we appealed -- once I appealed it then I wasn't
24 supposed to do anything. If I appealed it, why
25 would I go ahead and give anything?

1 Now, that's my thinking.

2 MS. ANDERSON: Can I -- I do have a
3 question.

4 HEARING OFFICER: Sure.

5 MS. ANDERSON: I do have a question. So
6 with the time clock matter and you asked about
7 writing in time, do you now have a time clock
8 that if you sent a copy it is legible or if you
9 made a copy of it it is legible?

10 THE WITNESS: No. Actually, we're
11 changing over from actual time cards. I have a
12 smart system now, it's called -- through
13 Genesis.

14 MS. ANDERSON: Okay.

15 THE WITNESS: So we won't even have to do
16 that.

17 The way we was doing things was making it
18 so hard, and I didn't know. I didn't know that
19 they even had systems like this.

20 MS. ANDERSON: So you are sending your
21 hours on a monthly basis through CLIPS?

22 THE WITNESS: Yeah. Oh, I've always --
23 yes, ma'am, I've always done that.

24 MS. ANDERSON: Okay.

25 THE WITNESS: And she can tell you, I even

1 sent them in on the 31st. Normally I be,
2 like, the 8th or 9th or just get them in
3 before the 10th, but now I get them in at the
4 end of the month. So that last day of the
5 month, I already have them in.

6 MS. BROWN: So my last question to you is,
7 if your student has a concern about their
8 hours --

9 THE WITNESS: Uh-huh.

10 MS. ANDERSON: -- at what point do you
11 bring that -- do you bring those hours before
12 the student before you turn them in?

13 THE WITNESS: Yes, I do.

14 Every end of the month -- so say, like,
15 the 31st is on a Friday, I call each student
16 into the office, I have them to sign their time
17 card. I -- so some of the writing that you see
18 on -- on those time cards is because I wrote
19 how many days it was, how many hours it was,
20 and then they sign the time card saying that
21 they agree with that. So if they say, no, they
22 have a problem, I also give them the website
23 where they can go on and check their own hours,
24 they don't need me for that.

25 MS. ANDERSON: So my last question then,

1 since you go -- went that far to tell me, each
2 student verifies their hours and has a signed
3 hour log in their file?

4 THE WITNESS: Yes.

5 MS. ANDERSON: Per month?

6 THE WITNESS: Every student -- every
7 student per month. I even found out -- I did
8 not know that there should be a checklist in
9 the folder, so I went and I put a checklist in
10 there. So on this side it's all of their
11 personal information, on the other -- I have,
12 like, the four or five pocket folders. At
13 first I just had just a manila folder and
14 everything was just piled in there and you got
15 to look for it, but not now. All the time
16 cards are in by the month and you can see
17 everything. It gave us a lot more room to. So
18 if you --

19 And then Lavonne can tell you, every time
20 she comes, the school is different and it's
21 better. Is that true, Lavonne?

22 MS. LESTER: I think that you have made
23 some improvements. Yes.

24 MS. PECK: Just a question. You're
25 wanting to appeal it so you don't have to pay

1 the 500 and prove the records that they have
2 been asking for?

3 THE WITNESS: I don't have a problem with
4 proving the records. Initially, because I did
5 call them about the letter, this one, and I
6 told them, well, I got this letter, and if I
7 got this letter, then why do I have to go and
8 resend -- because she told me they weren't
9 legible.

10 I said, "Now, do you know how much time
11 that I spent up here trying to do this and you
12 want me to do it again and I got this letter?"
13 I said, "No, send me something else and then
14 I'll go ahead. But don't tell me go by what
15 you say and not by what's in black and white."
16 That was my issue.

17 MS. PECK: So you're wanting to appeal it
18 so you don't have to prove legible records?

19 THE WITNESS: Well, it's not as if --

20 MS. PECK: -- and pay the 500?

21 THE WITNESS: -- I don't have to -- if --
22 if you say that when they come back and all
23 they have to do is look at them. And then when
24 I told them about that I received this, she
25 told me, well, she didn't send it, Terrie Nash

1 did; and Terrie said, "Well, I just send them
2 out to everybody," or whatever, so that is my
3 problem with that.

4 MS. PECK: And what page is that?

5 THE WITNESS: Twenty-seven and 28.

6 MS. PECK: I'll read that.

7 MS. JONES: I have one question. You said
8 that the student hours, their time cards,
9 their -- you say that you now have a system of
10 keeping time where they sign for the hours that
11 they receive every month?

12 THE WITNESS: I just got it, so this month
13 ain't over yet.

14 MS. JONES: When did you start? When did
15 you start that system?

16 THE WITNESS: May I?

17 MS. JONES: Uh-huh. Because I notice in
18 the -- the documents that we have, there were
19 no signatures on the time sheets, and I'm just
20 wondering when did you start them to --

21 THE WITNESS: This one -- I started
22 that -- oh, I can't tell you when I started. I
23 can -- let me go to my email. I'm sorry.

24 HEARING OFFICER: So Ms. -- Ms. Vera, is
25 it?

1 MS. JONES: Carla.

2 THE WITNESS: I bought it on the 30th
3 and --

4 HEARING OFFICER: Oh, I'm sorry. You're
5 saying on the documents that you're looking at
6 in the packet as far as --

7 THE WITNESS: On some, you can see like on
8 there --

9 HEARING OFFICER: -- you don't see where
10 any -- you don't see the student signatures?

11 MS. JONES: Yes, ma'am.

12 HEARING OFFICER: Okay. So you're asking
13 her when did she start the new system that
14 requires the students to sign --

15 MS. JONES: To sign --

16 HEARING OFFICER: -- to verify their time?

17 MS. JONES: -- to verify their time. Yes.

18 HEARING OFFICER: Okay. Go ahead.

19 THE WITNESS: Oh, so I started that last
20 year. I started them to signing the time cards
21 last year, because I didn't want them to be
22 able to say they having a problem with their
23 hours.

24 HEARING OFFICER: And can you tell us
25 exactly when last year?

1 THE WITNESS: Oh, no. And I wish somebody
2 with the school within the last --

3 HEARING OFFICER: Or approximately when
4 last year?

5 MS. JONES: I don't see any signatures.

6 MS. ANDERSON: What page?

7 MS. JONES: Page 19.

8 THE WITNESS: Oh, I don't know.

9 HEARING OFFICER: If you look --

10 THE WITNESS: But I thought by the time I
11 brought the records here, like, the three that
12 they're talking about, they were already gone,
13 so it's not on --

14 HEARING OFFICER: Okay. Look at Page 91
15 that she's referring to.

16 MS. JONES: Okay. 91.

17 MS. PECK: Huh-uh.

18 MS. JONES: Where?

19 MS. PECK: October --

20 THE WITNESS: Okay. So, see, these right
21 here are already gone.

22 HEARING OFFICER: Right. But this is a
23 copy of time that you turned in to the board or
24 that you submitted to the board?

25 THE WITNESS: Yes, ma'am. And this was in

1 20 --

2 HEARING OFFICER: And are there any -- are
3 there any student signatures on there?

4 THE WITNESS: No, ma'am. This was in
5 2012. These are cards for 2012.

6 MS. JONES: So since 2012, you're telling
7 us that you've now corrected that and they now
8 sign them?

9 THE WITNESS: Yes.

10 MS. JONES: Okay.

11 THE WITNESS: But I've always -- like, see
12 at the top where it say 12 and 100 and all of
13 that? I do that. But now I have it, like, if
14 they miss, if they there or whatever, I notate
15 everything on there. Say, like, I talked to
16 them about missing or something like that, as
17 well as I have a sheet that I write that down
18 on that says notes, I even put it on their time
19 card, so you can't say I didn't miss. Because
20 sometimes you will have them to say, "Well, I
21 didn't clock in that day but I was there."

22 MS. JONES: Okay. The only other thing
23 that I --

24 THE WITNESS: But these right here is from
25 2012.

1 MS. JONES: Okay. The only other thing
2 that I would like to ask you, do you think that
3 it's important that the board has email
4 available for you to record your students'
5 hours? Do you think that's important for her
6 to be able to receive those hours from you
7 through email?

8 THE WITNESS: She do receive them through
9 me. That -- that's not our issue.

10 MS. JONES: No.

11 THE WITNESS: Our issue was not --

12 MS. JONES: My question is, do you think
13 that it's important that she answers your email
14 when you send those hours in? Do you think
15 that is important --

16 THE WITNESS: She doesn't answer -- she
17 doesn't answer the email when I send them in.

18 MS. JONES: I'm asking --

19 HEARING OFFICER: She's asking you a
20 really clear and simple question.

21 THE WITNESS: Yeah, she's asking me do I
22 think it's important, but I'm telling her --

23 HEARING OFFICER: For Ms. Kersey to answer
24 your email in a reasonably prompt matter when
25 you send in your students' time records? Do

1 you think that's important? Do you appreciate
2 getting a prompt response from her?

3 THE WITNESS: I don't get a response from
4 that. When you send your hours in --

5 HEARING OFFICER: Would you appreciate it?

6 THE WITNESS: Would I appreciate it?

7 Yeah.

8 HEARING OFFICER: Thank you.

9 MS. JONES: Now, do you -- since you would
10 appreciate that, do you think it's equally as
11 important for you to respond to the board
12 that's governing your school when they send you
13 an email?

14 THE WITNESS: Yes, if I checked them.

15 MS. JONES: Okay.

16 THE WITNESS: And my question was is -- am
17 I --

18 HEARING OFFICER: Well --

19 THE WITNESS: Do I have to have it,
20 because --

21 HEARING OFFICER: -- we are --

22 THE WITNESS: -- if that's the case, yes,
23 I'll go in and check them.

24 HEARING OFFICER: We understand.

25 THE WITNESS: I don't check it.

1 HEARING OFFICER: We understand. We're
2 just asking you a question, you know, to gauge
3 whether or not you feel that's important.

4 Okay. Thank you.

5 Any -- any other questions for any of the
6 witnesses?

7 Do you have a --

8 MS. HARRIS: Yes. May I follow up with
9 Ms. Brown?

10 HEARING OFFICER: Sure.

11 REDIRECT EXAMINATION

12 BY MS. HARRIS:

13 Q Ms. Brown, you were looking at your phone just a
14 minute ago. What were you looking for?

15 A I was looking for an email.

16 Q So you check your email on your phone?

17 A Oh, that -- I told you that.

18 MS. HARRIS: Okay. That's all I have.

19 THE WITNESS: I told you now --

20 MS. HARRIS: I'm done.

21 THE WITNESS: -- I have a smart phone. I
22 used to have a flip phone.

23 MS. HARRIS: Okay. Thank you.

24 THE WITNESS: You're welcome.

25 MS. PECK: Okay. So we still don't have

1 the records, obviously, and can -- I guess,
2 because it was in the appeal process, Lavonne
3 couldn't ask for them last time we inspected
4 or --

5 THE WITNESS: We wasn't in the appeal
6 process when Lavonne came to inspect. We
7 hadn't even been here yet.

8 MS. HARRIS: We were in the process of
9 hearing.

10 MS. PECK: We were in the process -- okay.

11 THE WITNESS: We were not. You look
12 through the records and you will see when the
13 date that she came and inspected and my date
14 that I was due to be here.

15 MS. HARRIS: She came and inspected on the
16 12th and the hearing was the 18th.

17 THE WITNESS: Okay. So the hearing for
18 here was the 18th. It was not under appeal or
19 anything. I had to --

20 MS. PECK: But the notice of hearing had
21 been sent out?

22 THE WITNESS: The notice of hearing for
23 this board, not for the appeal board.

24 MS. PECK: Okay. Okay. So, I guess, we
25 can --

1 MS. HARRIS: That's what I was trying to
2 clarify.

3 HEARING OFFICER: All right. Okay. All
4 right. Now, at this point I'm going to -- the
5 hearing, the testimony phase of it is closed.
6 There is no testimony given, your opportunity
7 to talk has ended.

8 The board now, we're going to go off the
9 record and the board is going to talk amongst
10 themselves, and you can remain present, of
11 course, it's still out in the open. But they
12 will decide whether the allegations, whether
13 the -- the -- with the -- with the -- with the
14 record having been supplemented, they will
15 decide whether the allegations have been
16 proven, and if so, whether to uphold any
17 disciplinary action.

18 MS. HARRIS: Uh-huh.

19 HEARING OFFICER: Okay. The record is
20 closed and the board may go -- may deliberate.

21 MS. ANDERSON: I have a question before we
22 go off the record.

23 HEARING OFFICER: Okay.

24 MS. ANDERSON: So if we choose, because
25 there was much discussion when we did this

1 initially, if we choose to change that at this
2 point we could change that fine as well?

3 HEARING OFFICER: That is a question for
4 your attorney.

5 MS. ANDERSON: That's why I'm asking this.

6 MS. HARRIS: They really just sent it back
7 to clarify the facts, not necessarily the
8 penalty. I don't -- but they did send it back
9 for a hearing. They didn't -- procedurally, I
10 don't know.

11 HEARING OFFICER: It was -- it was only
12 sent back to supplement the records as far as
13 what -- the findings on what issue, as far as
14 the --

15 MS. HARRIS: The findings on the time
16 line, primarily, the correspondence part.

17 MS. PECK: That's all we can make a motion
18 on?

19 MS. ANDERSON: Make a recommendation --

20 MS. PECK: Vote on, I guess, is what the
21 facts are --

22 MS. HARRIS: They just -- I mean, you can
23 see their motion. They just sent it back for a
24 hearing, but that was their discussion. I
25 guess, technically, I think they wanted that

1 clarified but they did not specify that's all
2 they could decide.

3 The motion is to refer the appeal back to
4 the CTAC, Page 304.

5 MS. ANDERSON: So Page --

6 MS. PECK: Page 304.

7 COURT REPORTER: Wait a minute. Wait a
8 minute. Too much talking. Say that again.

9 MS. HARRIS: Page 304, it's the minutes
10 from the board. A motion to refer the appeal
11 back to the CTAC was made by Mr. Harper and
12 seconded by Dr. Whitfield, and the motion
13 passed.

14 That's all they said. After a lengthy
15 discussion about the correspondence and the
16 time line.

17 MS. PECK: What page is that?

18 HEARING OFFICER: Page 304, and I will
19 read just right -- a few paragraphs before
20 that.

21 Mr. Harper asked if the inspectors with
22 the department had a chance to go back and look
23 at the materials in order to determine if the
24 original complaint was valid. Ms. Brown stated
25 that she ended up taking the information

1 requested to Little Rock; however, Ms. Kersey
2 stated that those records were not the records
3 that she had requested. A discussion then
4 ensued on whether or not a letter being mailed
5 or an email had more merit. That point was
6 struck when it was found that there was no
7 evidence that Ms. Brown ever received a letter
8 stating, quote, "everything was okay," unquote.
9 Mr. Harper asked if it was correct that since
10 the initial investigation there had been
11 additional investigation that showed that it
12 was still not cleared up. Mr. Hogan confirmed
13 that was correct.

14 Ms. Brown later stated she would not
15 accept requests via email because she does not
16 check them. She would only accept requests via
17 certified letters.

18 A motion to refer the appeal back to the
19 CTAC was made by Mr. Harper and seconded by
20 Dr. Whitfield. The motion passed.

21 MS. HARRIS: So it seems like it's open.

22 MS. PECK: To do anything?

23 MS. HARRIS: I'll let Ms. Johnson
24 determine for sure.

25 HEARING OFFICER: Well, the -- the record

1 having been supplemented is the finding of
2 whether -- of whether the -- I think what
3 you're here to -- to -- to actually clear up,
4 whether or not a letter was mailed; whether or
5 not an email was sent; whether or not, you
6 know, it -- it is even material whether or not
7 it's read if it was sent, you know; and whether
8 or not there was a sufficient number of
9 attempts, you know, to get this information;
10 and having found that, that is it still not
11 provided, and whether or not you substantiate
12 your earlier findings, and whether or not you
13 find that those earlier findings are now
14 supported by the -- the testimony that you
15 heard today that's supplemented the record.
16 That's what you're here to do.

17 MS. HARRIS: Thank you.

18 MS. ANDERSON: Okay.

19 MS. JONES: Okay.

20 HEARING OFFICER: All right. And now we
21 will go off the record to allow the board to
22 consult among each other on the issue.

23 (WHEREUPON, the Committee retired to
24 deliberate, off the record, from 10:54 a.m. to
25 11:01 a.m., and returned with the following

1 discussion:)

2 HEARING OFFICER: We're going to go back
3 on the record briefly so that Elizabeth can
4 clarify to the board what they have -- what --
5 what decision they have to make today and
6 what -- any additional finding they can impose,
7 if at all.

8 So we're on the record. Ms. Elizabeth may
9 speak to the board.

10 MS. HARRIS: Okay. Two points on -- for
11 clarification, based on your conversation.

12 First is the records, if you were looking
13 at Page 88. It's the -- the ones from the
14 October -- or the November 19th inspection,
15 which would be that sentence in the body,
16 Friday, April 17, 2015, all records, by that
17 day, submit all records of attendance, time
18 cards, sign-in sheets, attendance books for all
19 students who were enrolled from May of 2014
20 until present. Those are the records.

21 The three students there, Taylor Day,
22 Janecia Brown, Christa Williams, we got those
23 records.

24 HEARING OFFICER: Okay. So you're saying
25 that what they are here to determine is whether

1 or not we have received the records --

2 MS. HARRIS: Those records --

3 HEARING OFFICER: -- as referenced in --

4 MS. HARRIS: -- and whether or not the --
5 the correspondence was such that it was clear
6 that Ms. Brown knew she should have still been
7 submitting those, those are the two questions.
8 The fine itself is not really at issue. You
9 can't really raise it or change it, or -- we're
10 not here on new allegations, just that one
11 allegation of those records for that May 18th
12 hearing, did she produce them and did we
13 adequately correspond with her so that she knew
14 what she was supposed to do. Those are the
15 issues.

16 HEARING OFFICER: Great. Now that's good.
17 Thank you.

18 We're going off the record.

19 (WHEREUPON, the Committee retired to
20 deliberate, off the record, from 11:02 a.m. to
21 11:04 a.m., and returned with the following
22 discussion:)

23 HEARING OFFICER: We're back on the
24 record.

25 MS. JACKSON: Okay. So you guys would

1 like to have all the records that were stated
2 here that we're still asking for, we would like
3 a finding on that as to whether she should
4 still send them or not?

5 MS. HARRIS: The original order from
6 you --

7 MS. JACKSON: Was to --

8 MS. HARRIS: -- which you can choose to
9 uphold or not requested that those records be
10 provided --

11 MS. JACKSON: Okay.

12 HEARING OFFICER: -- along with fining her
13 \$500.

14 MS. JACKSON: Okay.

15 MS. HARRIS: After you make your finding
16 you can determine whether or not you want to
17 uphold that finding, that --

18 HEARING OFFICER: Okay. So you're making
19 a -- you want to make a finding as to whether
20 the records have been provided for the three
21 students at issue?

22 MS. HARRIS: They are done.

23 HEARING OFFICER: That's done? Okay.

24 But you want to make a finding as to
25 whether the original records as requested,

1 however, to this date been provided, and if
2 not, then whether or not you want to uphold
3 your --

4 MS. HARRIS: Yes.

5 HEARING OFFICER: Okay. All right. Good.
6 That's clarification. Are we ready to go back
7 off the record?

8 Okay. We're off the record.

9 (WHEREUPON, the Committee retired to
10 deliberate, off the record, from 11:05 a.m. to
11 11:06 a.m., and returned with the following
12 decision:)

13 HEARING OFFICER: Okay. We're back on the
14 record In The Matter of Blytheville School of
15 Cosmetology, the board has deliberated over
16 the -- the evidence heard to supplement the
17 record, and they are now ready to entertain a
18 motion.

19 MS. PECK: Okay. I would like to make a
20 motion that, from the testimony today, that we
21 uphold the original --

22 HEARING OFFICER: Finding --

23 MS. PECK: -- finding --

24 HEARING OFFICER: And --

25 MS. PECK: -- the original fine that we

1 had, we did have adequate correspondence.

2 HEARING OFFICER: You're finding from the
3 testimony today that there was adequate
4 correspondence?

5 MS. PECK: Adequate correspondence --

6 HEARING OFFICER: Between the board and --

7 MS. PECK: -- us, cosmetology section, and
8 Ms. Brown.

9 HEARING OFFICER: Okay.

10 MS. PECK: And that we would like to --

11 HEARING OFFICER: And that the requested
12 records --

13 MS. PECK: Requested records --

14 HEARING OFFICER: Okay.

15 MS. PECK: I'm sorry.

16 HEARING OFFICER: What your motion needs
17 to state is that, from the testimony heard
18 today, there is adequate evidence that there
19 was -- there was adequate correspondence
20 between the board to Ms. Brown requesting
21 certain records of student attendance and that,
22 from testimony you've heard to even supplement
23 the record, those records have not been
24 provided.

25 MS. PECK: Okay.

1 HEARING OFFICER: All right. And that's
2 the form of your motion.

3 MS. PECK: Okay.

4 HEARING OFFICER: Is there a second to
5 that?

6 MS. ANDERSON: There is a second.

7 HEARING OFFICER: Okay.

8 MS. JACKSON: All in favor?

9 COMMITTEE MEMBERS: Aye.

10 MS. JACKSON: All opposed?

11 HEARING OFFICER: Now, with respect to
12 whether or not to uphold your original action,
13 disciplinary action, is there another motion?

14 MS. JONES: Yes.

15 MS. PECK: Okay.

16 MS. ANDERSON: At this time we would like
17 to uphold the original penalty for \$500 for the
18 allegations that were made previously in the
19 previous upholding of that fine.

20 HEARING OFFICER: Okay. Motion has been
21 submitted. Is there a second?

22 MS. PECK: I'll second.

23 MS. JACKSON: All right. All in favor?

24 MS. PECK: Aye.

25 MS. JACKSON: Aye.

1 MS. ANDERSON: Aye.

2 MS. JACKSON: Any opposed?

3 MS. JONES: I'm opposed.

4 HEARING OFFICER: Let the record reflect
5 that both motions were unanimously --

6 MS. JACKSON: No. One opposed.

7 HEARING OFFICER: Okay. Let the record
8 reflect that the findings with regard to the
9 evidence supporting the board's action was
10 unanimously adopted by all of the committee
11 members; the finding with respect to the
12 board's imposition of a \$500 fine was -- was
13 adopted or accepted by all but one, and
14 Ms. Carla was the one -- one in opposition; is
15 that correct?

16 MS. JONES: (Nodding head up and down.)

17 HEARING OFFICER: All right. Okay.

18 MS. HARRIS: They did not address
19 providing the records themselves. We have the
20 fine and the findings but you didn't uphold the
21 position to provide the records.

22 MS. ANDERSON: We need to also amend that
23 to uphold the record --

24 HEARING OFFICER: To uphold the
25 findings --

1 MS. ANDERSON: -- findings --

2 HEARING OFFICER: -- that the records --

3 MS. ANDERSON: -- records have not --

4 HEARING OFFICER: -- have not been

5 provided.

6 MS. ANDERSON: -- been provided and that
7 still needs to be provided within ten days of
8 this hearing.

9 MS. JACKSON: Great. All in favor?

10 COMMITTEE MEMBERS: Aye.

11 MS. JACKSON: All opposed?

12 HEARING OFFICER: Let the record reflect
13 that that was unanimously adopted as well.

14 COURT REPORTER: Who seconded that?

15 HEARING OFFICER: Who was the second?

16 MS. PECK: I'll second.

17 MS. JACKSON: Sorry.

18 MS. HARRIS: Do we need to go back --

19 HEARING OFFICER: No.

20 Okay. So all of the findings as well as
21 the board disciplinary action has been adopted
22 by this, today's hearing.

23 Now, the board's action today is going to
24 be written in the order format. That again
25 will be mailed you to.

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Certified?

MS. HARRIS: Certified mail.

HEARING OFFICER: Certified mail, and from which you will have a right to appeal, and the appeal procedure will be explained to you in the written order.

So thank you for your attendance here today. And with that said, this matter is concluded.

(WHEREUPON, at 11:10 a.m., the above-entitled hearing was concluded.)

---o---

1 A discussion was held regarding the
2 student hours conversion table. A subcommittee
3 was formed to assess, evaluate, and bring
4 current the student hours conversion table, to
5 include applicable relevant professions
6 that might fall into this conversion table,
7 such as massage, nursing, and barbering, before
8 it is adopted. The committee will be made up
9 of Carla Jones, Trish Anderson, Angela Jackson.
10 They will request input from professionals in
11 the industry, such as George Hrenchir, and
12 members of barbering, nursing, and massage
13 licensing committees. The first meeting is
14 scheduled for May 2, 2016, at 9 a.m.

15 The subject of a current massage therapist
16 who has done aesthetics was discussed. Her
17 permit was processed at 430 hours and it was
18 accepted by the section, that person was sent
19 for early testing and it was denied. The
20 decision was made, to prevent any further
21 miscommunication and misunderstanding, the
22 Department of Health, Cosmetology Section, will
23 study and assess the information provided and
24 the historical processes used in the past, then
25 make a concrete determination regarding this

1 specific student, treating them the same as
2 students have historically been treated. If a
3 decision is not made before the next
4 Cosmetology Technical Advisory Committee
5 meeting, it will be revisited at that meeting.

6 Program update was given by Kelli Kersey,
7 Lindsey Torrence, new inspector for Pulaski
8 County and west, was introduced; the section is
9 down two inspectors.

10 The meeting was adjourned at 11:44 a.m.

11 ---o---

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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 Section, Cosmetology Technical Advisory
11 Committee, held April 11, 2016, was taken by me in
12 Stenotype and was reduced to computer-generated
13 typewritten form by me or under my direction and
14 supervision; that the witnesses were duly sworn by the
15 Hearing Officer; and that the same is a true and correct
16 reflection of the proceedings that occurred, to the best
17 of my knowledge and ability.

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

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

7 SIGNED AND SWORN this _____ day of

8 _____.

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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.

---o---