

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

6 BE IT REMEMBERED that on Monday, the 28th day
7 of January 2019, the meeting of the Arkansas Department
8 of Health, Cosmetology Section, Cosmetology Technical
9 Advisory Committee was held, at 9:00 a.m., at the
10 Arkansas Department of Health, Freeway Medical Building,
11 Suite 801, Little Rock, Pulaski County, Arkansas.
12

13
14 TECHNICAL ADVISORY COMMITTEE:

15 LOIS WARE, Chair
16 CARLA JONES
17 TONYA BOYDSTUN
18 DANIEL 'REX' PAXTON (not present)
19 ANGELA WILSON

20 REPORTED BY:

21 SUSAN B. WHITSON, CCR
22 Arkansas Supreme Court Certificate No. 158
23 9810 Woodland Drive
24 Mabelvale, Arkansas 72103
25 (501) 455-1170
WhitsonCCR@aol.com

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 REGINALD A. ROGERS, ESQ.
4 Deputy General Counsel
5 Arkansas Department of Health
4815 West Markham Street, Slot 31
Little Rock, Arkansas 72205

6 HEARING OFFICER:

7 DARA HALL, ESQ.
8 Office of the Attorney General
323 Center Street, Suite 200
9 Little Rock, Arkansas 72201

10 STAFF MEMBERS PRESENT:

11 KELLI KERSEY - Section Chief
12 CONNIE MELTON, ADH Branch Chief, Health Systems Licensing
and Reg
13 TERI DWYER - Health Program Specialist II
REGAN FEATHERSTON

14 INSPECTORS:

15 KRISTA WELLS -Inspector Supervisor
16 PAM ATHERLEY
17 VERA WOOD
YVONNE SMITH
18 JACLYN KNOPP
TRINIDAD McFALL

19 ALSO PRESENT:

20 Nexus Christian
21 Thi Hong Hieu Christian
Sahil Hameerani
22 Virginia Josette Douglas

23 COURT REPORTER:

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

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P R O C E E D I N G S

At 9:00 a.m. the Chair, Lois Ware, called the meeting to order. Committee members present are Andrea Wilson, Carla Jones, Lois Ware, and Tonya Boydston.

After discussion, Tonya Boydston made a motion to grant authority to pay the Committee members a stipend and reimbursement of expenses for attending meetings of the committee; second by Andrea Wilson; passed unanimously.

Tonya Boydston made a motion to approve the minutes from the previous meeting; second by Andrea Wilson; passed unanimously.

Andrea Wilson made a motion to approve the paid violations; second by Tonya Boydston; passed unanimously.

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1 BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE
2 (CTAC)
3 IN THE MATTER OF:
4 ARKANSAS DEPARTMENT OF HEALTH PETITIONER
5 v.
6 FANCY NAILS & SPA PLUS RESPONDENT
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P R O C E E D I N G S

MS. WARE: Okay. Next we have our hearings. Reginald Rogers.

MR. ROGERS: Thank you. We have two, I believe, parties present. Fancy Nails? Is someone with Fancy Nails present?

MR. CHRISTIAN: Yes.

MR. ROGERS: Yes? Okay.

MR. CHRISTIAN: I go up there?

MR. ROGERS: Would you step up, please, to the witness chair?

MR. CHRISTIAN: Good morning.

MR. ROGERS: Good morning. Would you state your name and --

MR. CHRISTIAN: Okay. My name is Nexus Christian.

COURT REPORTER: Could you spell it, please.

MR. CHRISTIAN: N-e-x-u-s, last name Christian, C-h-r-i-s-t-i-a-n.

COURT REPORTER: Thank you.

MR. ROGERS: And you're the owner of Fancy Nails and Spa?

MR. CHRISTIAN: No, she is the owner of Fancy Nails --

1 MR. ROGERS: State your name, please.

2 MR. CHRISTIAN: She don't speak English.

3 MS. HIEU: Yes. My name is Hong Hieu.

4 Hong Hieu.

5 MR. ROGERS: And spell that, please.

6 MS. HIEU: H-o-n-g, H-i-e-u.

7 MR. ROGERS: Oh, thank you.

8 And you're owner of Fancy Nails and Spa?

9 MS. HIEU: Yes.

10 MR. ROGERS: Thank you. Welcome. Glad to
11 have you here. And please have a seat.

12 And we have a Hearing Officer and he will
13 take over -- I'm sorry -- at this time.

14 HEARING OFFICER: You're fine.

15 Do we know if we have our other board
16 member on the phone yet?

17 MS. DWYER: Huh-uh.

18 HEARING OFFICER: No? Okay.

19 Court Reporter, can you hear them from
20 down there?

21 COURT REPORTER: I hope so.

22 HEARING OFFICER: Are you ready to go?

23 COURT REPORTER: (Nodding head up and
24 down.)

25 HEARING OFFICER: All right. My name is

1 Dara Hall and I'm the Hearing Officer today in
2 the matter of Fancy Nails and Spa Plus. This
3 matter will be heard before the Cosmetology
4 Technical Advisory Committee. The hearing
5 concerns matters specified in the Order and
6 Notice of Hearing.

7 Today is January 28, 2019. Please turn
8 all cell phones off or place them on silent
9 mode so as not to disrupt this proceeding.

10 Respondents have already identified
11 themselves and been seated at counsel -- I mean
12 at -- been seated at the table.

13 Are you represented by counsel, sir, or
14 madam?

15 MR. CHRISTIAN: Talking to me, sir?

16 HEARING OFFICER: Yeah. Either one of you
17 can answer.

18 MR. CHRISTIAN: Okay. What did you say?

19 HEARING OFFICER: Are you represented by
20 counsel?

21 MR. CHRISTIAN: I come by -- by myself.

22 MS. HIEU: Yes.

23 HEARING OFFICER: By an attorney?

24 MR. CHRISTIAN: I don't have no attorney.

25 HEARING OFFICER: I -- that's okay. I'm

1 just asking to know if you have one or not?

2 MR. CHRISTIAN: No, I don't have one.

3 HEARING OFFICER: Are you aware that you
4 have the right to be represented by counsel?

5 MR. CHRISTIAN: Yes.

6 HEARING OFFICER: Okay. All right. Okay.
7 If at any time you do not understand these
8 proceedings, please let me know and we'll call
9 a halt and we'll try and explain -- I'll try to
10 explain things. Okay?

11 MR. CHRISTIAN: Thank you, sir.

12 HEARING OFFICER: You bet. Did you
13 receive a notice -- I mean a copy of the Order
14 and Notice of Hearing for today's hearing?

15 MR. CHRISTIAN: Yes, sir.

16 HEARING OFFICER: Figured you did because
17 you're here but I have to ask that too.

18 MR. CHRISTIAN: Yes. I receive certified
19 mail.

20 HEARING OFFICER: All right. Are you
21 ready to proceed on this matter, sir?

22 MR. CHRISTIAN: Yes.

23 HEARING OFFICER: All right. Committee's
24 Counsel, please identify yourself for the
25 record.

1 MR. ROGERS: Reginald Rogers, one of the
2 attorneys for the Arkansas Department of
3 Health.

4 HEARING OFFICER: Are you ready to proceed
5 on this matter today?

6 MR. ROGERS: Yes, sir, I am.

7 HEARING OFFICER: All right. For the
8 benefit of anyone present here today who may
9 not have appeared in an administrative hearing,
10 the Committee will base its decision solely on
11 the evidence presented here today. The hearing
12 is held pursuant to the Arkansas Administrative
13 Procedures Act, which means that the strict
14 rules of evidence do not apply and the parties
15 will be given latitude in introducing evidence.
16 This is to promote a fair hearing and to
17 provide the Board with adequate information
18 with which to make a decision.

19 The administrative adjudicatory process
20 should be more expeditious and less expensive
21 for all parties than a judicial proceeding.
22 The hearing should be much less formal,
23 consistent with the fundamentals of fairness,
24 impartiality, and thoroughness.

25 The Hearing Officer's goal, that is my

1 goal, is to develop a fair, accurate, and
2 ineligible record that can be reviewed. To
3 ensure efficiency of the proceeding, I will
4 grant objections or caution the parties only as
5 necessary.

6 Now, as to getting a good record, I have
7 an awesome court reporter here today, Susan, is
8 really good, but she can only take down one
9 person talking at a time. So if everybody
10 would help me out and not talk over anybody
11 else, we'll get a good record and I will have
12 done my job. I appreciate you for helping me
13 out with that.

14 All right. If there is anything that you
15 have in your possession that you want the
16 Committee to consider, you must offer it in
17 evidence today. Okay, sir?

18 MR. CHRISTIAN: Yes, sir.

19 HEARING OFFICER: Good. All participants
20 in the hearing should be aware that these
21 proceedings are subject to the Freedom of
22 Information Act and, as such, all parts of the
23 hearing, including the deliberations of the
24 Committee, are open to the public.

25 All right. Now the swearing in of

1 witnesses next. I assume you're going to
2 testify, sir?

3 MR. CHRISTIAN: Yeah, about the -- the --

4 HEARING OFFICER: Yes. You'll get a
5 chance to testify, but we need you to stand and
6 raise your right hand, everybody that's going
7 to testify.

8 MR. CHRISTIAN: Yes, okay.

9 MR. ROGERS: All agency witnesses for this
10 hearing, stand --

11 MS. KERSEY: Just for this hearing.

12 MR. ROGERS: -- for this hearing.

13 HEARING OFFICER: Okay. Is that it?

14 MR. ROGERS: Yes.

15 HEARING OFFICER: I'll start again.

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

18 HEARING OFFICER: All right. And my court
19 reporter have the name of the -- of the lady
20 behind her?

21 COURT REPORTER: (Nodding head up and
22 down.)

23 HEARING OFFICER: Great. Everybody may be
24 seated. Thank you for that.

25 Are there any preliminary matters to be

1 discussed or offered at this time?

2 MR. ROGERS: Yes, sir. The agency, the
3 Committee, has a packet, I believe, of --
4 starting with the Order and Notice of Hearing
5 In The Matter of Arkansas Department of Health
6 versus Fancy Nails & Spa Plus.

7 HEARING OFFICER: Okay. So --

8 MR. ROGERS: And that has a tracking sheet
9 from the USPS for the Order and Notice of
10 Hearing; it also has an inspection report,
11 dated December 31, 2018, I believe; and it has
12 a narrative, dated November 7, 2018; and there
13 is some licensing information showing the
14 status of licenses.

15 HEARING OFFICER: All right. It is seven
16 pages, we'll mark it for identification as CTAC
17 Exhibit 1.

18 Any objection, sir, to introducing into
19 evidence these seven pages?

20 MR. CHRISTIAN: I -- I come up here
21 because I see that they are saying I -- the
22 thing in here is not incorrect for me, that's
23 why.

24 HEARING OFFICER: Okay.

25 MR. CHRISTIAN: It's not true.

1 HEARING OFFICER: So you have objection to
2 the exhibit. And what page are you objecting
3 to?

4 Let's get this down a little more
5 specific.

6 MR. CHRISTIAN: I think it's the -- the
7 Page 5 of 7.

8 HEARING OFFICER: Page 5.

9 MR. CHRISTIAN: Of 7 saying -- saying I
10 did not let the inspector come in the nail
11 salon and I didn't sign on the -- on the sheet
12 of paper.

13 HEARING OFFICER: All right. Okay. You
14 will have a chance to testify as to the
15 truth --

16 MR. CHRISTIAN: Okay.

17 HEARING OFFICER: -- fullness of Page 5,
18 but for now, unless you have a --

19 MR. CHRISTIAN: No, not --

20 HEARING OFFICER: -- legal objection, then
21 it will be admitted into evidence and may be
22 published to the Committee at this time.

23 (WHEREUPON, Agency Exhibit No. 1 was
24 received in evidence.)

25 HEARING OFFICER: Does my court reporter

1 have a copy of Exhibit 1 of the CTAC?

2 COURT REPORTER: Yes, sir.

3 HEARING OFFICER: Okay. You will get a
4 chance to testify about whether that's true.
5 Okay?

6 MR. CHRISTIAN: Yes, sir.

7 HEARING OFFICER: All right. Any other
8 exhibits to be offered or any other matters to
9 be taken up, Counsel?

10 MR. ROGERS: No, sir, not from the
11 Committee at this time.

12 HEARING OFFICER: Do you any documents you
13 would like to admit, sir?

14 MR. CHRISTIAN: No, sir.

15 HEARING OFFICER: All right. Does either
16 party wish to make an opening statement?

17 MR. ROGERS: No, sir.

18 HEARING OFFICER: Sir, would you like to
19 make an opening statement?

20 MR. CHRISTIAN: About -- about this one
21 right here?

22 HEARING OFFICER: Not testify but just say
23 what you intend to establish in this case, what
24 your theory of the case is and -- and that's
25 basically what an opening is.

1 MR. CHRISTIAN: I don't have any.

2 HEARING OFFICER: Okay. You'll get a
3 chance to testify, don't worry about it.

4 MR. CHRISTIAN: Okay. Thank you, sir.

5 HEARING OFFICER: And we will -- we will
6 go on to calling -- call your first witness,
7 Counsel.

8 MR. ROGERS: I will call, I believe, Pam
9 Atherley.

10 MS. ATHERLEY: Yes.

11 WHEREUPON,

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

16 DIRECT EXAMINATION

17 BY MR. ROGERS:

18 Q And state your name and spell your last name for the
19 record, please.

20 A It's Pam Atherley, A-t-h-e-r-l-e-y.

21 Q And where are you employed?

22 A Arkansas Department of Health.

23 Q And how long have you worked for us?

24 A Two years.

25 Q All right. And what's your job title?

1 A I am an inspector for the Arkansas Department of
2 Health Cosmetology and Massage Therapy Sections.

3 Q Thank you. And did you have occasion to inspect
4 Fancy Nails & Spa Plus, I believe, in Desha County in
5 McGehee, Arkansas?

6 A Yes, sir.

7 Q And when did you do so?

8 A I believe it was on November 7, 2018.

9 Q And looking at what I believe should be the fourth
10 page of the Exhibit No. 1, would you identify that
11 document, please?

12 Is that your inspection report?

13 A Yes, sir, it is.

14 Q Okay. And tell us about that. Is that a standard
15 form?

16 A Yes, sir.

17 Q Okay. And tell us what you found when you inspected
18 Fancy Nails & Spa?

19 A When I went in to do -- I did my inspection, and
20 when I got to the part of taking pictures of the
21 violations, then the gentleman got upset with me and
22 stated that the next time I come, to call the police
23 officer because there was going to be some pushing going
24 on, and --

25 Q Well, now you're referring to the fifth page?

1 A Oh, okay. So you're talking about --

2 Q Well, that's fine. No, that's fine.

3 A Okay.

4 Q But I'm looking at your inspection report --

5 A Okay.

6 Q -- first. And was this a regular inspection?

7 A Yes. It was a regular inspection.

8 Q Okay. Well, first tell us about that, please.

9 A Okay. So when I was there I found that they had

10 used files and buffers and pumice stones and --

11 Q And is that a violation?

12 A Yes. Those are violations.

13 Q Are those only for one-time use?

14 A One-time use only.

15 Q Okay. Go ahead.

16 A And also on this inspection report, I marked him for

17 inspection of facility allowed, because he refused to

18 sign the inspection report.

19 Q Yes, ma'am. And when you say "he," who -- is he

20 here today?

21 A Yes, sir.

22 Q And is that Mr., I believe, it's Nexus --

23 HEARING OFFICER: Christian.

24 BY MR. ROGERS:

25 Q -- Christian?

1 A Yes.

2 Q Nexus Christian?

3 A Yes.

4 MR. CHRISTIAN: Yes.

5 BY MR. ROGERS:

6 Q And that's Mr. Christian right there; is that

7 correct?

8 A Yes.

9 Q You identified him?

10 A Yes, sir.

11 Q Okay. And go ahead.

12 A And that's --

13 Q What happened next? I believe there is a next page.

14 A Okay. The next thing that happened is when I did

15 the -- after I finished my inspection, I had gotten to

16 the part where I was taking pictures of these violations

17 that I had stated, and he had -- the gentleman got in --

18 in my face and told me that the next time I come there

19 was going to be some pushing and I needed to contact a

20 police officer.

21 Q And did you take that as --

22 A And I also asked him to sign the inspection sheet

23 and he refused to do so.

24 Q Did you take his comment to you as a threat --

25 A Yes.

1 Q -- that there would be some pushing?

2 A Yes, sir.

3 Q Did you feel threatened?

4 A I felt threatened because he was in my face and he
5 was yelling at me.

6 Q You mentioned you were taking pictures. Is that a
7 normal process?

8 A Yes, sir. When we have a violation, we take a
9 picture of it and then we -- we submit that to our
10 office.

11 Q Okay. Did you -- what happened next? Did you call
12 the police?

13 A No, sir. I contacted my supervisor and explained to
14 her what had happened.

15 Q And who's your supervisor?

16 A Krista Wells.

17 Q Okay. And what did she recommend?

18 A She recommended that I go ahead and just mark him
19 for, you know, refusal to sign the inspection and to go
20 ahead and leave the facility.

21 Q Okay. Had you been to the facility in the past?
22 Had you been there before?

23 A No, sir. I have not.

24 Q Okay.

25 A That was my first time there, to go there.

1 Q When you went there you did show your
2 identification?

3 A Yes. I explained to him who I was and my name.

4 Q Okay. And he became belligerent; is that correct?

5 A Yes. He was.

6 Q Anything else you would like to inform the
7 Committee?

8 A No.

9 MR. ROGERS: Pass the witness.

10 HEARING OFFICER: Mr. Christian, do you
11 have questions for this witness?

12 MR. CHRISTIAN: Yes, all of them.

13 HEARING OFFICER: I don't know what all of
14 them means but --

15 MR. CHRISTIAN: Okay.

16 HEARING OFFICER: -- if you have specific
17 questions to ask her, not to testify, but ask
18 the inspector.

19 MR. CHRISTIAN: Okay. Ask her?

20 HEARING OFFICER: Yes.

21 CROSS-EXAMINATION

22 BY MR. CHRISTIAN:

23 Q During -- during -- during the time of the
24 inspection, you was inside the nail salon; is that right,
25 Pam?

1 A Yes. I was inside your Fancy Nails Salon.

2 Q Okay. And when -- when we talk about, you ask me to
3 sign the sheet of paper, we was standing up between the
4 table, each side; is that right?

5 A Sir?

6 Q You were standing one side of the table, I was
7 standing other side of the table; is that right?

8 A No.

9 Q It's not right?

10 A No, it's not.

11 Q At the cashier desk, we -- we stand right there, you
12 were standing other side of the cashier desk and I was
13 standing the other side of the cashier desk?

14 A No. You were standing -- the cashier desk was here,
15 and I was standing on this side, you were standing right
16 there, we were beside that desk.

17 Q Yeah, on the other side, you know, and I did no
18 way -- and I -- I did not say anything threat or harm you
19 any other way and I didn't yell at you at all. I call --
20 telling you --

21 HEARING OFFICER: Mr. Christian, let me
22 help you there. Okay?

23 MR. CHRISTIAN: Yes.

24 HEARING OFFICER: You will get to testify
25 about what you did and what your version of

1 what happened, but this is for questions.

2 MR. CHRISTIAN: Okay.

3 HEARING OFFICER: Not for you to testify.

4 You will get a chance, I promise.

5 MR. CHRISTIAN: Okay.

6 HEARING OFFICER: But just questions for

7 her.

8 And, like, what side of the desk she was

9 on, that's a question. That was good.

10 MR. CHRISTIAN: Okay.

11 HEARING OFFICER: But something more like

12 that where she answers, yes, no, or with her

13 answer. Okay?

14 You may proceed. Go ahead.

15 MR. CHRISTIAN: Okay. I have -- I have

16 nothing right now at the moment. I forgot

17 everything already.

18 HEARING OFFICER: Okay, sir. At this

19 point does the Committee have any questions for

20 this witness?

21 MS. WARE: I do. The pumice stones, were

22 they, like, out on a counter or you saw them

23 use it on somebody? And the nail --

24 THE WITNESS: They were not -- they did

25 not have a customer at the time so they were

1 not using them on someone.

2 MS. WARE: Uh-huh.

3 THE WITNESS: But you could -- I had taken
4 a picture of those and you could tell they were
5 used.

6 MS. WARE: Okay.

7 MS. BOYDSTUN: And what about the -- is
8 there lashes in that salon?

9 THE WITNESS: They did have lashes, and I
10 did not write a violation for that particular
11 situation because they were not working on
12 someone at the time.

13 MS. BOYDSTUN: Uh-huh.

14 THE WITNESS: So it was -- it's kind of
15 one of those calls that, you know, you can't
16 really mark them for.

17 MS. BOYDSTUN: Okay. Did you ever call
18 the police or was there a police report filed?

19 THE WITNESS: No, there was not.

20 MS. WILSON: When you first got there were
21 they compliant as far as letting you inspect up
22 until you started taking pictures?

23 THE WITNESS: Up until that point, yes.

24 MS. JONES: And was he, was Mr. Christian
25 the only person in the salon at the time or was

1 there other work -- employees there at the
2 time?

3 THE WITNESS: No. Both of the witnesses
4 were both of them there at the time.

5 MS. WARE: So were you able to get the
6 pictures that you wanted or was it just after
7 that first thing --

8 THE WITNESS: I got the pictures that I
9 needed. Yes.

10 MS. WARE: Okay.

11 MS. BOYDSTUN: Did you -- did you tell him
12 why you were taking the pictures or why they
13 were needed? Did he ask?

14 THE WITNESS: I -- he didn't ask. I
15 didn't explain to him why I was taking them.

16 You know, I explained -- I was trying to
17 explain when I asked him to sign the inspection
18 report --

19 MS. BOYDSTUN: Uh-huh.

20 THE WITNESS: -- I tried to explain
21 everything.

22 MS. BOYDSTUN: Uh-huh.

23 THE WITNESS: And that's kind of the
24 standard procedure we go by is to, you know,
25 identify.

1 MS. BOYDSTUN: Right.

2 MR. CHRISTIAN: Ma'am? I have a question.

3 HEARING OFFICER: Oh --

4 MR. CHRISTIAN: Can I ask my question?

5 HEARING OFFICER: Well, I have a question
6 for you for the record real quick, and I think
7 I got this right, but the other person that was
8 present is the owner, and that's Ms. Hieu?

9 MR. CHRISTIAN: Yes.

10 HEARING OFFICER: Is that correct?

11 THE WITNESS: Yeah.

12 HEARING OFFICER: Okay. I just wanted to
13 make sure for the record, so when you identify
14 the two people --

15 THE WITNESS: Right.

16 HEARING OFFICER: -- the actual owner is
17 Ms. Hieu and she was present?

18 THE WITNESS: Yes, sir.

19 HEARING OFFICER: All right. That's all.
20 And then we'll let the Committee finish
21 their questions and then I'll give you a chance
22 to ask questions. Okay?

23 MR. CHRISTIAN: Okay. Okay.

24 HEARING OFFICER: Does the Committee have
25 any additional questions?

1 MS. JONES: I just have one more question.

2 Was there any reason why your supervisor
3 didn't direct you to call the police because
4 you did feel threatened, or was it -- I mean --

5 THE WITNESS: I think at the -- at the
6 time she was more concerned about me getting
7 out of that situation and, you know, we --

8 MS. JONES: Okay.

9 THE WITNESS: -- we definitely didn't want
10 it to escalate, you know, so --

11 MS. JONES: Yeah. Okay.

12 MS. WARE: Did he say why he would not
13 sign it, the inspection sheet?

14 THE WITNESS: No, he didn't say why. He
15 was just upset and refused to sign it. And I
16 explained to him if he didn't, you know, sign
17 the inspection report, that it would be a --
18 another fine for that.

19 MS. WARE: Okay.

20 THE WITNESS: Or it would be a fine.

21 HEARING OFFICER: Is that it from --
22 questions from the Committee?

23 MS. WARE: Yes.

24 HEARING OFFICER: That seems to be all of
25 them.

1 Counsel, do you have any questions?

2 MR. ROGERS: No, sir.

3 HEARING OFFICER: All right.

4 Mr. Christian, you may ask questions now.

5 MR. CHRISTIAN: Okay.

6 RECROSS-EXAMINATION

7 BY MR. CHRISTIAN:

8 Q The -- the -- the file and the pumice stone, the
9 pumice stone, she took it from in the back of the room.

10 We do not use the --

11 HEARING OFFICER: Sir, again, it's a
12 question for her.

13 MR. CHRISTIAN: Okay.

14 HEARING OFFICER: You can ask her where
15 these things were at, but don't testify to it.

16 BY MR. CHRISTIAN:

17 Q Okay. Did you took the file and the pumice stone
18 from the back of the room or from the nail salon, right
19 in the back of the room of the nail salon?

20 A Yes, I did.

21 Q And you bring it to the front and you took a picture
22 of it; is that right?

23 A I took a picture of where it was at.

24 Q You bring it to the front of the nail salon --

25 A Yes.

1 Q -- and took a picture?

2 A Yes.

3 MR. CHRISTIAN: Okay. That's all. She
4 bring it to the front and take a picture of the
5 pumice stone and the file was not used in the
6 back room.

7 HEARING OFFICER: Okay. You'll get a
8 chance to testify.

9 MR. CHRISTIAN: Okay.

10 HEARING OFFICER: I think you got one
11 question out of that that was answered. And
12 any additional questions, Mr. Christian?

13 MR. CHRISTIAN: No. No, sir.

14 HEARING OFFICER: Any additional questions
15 from the Committee based on that question?

16 MS. BOYDSTUN: Why didn't you throw it
17 away? It's a one-time use thing.

18 HEARING OFFICER: No, not for him. For
19 her.

20 MS. WILSON: Did you take it out of a
21 trashcan?

22 THE WITNESS: No.

23 MS. WILSON: Okay. Thank you.

24 HEARING OFFICER: You'll get a chance for
25 that one. You can save it.

1 MS. BOYDSTUN: I'll save it.

2 MS. WARE: So it was in the back and you
3 brought it to the front to take a picture?

4 THE WITNESS: Right.

5 MS. WARE: Like --

6 THE WITNESS: The reason I brought it to
7 the -- can I say that?

8 MS. WILSON: Yes. Why?

9 THE WITNESS: The reason I brought it to
10 the front to take a picture is because the room
11 that the -- that the stone was actually in was
12 back with supplies and I could not see in that
13 room because it was so dark, so --

14 MS. WARE: Was that also with the buffers
15 and the files too or this -- they was
16 different?

17 THE WITNESS: I don't recall. I don't --

18 MS. WARE: Okay.

19 THE WITNESS: I would have to see the
20 pictures again. I'm sorry.

21 MS. WARE: Okay.

22 MS. WILSON: But they were laying out and
23 not in a trashcan?

24 THE WITNESS: Right. They were -- they
25 were not disposed of after each use, so that's

1 he -- I don't believe he is contesting the buffer files
2 and pumice stones. The reason we brought him was because
3 of the threat to our inspector.

4 MS. WARE: Uh-huh.

5 THE WITNESS: We feel, you know, they
6 should not feel threatened when they go out
7 there.

8 We -- we've actually talked about it, and
9 when we actually go to this salon again, there
10 will not be one person and -- anyway, that's
11 the reason we brought him is because they
12 should not feel threatened when they go in
13 there to do their job.

14 And it is protocol -- our protocol is for
15 them to do the inspection and then once they
16 are done, they explain to them what the
17 violations are. And so that's what she was
18 doing and that's when he got mad.

19 BY MR. ROGERS:

20 Q Did you consider contacting the police at the time?

21 A We did talk about that. We just didn't know, since
22 it was after the fact, if we could, but we have since
23 talked about going ahead and sending -- going to the
24 prosecuting attorney with this.

25 Q What's your recommendation from staff considering

1 the threat? And I think he may contest the other part of
2 it --

3 A Right.

4 Q -- I don't know, from what we're hearing this
5 morning.

6 A Yeah.

7 Q -- but originally you're looking at a civil penalty?

8 A Right.

9 Q And then now you're mentioning going to the
10 prosecuting attorney. So do you have a recommendation to
11 the Committee?

12 A I'm not sure. We didn't give him a violation
13 letter, we just -- we strictly sent him a Notice of
14 Hearing because we wanted him to come, we didn't want him
15 just to pay it.

16 I -- I -- we would recommend revocation of their
17 license.

18 Q Now, technically, since we don't have that presented
19 to him --

20 A Uh-huh.

21 Q -- perhaps the Committee would consider the civil
22 penalty --

23 A Correct.

24 Q -- since you're considering taking it to the
25 prosecuting attorney?

1 A Right. Correct.

2 Q So that's -- we do believe revocation would be
3 something appropriate but, technically, I don't see that
4 was adequate notice to him, so at this time I believe
5 we're looking at a civil penalty and then a decision will
6 be made by upper management as to pursuing anything
7 further with the local prosecuting attorney. And, of
8 course, the Committee may have another penalty they want
9 to impose.

10 A Yeah. It's really up to you all, since --

11 Q Yeah. Any other things you want to bring to the
12 Committee's attention?

13 A I think that's it.

14 Yeah. I think that's it.

15 MR. ROGERS: Pass the witness.

16 HEARING OFFICER: All right.

17 Mr. Christian, do you have questions for this
18 witness?

19 MR. CHRISTIAN: Yes.

20 HEARING OFFICER: Go ahead.

21 CROSS-EXAMINATION

22 BY MR. CHRISTIAN:

23 Q I would like to know -- what's your name, ma'am?

24 A Kelli.

25 Q Kelli. I know you wasn't there, Kelli, but you

1 heard from Ms. Pam, call you on the phone and telling you
2 she receive a threat and I -- take a look at me. What
3 kind of threat do I bring to you, to Ms. Pam, to say --
4 she's saying, telling you she feel threat from me. Did I
5 do anything, harm to her or pushing her or -- or what --
6 what did -- what did I do to set out that threat on her?

7 A Well, you didn't -- we're not saying that you did
8 this time, but you said that there would be next time she
9 came.

10 Q Well, you say next time. That's the future, I don't
11 know about that one; but at that moment, I don't felt
12 threat about the -- the fines she found and this -- this
13 piece of paper right here, because I know it's not true
14 and I don't feel angry or pissed off, anything like that.
15 That's all. She --

16 HEARING OFFICER: Okay.

17 MR. CHRISTIAN: That's how she felt.

18 That's how she think I'm going to be like that
19 in the future, but that's not true.

20 HEARING OFFICER: All right. Any
21 additional questions? Questions?

22 MR. CHRISTIAN: No. No more.

23 HEARING OFFICER: No. Okay.

24 Questions from the Committee?

25 MS. BOYDSTUN: Did you raise your voice to

1 her?

2 THE WITNESS: No. To me.

3 MS. BOYDSTON: To you?

4 THE WITNESS: Questions to me.

5 MS. BOYDSTUN: Questions to you?

6 HEARING OFFICER: Questions to the

7 witness.

8 THE WITNESS: Yeah.

9 MS. BOYDSTUN: Does -- does -- or do the
10 inspectors often call in saying that somebody
11 is talking to them in an abusive manner or --

12 THE WITNESS: They don't do it often but
13 when it does happen they immediately call us.

14 MS. BOYDSTUN: They immediately call you?

15 THE WITNESS: Uh-huh. And are usually
16 very shaken.

17 MS. BOYDSTUN: Right.

18 THE WITNESS: Yeah.

19 MS. BOYDSTUN: Okay.

20 MS. JONES: Is there any time that they,
21 once they have called the office, that they
22 have been instructed to call the police to get
23 a report, once they get to safety, you know,
24 like in their car or --

25 THE WITNESS: We have done that before

1 when the inspector was actually touched, you
2 know, with the hands on.

3 And once there was someone locked in the
4 salon, they locked them in the salon, so they
5 were -- they we definitely called the police
6 then; so --

7 MS. WILSON: Is Ms. Atherley somebody that
8 calls often?

9 THE WITNESS: She doesn't call real often,
10 no. Yeah.

11 HEARING OFFICER: All right. Any
12 additional questions from the Committee?

13 There don't appear to be any. Any
14 additional questions, Counsel?

15 MR. ROGERS: No, sir. And the agency
16 rests.

17 HEARING OFFICER: All right. All right.
18 Mr. Christian.

19 MR. CHRISTIAN: Yes, sir.

20 HEARING OFFICER: It's your time to
21 testify. Now you get to make a statement, just
22 tell the Committee in your own words what
23 happened and why they shouldn't fine you, I
24 guess. Go ahead.

25 WHEREUPON,

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

5 DIRECT TESTIMONY

6 THE WITNESS: Okay. About the -- the --
7 on the fine -- on the sheet of paper she write
8 down here about the pumice stone, file, and
9 buffer she took from the back, she say it's no
10 light there. It's is a light in the back there
11 and we don't usually turn them on because we
12 don't using it, and she took it and she took a
13 picture on it and on the -- on the sheet for a
14 fine.

15 She getting -- she was standing right
16 there asking me to sign the sheet of paper. I
17 say, I -- I told -- I telling her I don't need
18 to sign because it's not my problem because I
19 don't own it, own the nail salon. She the one
20 owned it, she -- she need to ask her to sign
21 it. She make me sign a piece of paper. I say,
22 "No, I'm not going to sign nothing for you
23 today." And she got mad and she raise her
24 voice and yelled at me and then she walk out
25 the door and she say I -- she say -- she calls

1 on the phone I heard she say I threaten her. I
2 don't threaten nothing, I just say I'm not
3 going to sign nothing for her, because I'm not
4 the owner. She the owner, she the one that
5 sign it.

6 She even asked me to sign a piece of
7 paper, I say, "No, it's not mine. I don't need
8 to sign nothing for her that morning."

9 And I asked her next time you coming in,
10 you -- you be like this again, I think you need
11 another person, a witness, you know, so we --
12 we speak, someone -- somebody who can be a
13 witness because now you giving -- asking me if
14 wrong way, do the wrong thing like this, and
15 I'm not happy with that. That -- that's all.

16 HEARING OFFICER: That's all?

17 THE WITNESS: Yes.

18 HEARING OFFICER: Cross?

19 CROSS-EXAMINATION

20 BY MR. ROGERS:

21 Q So, Mr. Christian, Ms. Atherley, Pam Atherley raised
22 her voice. Is that your testimony?

23 A She -- she make me sign a piece of paper and it's
24 not -- I don't need to sign it, and she was -- even force
25 me to do.

1 Q Well, you testified earlier, just a moment ago, that
2 she raised her voice; is that --

3 A Yeah. She -- she speak louder.

4 Q Did you speak louder?

5 A No, ma'am -- no, sir. I tell her, I don't need to
6 sign because it's not mine.

7 Q I understand that, but you never raised your voice.
8 Is that your testimony?

9 A No. I didn't raise my voice.

10 Q How close did you get to Ms. Pam?

11 A Oh, we -- on a -- on a cashier table like about this
12 size and she standing at this corner right here and I'm
13 standing over here. We just talk back and forth and she
14 ask me to sign it, she say I have to sign it. I say,
15 "No, I don't have to sign it. It's not mine, I don't
16 have to sign it."

17 Q Well, did -- Ms. Hieu was also at the salon; is that
18 correct?

19 A Yes, sir.

20 Q Did you -- why didn't you direct Ms. Hieu to sign
21 it?

22 A Because she was talking to me, I'm talking to her, I
23 don't need to sign it. I told her. She's over there and
24 you didn't even ask her. She was mad. She don't hear me
25 talk to her.

1 Q Now what now? Who was mad?

2 A At that time Ms. Pam, she didn't -- she didn't
3 listen to my voice, my word I tell her. Because she want
4 me to sign it, I don't want -- I don't sign it. She was
5 upset.

6 Q Well, why would she be upset if Ms. Hieu was there
7 and could sign?

8 A I don't know. I don't know why.

9 Q But you never raised your voice though?

10 A No, I didn't. I tell her, I don't need to sign
11 this. She keep asking me to sign the piece of paper,
12 that's a law, that's a rule you have to sign it. I said,
13 "No, I don't have to; because this is not -- this paper,
14 I don't need to sign it, the owner need to sign it."

15 Q Now, did you say to Ms. Pam that -- when she started
16 taking pictures, that the next time that Ms. Pam came to
17 your -- to the salon that to call the police officer to
18 come with me because there was going to be some pushing
19 going on?

20 A No. I didn't say nothing like that.

21 Q So you're saying Ms. Pam just made that up out of
22 the thin air?

23 A She was mad when she walk out the door and call on
24 the phone, I don't who she called but she say something
25 that I heard, but I didn't -- I didn't say nothing of

1 that.

2 Q But you weren't mad?

3 A No.

4 Q You were cool and calm like a cucumber?

5 A I'm not -- not that cool, like you say, but I

6 just -- I just look at her walk out the door and say,

7 "Well, I think --" I think in my mind, "Well, something

8 wrong with her."

9 Q Was Ms. Hieu present during this --

10 A She sitting in the -- she sitting in the chair, she

11 was here.

12 Q But she doesn't speak English?

13 A Not that really good. She see -- well, she see her,

14 she walk out too.

15 Q What's that?

16 A She seen -- she seen her walk out of the door too.

17 Q And there was no one else in the shop at the time?

18 A No. No. Slow. Been slow, cold, nobody coming in.

19 Q Now, Mr. Christian, you know, we don't allow our

20 workers to be threatened. You understand that?

21 A I understand, yes, sir. That's why I'm cool, I

22 wouldn't say nothing.

23 Q You're cool?

24 A I wasn't mad at her. Besides, it's not my problem,

25 why get mad for.

1 Q Well, you work at the shop; is that correct?

2 A Yeah, I just work there. But she write it on -- on
3 here, wouldn't sign it. It's not mine, I don't have to
4 pay for anything like that so why get mad, you know.

5 Q Now, the buffer stones were in the back --

6 A Yes.

7 Q -- but they weren't in a trashcan; is that correct?

8 A This -- that -- that buffer is from the old owner,
9 you know. See, there is a lot of stuff that --

10 Q I'm sorry. Could you slow down a little bit? What
11 did you say?

12 A There is a lot of stuff from the owner left back in
13 the back of the room, there is a lot of stuff, like --
14 like chair, table, and buffer, old stuff back there, a
15 lot. We did not --

16 Q It's my understanding you're not supposed to use the
17 stones more than once?

18 A We didn't use it. We send it back, that's -- that's
19 in the back. We not using it.

20 Q Oh, I didn't -- okay. Are you saying an old owner
21 left it?

22 A Yeah.

23 Q Not Ms. Hieu but someone with --

24 A No.

25 Q How long had it been there?

1 A I don't recall that one, but I -- when I get there I
2 see them laying over there already.

3 Q Were you the owner before Ms. Hieu?

4 A Yes. Yes.

5 Q Well, then you left the stones?

6 A No. No. No. I --

7 Q Well --

8 A I used the one in the back, they come in complete
9 set, you know. We --

10 Q Well, you were the previous owner?

11 A Yeah. We buy the -- the one, a complete set that
12 come in --

13 Q Well, didn't you clean the place up and throw out
14 all of the materials that you couldn't use?

15 A Only the front. Not the back room, no.

16 Q You never went in the back room to clean it out?

17 A No, we went in the back room, but we don't clean in
18 the back, we just clean the front only.

19 Q Well, how long had the stones been there? When did
20 you relinquish ownership?

21 A As I say, I don't recall.

22 Q When did you relinquish ownership and when did
23 Ms. Hieu become the owner?

24 A I don't -- I don't remember how long but I -- I
25 think it's a lot of headache so I just tell her I let her

1 take over because I don't want to deal with that problem
2 no more, so I let her take over it.

3 Q When was that? What day? What year?

4 A Maybe 2017. '17, '18, I'm not sure, somewhere
5 around there.

6 Q So it could have been there a year or two years,
7 these old used stones? You don't know?

8 A Yeah. Some of -- old buffer for the round one, it's
9 still back there too, and the cream. And this day,
10 people don't use the cream no more, the buffer no more,
11 they just leave it there. Yeah, we don't use it, you
12 know.

13 Q But you do understand that it's illegal and possibly
14 a criminal offense to threaten an official state
15 inspector? You understand that?

16 A Hmm.

17 Q You don't understand that?

18 A Yes, I do.

19 Q And you would not do that again, will you?

20 A Yes, sir.

21 Q And a decision will have to be made by upper
22 management as to how to proceed on that issue.

23 MR. ROGERS: Pass the witness.

24 HEARING OFFICER: All right. Any
25 questions for this witness now from the

1 Committee members?

2 MS. BOYDSTUN: From my experience of being
3 a salon owner, anyone in the salon that is
4 present can sign that form. If you work in
5 that salon, anybody in the salon can sign the
6 form. It doesn't say it has to be the owner.
7 It says it needs a signature, it doesn't say
8 it's the owner. This is the form right here.
9 And so it just says "signature." And so
10 anybody that has a license in the state of
11 Arkansas in cosmetology can sign this form if
12 they are present, because the owner is not
13 always present. So someone that's in the salon
14 can sign it.

15 THE WITNESS: But she present.

16 MS. BOYDSTUN: It doesn't matter.

17 THE WITNESS: Yeah.

18 MS. BOYDSTUN: She didn't ask her, she
19 asked you.

20 THE WITNESS: I -- to my -- to my -- to my
21 what I know is if the owner was present right
22 there, I don't have to step up or sign anything
23 for -- for --

24 MS. BOYDSTUN: You have a license in the
25 state of Arkansas; right?

1 THE WITNESS: Yes, I do. But I don't have
2 to sign it, you can ask her. She was there.

3 MS. BOYDSTUN: I'm not asking her. I'm
4 asking you.

5 THE WITNESS: I know, that's why I just
6 answered you, but I, to me, I know the owner
7 there, she can come and sign -- she can ask her
8 to come and sign it for her, not asked -- she's
9 just a --

10 MS. BOYDSTUN: What if she had not been?

11 THE WITNESS: Huh?

12 MS. BOYDSTUN: Would you have signed it
13 if she had not been there?

14 THE WITNESS: Yes. But I don't know why
15 she attacking me, she don't feel happy or
16 something. She give -- make me sign a paper.
17 I tell her, I don't need to sign it because the
18 owner is here.

19 MS. BOYDSTUN: Have you ever signed one of
20 these ever?

21 THE WITNESS: Before when -- yeah, before
22 I was an owner, yes, I did.

23 MS. BOYDSTUN: Have you ever had a
24 violation before?

25 THE WITNESS: I don't remember. I don't

1 think so. I don't remember but I don't think I
2 have any violation with that. Because I don't
3 use the old buffer like this. I buy the one in
4 the -- in the bag, they come in a complete set
5 already.

6 MS. BOYDSTUN: Uh-huh.

7 THE WITNESS: Yeah. So when the little
8 one, the little square one, and a -- and a
9 pumice stone, the little one, they come in a
10 bag. I don't --

11 MS. BOYDSTUN: Do you throw them away when
12 you're finished?

13 THE WITNESS: Yes. There is a trash can,
14 we throw it away.

15 We keep the place nice and clean.

16 People don't -- we not that busy, you
17 know, every day. We just go back and forth,
18 clean and wipe down the table, chair, and
19 clean -- clean. It's been real cold and this
20 kind of season, it's slow.

21 MS. BOYDSTUN: Did you raise your voice at
22 her?

23 THE WITNESS: No. I didn't. I just talk
24 to her, the same one I say, "I don't need to
25 sign anything for you today because I'm not the

1 owner." And she keep on making me sign it.

2 MS. BOYDSTUN: Because she has the right
3 to do that.

4 THE WITNESS: I know she have the right
5 but I -- I explained to her that the owner is
6 here, I don't need to sign it.

7 Like I say, she was probably upset or
8 something.

9 MS. BOYDSTUN: Why didn't -- why didn't
10 you hand it to her or ask her to sign it? Why
11 didn't you just --

12 THE WITNESS: At that time I talk to her
13 and told her, maybe she didn't -- she didn't
14 listen to me. You can ask her. You can ask
15 her, she can tell you that part. And I --

16 MS. WILSON: So you've been very open in
17 telling us that she doesn't speak English.

18 THE WITNESS: Not a lot but she don't
19 speaking it very fluently.

20 MS. WILSON: Okay. So don't you think you
21 should help her navigate through an inspection
22 and say, "You need to sign here," to help then?

23 THE WITNESS: No, the little English she
24 understand.

25 MS. WILSON: Okay. So as the owner, do

1 you feel like he raised his voice that day?

2 MS. HIEU: (In English) I -- well, I --
3 (Speaking in foreign language.)

4 (In English) Excuse me. And you -- I'm
5 sorry. But, yeah.

6 (Speaking in foreign language.)

7 MR. CHRISTIAN: Okay. She want me to
8 translate.

9 MR. ROGERS: Well, wait a minute. Wait a
10 minute. We don't have an interpreter so --

11 MR. CHRISTIAN: She said that morning, so
12 when she coming in, said we already observe
13 her --

14 HEARING OFFICER: Well, hold on. Hold on
15 a second.

16 Sir, we can't let you interpret for her,
17 but since the owner doesn't speak fluent
18 English, maybe we should put this over until we
19 can get an interpreter, because we can't let
20 him interpret.

21 MR. CHRISTIAN: Yes, I can. I can help
22 her.

23 HEARING OFFICER: I'm sorry. Legally,
24 under the rules.

25 MR. CHRISTIAN: Oh, okay.

1 HEARING OFFICER: You understand the
2 interpreter has got to be neutral. They can't
3 be a party or even a witness. They can't have
4 any involvement in the case.

5 Well -- Okay. Let's take a brief recess
6 while we get an interpreter then on the phone.

7 Okay. Yeah, we will call for an
8 interpreter now. So we're going to go recess
9 for -- how long do you think it will take?

10 MS. KERSEY: Probably just a few minutes,
11 five minutes.

12 HEARING OFFICER: Okay. We'll do five
13 minutes then.

14 (WHEREUPON, a break was held from
15 9:45 a.m. to 9:49 a.m.)

16 (Interpreter joined proceedings via
17 telephone.)

18 HEARING OFFICER: Interpreter, I am -- my
19 name is Dara Hall and I am the Hearing Officer.
20 This is an administrative hearing with the
21 Cosmetology Committee.

22 First I want you to say on the record
23 whether or not you can interpret for -- for
24 this individual.

25 Ms. Hieu, go ahead and make sure that she

1 understands you.

2 INTERPRETER: Okay. Okay.

3 HEARING OFFICER: So can you understand
4 her?

5 INTERPRETER: Yeah.

6 HEARING OFFICER: All right. All right.
7 So we're going to re -- reconvene the hearing
8 and you will interpret for her.

9 All right.

10 (Ms. Melton left the room.)

11 INTERPRETER: All right. Thank you.

12 HEARING OFFICER: I will try to make it in
13 little snippets so we don't have too much for
14 you to remember, I'll try to kind of parse it.
15 Okay? So maybe a little broken up but that's
16 so you can --

17 INTERPRETER: Okay.

18 HEARING OFFICER: -- remember it all.
19 Okay?

20 INTERPRETER: All right.

21 HEARING OFFICER: Appreciate it.

22 What fun.

23 Okay. First off, Ms. Hieu, we're going to
24 let you testify.

25 You were sworn earlier; correct?

1 MS. HIEU: Yes.

2 WHEREUPON,

3 THI HONG HIEU CHRISTIAN,

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

7 HEARING OFFICER: All right. So just tell
8 the Committee what -- what happened on the date
9 of this inspection. Okay?

10 Go ahead and tell them.

11 INTERPRETER: Ma'am -- I'm sorry, sir, you
12 sound very far away, so I can only hear the
13 echo. I can't hear you very well.

14 HEARING OFFICER: Thank you for that. I'm
15 going to have to move.

16 This wasn't -- this wasn't the best setup.
17 Do you hear me better now?

18 INTERPRETER: Yeah. A little better.

19 HEARING OFFICER: A little better? All
20 right.

21 INTERPRETER: Yeah, now it's okay.

22 HEARING OFFICER: Of course.

23 Go ahead. Great.

24 Okay. Now, what I had basically asked

25 Ms. Hieu was to tell the Committee what

1 transpired the day of the inspection. And so
2 that's all I would need for her to do at this
3 point.

4 THE WITNESS: Yeah.

5 INTERPRETER: Okay. Okay.

6 HEARING OFFICER: All right. What -- what
7 did she say?

8 INTERPRETER: No. She just said "Okay and
9 what else? Changing the date?"

10 HEARING OFFICER: The --

11 INTERPRETER: Interpreter needs to verify.

12 Did you say that you need to change the
13 date for inspection?

14 Hello?

15 HEARING OFFICER: Hello. Are you asking
16 the Hearing Officer?

17 The date of the inspection was November 7,
18 2018.

19 THE WITNESS: Yes. Okay. Now I will say
20 it.

21 HEARING OFFICER: All right. Translate.

22 THE WITNESS: The day that they came down
23 to do the inspection I welcome the -- the lady
24 who came there for inspection.

25 HEARING OFFICER: Okay. Translate that.

1 THE WITNESS: After that -- after that I
2 take -- I took her to inspect everything in my
3 nail salon.

4 Okay. And then she came down to the
5 storage and she took a buffer that I already
6 tossed it, she brought it to the front and took
7 a picture. But then in my salon I already told
8 her that I have a set of buffer, file, clipper,
9 everything for to do a set of nails.

10 This is only because of the buffer. And
11 also my salon doesn't do waxing in the eyebrow
12 service. We do not have a wax machine or any
13 tool to do waxing.

14 And then after that she was talking, the
15 inspector, she was talking to one of my nail
16 technician, his name is Nexus, they were
17 talking together. And then told us, she asked
18 my nail technician to sign his name on the
19 documentation. He said that he didn't do it so
20 he didn't want to sign. I was two meter away
21 from her but she never asked me to sign when I
22 am the owner of the salon. And my nail
23 technician talked to the inspector for about
24 one minute, and the way they speak to each
25 other was normal, like, no raising voice or

1 nothing.

2 I remember very clear that she was using
3 her pen, knocking on the -- the -- on the
4 paper, saying -- asking -- telling my -- the
5 technician to sign, but he said, no, he doesn't
6 want to sign. And then she called someone
7 after.

8 HEARING OFFICER: Let me clarify, is that
9 after the inspection? Could you ask her that?

10 INTERPRETER: Yeah.

11 THE WITNESS: Yes, that's right, after --
12 after the inspection. I was the one who show
13 her around. I show her around because every
14 question she asked I answered her question,
15 even though my English is not very -- is not
16 very good.

17 From the spa chair to the mani-care
18 tables, I follow her everywhere. She only
19 collect the buffers in the storage room and I
20 told her that I did not use it, I toss it
21 already, I wasted it already, but she still
22 collect it and take a picture of it in the --
23 in the front -- in the front store.

24 And then she made a phone call and walked
25 out of the store without telling me anything.

1 That was the morning of that day.

2 HEARING OFFICER: And ask her if she has
3 any more testimony to give.

4 THE WITNESS: That's what happened on that
5 day at my salon. I didn't really see any
6 argument or any fighting or raising voice
7 between the two parties, as she said.

8 HEARING OFFICER: All right. Ms. Hieu, is
9 that your -- is that all your testimony at this
10 time?

11 THE WITNESS: That's all. That's all the
12 truth that I wanted to share.

13 HEARING OFFICER: All right. At this time
14 the State's counsel, Mr. Rogers, has some
15 questions he might want to ask. It's his turn
16 to ask questions after her testimony.

17 Mr. Rogers?

18 MR. ROGERS: Thank you.

19 CROSS-EXAMINATION

20 BY MR. ROGERS:

21 Q Ms. Hieu, were you in the presence of Mr. Nexus
22 Christian and Ms. Pam Atherley the whole time?

23 INTERPRETER: Hello? Hello, sir, I'm
24 sorry, but you sound very far away from the
25 phone.

1 HEARING OFFICER: All right. We're going
2 to switch positions so the counsel can ask
3 questions.

4 THE WITNESS: (In English) Sorry, sir.

5 MR. ROGERS: That's fine. You're doing
6 fine.

7 BY MR. ROGERS:

8 Q Ms. Hieu, were you in the presence of Ms. Pam
9 Atherley, the Health Department Inspector, and Mr. Nexus
10 Christian, your nail technician, the whole time that
11 Ms. Atherley was there, the inspector, Ms. Pam?

12 A That's correct.

13 Q Why didn't you sign the inspection sheet, the
14 inspection report?

15 A No one told me to sign anything. They were talking
16 together and then she got a phone call and she walked
17 out.

18 Q Now, you've testified that Ms. Pam was using her pen
19 asking the nail technician to sign, so you heard that; is
20 that correct?

21 A Correct.

22 Q Okay. Why didn't you tell Mr. Nexus Christian to
23 sign? You know that the --

24 INTERPRETER: This is the interpreter
25 speaking. Did you say, "Why didn't she tell

1 Mr. Christian to sign" or "did the" --

2 MR. ROGERS: Yes.

3 INTERPRETER: Would you please repeat the
4 question?

5 MR. ROGERS: Yes.

6 BY MR. ROGERS:

7 Q You know that it's required to sign the inspection
8 report; correct?

9 A I couldn't be able to sign because he -- she was
10 talking to the nail technician and she didn't really tell
11 me to sign anything or she didn't -- didn't have anything
12 on the paper to sign so how can I sign? How could I
13 sign?

14 Q But you understand --

15 A I didn't read -- I didn't see the paper either.

16 Q But you testified you followed Ms. Pam around the
17 shop when she was doing her inspection; is that correct?

18 A Correct.

19 Q And she had a sheet of paper with her; is that
20 correct?

21 A I don't know, I just saw her with the paper and she
22 was -- she was filling out the paper, that's all I saw.

23 Q But you're familiar with the rules and regulations
24 involving cosmetology, is that correct, as the owner?

25 A Yes, I know.

1 Yes, I know. Like, usually I will have to look at
2 the paper, they will show me the paper, I look at it, I
3 see everything is correct, and then from there I will
4 sign. But -- but after the inspection she just only came
5 to the cashier table and then she just only talked to the
6 nail technician and asked him to sign, she didn't really
7 say anything to me.

8 Usually when someone comes down to my shop to
9 inspect, I will show them around and they will check
10 everything and they will ask me to sign on the paperwork.
11 But then for this time after she check everything she
12 came to the cashier table talking to the nail technician
13 asking him to sign and then she left.

14 Q You mentioned the buffer, files -- or the buffer.
15 What about the stones, were they previously used, the
16 pumice?

17 A We used to store them -- we store them in the
18 storage room, we no longer use them, but then she -- she
19 took them out, she brought it to the front and took a
20 picture. I told her that those I don't use no more, I
21 just only use the new ones in the Ziploc, and she didn't
22 say anything and she continued with her inspection.

23 Q Why didn't you throw the stones away? Why were they
24 still in the storage room if they had been used?

25 A It was the basket -- it was the basket of all the --

1 of all the stuff that I don't use no more and I was
2 cleaning the salon. I was just putting everything in
3 that basket to go throw it away.

4 Q Now, Mr. Christian said that those were left over
5 from when he was the owner. Is that correct, what he
6 said?

7 A No. That was not true. I bought the nail salon
8 from someone else, I didn't buy it from him.

9 And that morning I was cleaning up the house -- I'm
10 sorry -- I was cleaning up the store and I put everything
11 in that basket so that I can throw them away. It had
12 some acetone and some other chemical and some other stuff
13 in there.

14 Q Now, Mr. Christian testified that Ms. Pam raised her
15 voice but he didn't raise his voice.

16 A I don't know. They were -- they were speaking
17 English to each other very fast, I couldn't be able to
18 catch all what they say. But then it was lasting for
19 only that one minute and then they, they were, like, one
20 meter away from me.

21 Q Earlier I think it was two meters away, so --

22 A No. I told you one meter. I didn't tell you three
23 meters.

24 Q No. Two. Two meters.

25 A It was -- it was one and a half meters to two meter,

1 like low -- lower than 2-meter, it's not more than
2 2-meter or even 2 meter. That's what I told you.

3 Q Now you testified that they were speaking English
4 very fast. And do you have difficulty understanding
5 English? Is that correct?

6 A I only can understand and listen to English a little
7 bit, not very much.

8 Q So you don't know if Mr. Christian told Ms. Pam that
9 the next time I come to call police officers to come with
10 me because there was going to be some pushing going on?

11 A So I -- I understand that you want me to have
12 another person who can be there to see everything that is
13 stating correctly; right?

14 Q No. I'm asking whether Mr. Christian told Ms. Pam
15 that next time she needed to bring the police because
16 there would be pushing going on, is my paraphrasing?

17 A I am -- I swear, I am cat -- I am catholic, I am not
18 going to tell a lie, so I won't -- I just want to
19 emphasize one more time that there was no pushing, there
20 was no raising voice, no nothing. They were just talking
21 to each other and she was using her pen to point at the
22 paper and asking him to sign. That's all I saw.

23 MR. ROGERS: Thank you very much. That
24 concludes my questions.

25 HEARING OFFICER: All right. Does the

1 Committee have any questions for this witness?
2 If they do, please come down here closer to the
3 phone for the interpreter.

4 MS. BOYDSTUN: Hello.

5 INTERPRETER: Hello.

6 MS. BOYDSTUN: My first question is that
7 she stated that she did not buy the salon from
8 Nexus Christian.

9 THE WITNESS: No.

10 INTERPRETER: The interpreter --

11 THE WITNESS: Okay. Nexus got this salon
12 from someone else and then he gave it to me.

13 MS. BOYDSTUN: Are you married?

14 THE WITNESS: Yes.

15 MS. BOYDSTUN: I noticed you had the same
16 last name on your license.

17 HEARING OFFICER: Hieu is her last name.

18 MS. BOYDSTUN: Not according to this.

19 HEARING OFFICER: Well, she identified
20 herself as Hong Hieu.

21 THE WITNESS: Yes, I change my last name.

22 MS. BOYDSTUN: Because you're married?

23 THE WITNESS: Yes. Correct. We are
24 married.

25 MS. BOYDSTUN: Okay. So the wife bought

1 the salon from the husband?

2 THE WITNESS: No. He gave it to me as
3 that for free.

4 MS. BOYDSTUN: Okay. Before you claimed
5 that -- the claim was that it was purchased
6 from the previous owner and then the previous
7 owner left the things in the back, but yet the
8 husband was the previous owner?

9 THE WITNESS: Correct.

10 MS. BOYDSTUN: Okay. Thank you.

11 Earlier it was stated that he had no
12 previous violations that he had ever had to
13 sign for. Have you ever had previous
14 violations? Have you ever signed one of these
15 sheets?

16 THE WITNESS: No.

17 MS. BOYDSTUN: Okay.

18 THE WITNESS: No. I only signed on one,
19 the reports every single inspection report.

20 MS. BOYDSTUN: Okay. My next -- last
21 question, if you are the owner and you saw
22 there was a problem, why did you not go and
23 sign the form? You saw her pointing at the
24 paper so you did see the paper because you
25 stated that she was pointing at the paper, then

1 you stated you never saw a paper but you knew
2 what it was because it happens all the time.

3 THE WITNESS: He -- I just only saw she
4 was using the pen to knocking on the paper that
5 she brought at the board that she brought, so
6 I'm not sure if she asked him to sign because
7 my English is very minimal.

8 Because, like, they were standing at the
9 cashier table and when I saw that I saw she was
10 pointing a pen onto the paper, to the board,
11 and I at the time I saw that incident happened,
12 I didn't know if she asking my husband to sign
13 or what, because I -- right after that I --
14 right after -- right when it happened, done, I
15 realize that was -- that's when she asked my
16 husband to sign, but when the time happened,
17 when it happened, I didn't know anything, I
18 just only saw that she was pointing the pen on
19 the board.

20 MS. BOYDSTUN: Okay. Thank you.

21 HEARING OFFICER: Next? Next Committee
22 member with questions?

23 MS. WARE: Hello.

24 INTERPRETER: Hello.

25 MS. WARE: Yes. I want to know why was

1 the stuff just in the back and not immediately
2 thrown in the trash after they used it?

3 THE WITNESS: Right after we use it --
4 that's correct, I throw it right after I use
5 it.

6 MS. WARE: Yes. But those was in the back
7 so I'm not understanding, like --

8 HEARING OFFICER: Let's be specific. Let
9 me try to help you out here.

10 INTERPRETER: Yeah. Please.

11 HEARING OFFICER: There were used buffers
12 and pumice stones in their storage room in the
13 back. The committee member wants to know why
14 those weren't thrown in the trash and why they
15 were put in the back in the storage room; is
16 that correct?

17 MS. WARE: That's correct.

18 HEARING OFFICER: Okay.

19 THE WITNESS: Because after we -- because
20 after we use that we put it into the basket and
21 we put the basket in the storage room and after
22 that we going to throw the basket, so when they
23 came I was in the middle of my cleaning.

24 MS. WARE: Okay.

25 THE WITNESS: So if I -- because I told

1 them that it was the trash, I will throw it
2 away in the beginning but she did not really
3 listen to me, she did not answer anything, she
4 said -- she just didn't say anything, and then
5 she came down to the front and took the
6 picture.

7 MS. WARE: Okay. She said Mrs. Pam didn't
8 listen to her?

9 THE WITNESS: I -- I think that she heard
10 me but she did not understand me, she did not
11 understand my English, that's what happened.
12 That's what I thought there.

13 MS. WARE: Okay. This is my last
14 question.

15 So she stated that she showed Mrs. Pam
16 around and she answered, even though her
17 English is not good. Why did she not let
18 Ms. Pam know that she was the owner?

19 THE WITNESS: No. Because I usually --
20 because I usually -- they did not really say
21 anything when they come down to -- to do the
22 inspection, they usually just only I show them
23 around and then they just only gave me -- me
24 the paper to sign for the report, but when she
25 did not ask me if I am the owner, if I am --

1 any questions. She just only follow me
2 everywhere to do the inspection.

3 MS. WARE: Okay. Thank you.

4 HEARING OFFICER: Next Committee member?

5 MS. JONES: So everyone -- is everyone in
6 your salon licensed nail technicians? Are they
7 all licensed nail technicians?

8 INTERPRETER: Can you please repeat the
9 question, please?

10 MS. JONES: Are all the -- all the
11 employees in the salon, are they licensed nail
12 technicians?

13 THE WITNESS: Yes.

14 MS. JONES: Okay. So I noticed also in
15 the report that there were lashes in the salon.
16 Who is -- who in the salon is licensed to apply
17 lashes, if they are all licensed nail techs?

18 THE WITNESS: I just only -- we just only
19 have the store license and everyone working at
20 the store has license too, but we don't do
21 waxing or eyelashes.

22 MS. JONES: So have you done -- have you
23 had a licensed individual in the past to apply
24 lashes or why would you have lashes?

25 THE WITNESS: No. It was, like, the

1 lashes is on the floor. It's on the floor,
2 it's not -- it's not in the room or on the
3 table or anything. If we do lashes, we not
4 throw them -- throwing the lashes on the floor
5 like that.

6 MS. WARE: If they do lashes?

7 MS. JONES: So are you saying that you had
8 lashes on the floor or you had lashes in the
9 storage room?

10 THE WITNESS: It's on the floor. I can't
11 say that it's in any area that can do -- that
12 can practice the service.

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

14 HEARING OFFICER: All right. Thank you.
15 Counsel have any additional cross?

16 MR. ROGERS: No, sir.

17 HEARING OFFICER: All right. Interpreter,
18 this is the Hearing Officer, I think that
19 concludes her testimony and her
20 cross-examination. I'll ask her one more time
21 if she has anything additional to add and then
22 we'll be done. So ask her if she has anything
23 additional to add.

24 THE WITNESS: No.

25 HEARING OFFICER: All right.

1 THE WITNESS: That's all.

2 HEARING OFFICER: Okay. Thank you. We --
3 we thank you for your service, Interpreter.
4 That's all for Ms. -- is it Ms. Christian or
5 Ms. Hieu?

6 THE WITNESS: (In English) Yeah. I'm --
7 last name -- last name of Christian.

8 HEARING OFFICER: Christian?

9 THE WITNESS: (In English) Yeah.

10 HEARING OFFICER: Okay. Thank you.

11 Thank you, Interpreter. You can go.

12 INTERPRETER: Thank you. Thank you.

13 (Interpreter left the proceedings.)

14 HEARING OFFICER: Okay. Mr. Christian?

15 MR. CHRISTIAN: Yes, sir.

16 HEARING OFFICER: Anything else that we --
17 any evidence, testimony, anything else that you
18 will bring for -- on behalf of Fancy Nails?

19 MR. CHRISTIAN: I think -- I think
20 everything is good. I think what at that
21 moment we -- we are -- we are not upset or
22 anything like that, we're just misunderstanding
23 and it come to this far, and I feel so sorry
24 for this happening to her or that's how she
25 think. I'm so sorry. I try not to happen

1 again. And we always cooperate, like -- like
2 I -- I hear her saying earlier, we always
3 greeting inspector coming in and show her
4 around the place to -- from place to place, and
5 we're not upset or against them, anything like
6 that. And I'm sorry this happen,
7 misunderstanding.

8 That's all.

9 HEARING OFFICER: All right. Thank you,
10 Mr. Christian.

11 Since that was a closing argument,
12 Mr. Rogers, would you like to offer a closing
13 argument for the State?

14 MR. ROGERS: I would like to first recall
15 Ms. Atherley to see if she had anything left.

16 HEARING OFFICER: All right. You were
17 excused temporarily, you were sworn, so you may
18 ask her questions. We will recall
19 Ms. Atherley.

20 WHEREUPON,

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

25 REDIRECT EXAMINATION

1 BY MR. ROGERS:

2 Q Ms. Atherley, you heard the testimony of both of the
3 Christians. Well, first, Ms. Christian Hieu or Hieu
4 Christian said that there was no raising of voices and no
5 one -- no argument or anything. Did you hear her
6 testimony?

7 A I did.

8 Q Did you -- do you agree with that?

9 A No. I do not.

10 Q Okay. And what did you hear? Did you hear raised
11 voices?

12 A Yes.

13 Q Okay.

14 A There definitely was raised voices by this
15 gentleman.

16 Q Okay. Mr. Christian you're referring to?

17 A Right.

18 Q Okay. And did you -- what did Mr. Christian -- what
19 did he say, if anything?

20 A He said to me, the next time that I come, that I
21 needed to bring a police officer because there was going
22 to be pushing.

23 Q Now, was Ms. Hieu, Mrs. Christian, close by?

24 A Yes. She was close by.

25 Q Okay. Do you think she heard that or not?

1 A Yes.

2 Q Okay. But she doesn't speak English well?

3 A She seemed to speak English the day that I was in
4 there.

5 Q Okay. Now, you heard her defense that this --
6 pumice stones and buffers or whatever those are were in
7 the back but they were either his, a previous owner, or
8 Mr. Christian's or I'm not sure whose, but did you
9 know -- did they tell you that or give that defense while
10 you were there?

11 A They did tell me that those were not -- that they
12 did not use those and that they did not belong to them.

13 Q And do you have a response to that? Or why did you
14 write them up then?

15 A I wrote them up because they were immediately not
16 disposed of. If they belonged to -- I mean there is no
17 way I knew -- knew who they belonged to. They were in
18 the salon so I inspect that salon.

19 Q I believe Ms. Hieu stated she was in the process of
20 cleaning when you arrived, if I'm correct on what I
21 thought I understood, but --

22 A Upon my arrival when I came in she was not cleaning.

23 MR. CHRISTIAN: She was cleaning.

24 BY MR. ROGERS:

25 Q Did you ask the owner, who's the -- who's the wife

1 of Mr. Christian, did you ask her to sign the inspection
2 sheet?

3 A No. I did not.

4 Q And why didn't you?

5 A Because she was standing there, I -- I felt like she
6 knew what was going on, she was the owner -- if she was
7 the owner she would surely know what we were doing.

8 Q Okay.

9 A Because she heard us and she understood me, you
10 know, when I would ask her prior questions.

11 Q But it was appropriate to ask Mr. Hieu [sic] to
12 sign?

13 A When I first came in the salon, she was the one that
14 was kind of following me around and -- and dealing with
15 me. I didn't even realize the gentleman was even present
16 until after, and we had already walked through the
17 manicure tables, and then when I came to the back, he had
18 already come out of the back area and that's when I
19 realized that he was even present at the salon, when he
20 showed up and then he took over. She left -- she just
21 deserted the inspection at that point, she didn't say any
22 more to me, she just kind of stood to the side and he
23 took over.

24 Q So you understood at that point that he was the
25 appropriate person to --

1 A Right. I -- I took it upon him being the owner
2 because he took over and --

3 MR. CHRISTIAN: I didn't take over. She
4 just talk to me and I respond back to her.

5 HEARING OFFICER: Mr. Christian, you can
6 ask some questions here.

7 MR. CHRISTIAN: Okay.

8 HEARING OFFICER: But it's not your turn
9 right now.

10 BY MR. ROGERS:

11 Q Did they identify themselves as the owner?

12 A (Shaking head from side to side.)

13 Q You don't know who's the owner at that point?

14 A No. I didn't. I didn't have any way of knowing.

15 Q Is there anything else you would like to inform the
16 Committee of in helping them make a decision, from the
17 testimony you heard previously?

18 A I believe when she stated in her testimony that we
19 had -- that -- she had stated that Mr. Christian and I
20 had spoke to each other and everything was calm, she
21 stated in that comment that it only lasted for, like, a
22 minute. At the top of this inspection sheet is the times
23 that I was involved in that salon, so the conversation
24 lasted quite a bit longer than a minute.

25 That's all I have.

1 MR. ROGERS: I pass the witness.

2 HEARING OFFICER: Mr. Christian, do you
3 have questions for this witness?

4 MR. CHRISTIAN: Yes. I have.

5 FURTHER RECROSS EXAMINATION

6 BY MR. CHRISTIAN:

7 Q Like I -- like I say earlier, we -- I did not take
8 over. I -- she asked me and I say, I talk, I respond,
9 and then asked me to sign and I said I'm not going to
10 sign. And then what -- somewhere around there she get
11 upset and walk away. That's all. I -- I don't know
12 what, what going on, I don't know why --

13 HEARING OFFICER: Do you have a question
14 for her so --

15 MR. CHRISTIAN: No, sir.

16 HEARING OFFICER: So if you don't have a
17 question you can testify again.

18 MR. CHRISTIAN: Yeah.

19 HEARING OFFICER: You can recall yourself,
20 but do you have a question for her? So I can
21 excuse her if you don't; if you do, ask her the
22 question.

23 MR. CHRISTIAN: No.

24 HEARING OFFICER: It can be yes or no. I
25 prefer that.

1 MR. CHRISTIAN: No. No, sir.

2 HEARING OFFICER: All right. Want to
3 excuse this witness again?

4 MR. ROGERS: Yes, sir.

5 HEARING OFFICER: You are excused again.

6 MR. ROGERS: No further witnesses. I'm
7 sorry?

8 MS. KERSEY: Can the Committee ask her
9 questions again?

10 I think they wanted to.

11 HEARING OFFICER: Yes, you can.

12 MS. KERSEY: I think they wanted to.

13 HEARING OFFICER: I'm sorry, I skipped
14 them myself.

15 MS. KERSEY: I'm sorry.

16 HEARING OFFICER: So does the Committee
17 have questions for this witness?

18 MS. WARE: I do.

19 THE WITNESS: Okay.

20 MS. WARE: So she was talking English to
21 you --

22 THE WITNESS: Yes.

23 MS. WARE: -- when you first came?

24 THE WITNESS: Yes.

25 MS. WARE: And you could understand what

1 she was saying?

2 THE WITNESS: I could understand her.

3 MS. WARE: Okay.

4 HEARING OFFICER: Any other questions?

5 All right. There don't appear to be any.

6 Again I'll ask do you want to excuse this

7 witness?

8 MR. ROGERS: Yes, sir.

9 HEARING OFFICER: You're excused.

10 Mr. Christian, would you like to testify

11 again?

12 MR. CHRISTIAN: No.

13 HEARING OFFICER: No? You had -- you

14 seemed like you had some stuff you wanted to

15 say. I want to make sure you get a fair shot

16 here. You can think about it for a little bit

17 here.

18 No? Are you sure you don't want to

19 respond to what she said?

20 MR. CHRISTIAN: I don't know, we just

21 start, you know. Well, what you -- what we say

22 from the beginning, earlier about the -- the --

23 all the stuff, we were not -- no longer use, I

24 told her, she said, yes, that's true, and I was

25 not arguing. We asked her that one earlier, I

1 said that's not true earlier, she just walked
2 out, we didn't know what was going on until we
3 got certified letter coming in, we coming up
4 here today.

5 We have no from her -- she -- she sitting
6 right there and she know and she never asked
7 her come sign it, the piece of paper, she never
8 asked. I don't know why, she just walk out.

9 HEARING OFFICER: All right. Thank you,
10 Mr. Christian. That's kind of -- kind of part
11 closing, part testimony, but, Mr. Rogers, would
12 you like to do a closing argument?

13 MR. ROGERS: Only that I believe the
14 violations were proven, we have the Order and
15 Notice of Hearing with the laws; and this
16 pumice stones and the buffers were not thrown
17 away as they should have been, and there is
18 some difference in testimony regarding whether
19 there was a threat or not. But our -- Ms. Hieu
20 either understands English or they were talking
21 fast and she didn't understand, all that was
22 said. Mr. Christian said he didn't say it, but
23 our witness is strongly saying he did. So, but
24 as far as the violations involving pumice
25 stones and files and not signing the inspection

1 sheet, no.

2 HEARING OFFICER: All right. I -- I'm
3 going to interject here because I'm a little
4 confused. I see violations for the inspection,
5 but I don't see any for the use or the not
6 immediately disposing of the pumice and the
7 buffers.

8 MR. ROGERS: Oh, I'm sorry. I'm sorry. I
9 misspoke.

10 We're only bringing up about the
11 inspection sheet.

12 HEARING OFFICER: Okay.

13 MR. ROGERS: Mr. Christian brought up
14 about the pumice stones and buffers, so I
15 apologize. I misspoke.

16 HEARING OFFICER: I don't recall who
17 brought up what when, the only thing I see in
18 the Notice of Hearing that's in the notice
19 is --

20 MR. ROGERS: The inspection sheet, that's
21 correct. That's correct.

22 So that's all we have.

23 HEARING OFFICER: All right. At this time
24 we will go off the record for the Committee's
25 recess for deliberations and a decision

1 regarding the findings of fact, conclusions of
2 law, or any penalties to be handed down. Once
3 the Board reaches a decision we will go back on
4 the record.

5 The deliberations are open to the public
6 under the Freedom of Information Act. All
7 parties may remain and observe the
8 deliberations.

9 (WHEREUPON, the Committee retired to
10 deliberate, off the record, from 10:47 a.m. to
11 10:50 a.m., and returned with the following
12 decision:)

13 HEARING OFFICER: All right. We'll now go
14 back on the record for the Committee's
15 decision. We're on the record.

16 MS. BOYDSTUN: I make a motion that we
17 should uphold the fine for a penalty of \$1,000.

18 MS. WILSON: I second.

19 MS. WARE: Okay. The motion has been
20 moved and seconded. All in favor?

21 COMMITTEE MEMBERS: Aye.

22 HEARING OFFICER: All right. Thank you.
23 Please reduce the Committee's decision to
24 writing and make or attempt service upon all
25 parties.

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Are there any questions or comments
regarding this hearing? Hearing none, this
hearing is concluded and the record is closed.

Thank you.

(WHEREUPON, at 10:51 a.m., the
above-entitled proceedings were concluded.)

---o---

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P R O C E E D I N G S

1
2 HEARING OFFICER: My name is Dara Hall and
3 I'm the Hearing Officer today In The Matter of
4 Unique Threading Salon. This matter will be
5 heard before the Cosmetology Technical Advisory
6 Committee. This hearing concerns matters
7 specified in the Order and Notice of Hearing.
8 Today is January 28, 2019. Please turn all
9 cell phones off or place them on silent mode so
10 as to not disrupt these proceedings.

11 Respondent, Unique Threading Salon, please
12 identify yourself for the record.

13 MR. HAMEERANI: I'm Sahil Hameerani; I'm
14 the President of Unique Threading Salon; I'm
15 the partner and the manager.

16 HEARING OFFICER: Okay. Thank you, sir.
17 Are you represented by counsel?

18 MR. HAMEERANI: No.

19 HEARING OFFICER: All right. Are you
20 aware that you have the right to have counsel
21 present?

22 MR. HAMEERANI: Yes.

23 HEARING OFFICER: If at any time you do
24 not understand these proceedings, we'll take
25 a -- a halt and I'll try and explain things

1 or -- or get us back on track. All right?

2 MR. HAMEERANI: All right. Thank you.

3 HEARING OFFICER: And then what's spelling
4 of your last name?

5 MR. HAMEERANI: H-a-m-e-e-r-a-n-i.

6 HEARING OFFICER: All right. Did you
7 receive a copy of the Order and Notice of
8 Hearing concerning today's matter?

9 MR. HAMEERANI: Yes.

10 HEARING OFFICER: All right. Are you
11 ready to proceed on this matter, sir?

12 MR. HAMEERANI: Yes.

13 HEARING OFFICER: Committee's counsel,
14 please identify yourself for the record.

15 MR. ROGERS: Reginald Rogers, one of the
16 attorneys for the Arkansas Department of
17 Health.

18 HEARING OFFICER: Are you ready to proceed
19 on this matter?

20 MR. ROGERS: Yes, sir, we are.

21 HEARING OFFICER: All right. Mr. -- how
22 do you pronounce it?

23 MR. HAMEERANI: Hameerani.

24 HEARING OFFICER: Hameerani?

25 MR. HAMEERANI: Yeah.

1 HEARING OFFICER: Were you here before
2 when I did the explanation of these
3 proceedings?

4 MR. HAMEERANI: Yes.

5 HEARING OFFICER: All right. So I don't
6 need to do that again?

7 MR. HAMEERANI: No.

8 HEARING OFFICER: We will spare everybody
9 then and we'll go right to the swearing of
10 witnesses.

11 For those of you who are or may be
12 witnesses today in this matter, please stand
13 and raise your right hands to be sworn in.

14 Mr. Hameerani?

15 MR. HAMEERANI: Oh, I have to --

16 HEARING OFFICER: You may want to testify.
17 All right.

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

20 HEARING OFFICER: All right. Give your
21 court -- give my court reporter your name and
22 then have a seat. Can we have the names on the
23 end?

24 MS. MCFALL: Trinidad McFall, Arkansas
25 Department of Health, Cosmetology Inspector.

1 MS. WOOD: Vera Wood, Arkansas Department
2 of Health, Cosmetology and Massage Therapy
3 Inspector.

4 HEARING OFFICER: Thank you.

5 Are there any other preliminary matters to
6 be discussed or offered at this time? Counsel?

7 MR. ROGERS: Yes, sir. We have the
8 agency's exhibit package. First page is the
9 Order and Notice of Hearing before the
10 Cosmetology Technical Advisory Committee, CTAC,
11 In The Matter of Arkansas Department of Health
12 versus Unique Threading Salon, that's the first
13 two pages of the exhibit, proposed Exhibit
14 No. 1 of the agency. The next is a certified
15 return receipt sent to Unique Threading Salon,
16 11525 Cantrell Road, No. 907, in Little Rock.
17 The next page is a consent agreement, with
18 Mr. Hamir -- or Hameerani is the name there.
19 The next page is a letter from the Cosmetology
20 Section, dated November 15, 2018, regarding the
21 violation notice, from Ms. Kelli Kersey. Next
22 is the license information on the next two
23 pages. The next page is an inspection report,
24 and there are some emails and other
25 documentation, including a memo or a complaint

1 that was received, and that's from Trinidad
2 McFall, and there are some pictures at the end.

3 MS. KERSEY: Actually, these are not the
4 pictures for this case, they are from the case
5 we just did.

6 MR. ROGERS: Oh, all right. We will
7 remove the photos.

8 MS. KERSEY: Sorry. They went for the
9 last one. She accidentally put them in the
10 wrong packet.

11 HEARING OFFICER: So that's pages, I can't
12 read the page numbers, looks like 10 and 11?

13 MS. KERSEY: Yeah. That's what I've got.
14 Ten and 11, take them out.

15 HEARING OFFICER: Okay. All right.

16 MR. ROGERS: Okay. Okay. Let me do
17 some -- yeah, so you should have 19 pages --
18 well, less than that.

19 HEARING OFFICER: Seventeen.

20 MR. ROGERS: Seventeen pages, removing
21 the -- okay. And we would offer Agency's
22 Exhibit No. 1, minus the pages of 10 and 11.

23 HEARING OFFICER: Okay. All right. So
24 marked for identification CTAC Exhibit 1, it
25 will consist of Pages 1 through 9 and 12

1 through 19.

2 Any objection, Mr. Hameerani?

3 MR. HAMEERANI: Objection about?

4 HEARING OFFICER: The -- this -- this
5 Exhibit 1.

6 MR. ROGERS: That you have in front of
7 you, the --

8 HEARING OFFICER: Which you might want to
9 remove Pages 10 and 11 --

10 MR. HAMEERANI: Yes. Right.

11 HEARING OFFICER: -- because they are not
12 from your inspection.

13 MR. HAMEERANI: Correct.

14 On the statement of fact, on No. 2 and 3,
15 No. 3, Rashida Nathani, she is a threader; and
16 to my understanding, she does not require a
17 license to perform threading.

18 HEARING OFFICER: Well, okay, sir. Let
19 me -- let me explain this a little more
20 thoroughly.

21 MR. HAMEERANI: Okay.

22 HEARING OFFICER: You will have a chance
23 to testify, you were sworn, you will be called,
24 I will give you a chance, you can testify.

25 MR. HAMEERANI: All right.

1 HEARING OFFICER: Legal objections to this
2 exhibit.

3 MR. HAMEERANI: Uh-huh.

4 HEARING OFFICER: I mean the fact that
5 they are alleging that she worked without a
6 current license --

7 MR. HAMEERANI: Uh-huh.

8 HEARING OFFICER: -- that's what this
9 says.

10 MR. HAMEERANI: Uh-huh.

11 HEARING OFFICER: Do you have a legal
12 reason to not admit this?

13 But you can testify that you don't believe
14 it's accurate.

15 MR. HAMEERANI: Okay.

16 HEARING OFFICER: That's separate.

17 MR. HAMEERANI: Okay. So no at this
18 point.

19 HEARING OFFICER: No objection. So they
20 are so admitted as CTAC 1, with the proviso
21 that it is Pages 1 through 9 and 12 through 19.
22 It is so admitted and may be published to the
23 Committee at this time.

24 (WHEREUPON, Agency's Exhibit No. 1 was
25 received in evidence.)

1 HEARING OFFICER: All right. Now I got
2 distracted.

3 Okay. Mr. Hameerani, do you have any
4 exhibits you would like to offer?

5 MR. HAMEERANI: No.

6 HEARING OFFICER: No? Okay.

7 Does either party wish to make an opening
8 statement?

9 MR. ROGERS: No, sir.

10 MR. HAMEERANI: No.

11 HEARING OFFICER: No?

12 All right. Then at this time, then, you
13 may call your first witness, Counsel.

14 MR. ROGERS: Call Ms. Vera Wood.

15 WHEREUPON,

16 VERA WOOD,

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 MR. ROGERS:

22 Q State your name and where you're employed, please.

23 A Vera Wood, Arkansas Department of Health,
24 Cosmetology/Massage Therapy Inspector.

25 HEARING OFFICER: Could you move closer to

1 the Committee? I can barely hear you and I
2 don't think my court reporter can very well.

3 THE WITNESS: Sure.

4 HEARING OFFICER: And it sounds like you
5 might have a little throat issue.

6 THE WITNESS: Thank you.

7 BY MR. ROGERS:

8 Q And what are your job duties?

9 A Inspections for cosmetology and massage therapy.

10 Q And tell us about Unique Threading, what was your
11 involvement with Unique Threading?

12 A I had gone on a complaint with Trinidad McFall. We
13 went -- it was her complaint, I was just the backup
14 inspector.

15 Q All right. Is there anything else you would like to
16 inform the Committee of --

17 A Not to --

18 Q -- to your personal knowledge?

19 A Not to my knowledge, no.

20 MR. ROGERS: Okay. Pass the witness at
21 this time.

22 HEARING OFFICER: Okay. Cross,
23 Mr. Hameerani?

24 MR. HAMEERANI: Nothing at this point.

25 HEARING OFFICER: No cross?

1 Questions from the Committee at this time?

2 All right. Then we'll excuse this witness
3 temporarily, subject to recall, then, Counsel?

4 MR. ROGERS: Yes, sir.

5 HEARING OFFICER: All right. You're
6 excused temporarily, subject to recall.

7 Call your next witness.

8 MR. ROGERS: Trinidad McFall, please.

9 MS. MCFALL: Trinidad McFall, Arkansas
10 Department of Health, Cosmetology and Massage
11 Section Inspector.

12 WHEREUPON,

13 TRINIDAD MCFALL,

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

17 DIRECT EXAMINATION

18 BY MR. ROGERS:

19 Q And tell us about your -- did you receive a
20 complaint?

21 A We received a complaint about Unique Threading,
22 about unlicensed practitioners and them doing un --
23 unlicensed practices.

24 Q And you wrote a memo to Ms. Kelli Kersey, the
25 Section Chief; is that correct?

1 A That is correct.

2 Q And that's reflected on Pages 14 and 15, I

3 believe -- or --

4 A Fourteen.

5 Q Just Page 14 --

6 A Yes, sir.

7 Q -- of the Agency Exhibit No. 1?

8 A That's correct.

9 Q Okay. And tell us about that complaint.

10 A We went in on a complaint.

11 Q I'm sorry. What did you say?

12 A We went on a complaint to Unique Threading to see

13 about the unlicensed practitioners initially. You walk

14 in and we asked for identification.

15 Q Now, when was this? In October 2018?

16 A That's correct.

17 Q That's on Page 14.

18 A October 16, '18. Correct.

19 Q Okay. And go ahead.

20 A And we walked in -- sorry. This is my first one, my

21 first meeting.

22 Q Oh, take your time.

23 A We took down the license numbers of the -- the

24 license number of the -- the threading place and also the

25 license numbers of the practitioners that are licensed to

1 do -- to work as far as in the salon.

2 There were -- when we walked in there was two
3 employees that did not have identification at all, and I
4 had them write their name on a Post-it.

5 Q They didn't have --

6 A Any kind of identification.

7 Q -- driver's license or any sort of --

8 A No. No driver's license, no --

9 Q Photo ID?

10 A No.

11 Q And is that Post-it note, that's on Page --

12 HEARING OFFICER: Nine?

13 BY MR. ROGERS:

14 Q -- 9, Page 9; is that correct?

15 A That is correct.

16 Q And would you read those names or --

17 A I will. Megha Gilani.

18 Q All right.

19 A And Rashida Nathani.

20 Q Okay.

21 A And Salma Hameerani was -- she said that one of the
22 girls was in there doing a steam and massage on a
23 customer that was in the room at the time, so we sat
24 there and we waited for her to come out, because I did
25 one and then I did the other --

1 Q And whose --

2 A -- as far as having the -- them write their names on
3 the Post-it notes.

4 Q And who is Ms. Hameerani?

5 A Salma Hameerani, she is the only one that was
6 licensed in there.

7 Q All right.

8 A And she pretty much was the one we spoke to.

9 Q And so you witnessed each of them -- well, in your
10 memo what did you witness Ms. Gilani do?

11 A Well, she -- the -- Salma said that she was -- there
12 was a girl in there doing the steaming in the room with a
13 client while the client waited.

14 Q All right. Is that a violation?

15 A It is, as far as them doing a cosmetology service
16 and not having a license period, a cosmetology license in
17 the state of Arkansas.

18 Q All right. And the result, allegation found to be
19 substantiated?

20 A That's correct.

21 Q And you've got some additional findings?

22 A Yes, sir.

23 Q What are those?

24 A The additional findings, we found the wax, rolling
25 waxes that they had in the rooms, and also they had --

1 their bathroom was used as a storage to hand wash towels
2 and wring them and dry them, and also for a facial
3 machine that was in the bathroom.

4 Q Now, looking at the inspection report -- and I
5 believe that's on Page 8?

6 MR. HAMEERANI: Eight.

7 THE WITNESS: Yes, sir.

8 BY MR. ROGERS:

9 Q Did you fill out the inspection report?

10 A Yes, sir. I did.

11 Q Okay. And just go over, starting at the rules, what
12 the violations were or --

13 A The violations are no photo ID presented as
14 requested to them.

15 Q That's under 5.1 in the left-hand column?

16 A 5.1(A). Uh-huh.

17 Q 5.1(A) --

18 A (4).

19 Q -- (4)?

20 A Yes.

21 Q And there is a checkmark there?

22 A That is correct.

23 Q And that means that's --

24 A One checkmark per --

25 Q A violation?

1 A Yes, sir.

2 Q So there is two checkmarks. Go ahead.

3 A True point.

4 Also employee has current Arkansas license or
5 individual license, they have no licenses.

6 Q That's Number 7 --

7 A That is Number 7.

8 Q -- under 5.1?

9 A That's correct.

10 Q And there is two checkmarks there; is that correct?

11 A That is correct.

12 And also employee is a licensed practitioner in
13 Arkansas.

14 Q And that says 6?

15 A That is Number 6.

16 Q So should that be 8?

17 A No.

18 Q Oh, okay. But anyway, but there is two checkmarks
19 there?

20 MS. BOYDSTUN: Should be 8, because --
21 well, I don't know, 5, 6, 7 --

22 MS. KERSEY: It's because it's the same
23 rule.

24 MS. WARE: All right.

25 MS. KERSEY: See, one of them is

1 unlicensed and one of them is license is
2 expired. It's the same rule but it's two
3 different things.

4 MR. ROGERS: I see. So those are the
5 rules?

6 MS. KERSEY: Yes.

7 MR. ROGERS: I see. I got it. So it's
8 not numerical, it's according to the rule or
9 regulation. I see. I got you. Okay.

10 BY MR. ROGERS:

11 Q And there is a --

12 A There is another. I want to say when the toilets
13 are available, they are not to be used as -- used for
14 storage. That is the violation that is under 5.1, I'm
15 going to say (C), possibly.

16 Q Now, there is a kind of Post-it note --

17 A Post-it. Uh-huh.

18 Q -- that blocks the one, so what is that?

19 MS. KERSEY: It's 5.1(C).

20 BY MR. ROGERS:

21 Q And what did you -- I'm sorry. What did you say?

22 A Number 3, when toilet facilities are available, they
23 are not to be used for storage. So anything that you
24 will use on the client are not to be stored in the
25 bathroom, period --

1 Q Okay.

2 A -- as a health and safety violation.

3 Q Okay. And any other violations?

4 A The other violation is down at the bottom, it is

5 5.1(C), No. (17)e, roller waxers are not permitted.

6 Q And what's a roller wax?

7 A It is a machine that has waxes in tubes that have

8 rolls, so you kind of roll it on the skin.

9 MS. WEEKS: Like roll-on deodorant.

10 BY MR. ROGERS:

11 Q I don't know. Okay.

12 A So pretty much the first roll you will contaminate

13 the wax that's on the inside of the tube.

14 Q Okay. Thank you. That's what I was looking for,

15 what's the problem. Roller wax doesn't help me, so what

16 is that again? What's the problem?

17 A The application of the wax is in the roller, so once

18 you put the roller on the skin it pretty much rolls into

19 the wax and contaminates the wax on the inside so it --

20 Q I get you. So you could have some contamination

21 from other people?

22 A Yeah, from other -- yeah, used on -- yes.

23 Q Okay. Thank you.

24 Any other, there is some notes under notes and

25 practitioners?

1 A Right.

2 Q Do you want to go over that?

3 A I just, I wrote the clients' names and what the --
4 Salma Hameerani stated, that they were massaging oil to
5 the client while the client was processing -- well, the
6 client was waiting; and also the note about the towels in
7 the bathroom being washed by hand and hung dried with the
8 facial equipment. Those are the things.

9 Q So is that asterisk, is that a violation or is that
10 just --

11 A Yes. That is under 5.1(C), not used for storage.

12 HEARING OFFICER: This one is blocked by
13 the note.

14 BY MR. ROGERS:

15 Q Okay. Anything else that you want to go over
16 concerning Unique Threading?

17 A No, sir.

18 MR. ROGERS: Pass the witness.

19 HEARING OFFICER: All right.

20 Mr. Hameerani, it's your turn to cross this
21 witness. That means ask her questions.

22 MR. HAMEERANI: Ask her questions?

23 HEARING OFFICER: Yes.

24 CROSS-EXAMINATION

25 BY MR. HAMEERANI:

1 Q Did Ms. Salma tell you that Megha was massaging the
2 head and steaming -- also did she mention the term
3 steaming?

4 A Yes, she did.

5 Q Okay. And about the towels, what did they tell you
6 what --

7 A She said that she washes them, wrings them out and
8 hangs them there to dry.

9 Q Okay. And anything after that?

10 A (Shaking head from side to side.)

11 That's all that I remember.

12 Q Okay. That's all you remember?

13 A (Nodding head up and down.)

14 Q But she might have said something else too after
15 that?

16 A I would have wrote it down if she did.

17 Q Okay. And when you entered the restroom, did you
18 see any signage that says "employees only" or no?

19 A No.

20 MR. HAMEERANI: No?

21 All right. That's it.

22 HEARING OFFICER: All right. Is that all?

23 MR. HAMEERANI: Yeah.

24 HEARING OFFICER: All right. Questions

25 from the Committee members for this witness?

1 MS. WARE: What -- what did she tell you
2 about the steaming?

3 THE WITNESS: That they -- that the girls
4 go in there and massage the head and oil on the
5 scalp and steam while they wait.

6 MS. WARE: Okay.

7 MS. BOYDSTUN: Steaming the hair? I'm
8 confused?

9 THE WITNESS: Steaming the hair and the
10 scalp with oil. Uh-huh.

11 MS. BOYDSTUN: Okay. Did you ask them
12 about the roller wax?

13 THE WITNESS: Well, we just --

14 MS. BOYDSTUN: You just --

15 THE WITNESS: -- I just showed them on my
16 rules and regulations where it's not permitted.

17 MS. BOYDSTUN: And did you ask everybody
18 in there for ID?

19 THE WITNESS: I did, yes. That's one of
20 the rules of the complaint is to go and ask for
21 ID.

22 MS. WARE: And about the towels, she told
23 you about the towels --

24 THE WITNESS: Yes.

25 MS. WARE: -- in the bathroom?

1 THE WITNESS: Yes.

2 HEARING OFFICER: All right. There don't
3 appear to be any further questions from the
4 Committee.

5 Counsel, do you have any further direct?

6 MR. ROGERS: No, sir.

7 HEARING OFFICER: All right. At this time
8 would you like to excuse this witness
9 temporarily, subject to recall?

10 MR. ROGERS: Yes, I do.

11 HEARING OFFICER: You are so excused.
12 Call your next witness.

13 MR. ROGERS: Kelli Kersey.

14 MS. KERSEY: Kelli Kersey, Arkansas
15 Department of Health, Cosmetology and Massage
16 Therapy, Section Chief.

17 WHEREUPON,

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

22 DIRECT EXAMINATION

23 BY MR. ROGERS:

24 Q Tell us about Unique Threading and do you have any
25 recommendations?

1 A The proposed penalty is \$550, 250 for each
2 unlicensed practitioner, and \$50 for the roll-on wax.

3 Q Anything else you would like to tell the Committee
4 about?

5 A I mean, when we get the inspection sheets we do look
6 and see if the individuals are licensed, neither one of
7 these were in our system; so they were sent the
8 violation, the salon was sent the violation for two
9 unlicensed people, and --

10 Q I'm looking at Page 12.

11 A Oh, 12?

12 Q Looks like there is a search for a license on a
13 Megha?

14 A She got -- okay. When was the -- let me look at the
15 date. 10/16. She did not get her license until 10/30.

16 Q Thirty, right.

17 A So she had filed for reciprocity but it wasn't --
18 she did not have a license at the time.

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

20 A No. That's it. No, that's okay. And the other one
21 that has not applied at all.

22 Q She still doesn't have a license?

23 A Correct.

24 Q Ms. Rashida?

25 A Correct.

1 Q Anything else you would like to tell the Committee?

2 A I think that's it.

3 MR. ROGERS: Pass the witness.

4 HEARING OFFICER: All right. Cross,

5 Mr. Hameerani?

6 MR. HAMEERANI: Sahil. You can say that.

7 HEARING OFFICER: Sahil? Maybe. We'll

8 see.

9 MR. HAMEERANI: Ask her questions?

10 HEARING OFFICER: Yes.

11 CROSS-EXAMINATION

12 BY MR. HAMEERANI:

13 Q Okay. So the penalty of \$250 per practitioner, per
14 person, is for a person not licensed or not showing their
15 ID?

16 A Not licensed.

17 Q Not licensed?

18 A Yes.

19 Q Okay.

20 A The individuals got the not showing their IDs.

21 MR. HAMEERANI: Okay. All right. Yeah.

22 That's all.

23 THE WITNESS: Okay.

24 HEARING OFFICER: Additional questions?

25 MR. HAMEERANI: No. That's all.

1 HEARING OFFICER: All right. You pass the
2 witness.

3 Then the Committee, does the Committee
4 have any questions for this witness?

5 MS. WARE: I don't know if this is for
6 Kelli or for the inspector about this in the
7 yellow. What is that?

8 It says "Per Kelli."

9 THE WITNESS: That is just a note that
10 Krista put on there. Krista goes through all
11 these, and she puts notes on there for the
12 violation coordinator, but that really should
13 have been taken off, sorry, because we can't
14 see that.

15 MS. WARE: Oh, okay.

16 THE WITNESS: So I'm assuming that's how
17 it was scanned into the system.

18 MS. BOYDSTUN: And the salon has a
19 license?

20 THE WITNESS: Yes.

21 HEARING OFFICER: Any additional questions
22 from the Committee?

23 Don't appear to be any. Would you like to
24 excuse this witness temporarily subject to
25 recall?

1 MR. ROGERS: Yes, sir.

2 HEARING OFFICER: You are so excused.

3 Call your next witness.

4 MR. ROGERS: Agency rests.

5 HEARING OFFICER: All right. Sahil?

6 MR. HAMEERANI: Yes.

7 HEARING OFFICER: Your turn to testify or
8 call witnesses. I didn't see any others sworn
9 in but I might have missed it.

10 MR. HAMEERANI: I don't think --

11 HEARING OFFICER: Okay.

12 WHEREUPON,

13 SAHIL HAMEERANI,

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

17 DIRECT TESTIMONY

18 THE WITNESS: The question about the
19 towels, the bathroom, the question that I asked
20 her about employees-only sign, there has been
21 an employees-only sign on the restroom for the
22 past eight years. And it does have a restroom
23 sign and then underneath it, it has a little
24 sign that says, "employees only." And about
25 the towels, what we do is after the facial, we

1 hand wash them and let them dry in the restroom
2 because we don't have enough room. Now that
3 she told us we moved the rack outside of the
4 restroom. They are just dried there and then
5 they go -- go to the washer dryer to be washed.
6 We are -- we don't use them after just hand
7 washing them, so that is an important protocol
8 that we follow regardless.

9 Like, we have towels rotation, they go to
10 our different location where we have a washer
11 dryer and they are washed there and then
12 brought back to the location and then stored
13 in -- in a drawer where they are -- we have all
14 the fresh towels. So if you can check those
15 towels, they will be all freshly cleaned.

16 And then about Megha Gilani doing --
17 massaging the oil, we have a -- we have a
18 service which is -- which -- in which where we
19 take a conditioning mask for the hair and oil,
20 we warm it up and just apply the oil to the
21 hair, and that's -- that's all we do in that
22 service, and that's what she was doing.

23 About that service, in the past, we had an
24 inspection at one of our locations and we did
25 check with the inspector if that was okay to do

1 that for an unlicensed person, and they said it
2 was fine. They didn't say it was fine, they
3 did call the office to check with someone -- I
4 don't know who it was -- and then the answer I
5 got was it -- it was okay if they are just
6 applying the oil in the scalp and not, like,
7 there -- not there for, like, an hour or so
8 like not doing, like a massage-massage, like
9 just an application is okay.

10 About the other person, Rashida Nathani,
11 at the point of inspection she was on the chair
12 doing threading, and to my understanding,
13 Arkansas does not require license to perform
14 threading services, and that's all she was
15 doing. And that's it.

16 And then I have a comment about roller
17 wax. Roller wax, how -- well, I don't know if
18 that would be a question here, but I just want
19 to know, is there a way that we can legalize
20 those if you use one per person and dispose the
21 whole cartridge after the use, no matter what
22 service we do?

23 HEARING OFFICER: All right. Thank you,
24 Sahil. I don't think we can --

25 THE WITNESS: Sure. I mean, that's just

1 my --

2 HEARING OFFICER: I don't think we can
3 answer that question here at the hearing.
4 You're free to ask at the conclusion if they
5 have any guidance for you.

6 THE WITNESS: Okay.

7 HEARING OFFICER: Cross?

8 CROSS-EXAMINATION

9 BY MR. ROGERS:

10 Q So you're stating that Ms. Rashida -- Rashida --

11 A Uh-huh.

12 Q -- was threading; is that correct?

13 A Yes. I forgot to ask her about that.

14 Q Right, at the time of the inspection. And Ms. Megha
15 or Megha --

16 A Megha.

17 Q -- was massaging oil?

18 A Yeah.

19 Q And you don't think that that's a violation?

20 A No. Because we -- I did check with an inspector in
21 the past.

22 Q Who was that?

23 A I don't remember who. It was -- I don't know if
24 that's her but maybe. It was an African-American lady
25 who does inspections, so -- do you do inspections or

1 MS. JONES: No.

2 THE WITNESS: Okay. So then I don't
3 remember because it was, like, a year or --

4 MR. ROGERS: No. They are Committee
5 members. They are making the decision.

6 THE WITNESS: Okay. So -- all right. So
7 it was like a year or so ago so it was one of
8 the inspectors.

9 BY MR. ROGERS:

10 Q Okay. But neither person has a -- well, one person
11 has a license now?

12 A Now, yeah, because they were still under getting --
13 because they have -- whatever the reciprocity [sic] that
14 they file for them, that means they have an out-of-state
15 license, not in-state, so they were under the process of
16 getting their license.

17 Q Right. So that you admit they didn't have one --

18 A No.

19 Q -- at the current --

20 A Not at that point, yes. They got it in two weeks.

21 Q And then Ms. Rashida has never applied for a
22 license?

23 A No.

24 Q Okay. But your defense is that she doesn't do
25 any --

1 A She doesn't do anything.

2 Q -- any cosmetology?

3 A Any cosmetology. No.

4 MR. ROGERS: Pass the witness.

5 HEARING OFFICER: All right. Committee's
6 members have questions for this witness?

7 MS. BOYDSTUN: Do you have a copy of the
8 Arkansas laws, rules and regulations?

9 THE WITNESS: In -- in the salon?

10 MS. BOYDSTUN: Uh-huh.

11 THE WITNESS: Yes.

12 MS. BOYDSTUN: So in there it will tell
13 you what services your operators are allowed to
14 do.

15 THE WITNESS: Okay. Could --

16 MS. BOYDSTUN: And so they can't -- they
17 can't touch a hair. They can't even comb a
18 hair, they can't wash hair.

19 THE WITNESS: All right.

20 MS. BOYDSTUN: They can't do anything with
21 hair at all, and it will tell you that in that
22 law book.

23 THE WITNESS: Okay.

24 MS. BOYDSTUN: So that's where you need to
25 look for your answers.

1 THE WITNESS: Okay. I will. But, like I
2 said, I did check with someone and they called
3 the office, they didn't directly tell me that
4 it was okay to do that but they did check with
5 the office and then they got the approval and
6 then that's when they gave me the answer.

7 MS. BOYDSTUN: All right.

8 MS. WARE: What is the facial machine that
9 they are talking about in here?

10 THE WITNESS: Probably the -- the steamer.

11 MS. WARE: The steamer?

12 THE WITNESS: Uh-huh.

13 MS. WARE: Okay.

14 MS. BOYDSTUN: And that was in the
15 bathroom?

16 THE WITNESS: No. The -- I think there
17 was one that was -- that needs to go for repair
18 so that's why it was in the bathroom. The one
19 that we currently use was in the facial room.

20 MS. BOYDSTUN: Oh, okay.

21 THE WITNESS: So we had two at the site.

22 MS. JONES: If you -- if you're sending
23 your towels out to be laundered at another
24 salon to be brought back, what -- what is the
25 reason for hanging them in the bathroom -- you

1 having them hanging them in the bathroom?

2 THE WITNESS: Because a lot of times after
3 the mask and after what we wipe during the
4 facial, it leaves stains of the -- of the mask
5 or of the other creams, so we just hand wash
6 them to get rid of the stains. Because in the
7 past we have had to throw away a lot of towels
8 because we let them dry and then when you wash
9 them the stains still stay there, so that's the
10 only purpose for that.

11 MS. JONES: Do you have a hamper that you
12 keep your soiled linens in in the salon?

13 THE WITNESS: One more time the question.

14 MS. JONES: Do you have a hamper that you
15 keep your soiled linen in?

16 THE WITNESS: Like a laundry bag or
17 something?

18 MS. JONES: Yes.

19 THE WITNESS: Pretty much they go out
20 every day as they are -- as soon as they are --
21 we leave them throughout the day on the dryer.
22 If they are -- regardless of they are dried or
23 not, they go to the other location. Because I
24 am the one personally taking them because I
25 visit both the locations on every day basis.

1 MS. JONES: So I guess my question is, why
2 wouldn't you, if you're going to hand wash
3 them, go ahead and put them in the laundry
4 basket that's going to be taken out?

5 THE WITNESS: Because they are -- because
6 they are wet and we just want them -- we just
7 don't want them to stink and kind of mess up
8 the environment out there, so we have -- we're
9 a little space. It was in the bathroom, now we
10 moved it out, the rack that we have, and that's
11 where is our break room, so it doesn't give
12 adequate room for people to have their lunch or
13 take a break.

14 MS. WARE: So the towel rack is moved out
15 of the bathroom?

16 THE WITNESS: Yes, now we do.

17 MS. WARE: And so now the towels are
18 hanging up?

19 THE WITNESS: After when they hand wash
20 them they just hang it right there on the --
21 they moved it out in the break room.

22 MS. BOYDSTUN: Does your salon do full
23 body wax treatments?

24 THE WITNESS: Yes.

25 MS. BOYDSTUN: And they do eyelash tint?

1 THE WITNESS: Yes.

2 MS. BOYDSTUN: Eyebrow tint?

3 THE WITNESS: Uh-huh.

4 MS. BOYDSTUN: Did they do it before the
5 licensed esthetician got there?

6 THE WITNESS: No.

7 MS. BOYDSTUN: So they have just started
8 that?

9 THE WITNESS: What do you mean?

10 MS. BOYDSTUN: Your girl who got a
11 reciprocity license for esthetician.

12 THE WITNESS: Okay. The -- Salma is the
13 person who does mainly all the services. So
14 she's been with the company for very long time.

15 MS. BOYDSTUN: And she's licensed?

16 THE WITNESS: Yes, she is. For ten years,
17 I would say, about.

18 MS. BOYDSTUN: But she's the only one that
19 does any of that --

20 THE WITNESS: Yes.

21 MS. BOYDSTUN: -- before?

22 THE WITNESS: Uh-huh.

23 HEARING OFFICER: Any additional questions
24 from the Committee?

25 Don't appear to be any.

1 MR. ROGERS: Could I follow up?

2 HEARING OFFICER: Yes, I was going to give
3 you a chance for that. Recross?

4 RECROSS EXAMINATION

5 BY MR. ROGERS:

6 Q There is an allegation that, in some of the
7 complaints or emails, that they give wireless radios or
8 walkie-talkies and thread to all of their employees, and
9 when the cosmetology inspector shows up then there is
10 some sort of contact even between different shops or
11 salons?

12 A I have no comments on that. I was -- I think that
13 was strictly like a competition complaint that somebody
14 just randomly send it, and I don't have anything to say
15 against that.

16 Q Okay. You think a competitor may have --

17 A Exactly.

18 Q -- complained? But so they don't have
19 walkie-talkies where they --

20 A They -- they -- now we do, we just started that, we
21 are starting it. But we don't use them as -- on a
22 regular basis.

23 Q Okay.

24 A We just thought it would be cool to do it, and we
25 just started using that. So and I don't even know how

1 they found that information, and it was funny how the
2 complaint was sent to you guys, because the things that
3 said, that are mentioned in there are -- are just so --

4 Q Right, they mention there is red thread, which I
5 don't know why it's red, but I guess it's easier to see?

6 A I don't even know.

7 Q Does everybody have red?

8 A We don't even have any red thread.

9 Q Okay.

10 A We -- we have white thread as our main thread, and
11 sometimes when we have new people who come in, we use
12 green thread, which is a little thicker. It just helps
13 with the way they do it so that it's the least amount of
14 cuts or no cuts.

15 Q Okay. So there is no --

16 A Red thread.

17 Q -- way to try to say, okay, all the employees are
18 doing threading, which apparently isn't covered?

19 A Threading is done right on the chairs, like, in
20 front of everyone. So unless -- we do have some people
21 who want a -- they have their scarf and stuff and they
22 don't want to kind of open up in -- in the front, so at
23 that point we take them in the room to get them threaded
24 there.

25 MR. ROGERS: Okay. Thank you.

1 THE WITNESS: Okay.

2 MR. ROGERS: And I would like to recall
3 Ms. McFall to clarify.

4 HEARING OFFICER: All right. Well, I'm
5 going to ask Sahil if he has anything to add
6 after the crosses and the questions before we
7 move on to another witness.

8 MR. HAMEERANI: No.

9 HEARING OFFICER: Do you have to add, sir?

10 MR. HAMEERANI: No.

11 HEARING OFFICER: All right. Do you have
12 any other witnesses to call at this time?

13 MR. HAMEERANI: No.

14 HEARING OFFICER: No? All right. So
15 you're excused.

16 And you may call, recall your witness.

17 MR. ROGERS: Trinidad McFall.

18 MS. MCFALL: Yes, sir.

19 WHEREUPON,

20 TRINIDAD MCFALL,

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

24 REDIRECT EXAMINATION

25 BY MR. ROGERS:

1 Q Ms. McFall, on your report, I think it's Page 14
2 concerning the complaint, and you've heard Mr. --

3 MR. HAMEERANI: Sahil.

4 BY MR. ROGERS:

5 Q -- explain that there was no work done by
6 Ms. Rashida other than threading. But in your report it
7 says Rashida was also working with no form of
8 identification?

9 A Correct. She was.

10 Q What -- would you explain what you witnessed or
11 what -- how was she working and what was she doing? Was
12 she doing threading?

13 A Well, I don't believe that I remember when I walked
14 in that anyone was in there. We were -- the only client
15 that I remember was the one that the lady said they were
16 doing in the room, so I don't remember them -- there
17 being a client in the chair getting threaded.

18 Q You don't recall that being there?

19 A (Shaking head from side to side.)

20 Q Well, I know she said she was working but I was
21 unclear as to what you witnessed her do or what she was
22 doing.

23 MR. ROGERS: All right. That's all I
24 have. Thank you.

25 HEARING OFFICER: Cross, Sahil?

1 MR. HAMEERANI: No.

2 HEARING OFFICER: No?

3 All right. Questions from the Committee
4 members?

5 Don't appear to be any. Do you want to
6 excuse this witness again?

7 MR. ROGERS: Yes, sir. For the final
8 time.

9 HEARING OFFICER: You're -- you're
10 excused.

11 THE WITNESS: Okay.

12 HEARING OFFICER: Does either party wish
13 to make a closing argument?

14 MR. ROGERS: No, sir.

15 HEARING OFFICER: No?

16 MR. HAMEERANI: No.

17 HEARING OFFICER: All right. Then at this
18 time we will go off the record for the
19 Committee's recess for deliberations and a
20 decision regarding the findings of fact,
21 conclusions of law, or any penalty to be handed
22 down. Once the Commission -- I mean the
23 Committee reaches a decision, we will go back
24 on the record. The deliberations are open to
25 the public under the Freedom of Information

1 Act. All parties may remain and observe the
2 deliberations.

3 (WHEREUPON, the Committee retired to
4 deliberate, off the record, from 11:29 a.m. to
5 11:38 a.m., and returned with the following
6 decision:)

7 HEARING OFFICER: All right. We'll now go
8 back on the record for the Committee's
9 decision.

10 MS. JONES: I would like to make a motion
11 that the fine for 250 stand for Megha Gilani
12 for unlicensed, not having a current license.

13 MS. WILSON: I second.

14 MS. BOYDSTUN: All in favor?

15 COMMITTEE MEMBERS: Aye.

16 HEARING OFFICER: All right. Thank you.

17 Looks like the vote was unanimous. Please
18 reduce the Board's -- I mean the Committee's
19 decision to writing and make or attempt service
20 upon all parties. If the Respondent cares to
21 appeal the decision, appeal can be taken under
22 any specific provision relating to the
23 Committee or under the Arkansas Administrative
24 Procedures Act, found at Arkansas Code
25 Annotated § 25-15-201.

1 Although, sir, I don't think you're
2 allowed to appeal until the full Board of
3 Health has made a decision on the
4 recommendation, but after that then you could
5 potentially. All right?

6 MR. HAMEERANI: Okay.

7 HEARING OFFICER: Any other questions or
8 comments regarding this hearing?

9 MR. HAMEERANI: The only comment was that
10 I was -- the reason Megha Gilani was performing
11 that hair treatment was because I was told by
12 an inspector in the past.

13 HEARING OFFICER: Your testimony was
14 taken, it's a part of the record.

15 MR. HAMEERANI: Okay. That's all.

16 HEARING OFFICER: So -- all right.
17 Anything else, sir?

18 MR. HAMEERANI: No.

19 HEARING OFFICER: This hearing is
20 concluded and the record is closed. Thank you.

21 MR. HAMEERANI: Thank you.

22 (WHEREUPON, at 11:39 a.m., the
23 above-entitled proceedings were concluded.)

24 ---o---

25

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P R O C E E D I N G S

1
2 HEARING OFFICER: All right. My name is
3 Dara Hall and I'm the Hearing Officer today In
4 The Matter of Josette's Gifts Hair and Nails,
5 owned by Virginia Douglas.

6 Did I get that right?

7 MS. DOUGLAS: Yes.

8 HEARING OFFICER: Is that correct?

9 This matter will be heard before the
10 Cosmetology Technical Advisory Committee. This
11 hearing concerns matters specified in the Order
12 and Notice of Hearing. Today is January 28,
13 2019. Please turn all cell phones off or place
14 them on silent mode so as not to disrupt these
15 proceedings.

16 Respondent, please identify yourself for
17 the record and have a seat right where you're
18 at.

19 MS. DOUGLAS: I'm Virginia Josette
20 Douglas, and I live in Mena -- I have a salon
21 in Mena, Arkansas, Josette's Gifts Hair and
22 Nails, and I live in Oden, Arkansas.

23 HEARING OFFICER: Thank you very much,
24 ma'am.

25 Are you represented by counsel today?

1 MS. DOUGLAS: No.

2 HEARING OFFICER: Are you aware you have
3 the right to have counsel present?

4 MS. DOUGLAS: Yes.

5 HEARING OFFICER: If at any time you do
6 not understand these proceedings, please let me
7 know, we'll call a quick little halt and we'll
8 try to explain -- I'll try to explain things to
9 the best of my knowledge. Okay?

10 MS. DOUGLAS: All right.

11 HEARING OFFICER: Please let me know. All
12 right?

13 MS. DOUGLAS: All right.

14 HEARING OFFICER: Thank you.

15 Did you receive a copy of the Order and
16 Notice of Hearing concerning today's matter?

17 MS. DOUGLAS: Yes.

18 HEARING OFFICER: Are you ready to proceed
19 on this matter?

20 MS. DOUGLAS: I didn't hear you.

21 HEARING OFFICER: Are you ready to proceed
22 on this matter?

23 MS. DOUGLAS: Yes.

24 HEARING OFFICER: Thank you.

25 Committee's counsel, please identify

1 yourself for the record.

2 MR. ROGERS: Reginald Rogers, one of the
3 attorneys for the Arkansas Department of
4 Health.

5 HEARING OFFICER: Are you ready to proceed
6 on this matter?

7 MR. ROGERS: Yes, sir, we are.

8 HEARING OFFICER: All right. For the
9 benefit of anyone present here today who may
10 have not appeared in an administrative hearing,
11 the Committee will base its decision solely on
12 the evidence presented here today. This
13 hearing is held pursuant to the Arkansas
14 Administrative Procedures Act, which means that
15 the strict rules of evidence do not apply and
16 the parties will be given latitude in
17 introducing evidence. This is to promote a
18 fair hearing and to provide the Board with
19 adequate information to make a decision.

20 The administrative adjudicatory process
21 should be much more expeditious and less
22 expensive for all parties than a judicial
23 proceeding, although tougher for me to
24 pronounce. The hearing should be much less
25 formal, consistent with the fundamentals of

1 fairness, impartiality, and thoroughness. The
2 Hearing Officer's goal, my goal, is to develop
3 a fair and accurate and intelligible record
4 that can be reviewed.

5 Now, the intelligible part, it really
6 comes down to my court reporter, who is
7 awesome, Susan is great, but she can be only
8 take down one person talking at a time. So I'm
9 going to ask you to help me get an intelligible
10 and accurate record, not to talk over anybody
11 else. All right? If you all could help me out
12 with that I would appreciate it.

13 To ensure efficiency of the proceedings, I
14 will grant objections or caution the parties
15 only as necessary. In the unlikely event I get
16 an objection -- rare when I don't have two
17 attorneys in the room -- please pause and let
18 me rule on it and then we'll proceed. Okay?

19 If there is anything you have in your
20 position -- in your possession that you want
21 the Committee to consider, you must offer it
22 into evidence today, Ms. Douglas. Okay?

23 MS. DOUGLAS: Yes.

24 HEARING OFFICER: All participants in the
25 hearing should be aware that these proceedings

1 are subject to the Freedom of Information Act,
2 and as such, all parts of the hearing,
3 including the deliberations of the Committee,
4 are open to the public.

5 All right. Next swearing of witnesses.
6 If you believe you are going to be a witness,
7 either for our CTAC or if you're going testify
8 in your own behalf, please rise and raise your
9 right hands to be sworn in.

10 All right. We're not calling Kelli on
11 this one?

12 MS. KERSEY: Oh, I'm sorry. Yeah. I'm
13 sorry.

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

16 HEARING OFFICER: All right. Be sure and
17 give my court reporter your name and you may be
18 seated.

19 MS. KNOPP: Jaclyn Knopp,
20 Cosmetology/Massage Therapy Inspector.

21 HEARING OFFICER: All right. Ready to
22 proceed, Court Reporter?

23 COURT REPORTER: (Nodding head up and
24 down.)

25 HEARING OFFICER: Thank you.

1 Are there any other preliminary matters to
2 be discussed or offered at this time, Counsel?

3 MR. ROGERS: Yes, sir. The Agency
4 proposes, for Exhibit No. 1, a 16-page document
5 that's -- first page is before the Cosmetology
6 Technical Advisory Committee, or CTAC, In The
7 Matter of Arkansas Department of Health vs.
8 Josette's Gifts Hair and Nails, Virginia
9 Douglas, Owner. The first two pages are the
10 Order and Notice of Hearing, Page 3 is the
11 return receipt, apparently, signed by Virginia
12 Douglas, fourth page is a proposed consent
13 agreement, fifth page is a December 8, 2018,
14 letter from Ms. Douglas, Pages 5 and 6, Page 7
15 is a November 20, 2018, violation notice letter
16 from Ms. Kersey, there is some license
17 information on pages, looks like it would be 8
18 and 9, and Page 10 is an inspection report by
19 Ms. Knopp, inspection dated November 8, 2018,
20 more license information up to Page 16. And we
21 would offer Agency Exhibit No. 1, 16-page
22 document.

23 HEARING OFFICER: All right. CTAC Exhibit
24 1 marked for identification. Any objections to
25 Exhibit 1, Ms. Douglas?

1 MS. DOUGLAS: Yes.

2 HEARING OFFICER: All right. What are
3 your objections?

4 MS. DOUGLAS: I don't understand. What --

5 HEARING OFFICER: Do you have a legal
6 basis to object to any of the paperwork in CTAC
7 Exhibit 1?

8 MS. DOUGLAS: Yes, I do.

9 HEARING OFFICER: Okay. What's your
10 objection, ma'am?

11 MS. DOUGLAS: Okay. I came here to
12 Arkansas because I had seen some literature and
13 pictures of how beautiful it was and how
14 that --

15 HEARING OFFICER: Well, let me -- let me
16 stop you before we go too much further. You
17 will be given a chance to testify. This is
18 testimony. Do you have a legal objection, like
19 this was forged, this is -- I mean -- I mean
20 what -- what's a legal objection to this?

21 MS. DOUGLAS: Well, the legal -- legal
22 objection is that I had my paperwork when I
23 came up here in '16. I had --

24 HEARING OFFICER: Again, that's testimony.
25 You get to testify that you had the proper

1 paperwork.

2 MS. DOUGLAS: Yes, I had -- I have
3 paperwork --

4 HEARING OFFICER: But what's the legal
5 objection to this document?

6 MR. ROGERS: You see agency -- we marked
7 this packet, you've got that.

8 MS. DOUGLAS: Okay.

9 MR. ROGERS: Do you have any problems with
10 what's contained in that packet?

11 MS. DOUGLAS: No.

12 MR. DOUGLAS: You have one thing, you
13 don't have your license, you had your license.

14 HEARING OFFICER: Well, that's a defense,
15 sir, but, okay, let me give you an objection.
16 Like on Page 3, if you say, "Hey, that's not
17 me, I didn't sign for that so it's not
18 authenticated," that's a legal objection --

19 MS. DOUGLAS: Yes.

20 HEARING OFFICER: -- failure to
21 authenticate, but whether this is correct in
22 here, that's your defense, you get to bring
23 that, you get to testify, oh, that's not right,
24 or this is the circumstances.

25 MS. DOUGLAS: Okay.

1 HEARING OFFICER: But right now we're
2 asking, you know, you to say, hey, what -- what
3 is the problem, you know, with -- let's say
4 this letter that says "Dear, Sir," an objection
5 to this would be, "I didn't write that, that's
6 not my handwriting," that's a legal objection
7 to that.

8 MS. DOUGLAS: I did write it.

9 HEARING OFFICER: Okay. Well, all right,
10 but I don't think you have a legal objection.

11 MS. DOUGLAS: No.

12 HEARING OFFICER: So I'm going to overrule
13 your objection.

14 MS. DOUGLAS: Yeah.

15 HEARING OFFICER: It is -- this is
16 admitted as CTAC's Exhibit No. 1 and may be
17 published to the Committee at this time.

18 (WHEREUPON, Agency Exhibit No. 1 was
19 received in evidence.)

20 HEARING OFFICER: All right.
21 Respondent -- I mean, Ms. Douglas, do you have
22 any exhibits to offer?

23 MS. DOUGLAS: Any what?

24 HEARING OFFICER: Any documents, documents
25 you would like to get in evidence?

1 MS. DOUGLAS: Well, yeah, I have, like
2 just like this.

3 HEARING OFFICER: All right.

4 MS. DOUGLAS: This is -- I don't
5 understand, it says, "Arkansas Department of
6 Health Cosmetology Section," and it's from a
7 Kelli Kersey, and it -- it's on this 2017, it's
8 after I had filed in December of 2016. And if
9 it's from -- if it's not from the cosmetology
10 section, why does it have cosmetology section?

11 HEARING OFFICER: Well, I can't see it
12 from down here so why don't you provide that to
13 counsel to look at and if you want to offer it
14 as your Exhibit 1 --

15 MR. ROGERS: Could one of y'all get that,
16 please?

17 HEARING OFFICER: Yeah. Or actually we'll
18 take Respondent's is alpha --

19 MR. ROGERS: No objection.

20 HEARING OFFICER: -- so it will be A.

21 We're going to need copies for the
22 Committee.

23 MS. DOUGLAS: And also -- also --

24 HEARING OFFICER: You have more?

25 MS. DOUGLAS: After that I got my first

1 inspection, and it's from a lady, Ms. Vera, she
2 was very knowledgeable and very helpful.

3 HEARING OFFICER: Why don't you stay put
4 and see how many more exhibits we have to copy.

5 MS. FINNEY: Okay.

6 MS. DOUGLAS: She was very helpful.

7 MR. DOUGLAS: Let me just -- just a
8 moment. We're here to do business, aren't we?

9 HEARING OFFICER: Sir, are you a
10 counsel -- are you an attorney?

11 MR. DOUGLAS: I'm with --

12 HEARING OFFICER: Are you an attorney,
13 sir?

14 MR. DOUGLAS: I'm her husband.

15 HEARING OFFICER: Are you an attorney?

16 MR. DOUGLAS: I got -- I've left this
17 morning at 6:00 o'clock to get here and been
18 lost every since, so I think I have a time --

19 HEARING OFFICER: You don't have a right
20 to talk right now.

21 MR. DOUGLAS: -- to have a little voice in
22 this.

23 HEARING OFFICER: I will have you escorted
24 out of the building if you don't be quiet.

25 It's not your turn to talk. Unless you're an

1 attorney representing here --

2 MR. DOUGLAS: But why are we here -- why
3 are we here today?

4 HEARING OFFICER: I don't know why you're
5 here, sir. I'm here to conduct a hearing.

6 MS. DOUGLAS: Okay.

7 HEARING OFFICER: I'm conducting a
8 hearing, I've been doing this -- I've done 300
9 of these.

10 MR. DOUGLAS: Go ahead.

11 MS. DOUGLAS: Okay. I got an inspection
12 from a Ms. Vera, and this was after I had filed
13 and after I had also sent --

14 HEARING OFFICER: Okay.

15 MS. DOUGLAS: -- to the Louisiana --

16 HEARING OFFICER: Let's cut this down a
17 little bit so we get this done. Are you
18 want -- do you want to enter these documents as
19 your exhibits?

20 MS. DOUGLAS: Yes.

21 HEARING OFFICER: Then hand them to the
22 lady, you need -- copies need to be made for
23 all the Committee members.

24 MS. DOUGLAS: But what if you don't
25 understand what it's about?

1 HEARING OFFICER: You'll get to testify to
2 it, ma'am.

3 MS. DOUGLAS: Okay.

4 HEARING OFFICER: That's the testimony
5 section of this.

6 MS. DOUGLAS: Okay.

7 HEARING OFFICER: This is to enter the
8 documents as exhibits.

9 MS. DOUGLAS: Okay. But I would like to
10 say one thing before I turn all this other
11 over. My first inspection was by a Ms. Vera,
12 and on the bottom, I mean she went over things
13 and --

14 HEARING OFFICER: Ma'am, you can talk all
15 you want. It's not in the record, what you're
16 talking about, until we get it entered as an
17 exhibit and I admit it. The Committee can't
18 see it, they don't know what you are talking
19 about.

20 MS. DOUGLAS: Okay. Well --

21 HEARING OFFICER: They don't need --

22 MS. DOUGLAS: -- what she did was she
23 passed my salon.

24 HEARING OFFICER: You will testify to it
25 later, ma'am, please. Let's get this done.

1 Get it copied --

2 MS. DOUGLAS: Well --

3 HEARING OFFICER: -- and I'll give you
4 plenty of time to testify to it.

5 MS. DOUGLAS: Okay.

6 HEARING OFFICER: Is that all the
7 paperwork you want entered?

8 MS. DOUGLAS: Well, I also got a letter
9 from Ms. Kersey, where is the lady? Oh, there
10 you are. I couldn't see you from over there.

11 HEARING OFFICER: All right. The letter
12 is probably in CTAC's Exhibit 1.

13 Are you talking about a letter that was
14 dated November 20, 2018?

15 MS. FINNEY: This is the new shop
16 authorization letter.

17 HEARING OFFICER: Okay. Well, just copy
18 whatever she wants, make sure we have one, two,
19 three, four, five, six, seven, eight -- go
20 ahead and make ten copies of everything.

21 MS. FINNEY: Was that all you wanted?

22 MS. DOUGLAS: I think -- I don't -- well,
23 since this is repositry [sic] license that I've
24 been applying for since 2016, do I need my
25 Louisiana license?

1 HEARING OFFICER: Go ahead and copy, yes,
2 yes. Let's copy everything, ma'am, so you can
3 talk about it.

4 MS. DOUGLAS: Okay.

5 HEARING OFFICER: Because if you don't
6 have it as part of -- if you don't have it in
7 evidence when you talk about it, the record
8 won't understand what you're talking about.

9 MS. DOUGLAS: I understand. I understand.

10 HEARING OFFICER: All right.

11 MR. DOUGLAS: Give them the whole thing.

12 MS. DOUGLAS: Okay. This is the license I
13 had when I did the reprocity [sic].

14 May I -- may I say something?

15 HEARING OFFICER: You will get a chance to
16 testify later when it's your turn.

17 MS. DOUGLAS: I'm not testifying. I'm
18 just -- I'm very confused about this system
19 because I went through the Board trying to get
20 this reprosity and I have taught the barber
21 apprentice program, I have also been a
22 cosmetologist for 25 years, and I think that
23 should account for something.

24 HEARING OFFICER: That's awful good
25 testimony, ma'am, but it is not something --

1 you're not -- you're not testifying yet.

2 MS. DOUGLAS: Okay.

3 HEARING OFFICER: You will get your
4 chance, I will let you talk as long as you can
5 keep talking, please.

6 MS. DOUGLAS: I don't want to talk, I just
7 want to be done fair. That's all.

8 HEARING OFFICER: That -- that is my job,
9 to make this a fair hearing.

10 MS. DOUGLAS: Okay.

11 HEARING OFFICER: And -- and while we wait
12 for that to be copied, Mr. Rogers, what would
13 you like to do?

14 MR. ROGERS: I would like to start with a
15 witness at this time --

16 HEARING OFFICER: Okay.

17 MR. ROGERS: -- please.

18 HEARING OFFICER: I don't think we need
19 her exhibits to proceed with that. Do we?

20 MR. ROGERS: I hope not.

21 HEARING OFFICER: All right. At this
22 time, Counsel, you may call your first witness,
23 please.

24 MR. ROGERS: Call Ms. Jackie Knopp.

25 WHEREUPON,

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

5 DIRECT EXAMINATION

6 BY MR. ROGERS:

7 Q Spell your name.

8 A J-a-c-l-y-n, Knopp, K-n-o-p-p.

9 HEARING OFFICER: Oh, before we get any
10 further, do you have CTAC's Exhibit 1, ma'am?

11 MS. DOUGLAS: Yeah.

12 HEARING OFFICER: It's a 16-page document?

13 MS. DOUGLAS: Yes.

14 HEARING OFFICER: All right. Good,
15 because she may reference that when she
16 testifies, I want to make sure you have it.

17 Go ahead.

18 MS. DOUGLAS: We have it.

19 BY MR. ROGERS:

20 Q Where are you employed?

21 A Arkansas Department of Health Cosmetology and
22 Massage Therapy.

23 Q And what is your -- what are your job duties?

24 A A Cosmetology and Massage Therapy Inspector.

25 Q And did you have cause to inspect Josette's Gifts

1 Hair and Nails?

2 A Yes. I inspected her November 8, 2018.

3 Q And I believe a copy of your inspection report is

4 contained on -- in Agency Exhibit No. 1 at Page 10?

5 A Yes.

6 Q Is that correct?

7 A Yes.

8 Q And tell us what you found during your inspection.

9 A Well, I went inside the salon on this day to

10 inspect, and introduced myself through the normal

11 inspection, and then went to write down the establishment

12 license information.

13 Q And when you say you introduced yourself, who did

14 you introduce yourself to?

15 A Jackie -- Ms. Josette.

16 Q Okay. And you're pointing to Ms. Douglas?

17 A Yes.

18 Q And this is in Mena, Arkansas --

19 A Yes.

20 Q -- in Polk County?

21 A Yes.

22 Q -- on November 8, 2018?

23 A Yes.

24 Q Okay. Go ahead.

25 A I performed an inspection and went to write down the

1 license information, and she had her establishment
2 license but I did not see a practitioner license posted.

3 Q And would you explain the difference of those two
4 licenses?

5 A Yes. A practitioner license is a person that
6 performs cosmetology, esthetician, nail practitioner, and
7 then establishment license is for the salon itself.

8 Q And those are two different licenses?

9 A Yes.

10 Q And so if you practice in a salon, you need to
11 practice in a salon that's licensed?

12 A (Nodding head up and down.)

13 Q And you yourself as a practitioner has to have a
14 license as well?

15 A Correct.

16 Q All right. Go ahead.

17 A Okay. I -- Ms. Josette was not able to find a
18 practitioner license, so I went to look up her
19 information on CLIPS by name.

20 Q And explain what that is, CLIPS?

21 A That's a system that we use in order to look up
22 practitioners, salons.

23 Q It's a database of some type of --

24 A Yes.

25 Q Okay.

1 A Yes.

2 Q -- of cosmetologists and practitioners?

3 A Yes.

4 Q All right. Go ahead.

5 A So I looked up Ms. Douglas' name on CLIPS and I
6 found her name but I did not find a license type, so I
7 was confused by that, so I called up at the office and
8 spoke to my supervisor, Krista Wells.

9 Q Who was that?

10 A Krista Wells.

11 And at that time I was told that Ms. Josette had
12 started the repositry [sic] application but it was never
13 finished, and so I was told to treat it as an unlicensed
14 individual.

15 Q And looking at, I believe it's the page after your
16 inspection report, Page 11, and is this a search of the
17 database you talked about, or what is Page 11?

18 Says "license search"?

19 A I believe so. That's --

20 Q Says "no license is found"?

21 A Yes. I believe that's CLIPS.

22 Q And then Page 12 -- well, we'll have Ms. Kersey
23 cover those areas.

24 A Okay.

25 Q So on your inspection report on Page 10, you've got

1 a checkmark under Rule 5.1, and in parenthesis (7),
2 individual license?

3 A Yes.

4 Q And what does that checkmark mean?

5 A The checkmark means that it is -- that the
6 individual does not have a license.

7 Q Okay. Does not have a practitioner license?

8 A Yes.

9 Q Did she have an establishment license?

10 A She did.

11 Q Okay. Did you explain that to Ms. Douglas?

12 A Yes.

13 Q Okay. And what did she say?

14 A She seemed confused by what I was telling her. I
15 tried to explain it the best I could, that she had an
16 establishment license but she did not have an Arkansas
17 cosmetology license for herself.

18 Q Okay. All right. Anything else you would like to
19 inform the Committee of?

20 A No.

21 MR. ROGERS: I'll pass the witness.

22 HEARING OFFICER: All right. Ms. Douglas?

23 MS. DOUGLAS: Yes, sir.

24 HEARING OFFICER: You may ask this witness
25 questions.

CROSS-EXAMINATION

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BY MS. DOUGLAS:

Q Okay. I -- I am confused about the license, because all the information that I required and -- and asked, called, wrote letters, and I got the information that I thought was all I needed. Now, I gave the young lady a copy of the information that Arkansas asked me to get --

HEARING OFFICER: All right. Is there --

BY MS. DOUGLAS:

Q -- from Louisiana.

HEARING OFFICER: Is there a question for this witness?

MS. DOUGLAS: Well, not really. I mean I just -- we had a nice little visit and, you know, she was helpful, and I know she was doing her job. And the only thing was that I did not understand that I had to have -- what did you call it?

THE WITNESS: A practitioner license.

MS. DOUGLAS: I never had heard that word. It has not been given to me before today. I've never heard that mentioned to me. So I did not, I did not know what you're talking about that way. You're either a cosmetologist or a massage therapist or, you know, and I'm very --

1 I was confused about that. And I'm sorry, if
2 you did explain it, I did not understand it
3 because I have never heard that before.

4 HEARING OFFICER: All right. Any
5 questions from the Committee for this witness?

6 Don't appear to be any. Any redirect from
7 counsel?

8 REDIRECT EXAMINATION

9 BY MR. ROGERS:

10 Q Could you explain -- I know you went over -- could
11 you explain one more time the difference for Ms. Douglas?

12 A Yes. You had an establishment license, so that was
13 for your salon. And then you should also have a
14 cosmetology license from the Department of Health for
15 yourself with your name.

16 MS. DOUGLAS: Okay. Now, there was a
17 letter that I did give to them to copy
18 pertaining to that I was notified --

19 HEARING OFFICER: All right.

20 MS. DOUGLAS: -- that I could -- I was
21 where I could work and open my salon on a
22 certain day. And I --

23 HEARING OFFICER: Well, let's stop there.

24 MS. DOUGLAS: -- I called the office.

25 HEARING OFFICER: I got you. Copies are

1 coming in of what you wanted copied. Let's
2 give one to the witness so she can look at it
3 and know what you're talking about.

4 MS. DOUGLAS: Okay.

5 HEARING OFFICER: How many pages is this?
6 Okay. One, two three, four, five.

7 Okay. We have Respondent's Exhibit A for
8 identification, which has five pages. They are
9 not paginated yet, I'm going to mark them
10 myself for my ease of --

11 MS. JONES: I've got six pages.

12 HEARING OFFICER: You've got six? Well,
13 either I can't count or you have different
14 paperwork than I do.

15 MS. BOYDSTUN: We have six.

16 MS. JONES: We have six pages.

17 MS. WILSON: We have six.

18 HEARING OFFICER: What page am I missing?
19 Oh, that one. I don't have the second page.

20 COURT REPORTER: For the record, I have 11
21 pages.

22 HEARING OFFICER: Do you not have a copy?

23 COURT REPORTER: I have 11 pages.

24 HEARING OFFICER: You have 11? All right.

25 We're going to take a brief recess while we

1 work out the exhibits.

2 (WHEREUPON, a brief discussion was held
3 off the record.)

4 HEARING OFFICER: All right. We'll go
5 back on the record.

6 And Respondent's Exhibit A, which has six
7 pages to it, has been offered.

8 And any objection to admitting them?

9 MR. ROGERS: No objection.

10 HEARING OFFICER: There being no
11 objection, it is admitted into evidence as
12 Respondent's A.

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

15 HEARING OFFICER: And the witness now has
16 a copy of that; correct?

17 THE WITNESS: Yes.

18 HEARING OFFICER: All right. Now,
19 Ms. Douglas --

20 MS. DOUGLAS: Yes.

21 HEARING OFFICER: -- you have what they
22 copied; right?

23 MS. DOUGLAS: Yes.

24 HEARING OFFICER: Refer to Exhibit A,
25 whatever page you want her to view, and she

1 will look at it and she can then answer your
2 questions based on that. Okay?

3 RECROSS EXAMINATION

4 BY MS. DOUGLAS:

5 Q Okay. On the last page, the Arkansas Department of
6 Health -- okay. I received a letter after I had filed or
7 thought I was doing all of the application correctly, and
8 it said that they had received my application and my
9 money. Okay. Now, I don't understand why that my
10 application was not complete.

11 On the third page there, Louisiana Board of
12 Cosmetology -- Arkansas had requested that I send in all
13 of my information on my hours, what my license type was,
14 the year, and, of course, the expiration date, when I
15 went to school, where I went to school, and all of that,
16 and then they gave me an address here that the State of
17 Louisiana was supposed to send to Little Rock. And I
18 called the Louisiana Board and they said that it had been
19 sent.

20 HEARING OFFICER: All right. What's your
21 question for the witness?

22 MS. DOUGLAS: Well, is there any way I can
23 find out if it has been received?

24 HEARING OFFICER: Well, ask the witness
25 does she know. That's how you find out things,

1 you ask them questions.

2 BY MS. DOUGLAS:

3 Q Okay. Well, I would like to know if it's been
4 received. Nobody notified me it had not been received.

5 HEARING OFFICER: So answer her question.

6 THE WITNESS: I'm not for sure how to
7 answer that question.

8 MR. ROGERS: Is that in your area --

9 THE WITNESS: No.

10 MR. ROGERS: -- that you're involved with?

11 THE WITNESS: No.

12 MR. ROGERS: That's not in her area.

13 We'll get to Ms. Kersey maybe if we can
14 conclude with her.

15 HEARING OFFICER: Okay. Do you have
16 any --

17 MR. ROGERS: I would like to call someone
18 else.

19 HEARING OFFICER: Right.

20 But any questions for this witness?
21 She -- she did the inspection, she knows about
22 inspections. Any questions along those lines?

23 MS. DOUGLAS: No. It's just that, like I
24 said, I had never heard any other questions
25 about anything except my cosmetology license,

1 which is -- when I was inspected by Ms. Vera,
2 she also turned around and called --

3 MR. ROGERS: I'm going to finally have to
4 object.

5 HEARING OFFICER: Okay.

6 MR. ROGERS: I know they have driven a
7 long way, but we'll get to your testimony in a
8 moment.

9 HEARING OFFICER: I sustain your objection
10 because I don't find it relevant, it's not a
11 question for the witness, and you're not
12 testify -- you're not to testify yet. You will
13 get your chance. I will give you plenty of
14 chances to testify, so let's stick to
15 questioning.

16 And I sustain that objection.

17 MR. ROGERS: Okay. And I conclude --

18 MS. DOUGLAS: Okay. I do have a question.

19 HEARING OFFICER: Okay.

20 BY MS. DOUGLAS:

21 Q On my first inspection, I passed. It's got on here
22 that I passed the inspection.

23 HEARING OFFICER: Are you referring to
24 Exhibit A, Page 2?

25 MS. DOUGLAS: Page 2.

1 HEARING OFFICER: Thank you.

2 MS. DOUGLAS: The yellow inspection page
3 on my inspection for my salon.

4 BY MS. DOUGLAS:

5 Q So --

6 MS. WARE: I can't read it.

7 BY MS. DOUGLAS:

8 Q -- when she called down here it was -- it was
9 supposedly in the process of being taken care of and the
10 license sent to me. So there again, why did I get a pass
11 on this inspection?

12 A This is two different situations. This was for your
13 salon, your establishment license.

14 Q No.

15 A And your establishment, it was passed, your salon
16 was passed.

17 Q This was supposed to be on the salon area.

18 A Yes, on the salon.

19 Q Not -- not on my gift shop.

20 A Right. We're talking about your cosmetology license
21 for yourself.

22 Q That's right. This was -- this was my cosmetology
23 inspection.

24 A For your establishment, for your -- for your salon.

25 HEARING OFFICER: Why don't you explain

1 the different kinds of inspections you do.

2 That might be helpful.

3 THE WITNESS: Okay.

4 HEARING OFFICER: Sorry.

5 MR. ROGERS: No. Go ahead.

6 THE WITNESS: Okay. We do inspections on
7 salons and establishments, cosmetology
8 establishments, and while we're there we also
9 take down our cosmetology license, esthetician
10 license, nail practitioners, we also take down
11 that information as well.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. ROGERS:

14 Q Jackie, could you -- and I'm sorry, but could you
15 break -- maybe practitioner is the wrong term. And I'm
16 sorry if this is an offensive term, but you've got a
17 hairdresser license?

18 A Yes. Yes.

19 Q Versus the building, the shop?

20 A Right. Two different things.

21 Q Could you explain it that way, maybe? And I don't
22 mean to offend anybody here.

23 MS. DOUGLAS: Well, if you're confused,
24 how do you think I feel?

25 MR. ROGERS: Well, I'm not confused, but I

1 think --

2 MS. DOUGLAS: I was.

3 BY MR. ROGERS:

4 Q Could you go ahead, please?

5 I mean hairdresser versus -- has a license?

6 A Right. The salon has a license.

7 Q The beauty shop?

8 A Yes.

9 Q The beauty shop has --

10 A The beauty shop as a license.

11 MS. DOUGLAS: Okay.

12 BY MR. ROGERS:

13 Q Okay.

14 A And then a cosmetologist --

15 Q The hairdresser?

16 A The hairdresser has a license.

17 Q Two separates licenses?

18 A They are two -- two different things.

19 MS. DOUGLAS: Now, I can understand -- I
20 can understand having, because that's what I
21 was filing for, repositry [sic] for my Arkansas
22 cosmetology license.

23 THE WITNESS: Yes.

24 FURTHER RECROSS EXAMINATION

25 BY MS. DOUGLAS:

1 Q Now, the other license that I had, the other
2 establishment license was from the Finance Department and
3 a sales tax?

4 MS. MCFALL: A city license?

5 MS. DOUGLAS: Yes.

6 THE WITNESS: Yes, that's city.

7 BY MS. DOUGLAS:

8 Q Yes.

9 A But you also have an establishment license with the
10 Arkansas Department of Health as well.

11 Q Yes. Now and what does that entail?

12 A That is for your salon only. It's completely
13 separate from your cosmetology hair stylist license,
14 completely separate.

15 Q So I should have had three different licenses; is
16 that right?

17 A (Nodding head up and down.)

18 Q One from finance, one from --

19 A (Nodding head up and down.)

20 Q Well, why didn't somebody tell me this?

21 I have been a salon owner for 25 years, I want to do
22 it right.

23 A Uh-huh.

24 MR. ROGERS: Nothing further of this
25 witness.

1 want, before we -- before we pass.

2 Committee members have any questions for
3 this witness?

4 MS. WARE: Who, the inspector?

5 HEARING OFFICER: Yes, the inspector. Of
6 the inspector.

7 MS. BOYDSTUN: No.

8 HEARING OFFICER: No?

9 You need some minutes? I mean you need a
10 little time?

11 MS. WARE: I guess I'm confused because
12 I'm -- I don't know what this says on Page 2,
13 so maybe come back to that.

14 HEARING OFFICER: Oh, Page 2?

15 MS. WARE: Yeah.

16 MS. BOYDSTUN: On the copy.

17 MR. ROGERS: Well, we can see the
18 original. Could we see the original?

19 HEARING OFFICER: The court reporter
20 should have the original.

21 MR. ROGERS: Well --

22 MS. WILSON: That's just her passing the
23 establishment.

24 MR. ROGERS: The yellow copy, we can't
25 read the --

1 MS. KERSEY: The yellow copy.

2 MR. ROGERS: We can't read the copy.

3 HEARING OFFICER: All right.

4 MR. ROGERS: That's for the Committee. I
5 don't know if that's helpful or not.

6 MS. WILSON: It's for the establishment.
7 It passed.

8 MS. KERSEY: Yes, it is helpful, we need
9 to know.

10 MR. ROGERS: You might see if we can
11 darken it somehow. I think they are getting --
12 I think they are working at getting a printed
13 copy that's better to read.

14 HEARING OFFICER: All right. Well, let's
15 get one that's legible for the record, because
16 if we don't, it's not going to make any sense.

17 MS. KERSEY: Yeah, because we have the
18 first page in DocWare.

19 HEARING OFFICER: All right. Okay.

20 MS. DOUGLAS: I have a question for the
21 inspector.

22 THE WITNESS: Yes.

23 HEARING OFFICER: Okay. Go ahead.

24 MS. DOUGLAS: May I have a question to the
25 inspector?

1 HEARING OFFICER: Yeah. Yes. If you have
2 a question.

3 FURTHER RECROSS EXAMINATION

4 BY MS. DOUGLAS:

5 Q I remember when my inspector came. If she wasn't
6 inspecting my salon as a, you know, working cosmetology
7 salon, why did she check my files, my Barbicide, and all
8 of that? Everything contained -- that con -- that was
9 pertaining to cosmetology is what she inspected. She
10 even looked in my drawers, she looked for my Barbicide,
11 she looked at everything --

12 A Uh-huh.

13 Q -- so wasn't that inspection for my salon, my hair
14 salon and my nail shop?

15 A Yes.

16 Q That wasn't for the gift shop?

17 A No.

18 MS. DOUGLAS: Okay.

19 HEARING OFFICER: All right. Any
20 redirect?

21 MR. ROGERS: No, sir.

22 HEARING OFFICER: Do you want to excuse
23 this witness temporarily, subject to recall?

24 MR. ROGERS: Yes, sir.

25 HEARING OFFICER: You are so excused.

1 You may call your next witness.

2 MR. ROGERS: Kelli Kersey.

3 MS. KERSEY: Kelli Kersey, Arkansas
4 Department of Health, Cosmetology and Massage
5 Therapy Section, Section Chief.

6 WHEREUPON,

7 KELLI KERSEY,

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

11 DIRECT EXAMINATION

12 BY MR. ROGERS:

13 Q Could you --

14 THE WITNESS: This isn't the right one.
15 Not the right one.

16 MR. ROGERS: It's from 2017. This is the
17 wrong one. It's a Vera Wood from December,
18 excuse me, 2017. It's a July 20, 2017,
19 inspection report?

20 BY MR. ROGERS:

21 Q Okay. Can you shed some light on this situation,
22 Ms. Kersey?

23 A I can.

24 Okay. So on -- so on 9/9/16, Ms. Douglas applied
25 for reciprocity for her individual hairdresser license.

1 Q Thank you. I know we went over it.

2 A Uh-huh.

3 Q Can you go over it again, individual --

4 A Individual --

5 Q -- has a license?

6 A -- has a license, and the shop, the beauty shop has

7 a license, which she applied for on --

8 Q It has nothing to do with the gift shop?

9 A Nope. It has nothing to do with the gift shop.

10 Q So that's off the table?

11 A Right.

12 Q Okay.

13 A 12/21/16, so two -- we've gotten two applications

14 from Ms. Douglas. On page -- let's start, actually, with

15 the -- the very last page. I think it's Page 16.

16 Q Yeah.

17 A Okay. I'm going to kind of go backwards because

18 they are from newest to oldest so I'm going to go oldest

19 to newest.

20 On 9/14/16, we had not received the certification

21 from Louisiana at that time. Okay?

22 We -- and I'm going to say generally when the person

23 calls us we put a note in there to say we haven't

24 received it. Okay? So on 9/14/16, we were called and we

25 said not received. Okay?

1 So you go back a page to Page 15, and this just says
2 that she's an owner, that this lady is the owner of
3 Josette's Gifts Hair and Nails. Okay? And you can be an
4 owner of a salon and not be licensed.

5 MS. DOUGLAS: Yes.

6 THE WITNESS: Okay? So it doesn't have --
7 anybody can open a shop, licensed or
8 unlicensed. Okay?

9 So then let's go back to 14, and on
10 8/3/2017, again, we got a call, we had -- still
11 had not received a certification from
12 Louisiana.

13 Okay. Go back one more, 13, Page 13.
14 This is now 9/21/2017. On our reciprocity
15 applications, they expire within one year
16 because you have to have a current license to
17 do reciprocity. At that point her license in
18 Louisiana had expired, so she would have had to
19 get another certification, which we had never
20 gotten the first one, but she would have had to
21 have another one sent with a current license.
22 And she has that in her exhibit, that it
23 expired July 1, 2017.

24 HEARING OFFICER: Is that Exhibit A,
25 Page 1?

1 THE WITNESS: I believe so.

2 BY MR. ROGERS:

3 Q The lower right-hand corner there?

4 A Uh-huh. Correct.

5 Q Expiration date?

6 A July 1, 2017.

7 Q And that's also up there?

8 A Yeah.

9 Q Okay.

10 A So again on 11/9/2018 Ms. Douglas called, and that

11 was -- let's see, when was the inspection? Sorry I

12 didn't look at that date, 11/8. So she called the day

13 after the inspection and, again, and she said that the

14 inspector told her that she was good to work. That --

15 okay.

16 So the salon was good, the salon passed. And if you

17 look at that inspection sheet that y'all just got, it

18 says "no cosmo at this time," which means there is no

19 cosmetologist working in there at that time.

20 Q Okay. Now that -- let's make sure. That should be

21 Exhibit --

22 A Yeah.

23 Q -- under her Exhibit A?

24 A Yeah.

25 Q The second page?

1 A Page 2, right.

2 Q We've got to clarify.

3 A Yeah. Sorry.

4 So and then she was explained that she needed a

5 reciprocity again.

6 Q Now you're looking at Page 12?

7 A Twelve, yes, sir.

8 Q And there is a note that she --

9 A There is a note, yeah.

10 Q Okay. Could you read that again?

11 A I will, I can.

12 Says she called, "Stated that the inspector told her

13 she was good to work. I explained that she needed to do

14 reciprocity again due to her last one expired and she had

15 never tested or had the other document sent to us -- sent

16 in."

17 Q And that's November 9, 2018?

18 A Correct. The day after the inspection in question.

19 Q Okay. So when someone calls in, generally, you take

20 a note or you --

21 A We do put a note in the system when someone calls

22 in.

23 Q So that when someone else reviews it knows what

24 happened?

25 A Correct.

1 Q So what's the status at this time of Ms. Douglas'
2 license?

3 A We still haven't -- now, her -- her beauty shop
4 license is intact, it's -- the shop is good to go. She
5 does not have a practitioner's, a cosmetologist,
6 hairdresser license in Arkansas.

7 Q So she can't -- she can operate the shop?

8 A Right.

9 Q She can't do --

10 A But she cannot perform cosmetology services in the
11 salon because she is not licensed --

12 Q And --

13 A -- individually.

14 Q As an individual?

15 A As an individual, correct. She cannot perform
16 cosmetology services.

17 Q Now, does the agency have a proposed penalty or --

18 A We do. Let me go back. Sorry.

19 On our -- on an unlicensed individual the fine is
20 \$500.

21 Q Okay. Is there anything else you would like to
22 inform the Committee of at this time?

23 A No. I think that's it.

24 MR. ROGERS: Okay. Pass the witness.

25 HEARING OFFICER: All right. Ms. Douglas?

1 MS. DOUGLAS: Yes.

2 HEARING OFFICER: Or Mrs. Douglas, you can
3 ask questions of this witness at this time.

4 MS. DOUGLAS: Well, I'm just kind of
5 overwhelmed over all of it. I'm -- I -- I'm
6 just very disappointed, that's all.

7 My main income coming up here and starting
8 off new, I had the gift shop as a second
9 revenue to help.

10 HEARING OFFICER: Is that part of a
11 question for this witness?

12 MS. DOUGLAS: I don't know. Like I say,
13 I'm just overwhelmed over it. I want my
14 cosmetologist license in Arkansas, but I have
15 to do the cosmetologist to keep the gift shop
16 open, so I'm having -- I've had to close the
17 gift shop because I don't have a --

18 HEARING OFFICER: All right. That's
19 not -- not a question still. Do you have a
20 question for this witness?

21 CROSS-EXAMINATION

22 BY MS. DOUGLAS:

23 Q Can I get my Arkansas license?

24 A Yes, ma'am, you can, if you apply for reciprocity.

25 Q If I what?

1 A Apply for reciprocity from Louisiana. But you will
2 have to get your license current in Louisiana because it
3 expired in '17 and you have to have a current license.

4 Q Expired what? I didn't have the license from
5 Arkansas?

6 A No. Your Louisiana license expired.

7 Q No. I had my Louisiana license for -- until 2019.

8 MS. WILSON: You have a current one?

9 BY MS. DOUGLAS:

10 Q She might not have got it copied but it's a
11 cosmetologist -- I have to have a nonresident license
12 now, and it is December 18, 2018, and expires in July
13 2019.

14 MS. WILSON: We don't have that.

15 MS. FINNEY: Is it her last page?

16 MS. DOUGLAS: If you want to see it, did
17 you want to go copy it?

18 MR. ROGERS: I don't believe we have that.
19 We need a copy.

20 MS. BOYDSTUN: Cosmetologist nonresident.

21 THE WITNESS: Yeah, but it's expired.

22 MR. ROGERS: Expired. Before you leave,
23 could you make sure it's the right date?

24 MS. FINNEY: Yes, one says '17 and one
25 says '19.

1 MS. WARE: Oh, okay.

2 MS. FINNEY: Is there two of them in the
3 packet?

4 HEARING OFFICER: Well, the only one that
5 we admitted says '17 expired -- expiration.

6 MR. ROGERS: We don't need the '17 --

7 HEARING OFFICER: Yeah, we need the '19.

8 MR. ROGERS: -- '19 of the Louisiana.

9 HEARING OFFICER: Yeah.

10 THE WITNESS: Okay. So if you have a
11 current license in Louisiana, you just need to
12 file for reciprocity to Arkansas.

13 BY MS. DOUGLAS:

14 Q Okay. But it is a nonresident. Does that matter?

15 A No, because they will send you the -- the problem is
16 they have got to send us that certification and we never
17 received that certification from Louisiana.

18 Q And they said that they had sent it.

19 A Yeah.

20 Q I called twice and checked on it because the first
21 time I called you, and you said you hadn't received it,
22 so then I called them back again and they said it was on
23 its way. And, you know, that might have been -- I know
24 they were having a lot of flooding problems down there, I
25 don't know if that affected anything or not.

1 A I don't know. I mean, I just know that our office
2 did not receive it.

3 Q Okay.

4 A So you will have to file for reciprocity, we'll get
5 the certification from them when we receive the
6 certification, and we'll have to see what you -- how you
7 were licensed there, and then that will determine which
8 test you will have to take.

9 Q Okay. So I got the repositry [sic] application
10 online. Can I do that again?

11 A Yes, ma'am, uh-huh.

12 Q Okay.

13 A You will have to mail it in, but you can get the
14 application, you can print the application. Yeah.

15 Q Okay.

16 A That's correct.

17 Q And then all I then have to do is notify my
18 cosmetology license -- or department in Louisiana --

19 A Correct.

20 Q -- for them to send that?

21 A Correct.

22 Q Okay.

23 A And, you know, I mean I would contact them now, you
24 can do that before you even apply with us.

25 Q Yes.

1 A Yeah.

2 Q Okay.

3 A If we get them before we get an application, we keep
4 those and then we put them together.

5 MS. DOUGLAS: Okay.

6 HEARING OFFICER: All right. We're going
7 to mark for identification purposes as
8 Respondent's Exhibit B, which is her Louisiana
9 Cosmetology Certification.

10 Any objections to admitting Exhibit B?

11 MR. ROGERS: No, sir. No objection.

12 HEARING OFFICER: Then it is so admitted
13 into evidence and may be provided to the
14 Committee, or published to the Committee at
15 this time.

16 (WHEREUPON, Respondent's Exhibit B was
17 received in evidence.)

18 HEARING OFFICER: Does the Committee have
19 any questions for this witness?

20 No?

21 MS. WILSON: Is this the certification
22 from Louisiana?

23 THE WITNESS: She -- she -- we can't take
24 it from her, we have to get it straight from
25 the State.

1 MS. WILSON: Got you.

2 THE WITNESS: Yeah. Thanks.

3 HEARING OFFICER: All right. Any
4 additional questions?

5 All right. Any redirect?

6 MR. ROGERS: No, sir.

7 HEARING OFFICER: Do you want to excuse
8 this witness temporarily, subject to recall?

9 MR. ROGERS: Yes, sir.

10 HEARING OFFICER: You are so excused.

11 Now, Mrs. Douglas, it's your turn to
12 testify.

13 WHEREUPON,

14 VIRGINIA JOSETTE DOUGLAS,

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 TESTIMONY

19 THE WITNESS: Well, I just want to be a
20 part of Arkansas and I would like to be able to
21 get my license. That's our little extra
22 revenue, and if I can't I can't but I hope I
23 can. And I hope that I've given you all the
24 information that I have. And I thank you for
25 hearing me. So that's all I have to say.

1 HEARING OFFICER: All right. Cross?

2 MR. ROGERS: No cross.

3 HEARING OFFICER: Questions from the
4 Committee of this witness?

5 All right. There don't appear to be any.
6 No?

7 You do? Okay. Go ahead.

8 MS. WARE: So did you close the salon down
9 or did you not?

10 THE WITNESS: Yes. I have -- I lost my
11 lease. My lease was up, so since all this was
12 going, I was kind of fearful to go ahead and
13 keep it open because of the revenue that I was
14 getting in was from my hair and my nails, so --

15 MS. BOYDSTUN: Are you currently working
16 anywhere else?

17 THE WITNESS: I do.

18 MS. BOYDSTUN: As a cosmetologist?

19 THE WITNESS: Yes.

20 MS. BOYDSTUN: Okay.

21 THE WITNESS: If -- if possible.

22 HEARING OFFICER: All right. Any other
23 questions?

24 MS. JONES: I have one.

25 HEARING OFFICER: Go ahead.

1 MS. JONES: I notice in your exhibits you
2 have a copy of the certification from
3 Louisiana. Did you make it clear to them that
4 you need this certification sent to our State
5 Board Office and not to you?

6 THE WITNESS: Well, that's what I had
7 requested before was for them to mail it to
8 that address, and they must not have done it.
9 But if you will notice on the bottom, the
10 address to the Little Rock office is there, and
11 that's where they were supposed to send it,
12 so -- and undoubtedly they didn't.

13 CROSS-EXAMINATION

14 BY MR. ROGERS:

15 Q Do you plan on reopening your beauty shop?

16 A I doubt -- I don't think so. I think I -- there is
17 a couple of salons that have talked to me about working
18 for them and renting a booth, and I think that that might
19 be what I do.

20 So I've been a salon owner and gift shop owner
21 for -- and a boutique for 26 years, so I think I'm just
22 going to work for someone else.

23 MR. ROGERS: Thank you.

24 MS. WARE: So when you opened the salon,
25 you wasn't aware that you had to have your

1 cosmetology also, your hairdressing license?

2 THE WITNESS: Oh, I knew I had to have an
3 Arkansas, but that's why I filed repositry --

4 MS. WARE: Uh-huh.

5 THE WITNESS: -- to get the Arkansas
6 license. But it seemed like that for some
7 reason or someone maybe didn't know what they
8 were supposed to do too because there was no --
9 there wasn't enough communication for me to
10 understand everything that I was supposed to
11 do.

12 Where I'm from it's not this complicated.
13 You know, I mean, we had our -- our cosmetology
14 license or massage therapy or nail tech,
15 whatever you were going to -- you were. And
16 your -- your salon, if you had the gift shop,
17 of course, like you said, you don't have to
18 have a license to do that except your sales tax
19 and all that.

20 But what I find here is that I didn't seem
21 to be notified on each step that I needed. I
22 thought I was doing it right. I would have
23 never brought anything to come to this point
24 because I would have done it the way I would
25 have been told, because I've been a -- in the

1 business, I've been a business woman too long.
2 And I -- I -- I taught the apprentice program
3 for the barbers, because I'm also a licensed
4 barber in Louisiana, but because of the expense
5 I am not going to do that here.

6 And so that's kind of where I'm at, so --

7 MS. WARE: So in Louisiana, if you have an
8 establishment, you have to have your
9 hairdresser license also?

10 THE WITNESS: Any time you do hair or
11 touch someone, hair, facial, anything, you have
12 to have your cosmetology license. And, of
13 course, I was -- I was blessed to have both,
14 you know, the barber and the cosmetology
15 license, and but you could have the gift shop
16 without it. You know, you could -- you could
17 have finished school but still not had to have
18 a license, unless you did hair and nails, so
19 then you had to have your license; so --

20 MS. WARE: Uh-huh.

21 HEARING OFFICER: Any further questions
22 from the Committee?

23 Any cross after those questions?

24 MR. ROGERS: No, sir.

25 HEARING OFFICER: All right.

1 Mrs. Douglas, do you have any other witnesses?

2 MS. DOUGLAS: No, sir.

3 HEARING OFFICER: All right. So then you
4 rest at this point?

5 MS. DOUGLAS: I didn't hear you.

6 HEARING OFFICER: Do you rest? Meaning
7 you're done with your presenting your case?

8 MS. DOUGLAS: Yes.

9 HEARING OFFICER: All right. Thank you
10 very much.

11 Does either party wish to make a closing
12 argument?

13 MR. ROGERS: No, sir.

14 HEARING OFFICER: Mrs. Douglas, do you
15 wish to make a closing argument?

16 MS. DOUGLAS: No.

17 HEARING OFFICER: All right. At this time
18 we will go off the record for the Committee's
19 recess for deliberations and a decision
20 regarding the findings of fact, conclusions of
21 law, and/or any penalties to be handed down.
22 Once the Committee reaches a decision, we will
23 go back on the record. The deliberations are
24 open to the public under the Freedom of
25 Information Act. All parties may remain and

1 observe the deliberations.

2 (WHEREUPON, the Committee retired to
3 deliberate, off the record, from 12:43 p.m. to
4 12:46 p.m., and returned with the following
5 decision:)

6 HEARING OFFICER: We will now go back on
7 the record for the Committee's decision.

8 MS. JONES: I would like to make a motion
9 that violation 18-519 stands.

10 HEARING OFFICER: All right. So --

11 MS. JONES: And that with the violation
12 being \$500 for no license, working without a
13 current license.

14 HEARING OFFICER: All right. Is there a
15 second?

16 MS. WILSON: I second.

17 MS. WARE: All in favor?

18 COMMITTEE MEMBERS: Aye.

19 HEARING OFFICER: All right. Please
20 reduce the Committee's decision to writing and
21 make or attempt service upon all parties. If
22 the Respondent cares to appeal the decision,
23 appeal can be taken under any specific
24 provision relating to this Committee or under
25 the Administrative -- Arkansas Administrative

1 Procedures Act, found at Arkansas Code
2 Annotated § 25-15-201.

3 Although you won't able to appeal,
4 Ms. Douglas, until the recommendation of this
5 Committee is approved, if it is, by the full
6 Board of Health at their next meeting, the
7 meeting they take this up at. Once that
8 happens then you should get notification, and
9 then you can appeal that if you so desire.

10 Any questions or comments regarding this
11 hearing?

12 Hearing none, this hearing is concluded
13 and the record is closed.

14 (WHEREUPON, at 12:47 p.m., the
15 above-entitled proceedings were concluded.)

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P R O C E E D I N G S

1
2 HEARING OFFICER: My name is Dara Hall and
3 I'm the Hearing Officer today In The Matter of
4 Eric Pennington. This matter will be heard
5 before the Cosmetology Technical Advisory
6 Committee. This hearing concerns matters
7 specified in the Order and Notice of Hearing.
8 Today is January 28, 2019.

9 Respondent, please identify yourself for
10 the record.

11 Mr. Pennington?

12 Can we sound the halls for Mr. Pennington?

13 MR. ROGERS: While we're waiting, we have
14 one redaction that Ms. Kersey --

15 HEARING OFFICER: Let's go off record
16 then. All right.

17 (WHEREUPON, a brief discussion was held
18 off the record.)

19 HEARING OFFICER: All right. We'll go
20 back on the record now.

21 The halls have been sounded for
22 Mr. Pennington, he has not responded. He has,
23 apparently, chosen not to come to this hearing.

24 So, Mr. Rogers, please identify yourself
25 for the record.

1 MR. ROGERS: Reginald Rogers, one of the
2 attorneys for the Arkansas Department of
3 Health.

4 HEARING OFFICER: Are you ready to proceed
5 with this case?

6 MR. ROGERS: Yes, we are.

7 HEARING OFFICER: All right. We'll
8 dispense with the explanation of the
9 proceedings, since Mr. Pennington is not here,
10 and we will go to the swearing of witnesses.

11 Please rise and raise your right hand if
12 you're going to be a witness in this matter.

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

15 HEARING OFFICER: All right. You all may
16 be seated. I believe my court reporter has got
17 your names.

18 And any preliminary matters to be
19 discussed or offered at this time?

20 MR. ROGERS: Yes. We have an exhibit
21 package, Agency Exhibit No. 1. First page is
22 an Order and Notice of Hearing In The Matter of
23 Arkansas Department of Health versus Eric
24 Pennington, Before the Cosmetology Technical
25 Advisory Committee, that's the first two pages.

1 It's a 12-page document. The next page, the
2 third page of 12 is a return receipt with the
3 copy return showing what appears to me to be a
4 signature of Eric Pennington, and 7411 Baseline
5 Road, Little Rock, Arkansas; the fourth page is
6 the inspection report of November 6, 2018, by
7 Ms. Knopp, and then there is some licensing
8 information. And then Page 7 of 12 is a letter
9 to Eric Pennington, date of the letter is
10 November 28, 2018, 7812 Woodson Lateral Road,
11 Woodson, Arkansas 72180, telling him that he
12 would -- there was an inspection at Style
13 Masters Barber and Beauty Shop and they noted a
14 license number on his displayed license was not
15 a valid license number, and then upon
16 investigation it, apparently, was falsified.
17 Page 8 is another return receipt of that
18 December -- excuse me, November letter, 28th
19 letter, and it was signed Eric Pennington, and
20 received, date of delivery looks like
21 December 8, 2018. A copy of the letter,
22 another return receipt on Page 10. And then on
23 Page 11 is a license that was found by the
24 inspector at Style Masters, and it looks pretty
25 good but it's not an accurate --

1 MS. KERSEY: We have the actual license
2 too.

3 MR. ROGERS: It's not an accurate license.
4 It's almost as good as some of the money -- you
5 know, some of the money that I make, but --
6 oops, that's on -- are we being recorded? Oh,
7 oh, that slipped out. Oh, oh, I might need to
8 hire him for my -- oh, anyway, better move on.

9 And then the next page of -- we redacted
10 out Ms. Kersey's home address, which is not
11 releasable under FOI, but Page 12 is an example
12 of her actual license, so we asked for -- and
13 you can see the difference between the two.

14 MS. WILSON: Even the fraudulent one is
15 pretty.

16 MS. WARE: Wow

17 MS. BOYDSTUN: That's amazing.

18 MS. WARE: I know it.

19 MR. ROGERS: So we offer that as our
20 Exhibit 1.

21 HEARING OFFICER: Have the redactions been
22 made before it was given to my court reporter?

23 COURT REPORTER: Yes.

24 HEARING OFFICER: And -- okay. It's
25 admitted into evidence as CTAC Exhibit 1.

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

3 HEARING OFFICER: And it may be published
4 to the Committee and you may call your first
5 witness.

6 MR. ROGERS: I call Jackie Knopp.

7 WHEREUPON,

8 JACLYN KNOPP,

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

12 DIRECT EXAMINATION

13 BY MR. ROGERS:

14 Q State your name, where are you employed?

15 A Jaclyn Knopp, Arkansas Department of Health,
16 Cosmetology and Massage Therapy.

17 Q And tell us about the visit with Mr. Eric Pennington
18 at Style Masters. You have an inspection report on
19 Page 4 --

20 A Yes.

21 Q -- of December 6, 2018?

22 A Yes. I went inside the salon that day and performed
23 the inspection, got the license information down. His
24 cosmetology license was up pretty high so I had to strain
25 to see it, and he was working on a client at the time.

1 Then when he got done with his client I asked him if he
2 knew that his license was expired, and he said, "Yes,
3 I'll take care of it." I had him to sign the inspection
4 sheet and I left.

5 Q And on your inspection sheet it shows two violations
6 under Rule 5.1?

7 A Yes.

8 Q Practitioner license current and employee has
9 current Arkansas -- no, which one is this?

10 MS. KERSEY: Employee doesn't have a
11 current license.

12 MR. ROGERS: Right.

13 MS. KERSEY: Yeah.

14 BY MR. ROGERS:

15 Q Okay. And what else, what did you do next?

16 Did you notice a problem with his license?

17 A I didn't at the time.

18 Q Okay. When did you do so? When did you notice a
19 problem?

20 MS. KERSEY: She didn't. It was us.

21 Sorry.

22 BY MR. ROGERS:

23 Q Okay. You reported to staff and they looked it up?

24 A Yes.

25 Q Is there anything else you want to tell the

1 Committee?

2 A I did go back at a later date and retrieved the
3 license to bring it back to the office.

4 Q And did he turn it over to you or --

5 A Yes.

6 Q Okay. Did he have any explanation or --

7 A No.

8 MR. ROGERS: I pass the witness.

9 HEARING OFFICER: Mr. Pennington isn't
10 here so we're going to pass it right to the
11 Committee. Committee have any questions?

12 MS. WARE: How long was it after you did
13 the inspection and you went back to get that
14 license?

15 THE WITNESS: I would say maybe two weeks.

16 MS. WARE: Oh, okay.

17 THE WITNESS: Uh-huh.

18 MS. WILSON: And how did -- did you take a
19 picture of it and brought it back or how did
20 somebody go --

21 THE WITNESS: Me and Trinidad McFall both
22 went back on my second time and just asked for
23 the license and he took it down off the wall
24 and gave it to me.

25 MS. KERSEY: That's a question for me.

1 MS. WILSON: Okay.

2 MS. KERSEY: I know.

3 HEARING OFFICER: All right. No
4 additional questions from the Committee?

5 You want to excuse this witness
6 temporarily subject to recall?

7 MR. ROGERS: Yes, sir.

8 HEARING OFFICER: You are so excused.
9 Call your next witness.

10 MR. ROGERS: Kelli Kersey.

11 MS. KERSEY: Kelli Kersey, Arkansas
12 Department of Health Cosmetology and Massage
13 Therapy Section, Section Chief.

14 WHEREUPON,

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

19 DIRECT EXAMINATION

20 BY MR. ROGERS:

21 Q And tell us about how you discovered that that was a
22 falsified license.

23 A Okay. When we get the inspection sheets we
24 verify -- you know, when they have violations written on
25 the inspection sheet we verify the license. When we put

1 this license number in, 126110, it was not for Eric
2 Pennington, it was actually a student permit number.
3 Okay? So we start looking for him in the system, and
4 we -- we actually found him. He -- he was licensed at
5 one time.

6 Q You're looking at Page --

7 A Sorry. Five.

8 Q -- 5?

9 A Page 5, yeah, you can see that he has been licensed.
10 He --

11 And then if you look on Page 6 at the notes, since
12 2015 -- we get reports from child support, and we have to
13 suspend their license. When they are behind on child
14 support, we have to suspend their license. Okay? And so
15 since --

16 Q And that's all professions?

17 A Yes, yes.

18 HEARING OFFICER: Except for attorneys.

19 THE WITNESS: Oh, okay.

20 Now, so --

21 MS. BOYDSTUN: That might have to change.

22 THE WITNESS: Okay. Now, so he had -- he
23 was suspended in 2015 and 2017.

24 And if you look on down it was 2013 also,
25 he did get his -- and his license had actually

1 expired completely so he had to take the exams
2 again. So he got his license back -- okay --
3 in '14, and then '15, '16, child support, '17,
4 child support.

5 So he can't renew his license when it's
6 suspended.

7 BY MR. ROGERS:

8 Q For child support he can't, he doesn't -- he cannot
9 get his license?

10 A Right.

11 HEARING OFFICER: Until he pays it back --

12 THE WITNESS: Until he pays the child
13 support. Yeah.

14 MS. WILSON: So fraud is better?

15 BY MR. ROGERS:

16 Q And that applies to all of our licenses?

17 A Okay. So we kept -- we looked and we just kept -- I
18 mean we're like, what -- we don't even know what that is,
19 and we're like, how -- and so we contacted Jaclyn and
20 we're, like, listen, what's the deal with this license?
21 She tells us it's way up, you know, and she can see the
22 expiration, she didn't take it down. And, I mean, you
23 can see looking at that, it looks legitimate. If it was
24 way up high --

25 MS. WARE: Right.

1 THE WITNESS: So anyway, we're like, we
2 need you to go get that because that is
3 fraudulent, it's got to be, it's got to be a
4 fake license.

5 So she goes and retrieves it and when she
6 walked in and she said, "I need your license,"
7 and he said, "Oh, blank," and that's all he
8 said and he handed her his license.

9 MS. BOYDSTUN: Oh, okay.

10 THE WITNESS: Yeah. So we, she brings it
11 back to us and we, of course, start examining
12 it. Pretty good, he did a pretty good job.
13 His expiration date is not right because it's
14 not his birthday; that license --

15 MS. BOYDSTUN: He should have went in
16 graphic design.

17 BY MR. ROGERS:

18 Q The border though --

19 A Yeah, the border is not right.

20 MS. BOYDSTON: It's not right but the
21 color --

22 THE WITNESS: Yeah, the border is not --
23 not right, you know, the size isn't right.
24 Yeah. I have the original if you would like to
25 see that.

1 BY MR. ROGERS:

2 Q And your name isn't on here?

3 A Oh, yeah. Well, it's not on our little one. If you
4 will look up there.

5 Q Oh, I see.

6 A I think he was just copying the little one.

7 MS. WARE: Oh, the little one. Oh.

8 THE WITNESS: Yeah. It's not the same
9 size though. It's not still the same size.

10 MS. WARE: I see what you're saying.

11 Okay.

12 THE WITNESS: Yeah. Okay. The copy is
13 not quite as good as the one he actually sent
14 us. I mean, that's pretty good.

15 MS. BOYDSTUN: Oh, that is good.

16 MS. WARE: Oh, that's the one he --

17 THE WITNESS: Yeah. And I brought my --

18 MS. BOYDSTUN: What a talent.

19 THE WITNESS: And I brought my original.

20 BY MR. ROGERS:

21 Q Which one do you have to display? The larger one?
22 This one?

23 A You can display either one. So here is mine, the
24 real one, and here is his. Pretty good.

25 MS. BOYDSTUN: That's pretty good.

1 THE WITNESS: Okay. So then we --

2 MS. WARE: Even with the water marks.

3 THE WITNESS: Yeah, uh-huh. We don't know
4 how he did that.

5 And now I will say also, when you copy
6 ours, if you make a copy of ours, it says,
7 copy, copy, copy, copy, copy.

8 MS. BOYDSTUN: Right.

9 THE WITNESS: So, I mean, he literally
10 made this, I mean, and obviously his doesn't
11 say copy, because y'all got the copies.

12 MS. WARE: Right.

13 MS. BOYDSTUN: That took him a lot of
14 work.

15 THE WITNESS: Yeah. So I sent him a cease
16 and desist letter, which he signed for, on
17 Page -- that was one of those green copies. I
18 think it's on actually Page --

19 BY MR. ROGERS:

20 Q Seven or --

21 A -- 10 and 8, that's because they are copies, I don't
22 know, we've got two copies in there. So he signed for it
23 and then he signed for the Notice of Hearing as well.

24 But he's not here so, anyway, that's how it goes.

25 MS. BOYDSTUN: This is the second license

1 fraud I've seen.

2 THE WITNESS: Yes. We've had this before.

3 MS. BOYDSTUN: Stretch it out? Stretch
4 out the date.

5 THE WITNESS: Right. That girl had cut
6 and pasted her name on it. It was real pretty.

7 BY MR. ROGERS:

8 Q Now, we may refer this to the appropriate law
9 enforcement --

10 A Correct.

11 Q -- if upper management --

12 A Yes.

13 Q -- decides to do that, because that's falsifying a
14 state --

15 A State document, yeah.

16 Q -- state document?

17 A Yeah.

18 HEARING OFFICER: Alteration of a state
19 document.

20 THE WITNESS: Which doesn't have anything
21 to do with what y'all would like to do with it.
22 Yeah.

23 BY MR. ROGERS:

24 Q Anything else you would like to inform the Committee
25 of?

1 A I think that's it.

2 Q So the penalty proposed is?

3 A We didn't have one. Sorry.

4 Q Because he doesn't have a license so --

5 A He doesn't have a license.

6 Q -- nothing to revoke?

7 A He can't get a license, yeah, at this point until he

8 pays the child support.

9 Q But they could assess a civil penalty?

10 A Uh-huh.

11 MS. BOYDSTUN: Up to a thousand?

12 BY MR. ROGERS:

13 Q But he owes child support. The child support would

14 come first?

15 A Yeah. That's right.

16 MS. BOYDSTUN: But the thousand would at

17 least delay him from getting it.

18 HEARING OFFICER: Well, he would have to

19 pay the child support first.

20 MS. BOYDSTUN: Right.

21 HEARING OFFICER: So whatever you fine

22 him --

23 MS. BOYDSTUN: So then he would have to

24 pay the child support, then pay this, then do

25 that.

1 HEARING OFFICER: Yes.

2 MS. JONES: Which is probably going to
3 result in him doing hair at the house.

4 MS. BOYDSTUN: Then he needs to get fined
5 again.

6 THE WITNESS: Hard to catch them there.

7 MS. BOYDSTUN: I know, right?

8 THE WITNESS: And he's really dangerously
9 getting close to -- to it expiring again and
10 him having to take the exams, because after
11 five years you can't renew.

12 MS. WARE: Five years?

13 THE WITNESS: Uh-huh. You have to
14 reapply.

15 MS. WILSON: Uh-huh.

16 MR. ROGERS: I believe that concludes our
17 testimony and we rest and no closing.

18 HEARING OFFICER: All right. At this time
19 we will go off the record for the Committee's
20 recess for deliberations and a decision
21 regarding the findings of fact, conclusions of
22 law, or any penalties to be handed down. Once
23 the Committee reaches a decision, we will go
24 back on the record. The deliberations are open
25 to the public under the Freedom of Information

1 Act. All parties may remain and observe the
2 deliberations.

3 (WHEREUPON, the Committee retired to
4 deliberate, off the record, from 1:05 p.m. to
5 1:07 p.m., and returned with the following
6 decision:)

7 HEARING OFFICER: All right. We will now
8 go back on the record for the Committee's
9 decision.

10 Do I hear a motion?

11 MS. BOYDSTUN: Me?

12 I make a motion that we assess the fine of
13 \$1,000 per violation, two violations, for the
14 total of \$2,000.

15 HEARING OFFICER: And this is based on a
16 finding that he did not have a current Arkansas
17 license and that he had a fraudulent license?

18 MS. BOYDSTUN: Yes.

19 MS. JONES: And I second.

20 MS. WARE: All in favor?

21 COMMITTEE MEMBERS: Aye.

22 HEARING OFFICER: All right. Please
23 reduce the Committee's decision to writing and
24 make or attempt service upon all parties.

25 Thank you very much.

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Are there any questions or comments
regarding this hearing?

Hearing none, this hearing is concluded
and the record is closed.

(WHEREUPON, at 1:08 p.m., the
above-entitled proceedings were concluded.)

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1 Kelli Kersey gave an update about the current
2 legislative session.

3 There was no public comment.

4 The meeting was adjourned by Chairman Ware.

5 (WHEREUPON, at 1:12 p.m., the
6 above-entitled proceedings were concluded.)

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CERTIFICATE

STATE OF ARKANSAS)
COUNTY OF PULASKI)

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the meeting and hearings, before the Arkansas Department of Health Cosmetology Technical Advisory Committee, January 28, 2019, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision; that the witnesses were duly sworn by the Hearing Officer; and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

SIGNED AND SWORN this _____ day of

_____.

SUSAN B. WHITSON, CCR, #158
NOTARY COMMISSION #12388076
NOTARY PUBLIC IN AND FOR
PULASKI COUNTY, ARKANSAS

My Commission Expires: June 4, 2022.

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