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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 20th day of March 2017, the meeting of the Arkansas Department of Health, Cosmetology Section, Cosmetology Technical Advisory Committee was held, at 9:00 a.m., at the Arkansas Department of Health, Freeway Medical Building, Suite 801, Little Rock, Pulaski County, Arkansas.

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- TECHNICAL ADVISORY COMMITTEE:
TONYA BOYDSTUN, Chair (not present)
BRIAN KEARY, Co-Chair
ANGELA JACKSON (not present)
TRISH ANDERSON
JESSICA PECK (not present)
LOIS WARE

REPORTED BY:
SUSAN B. WHITSON, CCR
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9810 Woodland Drive
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(501) 455-1170
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1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 BROOKS WHITE, ESQ.

4 HEARING OFFICER:

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

8 Staff Members Present:

9 KELLI KERSEY - Section Chief
10 CONNIE MELTON, ADH Branch Chief, Health Systems Licensing
11 and Reg
12 AMANDA WEEKS

12 Inspectors Present:

13 LAVONNE LESTER
14 VERA WOOD
15 YVONNE SMITH
16 JACLYN KNOPP

16 ALSO PRESENT:

17 Charlotte Gray
18 Denise Sandage

19 COURT REPORTER:

20 Susan B. Whitson, CCR
21 Arkansas Supreme Court Certificate No. 158

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1 The meeting of the Arkansas Department of
2 Health, Cosmetology Technical Advisory
3 Committee was called to order by Brian Keary.
4 Board members present are Brian Keary, Carla
5 Jones, Trish Anderson, and Lois Ware; board
6 members absent are Jessica Peck, Tonya
7 Boydston, and Angela Jackson.

8 Motion was made by Trish Anderson to
9 approve the minutes of the previous meeting,
10 second by Carla Jones, unanimous vote.

11 Motion was made by Trish Anderson to
12 approve the paid violations, second by Carla
13 Jones, unanimous vote.

14 Brooks White was introduced as the new
15 Department Health attorney who will be covering
16 the CTAC meetings and hearings.

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1 HEARING OFFICER: My name is Dara Hall,
2 I'm the Hearing Officer today in the matter of
3 Charlotte's Hair Studio. This matter will be
4 heard before the Cosmetology Technical Advisory
5 Committee. Today is 20 March 2017. Please
6 turn all cell phones off or place them on
7 silent mode.

8 Respondent, please identify yourself for
9 the record and have a seat at the table. And
10 is she here?

11 MS. GRAY: Yes.

12 HEARING OFFICER: Just have a seat where
13 ever the court reporter directs so she can hear
14 you.

15 MS. KERSEY: She has a witness. Do you
16 want her to come up there?

17 HEARING OFFICER: Not yet.

18 MR. KEARY: Okay.

19 HEARING OFFICER: Are you represented by
20 counsel?

21 MS. GRAY: No.

22 HEARING OFFICER: Now, did the court
23 reporter get your name for the record yet?

24 COURT REPORTER: (Shaking head from side
25 to side.)

1 HEARING OFFICER: Please identify
2 yourself. State your name.

3 MS. GRAY: Charlotte Gray.

4 HEARING OFFICER: Are you aware that you
5 have the right to have counsel present?

6 MS. GRAY: Yes.

7 HEARING OFFICER: If at any time you do
8 not understand the proceedings, please let me
9 know.

10 MS. GRAY: Okay.

11 HEARING OFFICER: Did you receive a copy
12 of the Order and Notice of Hearing concerning
13 today's matter?

14 MS. GRAY: Yes.

15 HEARING OFFICER: Are you ready to proceed
16 on this matter?

17 MS. GRAY: Yes.

18 HEARING OFFICER: Committee's counsel,
19 please, identify yourself for the record.

20 MR. WHITE: I'm sorry. I'm Brooks White,
21 counsel for the Department of Health.

22 HEARING OFFICER: For the benefit of
23 anyone present today who may not have appeared
24 in an administrative hearing, the Committee
25 will base its decision solely on the evidence

1 presented here today. This hearing is held
2 pursuant to the Administrative Procedures Act,
3 which means that the strict rules of evidence
4 do not apply and the parties will be given
5 latitude in introducing evidence. This is to
6 promote a fair hearing and to provide the board
7 with adequate information to make a decision.
8 The administrative adjudicatory process should
9 be more expeditious and less expensive for all
10 parties than a judicial proceeding. The
11 hearing should be much less formal, consistent
12 with the fundamentals of fairness,
13 impartiality, and thoroughness. The Hearing
14 Officer's goal is to develop a fair, accurate,
15 and intelligible and concise record that can be
16 reviewed. To ensure efficiency of the
17 proceeding I will grant objections or caution
18 the parties only as necessary.

19 If there is anything that you have in your
20 possession that you want the Committee to
21 consider, you must offer it into evidence
22 today.

23 Do you have -- okay. All participants in
24 the hearing should be aware that these
25 proceedings are subject to the Freedom of

1 Information Act and, as such, all parts of the
2 hearing, including the deliberations of the
3 Committee, are open to the public.

4 For those of you who are or may be
5 witnesses today in this matter, please, raise
6 your right hands to be sworn in.

7 Ma'am, are you going to testify?

8 Okay. Good.

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

11 HEARING OFFICER: Thank you.

12 Are there any other preliminary matters to
13 be discussed or offered at this time for either
14 party?

15 Does anybody have any exhibits they want
16 introduced? Can we get that out of the way?

17 MR. WHITE: Yes, Mr. Hearing Officer. We
18 would move to introduce the hearing packet
19 that's been put together, it's numbered 46
20 pages, and I have a copy of it here. I think
21 you have a copy.

22 HEARING OFFICER: Is that going to be the
23 State's Exhibit 1?

24 MR. WHITE: Yes.

25 HEARING OFFICER: Does the court reporter

1 have a copy of it?

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

4 HEARING OFFICER: Has the Respondent been
5 given a copy? Do you have any --

6 MS. GRAY: Is this it?

7 HEARING OFFICER: Yeah.

8 Do you have any objections to that
9 ma'am --

10 MS. GRAY: Well, no.

11 HEARING OFFICER: -- being introduced into
12 evidence? You can argue about the things
13 inside of it when it's your turn.

14 MS. GRAY: Okay.

15 HEARING OFFICER: But any objections to it
16 being admitted into evidence?

17 MS. GRAY: No.

18 HEARING OFFICER: All right. There being
19 no objections to its admission into evidence it
20 is so admitted.

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

23 HEARING OFFICER: Now, do you have any
24 documents, ma'am, you would like entered into
25 evidence?

1 MS. GRAY: No. I don't have.

2 HEARING OFFICER: All right. Counselor,
3 are you ready to proceed?

4 MR. WHITE: I am. I will call --

5 HEARING OFFICER: I'm sorry. Hold on.
6 Before we do that, you're ready to proceed
7 already, you said, so do either of you wish to
8 make an opening statement?

9 I'm sorry, you were about to get there.
10 Do you want to make an opening statement right
11 now?

12 MS. GRAY: No.

13 HEARING OFFICER: Counsel?

14 MR. WHITE: I'll just make a brief opening
15 statement.

16 HEARING OFFICER: Go ahead.

17 MR. WHITE: This is an action to recover
18 fines for two separate offenses, one is not
19 having a current license when -- when the
20 inspection on 8/4/16 occurred it was determined
21 that there was no evidence of a current license
22 that was paid up, and checking in the database
23 confirmed that; and also the evidence will show
24 that Ms. Howard [sic] was uncooperative in the
25 course of the inspection and, in fact, made the

1 inspectors leave her premises, so that is a
2 separate violation. The first -- the -- for
3 the no license, \$250, and for the interference
4 is \$500, so that's a total of \$750 in fines
5 that we're seeking to recover.

6 The -- the relevant rules, of course, the
7 statute itself requires the license to be
8 current and that failure to have a license is a
9 violation of -- and I'm trying to find my cite
10 here.

11 MS. KERSEY: Here.

12 MR. WHITE: Okay. Arkansas Code
13 17-26-105. And the interference is based on
14 Health Department Rule No. 5.1(A), refusal to
15 permit or interference with an inspection
16 and/or audit constitutes a cause for
17 disciplinary action, so that is what the \$500
18 is based on.

19 That's it.

20 HEARING OFFICER: Okay. And you may call
21 your first witness.

22 MR. WHITE: I'll call Kelli Kersey.

23 WHEREUPON,

24 KELLI KERSEY,

25 having been called for examination, and having been first

1 duly sworn by the Hearing Officer, was examined and
2 testified, as follows:

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

6 DIRECT EXAMINATION

7 BY MR. WHITE:

8 Q Okay. And, Ms. Kersey, were you in that capacity in
9 August of 2016?

10 A Yes, sir.

11 Q Okay. And in that capacity, are you knowledgeable
12 about an inspection that occurred with regard to
13 Charlotte's Hair Studio in that month?

14 A Yes, sir.

15 Q Okay. Could you just describe for the board, if you
16 would, what occurred in the course of that inspection?

17 A Our inspectors --

18 Q And who were they?

19 A Lavonne -- I'm sorry, let me get there -- and --
20 Lavonne Lester and Tonya Williams, who is no longer with
21 the department, went to Charlotte's Hair Studio on
22 8/4/2016. They entered the salon and got to the license
23 and looked at the license, and that's why the checks are
24 for the license. Ms. Charlotte came in at that point and
25 did not want them in the salon and so she -- I don't know

1 if she asked them to leave, but she was pretty forcible
2 about wanting them to leave so they just left the
3 premises.

4 Q Okay. And was it determined by the inspectors that
5 she had no posting of her current -- of a current
6 license?

7 A Yes. That's -- that's as far as they got in the
8 inspection.

9 Q Okay. And after they determined that there was no
10 posting of a current license, was her licensure status
11 looked up in the relevant database?

12 A It was.

13 Q And what was determined?

14 A That it had expired in December 2014.

15 MR. WHITE: Okay. No further questions at
16 this time --

17 HEARING OFFICER: Okay.

18 MR. WHITE: Well, let me -- I do have, if
19 I could.

20 HEARING OFFICER: You can.

21 BY MR. WHITE:

22 Q Okay. Ms. Kersey, had there been any prior history
23 of -- of Ms. Howard [sic] interfering with -- with
24 inspectors before this August 16 inspection?

25 A Yes. We have had -- we've had two other inspectors

1 go in there and she has asked for both of them not to
2 come back.

3 Q And when was that done?

4 A Let's see. Six -- on 6/26/2013, she refused to sign
5 the inspection, and on -- well, in '14 -- oh, gosh. I'm
6 sorry, I'm looking for the other one. It looks like on
7 10/31/2014 she did let them in and she had multiple
8 violations.

9 Q Okay.

10 A Sorry.

11 Q Okay. So there was one prior incident of her not
12 letting inspectors conduct an inspection?

13 A Correct.

14 MR. WHITE: Okay. No further questions at
15 this time.

16 HEARING OFFICER: Any cross-examination
17 for this witness?

18 MS. GRAY: Yes.

19 CROSS-EXAMINATION

20 BY MS. GRAY:

21 Q Ms. Kelli?

22 A Yes, ma'am.

23 Q Did I also have a meeting with you and your staff?
24 I came up and I talked to you --

25 A Yes.

1 Q -- about why I didn't let the inspectors in?

2 A Yes, ma'am.

3 Q And everything that was going on?

4 A (Nodding head up and down.)

5 Q I felt like the instructors -- I mean not the
6 instructors --

7 HEARING OFFICER: Ma'am, you can ask
8 questions but you can't testify.

9 MS. GRAY: Oh, okay.

10 HEARING OFFICER: When it's your turn to
11 testify you can and I'll let you have a chance.

12 MS. GRAY: Okay.

13 HEARING OFFICER: Just questions for her
14 now.

15 MS. GRAY: Okay.

16 HEARING OFFICER: Do you have any more
17 questions?

18 You can think about it, though, I don't
19 want to rush you.

20 MS. GRAY: Yes, I have another question.

21 BY MS. GRAY:

22 Q When I came up and talked to you in 2014 about the
23 situation --

24 A Uh-huh.

25 Q -- what happened?

1 A The violation was waived.

2 Q Okay. Why was it waived?

3 Why -- why -- did you waive them?

4 A Why?

5 Q Yes, ma'am.

6 A We thought it was best with your complaint that you

7 filed.

8 Q What was my complaint?

9 A That the inspector was racist.

10 Q Yes, ma'am. Yes, ma'am. Okay.

11 A And she's not been back in there.

12 Q Okay. Okay. Okay.

13 HEARING OFFICER: Any further questions?

14 MS. GRAY: No.

15 HEARING OFFICER: Does the -- does the

16 Committee have any questions for this witness?

17 MS. ANDERSON: I do have a question.

18 So, Ms. Gray, you have --

19 THE WITNESS: No, it's for me. Just for

20 me.

21 MS. ANDERSON: Oh, excuse me.

22 Ms. Kelli, okay, so we have -- so I'm on

23 track with this. Okay. Her license has been

24 expired since 2014, correct?

25 THE WITNESS: Correct.

1 MS. ANDERSON: It is not current at this
2 time?

3 THE WITNESS: Correct.

4 MS. ANDERSON: Okay. And we've had two
5 other inspections, she wasn't there, her son
6 was there, and then she refused to sign and she
7 has asked the inspectors to leave in an abrupt
8 manner. Is that kind of the gist of what it
9 is?

10 THE WITNESS: Correct.

11 MS. ANDERSON: Okay. Thank you.

12 MS. GRAY: I have a -- can I --

13 HEARING OFFICER: Hold on.

14 MS. GRAY: Okay.

15 HEARING OFFICER: Any Committee questions
16 at this time?

17 MS. JONES: Yes, I have one question.

18 So is her -- does she have a current
19 practitioner's license or is it just her salon
20 license that is expired?

21 THE WITNESS: Her practitioner's license
22 is also expired.

23 MS. JONES: Okay.

24 THE WITNESS: 4/18/2016.

25 MR. KEARY: So for the most part right

1 now, we have no licenses up to date?

2 THE WITNESS: Correct.

3 HEARING OFFICER: Any other questions from
4 the Committee?

5 If not, any redirect?

6 MR. WHITE: No.

7 HEARING OFFICER: Now you get a chance,
8 ma'am, do you have a recross?

9 RE CROSS EXAMINATION

10 BY MS. GRAY:

11 Q When I came in, Ms. Kelli, did I pay for my license
12 and my shop license when I came to visit you or when
13 you --

14 A Which visit? We visited several times. Sorry.

15 Q When was -- I -- I -- I thought I came in. I -- I
16 don't receive mail at my shop because -- you know, I
17 don't receive mail in my shop, so sometimes things happen
18 to my mail but that's no excuse. So the reason why I
19 came up is because of -- I just felt like the instructors
20 are --

21 MR. WHITE: Mr. Hearing Officer, I would
22 object to this. This is not a question.

23 HEARING OFFICER: I'm --

24 MS. GRAY: Oh, okay.

25 HEARING OFFICER: Okay. I will sustain

1 that objection. You will get a chance to
2 testify.

3 MS. GRAY: Okay.

4 HEARING OFFICER: Okay. Believe me, I
5 will give you that chance.

6 MS. GRAY: Okay.

7 HEARING OFFICER: I'm also not likely to
8 make them stop very much anymore just to get in
9 the speed. If you object, I'll rule, not
10 necessarily in your favor but I'll make a
11 ruling.

12 MR. WHITE: Right.

13 HEARING OFFICER: I'm trying to figure
14 out, if that's it we'll proceed to, State, call
15 your next witness.

16 MR. WHITE: Okay. I will call Lavonne
17 Lester.

18 Where?

19 MS. KERSEY: Right there.

20 MR. WHITE: Okay. There you are.

21 WHEREUPON,

22 LAVONNE LESTER,

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

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 Q Ms. Lester, you heard Ms. Kersey's testimony about
4 the inspection that occurred in August 2016. Were you
5 one of the inspectors that went out on that inspection?

6 A Yes, I was.

7 Q Okay. And do you disagree with any of the testimony
8 that Ms. Kersey gave about what occurred in the course of
9 the inspection?

10 A No.

11 Q Okay. Could you just describe for me, based upon
12 what you remember, when you went out for the inspection,
13 when did Ms. Howard [sic] show up there?14 A When we arrived she wasn't there, and the lady under
15 the dryer told us that she had run to the store.

16 Q Was there a worker there in the --

17 A No.

18 Q -- in the -- okay.

19 A Just a lady under the dryer.

20 Q Okay. And how much -- and so did you-all observe
21 that there was no current license there while she was not
22 there?23 A I was starting to write my inspection and this lady
24 came back.

25 Q And you pointed to Ms. Howard [sic]?

1 A Yes. Ms. Howard [sic].

2 Q Okay.

3 A I just know her as Gray. I guess, Ms. Howard.

4 Q Okay. And when Ms. Howard came back, what did she

5 do?

6 A She started yelling that we didn't have any business

7 there and we needed to leave. And I told her that I was

8 just there to do a regular inspection, and I walked over

9 to where the license were posted and started writing down

10 the information.

11 Q And why did she say, if she did, why she thought you

12 didn't have any business being there?

13 A Why did she say that? I don't know.

14 Q No. Did she -- did she tell you why she thought you

15 weren't supposed to be there or did she just say, y'all

16 are not supposed to be here?

17 A Basically she just said we weren't supposed to be

18 there.

19 Q Okay. She didn't give a reason?

20 A Not that I remember.

21 Q Okay. And did she -- and she told y'all to leave?

22 A Yes. She said she didn't want us there and wanted

23 us to leave.

24 Q Okay. Did she physically push you or anything?

25 A She did, after -- I did get my report written and

1 she wouldn't let me finish the inspection, she
2 physical -- I asked her to sign it then and she refused
3 to sign it and she physically pushed me out of the salon.

4 Q Okay. So you were not able to complete the
5 inspection as --

6 A I did not finish, no.

7 Q -- as a result of her actions?

8 A That's right.

9 MR. WHITE: Okay. No further questions at
10 this time.

11 HEARING OFFICER: Any cross?

12 And my records have you down as Gray. Is
13 it Howard now?

14 MS. GRAY: It's Gray.

15 HEARING OFFICER: Okay.

16 MS. GRAY: I don't know where you got
17 Howard.

18 HEARING OFFICER: Just making sure I had
19 it straight.

20 So, Ms. Gray, do you have any questions
21 for this witness?

22 MS. GRAY: Yes, I do.

23 MR. WHITE: Why did I call her Ms. Howard?

24 MS. GRAY: I don't know.

25 MR. WHITE: I'm sorry. I'm sorry.

1 MS. KERSEY: He's nervous. This is his
2 first time.

3 CROSS-EXAMINATION

4 BY MS. GRAY:

5 Q When you came to my shop, did you identify yourself?

6 A Yes, ma'am.

7 Q No, you did not.

8 MR. WHITE: I'm sorry, Judge, but
9 that's --

10 HEARING OFFICER: Hold on. Hold on.

11 MS. GRAY: Oh, okay.

12 HEARING OFFICER: You can --

13 MS. GRAY: I thought I was supposed to ask
14 her some questions.

15 HEARING OFFICER: You can ask her
16 questions --

17 MS. GRAY: Okay.

18 HEARING OFFICER: But you just said, "No,
19 you did not." That's -- that's testimony.

20 MS. GRAY: Okay. Okay. Okay.

21 HEARING OFFICER: But you can ask
22 questions.

23 BY MS. GRAY:

24 Q Okay. Okay. When you came to my shop, did you
25 identify yourself?

1 A Yes, ma'am.

2 Q No -- okay. Second of all, I was there. I was --

3 MR. WHITE: I'm sorry. I'm sorry.

4 HEARING OFFICER: Hold on.

5 MR. WHITE: That's testimony.

6 MS. GRAY: Okay. Okay.

7 HEARING OFFICER: And I'll sustain the

8 objection. Just questions.

9 MS. GRAY: Okay. Okay.

10 HEARING OFFICER: Make it in the form a

11 question.

12 BY MS. GRAY:

13 Q Okay. I'm fixing to repeat myself. When you came

14 to my establishment, did you identify yourself?

15 A No.

16 Q Second of all, you went to my wall and you seen that

17 I -- my license or my shop license wasn't current so

18 that's why I asked you to -- okay -- then that's when I

19 proceeded to ask you to leave; is that correct?

20 A Ma'am, I don't understand the question.

21 Q Okay.

22 HEARING OFFICER: Ask it again, slow it

23 down and --

24 BY MS. GRAY:

25 Q When you went -- when you came into my shop you went

1 over to my wall and you said -- did you see -- you seen
2 that my shop license or my shop -- I mean and my current
3 license wasn't valid, right?

4 A Yes.

5 Q At that time did I ask you to leave, when you
6 realized that everything wasn't -- my current license and
7 my -- and my shop license wasn't current?

8 A Yes.

9 Q Okay. When you stood up there and you left, you're
10 saying that I put my hands on you?

11 A Yes.

12 Q As you left the door --

13 A Yes, ma'am.

14 Q -- left out the door?

15 A Yes, ma'am.

16 MS. GRAY: Okay.

17 HEARING OFFICER: Ready to pass the
18 witness at this time, Ms. Gray?

19 MS. GRAY: Yeah. I guess so.

20 HEARING OFFICER: Committee have any
21 questions for this witness?

22 MS. ANDERSON: Ms. Lester, when you went
23 to the -- the salon, this is your first visit
24 to the salon that you had made an inspection?

25 THE WITNESS: It was my first visit, yes.

1 MS. ANDERSON: Okay. Thank you.

2 MR. KEARY: I have a question. You said
3 you had issues getting your mail over at your
4 location, correct?

5 MS. GRAY: Yes.

6 MR. KEARY: Okay. And your mailing --

7 MS. KERSEY: Hang on. Just to Lavonne.

8 MR. KEARY: Okay. Disregard. I'm sorry.

9 HEARING OFFICER: Yeah. Only for the
10 current witness.

11 MR. KEARY: Got you.

12 MS. GRAY: I have -- I have a question
13 also.

14 HEARING OFFICER: Hold on, we'll wait for
15 the Committee to finish.

16 MS. GRAY: Oh, okay.

17 HEARING OFFICER: You'll get another shot
18 at it.

19 MS. GRAY: Okay.

20 HEARING OFFICER: Any other questions from
21 the Committee?

22 Any redirect from the State?

23 MR. WHITE: No.

24 HEARING OFFICER: Now you get to do your
25 recross.

1 answer.

2 MS. GRAY: Okay.

3 HEARING OFFICER: You've asked three
4 questions and the record is not going to be
5 clear --

6 MS. GRAY: Okay.

7 HEARING OFFICER: -- on which one she is
8 answering.

9 MS. GRAY: I'm sorry, sir.

10 HEARING OFFICER: If you want the record
11 to be clear, so -- which you probably do --

12 MS. GRAY: Okay.

13 HEARING OFFICER: -- why don't we start
14 with the first question --

15 MS. GRAY: Okay.

16 HEARING OFFICER: -- and give her a chance
17 to answer, then the second and then the third.
18 Okay?

19 MS. GRAY: Okay.

20 HEARING OFFICER: Could you restate it,
21 please?

22 BY MS. GRAY:

23 Q Why when I violated you leaving my shop why you
24 didn't call the police if I put my hands on you?

25 A I didn't think it was necessary.

1 HEARING OFFICER: Now do the second
2 question.

3 BY MS. GRAY:

4 Q Why I didn't get certified mail concerning this
5 matter about my violations?

6 A I don't know. The office handles that.

7 HEARING OFFICER: Okay. Do you have
8 another question?

9 MS. GRAY: (Shaking head from side to
10 side.)

11 HEARING OFFICER: Are you passing this
12 witness?

13 You need to speak up because the court
14 reporter can't --

15 MS. GRAY: Okay.

16 MS. SANDAGE: I guess I should have been
17 sworn in.

18 MS. GRAY: Okay. I thought I was speaking
19 up clearly. I'm sorry.

20 HEARING OFFICER: No, you -- when I asked
21 if you had any further questions you shook your
22 head.

23 MS. GRAY: I'm thinking. I'm thinking,
24 sir.

25 HEARING OFFICER: All right. Taken your

1 time. Take your time.

2 MS. GRAY: I'm sorry. I'm sorry. This is
3 not -- you know, I'm not used to being in
4 court; so --

5 HEARING OFFICER: Just let me know when
6 you're -- either ask another question --

7 MS. GRAY: Okay.

8 HEARING OFFICER: -- or let me know when
9 you're ready to pass.

10 MS. GRAY: Okay.

11 HEARING OFFICER: That's all you have to
12 do. Just take your time.

13 MS. GRAY: Okay.

14 BY MS. GRAY:

15 Q I just want to know why I didn't get certified
16 mailing concerning this incident?

17 HEARING OFFICER: The witness has already
18 answered the question.

19 MS. GRAY: Okay.

20 HEARING OFFICER: So you --

21 MS. GRAY: Okay.

22 HEARING OFFICER: She's already answered.
23 She can only give you --

24 MS. GRAY: Okay. Okay.

25 HEARING OFFICER: Do you have any other

1 questions?

2 MS. GRAY: (Shaking head from side to
3 side.)

4 HEARING OFFICER: Is that a no?

5 MS. GRAY: Oh, yes, sir. I do have
6 another question.

7 HEARING OFFICER: Go ahead.

8 BY MS. GRAY:

9 Q That violate -- out of all of your violations that
10 day, how many African-Americans also got violated? Or
11 anybody else, did they -- did anybody else get violated
12 that day?

13 A I don't remember.

14 MS. GRAY: No further questions.

15 HEARING OFFICER: Thank you, ma'am.

16 REDIRECT EXAMINATION

17 BY MR. WHITE:

18 Q Okay. Ms. --

19 MS. KERSEY: Lester.

20 BY MR. WHITE:

21 Q -- Lester, the -- Ms. Gray asked if you -- why you
22 didn't call Ms. Kersey. Did you in fact call Ms. Kersey
23 after this incident?

24 A I don't remember if I did or didn't.

25 Q Okay. If we would -- if you could look -- do you

1 have the hearing packet in front of you?

2 A I do.

3 Q Okay. On Page 17 of the hearing packet --

4 A Okay. Oh, yeah.

5 Q Did you write this narrative?

6 A I did.

7 Q Okay. And when did you write this narrative? It's
8 dated 8/4/16, is that the day you wrote it?

9 A I had a -- a written, handwritten draft of it and
10 then I typed it later.

11 Q Okay. So but you -- you drafted it on 8/4/16?

12 A Yes.

13 MR. WHITE: Okay. All right. No further
14 questions.

15 HEARING OFFICER: Based on that question,
16 do you have any recross, ma'am?

17 MS. GRAY: No.

18 HEARING OFFICER: All right. Call your
19 next witness.

20 MR. WHITE: We rest. We rest.

21 HEARING OFFICER: All right. Okay. The
22 State rests.

23 Ms. Gray, you can call your first witness.

24 MS. GRAY: I don't have any witnesses.

25 HEARING OFFICER: Do you plan to testify?

1 MS. GRAY: What? What?

2 HEARING OFFICER: Do you plan to testify?
3 You would be a witness for yourself.

4 MS. GRAY: Okay.

5 HEARING OFFICER: So are you going to
6 testify?

7 MS. GRAY: Yes, sir.

8 HEARING OFFICER: Then make -- okay. Then
9 call yourself. It's weird. No, you don't have
10 to --

11 MS. GRAY: I, Charlotte Gray --

12 HEARING OFFICER: Okay. So you have to
13 tell the court reporter.

14 MS. GRAY: I, Charlotte Gray --

15 HEARING OFFICER: And you're sworn
16 already, you're sworn, you can go ahead and
17 testify.

18 MS. GRAY: Oh, okay.

19 WHEREUPON,

20 CHARLOTTE GRAY,

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

24 DIRECT TESTIMONY

25 THE WITNESS: That -- that -- okay. The

1 day that they came in my shop, they didn't
2 identify themselves. My client -- I don't no
3 longer have that client, she's no longer with
4 me -- went out and -- and I'm scandalized
5 behind that. State Board comes in, she -- they
6 came in, they rape you. You know, I don't
7 have -- you know, that's my shop. You know,
8 you come in and you violate me, so who do I go
9 to?

10 You know, I understand my license wasn't
11 current or my shop license wasn't current but,
12 you know, for the inspectors to come in and
13 rape you and violate you, who do you go to, you
14 know? I just -- and then, you know --

15 MS. SANDAGE: I can't say anything because
16 I'm not sworn in, right?

17 HEARING OFFICER: Hold on. I don't know
18 who you are but, for the record, would you
19 identify yourself?

20 MS. SANDAGE: My name is the Denise
21 Sandage.

22 COURT REPORTER: What was the last name?

23 MS. SANDAGE: Sandage, S-a-n-d-a-g-e.

24 COURT REPORTER: Thank you.

25 MS. SANDAGE: Yes, ma'am.

1 HEARING OFFICER: Ms. Gray can call any
2 witnesses she wants. I can swear you in if she
3 wants. It's up to her, it's her -- her case.
4 But let's finish Ms. Gray's testimony and cross
5 and questioning from the Committee first and
6 then she can decide if she wants to call you.

7 MS. SANDAGE: Okay.

8 HEARING OFFICER: Go ahead, Ms. Gray.

9 THE WITNESS: No, I just -- I want to call
10 my sister.

11 HEARING OFFICER: Well, wait. Wait until
12 you finish your questioning.

13 THE WITNESS: Okay.

14 HEARING OFFICER: Then you get a chance to
15 call her.

16 THE WITNESS: Okay.

17 HEARING OFFICER: Any cross from the
18 State?

19 MR. WHITE: Yes.

20 CROSS-EXAMINATION

21 BY MR. WHITE:

22 Q Ms. Gray, that's a pretty strong word you use there,
23 rape?

24 A Yes, sir.

25 Q And you feel like when a health department inspector

1 comes in and inspects your premises it amounts to rape?

2 A Yes, because I feel violated. They come in --

3 Q Well, Ms. Gray, do you realize that under the law
4 inspectors not only have a right to come in and inspect
5 your premises, they have a duty to do so?

6 A Yeah, I understand that, but you also got to respect
7 me. Respect me, that's all I ask. You come in my shop,
8 you don't identify yourself, you go straight through my
9 drawers, you go through my closets, you go through
10 everything that I have in front of my clients. It's not
11 right. Respect me. If it was such a problem they could
12 have called me outside and talked to me.

13 Q So the reason -- so do you admit that you -- you,
14 made them leave?

15 A Yes, sir. I asked them to leave. It was
16 embarrassing. First of all you come in, you don't
17 identify yourself, and here I have clients on -- in the
18 shop. It's none of their business what goes on in my
19 shop. If State Board is there to inspect me, that's
20 fine, but don't rape me in front of my clients and
21 humiliate me in front of my clients. I don't want my
22 clients knowing none of my business. That's my biggest
23 fear, when they come in they -- they don't respect me.

24 Q Well, Ms. Gray, do you admit that you physically
25 made her -- you pushed her?

1 A No, sir. I never put my hands on her.

2 And, see, that's one thing that I don't get. If I
3 violated you and if I put my hands on you, call the
4 police. If I violated you, you know, that's -- that's a
5 strong thing to say about me. If I violated, if I put my
6 hands on you, call the police.

7 Q Do you understand that inspectors, that's when they
8 do inspections is during business hours?

9 A I'm not understanding that. I understand is that
10 I'm a hard working woman, a black entrepreneur, living --
11 got a business in Arkadelphia. And right now where I'm
12 at, it's a race war with that street that I'm on. I'm
13 the only black entrepreneur on that street, and I just
14 feel real violated.

15 Q And you think that they were -- that they came out
16 and inspected you because they have a racial animus
17 against you?

18 A Well, I -- I really do, deep down in my heart, I
19 really feel like older white women, they come out, they
20 don't -- they are not nice, they are not -- I don't
21 figure -- you know, I don't have problems with them, they
22 are not there to be my friend. You understand? I want
23 them to be my friend, I want to do better with my
24 business, but every time they come in and inspect it's a
25 problem.

1 Q And you don't think some of that might be your
2 fault?

3 A Well, no, because they are coming to my house.
4 That's my house. What about if I come to your house,
5 Mister, and go through all your drawers and -- and knock
6 on your door and just come on in and just start going
7 through your house and I don't identify myself. How
8 would you feel?

9 Q Do you understand that when you have a license or
10 when you engage in the practice of cosmetology in the
11 state of Arkansas you consent to being inspected in that
12 manner?

13 A Yes. I understand. I've had my business there for
14 years. I've never had a problem until 2014.

15 MR. WHITE: No further questions.

16 HEARING OFFICER: Any questions from the
17 Committee of this witness?

18 MS. WARE: Yes. Is Ms. Lavonne the only
19 one you've felt that way or has there been
20 other inspectors?

21 THE WITNESS: It's been other inspectors.

22 MS. WARE: Men or women?

23 THE WITNESS: Women.

24 MS. WARE: Just women?

25 THE WITNESS: And it be -- it just be

1 white women to come to my shop.

2 MS. WARE: When you returned back to the
3 salon, did -- did you ask them who they were?
4 Or ask Ms. Lavonne who she were?

5 THE WITNESS: Yes, I did. I -- they never
6 did open their mouth. My client is like, who
7 are you? Why are you here? My client
8 shouldn't even asked that.

9 MS. WARE: Yeah, but was it just
10 Ms. Lavonne or was it two of them?

11 THE WITNESS: It was two of them.

12 MS. WARE: It was two? So when you got
13 back you asked them who they were?

14 THE WITNESS: When they got back?

15 MS. WARE: I mean when you got back you
16 asked them who they were?

17 THE WITNESS: I didn't go nowhere. I was
18 standing on the side of my building. I didn't
19 leave my establishment.

20 MS. WARE: Yeah. So when you came in
21 there you asked them who they were --

22 THE WITNESS: Yes.

23 MS. WARE: -- to identify themselves?

24 THE WITNESS: And she still didn't say who
25 she was. She came in with a clipboard and just

1 proceeded to walk around my shop, no
2 communication, rude, so therefore I -- you
3 know, you're in my house.

4 MS. WARE: So she never did say who she
5 was?

6 THE WITNESS: No, ma'am.

7 MS. ANDERSON: Ms. Charlotte, I would like
8 to ask you a question, please.

9 THE WITNESS: Yes, ma'am.

10 MS. ANDERSON: I am an older white woman,
11 so I hope you don't take me the wrong way.
12 Please don't.

13 THE WITNESS: Yes, ma'am.

14 MS. ANDERSON: I come here with a long
15 drive, and I run a school so I'm busy every day
16 and I stand on my feet just like you do and I
17 teach students.

18 THE WITNESS: Yes, ma'am.

19 MS. ANDERSON: But I want you to know
20 that. I would like to know from you when you
21 were in school, they taught you that your
22 drawers needed to be clean, that your combs and
23 brushes need to be clean, correct?

24 THE WITNESS: Yes.

25 MS. ANDERSON: Okay. So when Ms. Lester

1 or any inspector would come in, did they not
2 teach you that they were going to look at your
3 things? Did they not share with you they would
4 check your towel cabinet to see if it had a
5 closed --

6 THE WITNESS: No, ma'am. No
7 communication.

8 MS. ANDERSON: No, I'm asking did -- when
9 you were in school, did you not have someone
10 teach you that the towel cabinet needed to be
11 closed, that the Hydrocide or Barbicide or
12 whatever disinfectant was supposed to be used,
13 you were taught that, correct?

14 THE WITNESS: Yes, ma'am.

15 MS. ANDERSON: So in my mind, this is me
16 thinking, I'm asking you, would it not make
17 sense to you that Ms. Lester was coming to
18 inspect, if she had a clipboard and she had her
19 badge on, she had someone else with her, she --
20 she was coming in to inspect your salon for
21 your license? You knew you didn't have a
22 current license; is that right?

23 THE WITNESS: Yes, ma'am.

24 MS. ANDERSON: So you knew you had a
25 violation, correct?

1 THE WITNESS: Yes, ma'am.

2 MS. ANDERSON: So with that -- are we not
3 supposed to have a current license?

4 THE WITNESS: Yes, ma'am.

5 MS. ANDERSON: Okay.

6 THE WITNESS: Like I said, I've been in
7 business for years where I'm at.

8 MS. ANDERSON: Uh-huh.

9 THE WITNESS: Well established.

10 MS. ANDERSON: Uh-huh.

11 THE WITNESS: And I thought that -- you
12 know, I've been having problems with the State
13 Board since 2014, and I just thought that my --
14 you know, I had got my license.

15 MS. ANDERSON: I'm --

16 THE WITNESS: But, you know, let me tell
17 you something, where my salon is, it's kind of
18 a bad neighborhood, you see what I'm saying?

19 MS. ANDERSON: Okay.

20 THE WITNESS: She didn't identify herself.
21 I don't know who she was. She could have been
22 anybody.

23 MS. ANDERSON: Okay. So you're saying she
24 had no identification on her?

25 THE WITNESS: No.

1 MS. ANDERSON: And you didn't ask her for
2 her identification to inspect you?

3 THE WITNESS: No.

4 MS. ANDERSON: So if somebody came into my
5 business I would probably ask them. But the
6 other thing I want to share with you is, I
7 would like to know from you, in your opinion of
8 this Committee, do you think we're biased to
9 make a judgment on this either? Because --
10 because I feel you -- I feel you really, really
11 agitated and we're not here to be agitating you
12 more. Okay?

13 THE WITNESS: Yes, ma'am. Yeah.

14 MS. ANDERSON: Because -- because that
15 word rape is a big word.

16 THE WITNESS: It is. That's how I feel
17 and you -- an assault.

18 MR. KEARY: I would definitely like to
19 second your question to find out.

20 MS. ANDERSON: Uh-huh.

21 MR. KEARY: Because as a Committee we
22 would definitely need to know if she's going to
23 take offense to any ruling that we make, so I
24 would definitely like to hear your answer on
25 that question. Because those are a couple of

1 terms that were used, rape and violated, that
2 definitely could --

3 THE WITNESS: Uh-huh.

4 MR. KEARY: -- sway our judgment one way
5 or the other on the end result. So, yeah, I
6 definitely second that question.

7 THE WITNESS: Ask it again. Ask the
8 question again, ma'am.

9 MS. ANDERSON: I just was saying to you,
10 do you feel that our committee -- I introduced
11 myself and told you who I was, what I did, that
12 I'm a -- I'm a 60-year-old white woman, I work
13 every day in a salon in a spa, and I have a
14 school, and I work every day standing on my
15 feet, just like you do, so I respect what you
16 do, but do you have a challenge with our
17 Committee and -- because there is mixed race
18 here.

19 THE WITNESS: No.

20 MS. ANDERSON: Okay. So --

21 THE WITNESS: No. I don't. No, ma'am.

22 MS. ANDERSON: Okay. So we want to -- we
23 want to know that before we would make a
24 decision because we don't want anyone to go
25 away from here -- this is a learning process

1 too for you, for each one of these people who
2 sit on this committee. Every day if I can't
3 learn something I've wasted my day so --

4 THE WITNESS: The only thing, Ms. Trish,
5 that I -- okay. Okay. Go on. I --

6 MS. ANDERSON: That's fine.

7 THE WITNESS: I -- I'm just -- I'm just
8 appalled because they go around, they -- you
9 know, and working in -- in -- in a nice car.
10 You know, just look at it on my behalf. I
11 mean, I -- I just -- I don't know, because I
12 don't want to mess myself up, it -- I just -- I
13 just feel violated, like, when they come in. I
14 just --

15 MS. ANDERSON: So your word rape might be
16 a little strong but violated might be the word
17 you feel because they open up your drawers and
18 your cabinets, but I teach my students that.
19 So you weren't taught that in school?

20 THE WITNESS: (Shaking head from side to
21 side.)

22 MS. ANDERSON: I teach my students that
23 they are going to open the drawers, they are
24 going to open the cabinets, they are going to
25 look to see if the trash is --

1 THE WITNESS: But I've been in business
2 for years.

3 MS. SANDAGE: Sometimes --

4 HEARING OFFICER: No, ma'am.

5 MS. SANDAGE: I know I'm not supposed to
6 say anything.

7 HEARING OFFICER: You can't say anything.

8 THE WITNESS: Okay. Okay. Don't say
9 anything.

10 HEARING OFFICER: Are you finished
11 answering the question?

12 THE WITNESS: I just been in business for
13 years, just like you.

14 MS. ANDERSON: Uh-huh.

15 THE WITNESS: And I just feel violated
16 when they come. It just feels -- and it's not
17 that my shop is bad or I'm doing something bad
18 there but I just want respect when they come.
19 That's all. I just want to be respected.

20 MS. ANDERSON: Ms. Charlotte, I think we
21 can all agree we all want that. I think we can
22 all agree to that.

23 Thank you, ma'am.

24 HEARING OFFICER: Any further questions
25 from the Committee?

1 MS. JONES: I do. I have a question.

2 Ms. Gray, do you -- do you understand that
3 we are governed by the -- the laws and the
4 rules and regulations of the Board?

5 THE WITNESS: Yes.

6 MS. JONES: And you do understand that you
7 have to have a current license?

8 THE WITNESS: Yes.

9 MS. JONES: For yourself and your
10 operation of your salon?

11 THE WITNESS: Yes.

12 MS. JONES: Okay.

13 MS. WARE: I have a question. Ms. Gray,
14 when you say violated, are you talking about
15 every time you've been inspected that you feel
16 violated?

17 THE WITNESS: Yes, ma'am.

18 MS. WARE: By every inspector?

19 THE WITNESS: Yes, ma'am.

20 MS. WARE: Okay. So all of them go
21 through your stuff and --

22 THE WITNESS: I mean it's -- it's -- it's
23 a thing, it's a disrespectful thing. I don't
24 have a problem with State Board coming to
25 inspect my shop.

1 MS. WARE: Uh-huh.

2 THE WITNESS: But don't do it over my
3 clients, don't do it when I'm working, you know
4 what I'm saying. It's -- it's as though --
5 respect me. I don't feel like it's being
6 respect -- I'm being respected.

7 HEARING OFFICER: Any further questions
8 from the Committee at this time?

9 If not --

10 MR. WHITE: I do have a --

11 HEARING OFFICER: You'll get a chance. Do
12 you have any redirect yourself?

13 MR. WHITE: Okay.

14 HEARING OFFICER: Do you want to testify
15 about anything else?

16 THE WITNESS: (Shaking head from side to
17 side.)

18 HEARING OFFICER: Is that no?

19 THE WITNESS: Yes. No, sir. No, sir.

20 HEARING OFFICER: Okay. Then you can
21 recross.

22 RE-CROSS EXAMINATION

23 BY MR. WHITE:

24 Q Okay. Ms. Gray, do you have any reason to believe
25 that you've been treated differently than any of the

1 other cosmetologists in the state of Arkansas with regard
2 to inspections?

3 A Well, deep down -- well, yeah, I just need to -- I'm
4 in Arkansas, so yes, I do. I'm just going to go on and
5 say it, yes.

6 Q Well, you said -- I asked you if you have a reason
7 so now I'm going to ask you what --

8 A Yeah, I do have a reason.

9 Q Now I'm going to ask you, what are those reasons why
10 you believe that?

11 A Well, just, I'm a 45-year-old entrepreneur, trying
12 to make it, black beauty salon. You know, it's -- it's
13 no -- no way on how to approach me. And I'm probably a
14 little bold and a little strong and therefore they get
15 offended and then they go put stuff on me.

16 Q Put stuff on --

17 A I mean, you know, they write stuff about me and when
18 I -- you know, and then my back is against the wall.
19 That's why I came before the Committee, to -- so you guys
20 can understand how it is on the other hand of the -- on
21 the -- on the other side of the fence --

22 Q Do you have --

23 A -- from a person, from a shop, you know, point of
24 view, sir.

25 Q Okay. Do you have any reason, though, what I'm

1 asking, do you have any reason to believe that your
2 inspection experience that they perform on your shop is
3 any different from the same experience that every other
4 cosmetologist in the state of Arkansas has when they do
5 inspections on their shops?

6 A I don't know. I don't know. But when they come to
7 my shop, I feel violated.

8 Q Okay. So I'm -- but nevertheless, even though you
9 don't know whether the experience is different at other
10 shops --

11 A Because I don't --

12 Q Let me finish my question, please.

13 A Okay.

14 Q Even though you just said you don't know whether the
15 experience at other shops is different, you're still
16 saying that they are discriminating against you on the
17 basis of race?

18 A Yes, I really do feel that way.

19 Q Well, then I'm not understanding, if you try to
20 explain to me why you --

21 A I don't know how they inspect other shops, sir.

22 Q Okay.

23 A I only know what they do to me.

24 Q And you think because of what they do to you they
25 are -- they are motivated by race?

1 A Yes, sir.

2 Q But nevertheless you take that position in spite not
3 knowing what they do at other shops?

4 A Exactly.

5 Q All right. That's all I need to know.

6 A Exactly.

7 HEARING OFFICER: Does the Committee have
8 any further questions based on that recross at
9 this time?

10 MR. KEARY: No.

11 HEARING OFFICER: Do you? I'm sorry.

12 MR. KEARY: No.

13 HEARING OFFICER: All right. If not, then
14 would you like to call your next witness,
15 Ms. Gray?

16 MS. SANDAGE: I haven't been sworn yet.

17 HEARING OFFICER: I will swear you in if
18 she calls you.

19 MS. GRAY: Okay. I would like to call
20 Denise Sandage. Denise Sandage.

21 HEARING OFFICER: Okay. Come sit at the
22 table, Ms. Sandage..

23 MS. SANDAGE: Okay.

24 WHEREUPON,

25 DENISE SANDAGE,

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

4 HEARING OFFICER: All right. Make sure
5 that the court reporter has got your name and
6 we'll ask you questions.

7 THE WITNESS: Okay. I mean, I wasn't at
8 the shop that day.

9 HEARING OFFICER: I'm sorry. Ms. Gray has
10 to ask you questions.

11 THE WITNESS: Okay. Ask me something.

12 DIRECT EXAMINATION

13 BY MS. GRAY:

14 Q How is your experiences when you come and get your
15 hair done at Charlotte's Hair Studios?

16 A I have a good experience but I also know that
17 sometimes you're emotional.

18 Q Okay.

19 A Can you hear me? She's emotional.

20 MR. WHITE: Okay.

21 HEARING OFFICER: Just make sure the court
22 reporter hears you.

23 THE WITNESS: And ask me a --

24 BY MS. GRAY:

25 Q Well, Denise Sandage, since you stated that

1 Charlotte Gray is so emotional, do you believe I put my
2 hands on that inspectors?

3 A Okay. I believe that she came in the shop and, I
4 don't know, I wasn't there, whether or not she identified
5 herself, but I know how you feel about your business.
6 And I do believe if you put your hands on her the police
7 would be called because I know how emotional you can get
8 at times. So therefore I don't believe she put her hands
9 on you because I think it would have been a situation,
10 because you would have reported that day.

11 MS. GRAY: No further questions.

12 MR. WHITE: I have no cross.

13 HEARING OFFICER: Does the Committee have
14 any questions for this witness?

15 MS. JONES: No.

16 MR. KEARY: No.

17 HEARING OFFICER: If not, all right, do
18 you have any additional witnesses to call?

19 MS. SANDAGE: Could I say something else,
20 even if she doesn't ask me a question?

21 HEARING OFFICER: No, really you can only
22 answer questions.

23 MS. GRAY: Okay.

24 HEARING OFFICER: Do you want to take a
25 quick break and you guys work together on the

1 questions? I'll give you five minutes, if you
2 would like.

3 BY MS. GRAY:

4 Q What about my license?

5 A Okay. About he license, Charlotte knows you have to
6 have license to practice in the state of Arkansas, and
7 there have been situations when I've had to help her
8 because of her emotional condition. And here in the last
9 couple of years I've been ill myself and I haven't been
10 as attentive as I used to be with her in trying to help
11 keep her paperwork established.

12 Now, as far as her going to school and, like the
13 lady said, ten years ago, 15 years ago, how ever long --

14 Q Twenty-five.

15 A -- or how ever long it's been, since then there have
16 been a couple problems emotionally so, therefore, I'm
17 not -- I can't tell you that she can remember back to 25
18 years ago or how it was 25 years ago and she was going
19 through school. But I do know that she does know to a
20 certain extent how -- what it takes to maintain a salon.

21 I wouldn't say it's racially based myself. I
22 wouldn't, even though there is racial issues in
23 Arkadelphia concerning that area, and it has been for a
24 long time and probably will continue to be. That's just
25 a fact. She knows her license needs to be paid but she

1 has to be reminded and I usually do that but I haven't
2 been able to keep up with everything that needs to be
3 caught up with. Okay? So that's not my fault, it's not,
4 because she's a grown woman but that's just the fact of
5 the matter.

6 As far as her feeling violated, those are her
7 emotions. Those are not my emotions but those are her
8 emotions and everybody has a right to their emotions.

9 We know the inspections have to be done Monday
10 through Friday or how ever y'all do it. Back in school
11 she was taught that, maybe she forgot that, maybe it
12 didn't come to her, sometimes, you know, we have
13 situations in our lives when we're lacking in certain
14 areas and we might not be at the top of our game. Okay?

15 And as far as the -- I don't know, I know you have
16 to have, you know, your license to practice but as far as
17 the paperwork and all of that, she needs help with that.
18 She needs lots of help with that. And I have -- normally
19 have helped her in the past, and this is personal, I've
20 had stuff going on with my parents, and I just haven't
21 been as attentive to her as I used to be. That's just
22 the bottom line. But I wasn't there that day they came
23 into the shop.

24 And that's just what I have to say, sir.

25 HEARING OFFICER: Any cross at this time

1 from the State?

2 MR. WHITE: No.

3 HEARING OFFICER: Any questions from the
4 Committee?

5 MS. WARE: Yes.

6 HEARING OFFICER: Okay.

7 MS. WARE: Have you ever witnessed an
8 inspection in her salon?

9 THE WITNESS: No, ma'am, I've not been
10 there when -- I'm mostly there on the weekend
11 or late in the evening, you know.

12 MS. WARE: Has she ever discussed her
13 feeling to you about when she's been inspected?

14 THE WITNESS: Well, she has, yes, ma'am.

15 MS. JONES: Has her feelings always been
16 as harsh with other inspectors as she spoke to
17 you about as she has been with this one?

18 THE WITNESS: Well, the one with this one
19 concerned her about when the lady said that she
20 assaulted her, or she put her hands on her,
21 which means the same thing. If you body -- if
22 you touch somebody without their permission in
23 a certain sense it is considered assault. That
24 concerned her, and that was -- and she was kind
25 of upset about that.

1 MR. KEARY: Okay. So looks like there was
2 two complaints received on our end.

3 THE WITNESS: Okay. What --

4 MR. KEARY: So on 2013 and 2014, were both
5 of those complaints for the -- did she talk to
6 you about both of those complaints as far as
7 being a racist type situation?

8 THE WITNESS: Well, this is my sister so
9 we talk about a lot of things personal.

10 MR. KEARY: I definitely understand that,
11 I have an older brother and a younger sister.

12 THE WITNESS: Yes, yes.

13 MR. KEARY: On those two particular dates
14 do you --

15 THE WITNESS: Yes.

16 MR. KEARY: I'll rephrase it for you.

17 THE WITNESS: No, you don't have to
18 rephrase it. I understand.

19 MR. KEARY: Is there more than one
20 altercation that you heard of that seemed like
21 it was racially biased or just that one
22 particular one?

23 THE WITNESS: Well, I'm sitting here
24 listening and this is my first time coming up
25 here, so the first complaint seemed to be

1 racially in 2014 or two thousand whatever, it
2 was concerning that she felt like she was --
3 the people were racist so that was then. Okay.
4 I've known her for a long time now, everybody
5 has their opinions on -- do I think she's
6 racist or do I think that she thinks that
7 everybody that's white that comes into the shop
8 to inspect her is racist? Is that what you're
9 asking me?

10 MR. KEARY: No, ma'am. On the -- there is
11 two complaints that we show that were received.

12 THE WITNESS: Okay.

13 MR. KEARY: Did she actually speak to you
14 about those two different times that --

15 THE WITNESS: She spoke to me about the
16 two different times.

17 MR. KEARY: Okay. Okay.

18 THE WITNESS: Do you want to know what I
19 said about the two times?

20 MR. KEARY: No.

21 THE WITNESS: Okay.

22 MR. KEARY: That's all I have.

23 MS. JONES: You -- you kind of hinted that
24 there was some things going on with your sister
25 as far as her emotions. Do you feel like she

1 was emotional around the inspectors being in --
2 in the salon because she was outside? She
3 said she -- she testified that she was outside
4 her building and the --

5 THE WITNESS: To get some air.

6 MS. JONES: -- the person that was inside
7 the salon was under the dryer --

8 THE WITNESS: Yes.

9 MS. JONES: -- and she testified that her
10 client was inside the building, she was outside
11 the building, she had not actually left. So do
12 you feel like her emotions as far as the
13 inspectors being inside the salon and her not
14 being present at the time is causing all this
15 emotion?

16 THE WITNESS: That could have, yes, ma'am.
17 I mean that could have caused, yes, because I'm
18 just going to say this too, because they are
19 outside -- you say inspectors, I'm going to say
20 two white women, outside that area you don't
21 see two white women.

22 MS. JONES: Well, she --

23 THE WITNESS: But -- but, I'm like, I
24 not -- as far as like the inspecting and the
25 inspectors coming in caused her emotional lapse

1 or emotional -- maybe she has anxiety about
2 inspections, but that's no excuse. Maybe she
3 has anxiety about the inspection. I was not
4 there, like I told you, but I do know that she
5 gets emotional and sometimes she has to step
6 outside and sometimes she -- because I have to
7 too sometimes but -- she also said that they
8 didn't identify themselves, so I don't -- I
9 don't -- I'm going to be honest with you,
10 you're asking me -- I don't know.

11 I know sometimes that her emotions do get
12 away with -- do overcome her just like in here
13 today, but when she steps inside and saw those
14 people inside her shop, that's just probably
15 the way she reacted.

16 MS. JONES: Okay. I just have one more
17 question. She testified earlier that she was
18 in Arkadelphia, she was in a -- the area that
19 she's in, that she was the only
20 African-American in the area, that it was
21 mostly Caucasians around her. So my question
22 would be why would that upset her so to have
23 inspectors in there when she is, apparently,
24 used to being the only African-American in the
25 area?

1 I don't understand why that would upset
2 her.

3 THE WITNESS: All I'm saying --

4 MS. JONES: The fact that she didn't want
5 them in the salon.

6 THE WITNESS: I'm not saying that they
7 upset her. I'm saying emotionally they
8 probably -- they didn't identify themselves.
9 And as far as being the only African-American,
10 she's not the only African-American. There is
11 a barbershop right down the street. She's a --
12 a -- Nelson's Barbershop.

13 So like I said, I wasn't there that day
14 and maybe she just had a -- I know people
15 didn't identify themselves, which I -- I'm not
16 saying it's right, and I'm not saying that the
17 books -- I mean her license should be, you
18 know, on the wall, they should be current, and
19 we've been working with her to try to keep her
20 shop and her situation better, to get -- to
21 keep her in her shop practicing cosmetology.

22 HEARING OFFICER: Any other questions from
23 the Committee at this time for this witness?

24 If not, Ms. Gray, do you have any redirect
25 for this witness?

1 Have you thought of any other questions
2 you want to ask?

3 MS. GRAY: Yes. I need to ask -- I need
4 to ask my witness a question.

5 HEARING OFFICER: Go ahead.

6 REDIRECT EXAMINATION

7 BY MS. GRAY:

8 Q Denise, the area that my shop is in, do you feel
9 like it's -- it's in an area where my mail can be
10 tampered?

11 A Oh, your mail has been tampered.

12 Q My mail has been tampered. And that area --

13 A Yes. And the windows have been broken in.

14 Q My windows have been broken out, shop has been
15 broken in.

16 A Okay. What's the question?

17 Q The question is, the way that your -- that I'm
18 emotional and the way that I am, do you feel like it's
19 because of me being a hairdresser and a cosmetologist
20 running that business for all them many years? Do you
21 think that has a lot to do with it?

22 A Actually I think anyone owning a business or doing
23 business have stress at times, anybody.

24 MS. GRAY: Okay. That's all the
25 questions.

1 THE WITNESS: That's the answer to the
2 question.

3 MR. WHITE: I just have one follow up,
4 ma'am -- or not follow up. One cross.

5 CROSS-EXAMINATION

6 BY MR. WHITE:

7 Q I just want to -- did you say that your sister
8 talked to you about an assault that took place in this
9 visit in August?

10 A Well, she said that she was fined because an
11 inspector came in and said that they put -- that
12 Charlotte put her hands physically on the lady --

13 Q Okay.

14 A -- and pushed her or -- and then I said, well, if
15 you put your hands on the lady, then --

16 Q Right --

17 A -- that's assault.

18 Q Right.

19 A You know, you could be charged for that.

20 Q Can I ask you when that conversation occurred?

21 A Let me see. Actually, I'm going to be honest with
22 you, when did I talk about it? About three weeks ago,
23 maybe.

24 Q Okay. Do you have any idea -- well, I'll ask you
25 that, I'll just --

1 A Maybe about three weeks ago.

2 Q That conversation --

3 A Now, if she said something prior that --

4 Q Okay.

5 A -- I probably wasn't listening.

6 MR. WHITE: Okay. No further questions at
7 this time.

8 THE WITNESS: But, no, you answer -- ask
9 the question.

10 MR. WHITE: No. I'm finished.

11 HEARING OFFICER: You answered ma'am,
12 that's good.

13 Any questions from the Committee based on
14 the -- any last testimony or the testimony
15 since your last questioning? I stumble here.

16 MS. WARE: I have a question.

17 HEARING OFFICER: Go ahead.

18 MS. WARE: So since your mail has been
19 tampered, have you transferred it to somewhere
20 else that you can get or is it still coming to
21 that location?

22 MS. GRAY: It's -- it's still coming to
23 that location. It's still coming to that
24 location. But I have some coming to my house
25 but --

1 HEARING OFFICER: All right. Any further
2 questions from the Committee?

3 Any further direct -- any redirect,
4 rather, for this witness, Ms. Gray?

5 MS. GRAY: No, sir.

6 HEARING OFFICER: Recross from the state?

7 MR. WHITE: Yes.

8 RECROSS EXAMINATION

9 BY MR. WHITE:

10 Q Is it Ms. Sandage? I'm sorry.

11 A Sandage.

12 Q Sandage?

13 A Yes, sir.

14 Q Okay. Ms. Sandage, do you have any idea how your
15 sister would have known anything about an allegation of
16 physical assault before she came in this room today?

17 A It's written -- it's written up. My mom and my dad
18 came up here with her -- how long ago?

19 Q Show me where it's written up?

20 MS. GRAY: We came -- yeah, yeah, we came
21 up here to renew my license.

22 THE WITNESS: Yeah, that's when she told.

23 MS. GRAY: And that's when I found out all
24 about the violations, sir.

25 THE WITNESS: That's when she told me.

1 MS. GRAY: That's why I asked why it
2 wasn't -- it hadn't been sent certified mail.

3 MR. WHITE: Show me where it's written --

4 THE WITNESS: No. She said that when she
5 came up here for a hearing, when my folks came
6 up here to pay the fine, that they stated to
7 her that the lady had put in her whatever --
8 report, that Charlotte had physically removed
9 her from the -- let me see -- her premises.

10 MS. WARE: Page 17? That's one.

11 COURT REPORTER: I can't hear that. Is
12 that for the record?

13 I can't hear what you are saying.

14 MR. WHITE: Okay. Ms. Sandage -- I'm
15 sorry.

16 HEARING OFFICER: Okay. The Committee is
17 talking, they need to save it for
18 deliberations.

19 BY MR. WHITE:

20 Q Okay. Ms. -- Ms. Sandage, my question was, and I
21 don't know if you answered it or not, forgive me if I
22 didn't understand your answer, but my question was how
23 would your sister have known about any allegation of
24 physical assault before she came in here today? And I
25 think you said that your parents came up here?

1 A No -- yes. Charlotte came up here, I don't know,
2 don't quote me on the date because --

3 Q Okay.

4 MS. GRAY: February -- February the
5 23rd.

6 THE WITNESS: Okay. And they were going
7 to pay the fine, 750-dollar fine. And what is
8 500 of it? What is the \$500 for?

9 BY MR. WHITE:

10 Q Well the 500 is for the interference.

11 A Okay. The interference was when the lady said --

12 Q Who's the lady, if you could tell me?

13 A Well, whoever -- I don't know if the lady is --
14 maybe it's that lady right there.

15 Q And you're pointing to Ms. Lavonne Lester?

16 THE WITNESS: Did you put in her report --

17 HEARING OFFICER: No, you can't ask
18 questions at this time.

19 THE WITNESS: Did she put in her report
20 that Charlotte put her hands on her?

21 MR. WHITE: Well, yes. But I'll represent
22 to you that Ms. Gray does not get a copy of
23 this report before the hearing.

24 MS. GRAY: Like I said, when they came up
25 here for the fine --

1 HEARING OFFICER: Hold on. I'll give you
2 a chance in a minute.

3 MS. GRAY: Okay.

4 HEARING OFFICER: Let the witness finish.

5 THE WITNESS: Okay. Okay. So mine is
6 hearsay. I'm fixing to tell you, it's hearsay
7 because I was not here.

8 BY MR. WHITE:

9 Q That's fine.

10 A But before my mother came and to write the check she
11 asked me, she said, "Will you talk to Charlotte?" And I
12 went and I talked to my sister about it, and I asked her,
13 I said, "Tell me what happened." And she told me, and
14 she said, "Well, I got a 250-dollar fine for not being
15 compliant." I don't know if those are the words she
16 used, or not being something -- "and then I got a \$500
17 fine for," in her words she said, "they came up to do the
18 inspection, they did not tell me who they were. I had a
19 client -- or clients in the shop." I don't know if words
20 was passed, I don't know.

21 Q Well, what did she say with regard to any physical
22 assault?

23 A But in regards to when -- she said that when they
24 left the shop and she came up here she had a fine, but I
25 don't know if the 500-dollar fine was not being in

1 compliance, I just know that at that particular time that
2 it was stated from her --

3 Q And you're pointing to your sister?

4 A Yes.

5 Q Okay.

6 A -- that whoever the inspector was stated that
7 Charlotte physically removed her from the shop.

8 Q And do you know how Charlotte found out about any
9 allegation of physical assault?

10 A I do not know how she found out. I know that my
11 mother came up here with Charlotte and I assumed that it
12 was that particular time, because my mother told me that.

13 Q And do you know who Charlotte or your mother may
14 have talked to?

15 A No. You can ask Charlotte that.

16 MR. WHITE: Okay.

17 HEARING OFFICER: All right. Any further
18 questions for this witness from the Committee?

19 If not, any further witness for this --
20 any further -- further questions for this
21 witness, Ms. Gray?

22 MS. GRAY: No, sir.

23 HEARING OFFICER: If not, would you like
24 to recall yourself to testify?

25 MS. GRAY: Yes.

1 HEARING OFFICER: Go ahead.

2 MS. GRAY: Okay. I'm recalling Charlotte
3 Gray. I'm recalling me.

4 WHEREUPON,

5 CHARLOTTE GRAY,

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

9 REDIRECT TESTIMONY

10 THE WITNESS: I didn't know nothing about
11 all the violations of what not until I came to
12 the State Board of Cosmetology on February the
13 23rd to get my license and my shop license.
14 At that time my mother and father was with me,
15 and so she -- a young lady went back that work
16 for Ms. Kelli, she went back, back and forth.
17 She said, "And, oh, yeah, you violated -- you
18 put your hands on the instructor so you need to
19 pay this \$750 before you can get your license
20 or your shop license." And I said, "I violated
21 an instructor?"

22 So at that time my mother was fixing to
23 write a check. I said, "No, ma'am, Momma," I
24 said, "I want to go before the board to fight
25 it, because if I put my hands on an Arkansas

1 State inspector," I said, "I should be locked
2 up."

3 And mind you, I came up here in February
4 to get my license. Hadn't had no certified
5 mail to let me know about the violations. This
6 was way back in August when they inspected my
7 shop. So then that's when that young lady came
8 and told me and my mother, said that you
9 violated an instructor and you put your hands
10 on her. So this is when I found out, on
11 February the 23rd, when I came to get my
12 license and my shop license, and I had all this
13 on me.

14 HEARING OFFICER: And by "all this," could
15 you please identify that for the record?

16 THE WITNESS: All of the violation
17 notices, three or four of them, 100, 750.

18 HEARING OFFICER: All right. Can we get a
19 copy of those -- copies made of those for the
20 record?

21 MR. WHITE: It's in the --

22 HEARING OFFICER: Is it in the -- is it
23 already in the State's exhibit?

24 THE WITNESS: It's already in this packet.

25 HEARING OFFICER: Oh, okay.

1 MR. WHITE: If you could just refer to the
2 page numbers that you're talking about, I think
3 that will do it.

4 THE WITNESS: Oh, okay.

5 HEARING OFFICER: So you're referring to
6 State's Exhibit 1?

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

8 HEARING OFFICER: Any particular page
9 numbers you're referring to? Would you state
10 those for the record?

11 THE WITNESS: Oh, Page 1, 2 -- through 3.
12 I don't know.

13 HEARING OFFICER: But everything you're
14 referring to is inside that exhibit package; is
15 that correct?

16 THE WITNESS: All on the violations, yes,
17 sir.

18 HEARING OFFICER: Okay. All right. And
19 when did you receive that packet?

20 THE WITNESS: I received that packet on
21 the 23rd. Ms. Kelli ran it off for me.

22 HEARING OFFICER: Twenty-third of what
23 month and year?

24 THE WITNESS: February 2017.

25 HEARING OFFICER: All right.

1 THE WITNESS: And -- and -- and also I
2 want to state, as far as my license and my shop
3 license, I didn't know they was behind, sir. I
4 really didn't. I -- I -- I'm trying to, you
5 know, run my business right. I've always --
6 you know, I've had problems out of State Board.
7 I didn't know my license was not current, sir;
8 so --

9 HEARING OFFICER: Any further testimony,
10 Ms. Gray?

11 THE WITNESS: And I feel like the
12 situation that happened that day, that's why
13 she went back and violated me, you know.
14 That's why I say I feel raped every time an
15 inspector comes see me.

16 And no further questions, sir. I haven't
17 got anything else.

18 HEARING OFFICER: Okay. Any recross from
19 the State?

20 MR. WHITE: Yes. Just a brief cross -- or
21 question, ma'am.

22 RECROSS EXAMINATION

23 BY MR. WHITE:

24 Q You say you didn't hit her?

25 A No, sir.

1 Q Okay. And you say you didn't touch her in any way?

2 A No, sir.

3 Q But you do admit you that made her leave your shop?

4 A Yes, sir. I did.

5 Q Okay. That's all I need to know.

6 A I did.

7 Q Okay.

8 A And can I explain why I told her to leave?

9 Q Well, I think you've already done that. That's not
10 really part my question.

11 A Okay. Okay.

12 MS. SANDAGE: She didn't identify herself.

13 THE WITNESS: Okay. Okay.

14 MR. WHITE: So you answered my question.

15 THE WITNESS: Okay. All right.

16 HEARING OFFICER: Any further questions
17 from the Committee?

18 If there are no further questions from the
19 Committee, Ms. Gray, do you -- does your
20 defense rest?

21 MS. GRAY: Yes, sir.

22 HEARING OFFICER: All right. Then at this
23 time do either of you wish to make a closing
24 argument?

25 MR. WHITE: I was going to call some

1 rebuttal witnesses, if I could.

2 HEARING OFFICER: All right.

3 MR. WHITE: I would first like to call
4 Ms. Lester.

5 HEARING OFFICER: Well, we didn't excuse
6 anybody so if you request a rebuttal, you can
7 do that. Who would you like to call first?

8 MR. WHITE: I would like to call
9 Ms. Lavonne Lester.

10 HEARING OFFICER: Ms. Lavonne Lester,
11 you're still under oath and you're recalled to
12 testify.

13 WHEREUPON,

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

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q Ms. Lester, you have -- you have heard the testimony
21 of Ms. Gray that you didn't identify yourself that day?

22 A (Nodding head up and down.)

23 Q Do you agree or disagree with that testimony?

24 A Disagree.

25 Q Okay. And you did in fact identify yourself as a

1 health department inspector?

2 A Yes.

3 Q Okay. Did you show her your -- your badge?

4 A My badge was hanging around my neck in plain site,
5 it was right there.

6 Q Okay. Okay.

7 A And also Tonya Williams, another inspector was with
8 me, she also had her badge on.

9 Q Okay. Do you have any reason to believe that
10 Ms. Gray didn't know who you were as far as being a --

11 A No.

12 Q -- health department inspector?

13 A And then she did -- when she came into the building,
14 she asked me who I was and I told her.

15 Q Okay.

16 HEARING OFFICER: Please, for the record,
17 let the question finish before you answer
18 because it's hard to record that when you're
19 both talking at the same time. Thank you.

20 THE WITNESS: Yes, sir.

21 MR. WHITE: Okay. No further questions.

22 HEARING OFFICER: Any cross on this
23 witness, Ms. Gray?

24 MS. GRAY: So am I allowed to --

25 HEARING OFFICER: Just questions.

1 MS. GRAY: -- ask her a question?

2 HEARING OFFICER: Yes, you're allowed --
3 yes, you are.

4 CROSS-EXAMINATION

5 BY MS. GRAY:

6 Q When you came to my shop and -- and it -- and I was
7 so-called so -- being rude and being -- what's the word
8 I'm trying to use -- emotional, why you didn't
9 communicate better with me?

10 MR. WHITE: Judge, I'm -- I'm going to
11 respectfully object. That -- that goes beyond
12 the scope of my rebuttal question.

13 MS. GRAY: Okay.

14 MR. WHITE: And I think in any event we've
15 already covered all of this.

16 MS. GRAY: Okay.

17 MR. WHITE: So I'm going to object that it
18 goes beyond the scope of the question.

19 HEARING OFFICER: Any response to that
20 objection, Ms. Gray?

21 MS. GRAY: No, sir. No, sir.

22 HEARING OFFICER: Then that objection will
23 be sustained and the witness will not answer
24 that one.

25 Do you have another question, Ms. Gray?

1 MS. GRAY: No.

2 HEARING OFFICER: All right. Any -- does
3 the committee have any questions of this
4 witness regarding that particular line of
5 questioning?

6 If not --

7 MR. WHITE: I have one more rebuttal
8 witness.

9 HEARING OFFICER: Okay. Then you are
10 temporarily -- temporarily excused then,
11 Ms. Lester.

12 THE WITNESS: Okay.

13 HEARING OFFICER: And would you like to
14 call another witness?

15 MR. WHITE: Ms. Kelli Kersey.

16 HEARING OFFICER: Okay. You are still
17 under oath and you are -- Ms. Kersey is
18 recalled.

19 WHEREUPON,

20 KELLI KERSEY,

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 DIRECT EXAMINATION

25 BY MR. WHITE:

1 Q Ms. Kersey, you heard testimony from Ms. Gray to the
2 effect that she thought that the inspection that took
3 place, the conduct was racially motivated. Could you
4 just describe for me, there in Arkadelphia on that day,
5 how many salons were inspected?

6 A There are 23 salons in Arkadelphia, and all except
7 for Charlotte's was inspected on 6/2 and 6/15/2016,
8 because the regular inspector for that area was the one
9 that couldn't go back in Ms. Charlotte's establishment,
10 and so that's when we sent Lavonne and Tonya out there,
11 and they went in her salon on 8/4.

12 Q And she had had a previous issue with Vera?

13 A Correct.

14 Q Okay. So hers was scheduled for a separate date?

15 A Correct.

16 MR. WHITE: Okay. No further questions.

17 HEARING OFFICER: Any cross, Ms. Gray, of
18 this witness?

19 MS. GRAY: Yes.

20 CROSS-EXAMINATION

21 BY MS. GRAY:

22 Q I would like to know out of all the inspectors --
23 inspections, what -- did anybody else get violated?

24 A That would take --

25 MR. WHITE: I'm sorry. That's -- I'm

1 going to object.

2 HEARING OFFICER: Hold on.

3 MS. GRAY: Okay.

4 HEARING OFFICER: Stop answering and --

5 MS. GRAY: No further questions.

6 HEARING OFFICER: -- make your objection.

7 MS. GRAY: Okay.

8 MR. WHITE: I'm going to object on the

9 reference of violated as a characterization as

10 improper.

11 HEARING OFFICER: Would you like to

12 rephrase to --

13 MS. GRAY: No, sir.

14 HEARING OFFICER: -- something more along

15 the lines --

16 MS. GRAY: No, sir.

17 HEARING OFFICER: Are you sure?

18 MS. GRAY: Yes, sir.

19 HEARING OFFICER: All right.

20 MS. GRAY: Incompliance then.

21 HEARING OFFICER: There you go.

22 BY MS. GRAY:

23 Q Incompliance -- did anybody else get incompliance

24 that day?

25 HEARING OFFICER: Get found in -- out of

1 compliance?

2 BY MS. GRAY:

3 Q Yes, out of compliance?

4 MR. WHITE: I'm going to object as to
5 relevance.

6 MS. GRAY: Okay.

7 HEARING OFFICER: I am -- go ahead and
8 answer. I'm not going to uphold that
9 objection.

10 THE WITNESS: Okay. I mean, I don't know
11 that off the top of my head, we can't run a
12 query for that, so I would have to go into
13 each salon so I would have to research that to
14 know.

15 MS. GRAY: I have another question.

16 HEARING OFFICER: Hold on. Are you
17 finished?

18 THE WITNESS: Yes.

19 HEARING OFFICER: Go ahead.

20 BY MS. GRAY:

21 Q I'm a licensed cosmetologist and a salon owner.
22 What do the cosmetology do about people that bootleg
23 hair?

24 MR. WHITE: I'm sorry?

25 HEARING OFFICER: I'm not -- make your

1 objection.

2 MS. GRAY: That's not -- okay. Okay.

3 MR. WHITE: I'm going to object as to
4 relevance.

5 MS. GRAY: Okay.

6 HEARING OFFICER: I will sustain that
7 objection.

8 MS. GRAY: Okay. Okay.

9 HEARING OFFICER: Because I do not see the
10 relevance of that question to this proceeding.

11 Any other questions, Ms. Gray?

12 MS. GRAY: No, sir.

13 HEARING OFFICER: I don't want to cut you
14 off.

15 MS. GRAY: No, sir.

16 HEARING OFFICER: But if not, any
17 questions from the committee of this witness on
18 that line of questioning?

19 If not, any further rebuttal witnesses?

20 MR. KEARY: Which one are we able to
21 question now?

22 HEARING OFFICER: You can question --

23 MR. KEARY: Ms. Kelli?

24 HEARING OFFICER: I don't want to rush
25 you. Go ahead.

1 MR. KEARY: That's fine.

2 Okay. So you said there is 23 salons in
3 Arkadelphia?

4 THE WITNESS: Yes.

5 MR. KEARY: And that all 23 were inspected
6 in between 6/2 and 6/15?

7 THE WITNESS: Uh-huh.

8 MR. KEARY: Including her salon?

9 THE WITNESS: Her salon was on 8/4 --

10 MR. KEARY: 8/4.

11 THE WITNESS: -- because the inspector for
12 that area was not allowed back in her salon.

13 MR. KEARY: Okay.

14 THE WITNESS: So she did not go in there
15 on 6/2 or 6/15.

16 MR. KEARY: All right. Thank you.

17 HEARING OFFICER: Any other questions from
18 the Committee?

19 If not -- I don't want to rush anybody --
20 if not, any further rebuttal witnesses?

21 MR. WHITE: No.

22 HEARING OFFICER: State's rested.

23 Ms. Gray has rested. So --

24 MS. SANDAGE: Can she withdraw a line of
25 questions?

1 HEARING OFFICER: Withdraw it?

2 MS. SANDAGE: Yes. Because it's really
3 irrelevant how many was inspected that day in
4 Arkansas -- I mean in Arkadelphia.

5 HEARING OFFICER: Well, it's already a
6 part of the record.

7 MS. SANDAGE: Oh, okay.

8 HEARING OFFICER: I can explain to you,
9 but it really --

10 MS. SANDAGE: Okay. No. You don't have
11 to explain it to me. I understand.

12 HEARING OFFICER: You can withdraw
13 questions before they are answered. Once they
14 are a part of the record --

15 MS. SANDAGE: Okay.

16 HEARING OFFICER: -- you can only do a
17 motion to strike, and I -- that's too
18 complicated. We can't do that here.

19 MS. SANDAGE: Okay. Okay.

20 HEARING OFFICER: All right?

21 At this time do either of you wish to make
22 a closing argument?

23 MR. WHITE: Yes.

24 HEARING OFFICER: State can proceed.

25 MR. WHITE: Ladies and gentlemen of the

1 Board, we've spent a while on this case but
2 it's -- really it comes down to two things,
3 does she have a current license, no, she
4 doesn't. That's simple. She really doesn't,
5 there is no defense to that, you have to have
6 it paid up or you get find. So the 250 is --
7 is beyond question that -- that she owes that.

8 The interference, you know, it doesn't
9 matter if -- if she got hit or not or she
10 physically touched her. She admitted that she
11 made them leave. That's enough to establish
12 the offense right there. She did not let them
13 complete their inspection and that is -- that's
14 enough, under Rule 5.1(A)(3), "Refusal to
15 permit or interference with an inspection
16 and/or audit constitutes a cause for
17 disciplinary action."

18 And so we really have a lot of testimony
19 on a bunch of stuff that ultimately doesn't
20 bear on whether there is a violation.

21 Now -- so that establishes both
22 violations, her own testimony does.

23 You know, we can -- I would submit to you
24 that it doesn't -- it's not relevant under the
25 law, the allegations that she made about them

1 having a vendetta against her and so forth; but
2 to the extent that -- that you all want to --
3 to consider all that, you know, I would submit
4 that she just simply hasn't shown anything
5 that -- that would indicate that she is treated
6 any differently from any other salon owner in
7 this state. I would submit that it seems like
8 Ms. Gray seems to just have an inherent disdain
9 for the inspection process and that she -- she
10 seems to think that it's just not something
11 that the State should be allowed to do. I
12 mean, I think you as -- you that are in
13 practice know that an inspection is intrusive,
14 you know, it has to be to be thorough and to
15 make sure that -- that compliance is taking
16 place.

17 And, you know, as her own sister admitted,
18 she -- she can get emotional and she can get --
19 you know, she can become out of control
20 emotionally and I think it's not too hard to
21 envision what -- what likely happened that day.

22 MS. SANDAGE: I didn't say out of control.

23 HEARING OFFICER: Sorry. You cannot talk
24 during his closing, anybody, please.

25 MR. WHITE: And I think it's likely that

1 she -- that she got upset because they were,
2 in -- in her perception, not respecting her.
3 And I would submit she has maybe an improper
4 perception of what disrespect is. Disrespect
5 is not -- but the inspection that they perform,
6 that's not in any way intended to be
7 disrespectful to her. You know, when -- when
8 you agree to become a cosmetologist or when you
9 decide to become a cosmetologist, the
10 inspection process is something you submit to
11 and it's not -- you know, you do give up some
12 of the -- some of the authority you have over
13 your property. I mean, it's -- it's part of
14 the -- it's part of the game. I mean that's
15 just part of it, so it's not disrespectful but
16 she perceives it that way for some reason. And
17 so I don't think there is any evidence of any
18 vendetta or bias against her. I think that is
19 a distorted perception of the process that she
20 has, and I don't think there is any reason to
21 believe that she's been treated unfairly or
22 differently from anyone else.

23 Thank you.

24 HEARING OFFICER: Ms. Gray, now you can
25 respond and do a closing of your own if you

1 wish. Do you wish to?

2 MS. GRAY: Yes, sir.

3 HEARING OFFICER: Go ahead.

4 MS. GRAY: I do feel like I have been
5 disrespected. I have been in business for
6 years.

7 I -- I -- I admit that my license was not
8 current but, you know, I just feel like the
9 board is somehow biased on some things, I mean
10 the inspectors are. They wasn't friendly.

11 So what right do I have as a cosmetologist
12 and a business owner? You know, what rights do
13 I have? You know, to come in and do you any
14 kind of way, you know, so I just feel like I
15 was violated. That's it.

16 HEARING OFFICER: All right. At this time
17 we'll go off the record for the committee's
18 recess for deliberations and a decision
19 regarding the findings of fact, conclusion of
20 law, or any penalties to be handed down.

21 Do you have a processed decision or
22 findings of fact for this committee?

23 MR. WHITE: Yes. Well, is that something
24 that you --

25 MS. KERSEY: Uh-huh. Well --

1 MR. WHITE: I mean, this is a proposed
2 order and statement of fact, but this is not a
3 proposed findings. I wasn't aware -- this is
4 my first hearing and I was not aware that we
5 have a pre-prepared findings of fact and
6 conclusions of law, so to speak.

7 HEARING OFFICER: Often the State's
8 counsel do, sometimes they don't, sometimes
9 they rely on the statement of laws that's sent
10 to the -- to the Respondent. So if you would
11 like them to use this as a guideline you can.

12 MR. WHITE: Okay.

13 HEARING OFFICER: It's admitted into
14 evidence.

15 MR. WHITE: But could we prepare an order
16 precedent after the decision is rendered?

17 HEARING OFFICER: Yes, you can.

18 MR. WHITE: Okay.

19 HEARING OFFICER: It just helps for the
20 Committee when they are voting, then we have a
21 clear record of what they decide, because they
22 will have to reduce it to writing and I will
23 let them know that.

24 MR. WHITE: Okay.

25 HEARING OFFICER: So if you don't have one

1 that's okay.

2 MR. WHITE: Okay.

3 HEARING OFFICER: But just make sure that
4 any of the -- when they come out and vote after
5 the deliberations it needs to be -- each item
6 needs to be voted on.

7 MR. WHITE: Right. All right.

8 HEARING OFFICER: All right. So as long
9 as we're ready to proceed, I will finish.

10 MR. WHITE: So we have a -- can I just --
11 we have a 500-dollar interference penalty and
12 we have a 250-dollar no license penalty.
13 That's the two -- two charges.

14 MS. KERSEY: And this is two -- this is
15 the hearing request, five and six.

16 MR. WHITE: Are we -- we're on the record?

17 HEARING OFFICER: Yes, we are on the
18 record.

19 MR. WHITE: Okay. Okay.

20 MS. KERSEY: Here, there was two notices
21 of hearing, this one --

22 MR. WHITE: Well, I would just like to
23 know how this has been handled in the past --

24 MS. KERSEY: Okay.

25 MR. WHITE: -- because no one informed me

1 that it's typical to have an order, but I am
2 new to the health department. The only board
3 I've done previously was HVAC and, in that
4 case, the order was prepared after the hearing,
5 no one goes into the hearing with an order.

6 HEARING OFFICER: It can be done either
7 way, sir. I've had it done both ways. Often,
8 when it's a very complicated case like I've
9 done all day ones or multiple day ones --

10 MR. WHITE: Uh-huh.

11 HEARING OFFICER: -- being in writing is
12 helpful to the Committee. This seems pretty
13 simple, I wouldn't worry about it. We can
14 proceed now. I'm sorry.

15 MR. WHITE: No, I just want to know -- I
16 like to know what these folks' typical
17 procedure is so I can help them, so I don't
18 want -- as much as possible I want to do it the
19 way that y'all have done it, although we do not
20 have an order prepared.

21 HEARING OFFICER: Okay. Do you want to
22 use the statement of fact that you have in --
23 right here as the guideline for them to vote
24 on?

25 MR. WHITE: That's fine.

1 HEARING OFFICER: All right.

2 MR. WHITE: But the order -- the order
3 part of it is not appropriate.

4 HEARING OFFICER: I understand. The order
5 is -- is not squarely -- they can't just check
6 a block.

7 MR. KEARY: The finding, if you -- if you
8 look at the bottom of Page 2 and the top of
9 Page 3, it is a slight bit of an order right
10 there.

11 MR. WHITE: It is, but it's not -- it's
12 not an order finding of violation, it's not
13 appropriate language for a finding of a
14 violation. And so I think what we need to do
15 today, and we can discuss how this should be
16 done going forward, but I think for today you
17 just need to make findings as to each of these
18 two violations and I can reduce that into an
19 order.

20 MS. KERSEY: Yeah.

21 MR. WHITE: If that's the way it's been
22 done in the past?

23 MS. KERSEY: Uh-huh. Because, see, like
24 this is what we use. I'm sorry.

25 MR. WHITE: Okay. Those are the facts and

1 that's fine.

2 MS. KERSEY: Uh-huh. And so that's what
3 they are here --

4 MR. WHITE: And the statement of law is
5 fine.

6 MS. KERSEY: Uh-huh.

7 MR. WHITE: But when you get to the order,
8 that language does not find a violation.
9 That -- that -- that more than anything else is
10 just a notification of the hearing date.

11 HEARING OFFICER: Right. So the Board
12 will use as a guide the statement of fact in
13 the Exhibit Packet 1 from the State and also
14 for the statement of laws. As to the order,
15 you will have to make up your own order for any
16 penalties you desire to impose.

17 Does the board -- or the Committee have
18 any questions on that? Or the State's attorney
19 or for me?

20 Are we ready to proceed then?

21 MS. ANDERSON: Yes.

22 HEARING OFFICER: All right. Anyway, so
23 at this time we will go off the record for the
24 Committee's recess for deliberations and a
25 decision regarding the findings of fact,

1 conclusion of law, or any penalties to be
2 handed down. Once the board reaches a
3 decision, we will go back on the record. The
4 deliberations are open to the public under the
5 Freedom of Information Act. All parties may
6 remain and observe the deliberations.

7 We are now off the record.

8 (WHEREUPON, a brief discussion was held
9 off the record.)

10 HEARING OFFICER: We are now back on the
11 record.

12 Go ahead.

13 MR. WHITE: Okay. There are actually
14 three charges, not just two.

15 MS. ANDERSON: Uh-huh.

16 MR. WHITE: There are three. She did not
17 have a current salon license and she did not
18 have a current practitioner license. The --
19 the salon license fine is -- is 250; the
20 practitioner license is \$100; and the
21 interference is \$500.

22 Thank you.

23 HEARING OFFICER: All right. Are you
24 ready to go back off the record for
25 deliberations?

1 MR. WHITE: Yes.

2 HEARING OFFICER: We will now go back off
3 the record for deliberations at this time.

4 (WHEREUPON, the Committee retired to
5 deliberate, off the record, from 10:42 a.m. to
6 10:53 a.m., and returned with the following
7 decision:)

8 HEARING OFFICER: We will now go back on
9 the record for the committee's decision.

10 MS. ANDERSON: Ask for a motion.

11 MR. KEARY: We need to make a motion to go
12 with the first fine of the current salon
13 license of 250.

14 MS. GRAY: Okay.

15 MS. ANDERSON: We have to do a statement
16 of fact first.

17 MR. KEARY: Statement of fact.

18 HEARING OFFICER: You've got to do a
19 findings of fact, Mr. Chairman, so ask a vote
20 on the first violation or the first fact or how
21 ever you want to --

22 MR. KEARY: So we need to find -- take a
23 vote on the first statement of fact of a
24 current salon license.

25 HEARING OFFICER: Yeah. Ask for a motion

1 on that.

2 MR. KEARY: Anybody want to make a motion
3 on the first finding of fact of the current
4 salon license?

5 MS. ANDERSON: I would like to make a
6 motion that, in our hearing today we have found
7 that Charlotte's Hair Salon did not have a
8 current salon license at -- on the date of the
9 inspection, 8/4/2016, and still currently does
10 not.

11 And can I go ahead and include the others
12 in it?

13 HEARING OFFICER: Yes. That would be
14 fine.

15 MS. ANDERSON: Okay. And I would also
16 like to make in that motion that she did not
17 have her current practitioner's license, and
18 she also interfered with the inspection, so she
19 has three violations in that, and that's 5.1(A)
20 and (A) (3) and (A) (5) and (A) (7) are those
21 three.

22 MR. KEARY: All in favor of the findings
23 on --

24 HEARING OFFICER: Do you have a second,
25 Mr. Chairman?

1 MR. KEARY: Sorry. Do you have a second?

2 MS. JONES: I would like to second the
3 motion that all fines stand.

4 MR. KEARY: For all three?

5 MS. JONES: For all three violations.

6 MR. KEARY: All agreed?

7 COMMITTEE MEMBERS: Yes.

8 MR. KEARY: Any opposed?

9 HEARING OFFICER: Then the motion carries
10 that finds Ms. Gray in violation of all three
11 of the violations.

12 Now, Mr. Chairman, we need a vote on any
13 penalties to be addressed for those violations.

14 MS. ANDERSON: Do you have a motion on the
15 floor.

16 MR. KEARY: All right. Anybody want to
17 make a motion for penalties?

18 MS. ANDERSON: I would like to make a
19 motion for the penalties for those violations,
20 for Charlotte's Hair Studio, the violation for
21 5.1(A)(3), (A)(5), and (A)(7), in the
22 following: 250 for the salon license not being
23 current; \$100 for the practitioner's license;
24 and \$500 for the interference of the
25 inspection, totaling \$850, to Charlotte's Hair

1 Studio.

2 MS. JONES: I would second it.

3 MR. KEARY: All agree?

4 COMMITTEE MEMBERS: Yes.

5 MR. KEARY: Any opposed?

6 HEARING OFFICER: Then that motion carries
7 unanimously. Please reduce the Board's
8 decision to writing and make or attempt service
9 upon all parties. If the Respondent cares to
10 appeal the decision, appeal can be taken under
11 any specific provision relating to this board
12 or under the Arkansas Administrative Procedures
13 Act, found at Arkansas Code Annotated Title
14 25-15-201.

15 If there are no other questions or
16 comments -- and I'll pause for those -- if
17 there aren't any, then this hearing is
18 concluded and the record is closed.

19 (WHEREUPON, at 10:57 a.m., the
20 above-entitled hearing was concluded.)

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I N D E X

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1 HEARING OFFICER: My name is Dara Hall and
2 I'm the Hearing Officer today In The Matter of
3 Envy Nails. This matter will be heard before
4 the Cosmetology Technical Advisory Committee.
5 Today is 20 March 2017. Please turn all cell
6 phones off or place them on silent mode.

7 Respondent, please identify yourself for
8 the record and have a seat at the table there.

9 Respondent, are you here?

10 I don't know who the owner is to call on
11 this. Is the owner or operator of Envy Nails
12 present?

13 All right. We'll skip that. Is -- is --
14 Committee's counsel, please identify yourself
15 for the record,.

16 MR. WHITE: I'm Brooks White.

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

19 MR. WHITE: Yes.

20 HEARING OFFICER: For those of you who are
21 or may be witnesses today in this matter,
22 please raise your right hands to be sworn in.

23 Do you have any witnesses?

24 MR. WHITE: Well, I suppose we do still
25 have to put on our case.

1 HEARING OFFICER: Yes, you do.

2 MR. WHITE: The Envy Nails, it will be
3 Yvonne --

4 MS. LESTER: Lavonne.

5 MR. WHITE: -- Lavonne Lester and
6 Yvonne --

7 MS. KERSEY: Smith.

8 MR. WHITE: -- Smith.

9 HEARING OFFICER: All right. Ms. Lester,
10 you've been previously sworn, you're still
11 sworn.

12 Ms. Smith, did you swear in earlier?

13 MS. SMITH: No, I didn't.

14 HEARING OFFICER: All right.

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

17 HEARING OFFICER: Okay. Are there any
18 other preliminary matters to be discussed or
19 offered at this time?

20 MR. WHITE: Yes. I would like to
21 introduce the -- the State's hearing packet as
22 State's Exhibit A, and that is --

23 HEARING OFFICER: You have it marked as
24 one. Do you want it entered as State's
25 Exhibit 1?

1 MR. WHITE: Well, that's actually Page 1.

2 HEARING OFFICER: Page 1.

3 MR. WHITE: But we can -- your preference,
4 whichever is --

5 HEARING OFFICER: If you want to call it
6 A, we're good with that.

7 MR. WHITE: Okay.

8 HEARING OFFICER: The court reporter can
9 so mark it.

10 MR. WHITE: Okay.

11 HEARING OFFICER: Is there any objections
12 to the admission of State's Exhibit A?

13 Hearing none, it is admitted and shall be
14 so marked for identification.

15 (WHEREUPON, State's Exhibit No. A was
16 received in evidence.)

17 MR. WHITE: Okay.

18 HEARING OFFICER: Proceed.

19 MR. WHITE: Okay. The State calls
20 Ms. Lavonne Lester.

21 WHEREUPON,

22 LAVONNE LESTER,

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

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 Q Ms. Lester, could you please state your -- your
4 employment with the Department of Health?5 A Lavonne Lester, Arkansas Department of Health,
6 inspector.

7 MR. WHITE: Did you swear her?

8 HEARING OFFICER: Yes, I stated for the
9 record she was previously sworn as well.

10 MR. WHITE: Oh, okay.

11 BY MR. WHITE:

12 Q And, Ms. Lester, did you conduct in November of
13 2016, along with another inspector, an inspection of Envy
14 Nails?

15 A Yes. I did.

16 Q Okay. Where is Envy Nails located?

17 A On Geyer Springs Road in Little Rock.

18 Q Okay. And were you there with -- with Yvonne Smith?

19 A Yes.

20 Q And that's Ms. Smith sitting to your right?

21 A It is.

22 Q Okay. So you are Lavonne and she is Yvonne?

23 A That's correct.

24 Q Y-v-o-n-n-e.

25 Okay. All right. And so what did you find as a

1 result of your inspection? Did you find any violations
2 in the course of that inspection?

3 A Yes, we did. Number 8 on the inspection sheet was
4 the filters in the pedi bowls, they were really dirty.
5 As you can see in the picture it's just got lots of
6 debris all around there.

7 Q Let me -- I'm sorry. I won't -- I'll just ask you
8 specifically about a finding with regard to the license.

9 Did you find anything with regard to the -- the
10 state of -- of the salon's license?

11 A No.

12 Q Did you find anything with regard to the state of
13 the practitioner's license?

14 A No. One of them had just expired, but they have a
15 30-day grace period so it -- we did not mark that because
16 she did have a 30-day grace period to renew that.

17 Q Okay.

18 HEARING OFFICER: For the record, would
19 you state the page number in the packet that
20 you're referring to as the picture?

21 THE WITNESS: The picture is on Page 13.

22 HEARING OFFICER: Thank you.

23 BY MR. WHITE:

24 Q Okay. What did you find with regard to any health
25 and safety violations?

1 A That the -- the filters in the pedi bowls were
2 dirty.

3 Q Okay. And I want to direct your attention to
4 Pages 13 through 15 of the packet. And did you take
5 those pictures?

6 A I --

7 Q Or did Ms. Smith?

8 A I think I did. I can't remember.

9 Q Okay. But those are -- you are -- you do know what
10 those are pictures of?

11 A The pictures were taken that day when we were in the
12 salon.

13 Q Okay. And could you describe for me what the
14 picture on Page 13 is of?

15 A Thirteen is the dirty filters in the pedi bowls.

16 Q Okay. Give me your understanding of what the rules
17 and regulations require with regard to these filters?

18 A Okay. Rule 5.1, No. 8 is that they need to be
19 cleaned and repaired, which they -- and the equipment
20 furnishings were not clean.

21 Q Okay. So this picture of a filter on Page 13, then,
22 it -- the filter was dirty?

23 A Yes.

24 Q It was old?

25 A Not particularly old, it was just dirty.

1 Q And it needed to be cleaned?

2 A Needed to be cleaned. Yes.

3 Q Okay. And if you will turn to Page 14?

4 A That's files and buffers.

5 Q Okay.

6 A They are supposed to discard them after every use,
7 and these were found at the station.

8 Q So you can tell by the scratchings on those --

9 A Uh-huh.

10 Q -- files that they had been previously used?

11 A Yes.

12 Q Okay. And the buffer has also got scratches on it?

13 A Yes.

14 Q Okay.

15 A And the -- the Page 15 is a different picture of
16 files and buffers.

17 Q Okay. Is it the same two files and buffers?

18 A No.

19 Q It's not?

20 A It's not the same. It was at a different station.

21 Q Okay. And are the -- is there anything in -- also
22 in Page 15 there is a picture of some clippers. Were
23 there any violations with regard to --

24 A Yes, those also --

25 Q Let me finish my question. I'm sorry.

1 A Excuse me.

2 Q Is there anything on Page 15, there is some clippers
3 depicted there. Is there any -- were there any findings
4 with regard to those clippers?

5 A The reason they are in the picture is because they
6 also had debris on them.

7 Q Okay. In other words, they were not cleaned?

8 A They were not clean.

9 Q Okay. Is there a requirement under the rules that
10 those be kept in a sterile condition?

11 A Yes.

12 Q Okay.

13 A It did not get marked down as a violation on here,
14 but it is --

15 Q Okay.

16 A -- but it didn't get marked.

17 Q Okay.

18 A Yvonne was in training, she was doing this and I was
19 trying to advise her at the time, and --

20 Q Okay. Is there any finding with regard to -- and
21 I'm not even sure what these are, but the little
22 doohickies? I'm sorry, that's a --

23 A Those are -- they are bits that they put on Dremels
24 for sanding off artificial nails.

25 Q In the heart shaped bowl?

1 A Yes.

2 Q Okay. And -- and were there any findings with
3 regard to those things?

4 A There is one there at the top, you can see it has
5 been used and it's stuck in there with all the other
6 clean ones.

7 Q Okay. And so we had findings, health and safety
8 violations based on an unclean filter, reused files and
9 buffers, and a reused sanding disk, and unclean clippers;
10 is that correct?

11 A Uh-huh.

12 Q That's a yes?

13 A Yes.

14 Q Okay. Sorry. The record sometimes doesn't pick up
15 those very well.

16 A I know.

17 Q And does that cover the findings which are the basis
18 for the -- the 100-dollar fine that's being assessed?

19 A Yes.

20 MR. WHITE: Okay. No further questions.

21 HEARING OFFICER: Are there any questions
22 from the Committee of this witness?

23 MR. KEARY: Have we been back by this
24 place?

25 HEARING OFFICER: If there are no --

1 THE WITNESS: Have we been back? No.

2 HEARING OFFICER: -- questions, then would
3 you want to excuse this witness, subject to
4 recall?

5 MR. WHITE: Yes.

6 HEARING OFFICER: You are so excused,
7 subject to recall.

8 Do you want to call another witness?

9 MR. WHITE: I will call Ms. Yvonne Smith.

10 WHEREUPON,

11 YVONNE SMITH,

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

15 DIRECT EXAMINATION

16 BY MR. WHITE:

17 Q Ms. Smith, you heard Ms. Lavonne Lester's testimony.
18 Is there anything she stated that you disagree with in
19 any way?

20 A No.

21 Q Okay. Did you take those pictures that are -- that
22 I went through on Page 13 through 15?

23 A I don't remember, because I did the writing, so I'm
24 assuming Lavonne took the pictures.

25 MR. WHITE: Okay. Okay. No further

1 questions.

2 HEARING OFFICER: Any questions from the
3 Committee of this witness?

4 There being none, you're also excused,
5 subject to recall.

6 Do you have another witness to call?

7 MR. WHITE: I do not.

8 HEARING OFFICER: All right. Does the
9 State rest at this time?

10 MR. WHITE: Yes.

11 HEARING OFFICER: We'll again renew the
12 call for Envy -- Envy Nails. Is Envy Nails
13 owner, operator, representative present?

14 Envy Nails?

15 If not, do you wish to make a closing
16 argument at this time?

17 MR. WHITE: I will waive closing argument
18 and just ask that the findings be upheld based
19 upon the evidence presented.

20 HEARING OFFICER: At this time we will go
21 off the record for the Committee's recess for
22 deliberations and a decision regarding the
23 findings of fact, conclusions of law, or any
24 penalties to be handed down. Once the Board
25 reaches a decision we will go back on the

1 record.

2 The deliberations are open to the public
3 under the Freedom of Information Act, all
4 parties may remain and observe the
5 deliberations.

6 We are now off the record.

7 (WHEREUPON, the Committee retired to
8 deliberate, off the record, from 11:21 a.m. to
9 11:23 a.m., and returned with the following
10 decision:)

11 HEARING OFFICER: We will now go back on
12 the record for the Committee's decision.

13 Is the court reporter prepared?

14 COURT REPORTER: (Nodding head up and
15 down.)

16 HEARING OFFICER: We are now back on the
17 record.

18 MR. KEARY: Do we have a motion for the
19 statement of facts?

20 MS. ANDERSON: Are you ready to make a
21 motion or did you want me to?

22 MR. KEARY: I mean, I can make a motion
23 that the case stand.

24 MS. WARE: Second.

25 MS. ANDERSON: We need to first make a --

1 we have to do it in two forms. We have to do
2 the statement of fact.

3 MR. KEARY: Okay. So the statement of
4 fact on -- against Envy Nails, make a motion --

5 MS. JONES: For violation.

6 MR. KEARY: -- for Violation 15-820 in the
7 amount of \$100.

8 HEARING OFFICER: Would you like to do it
9 in the form of your Exhibit 1, it's a finding
10 of fact that they did not dispose of supplies,
11 that they are found guilty of that violation,
12 and that they did not clean their furnishings?
13 Because I'm not sure what you're finding on
14 these, because you -- you cited to some
15 statute, and I'm sure it probably says, but
16 exactly what they did is probably helpful for
17 the record.

18 MR. KEARY: So we're making a motion for
19 the statement of fact on --

20 HEARING OFFICER: Well, just what you're
21 finding them guilty of. You find them guilty
22 of --

23 MR. KEARY: Finding them guilty of the --

24 HEARING OFFICER: -- wearing red hats or
25 not disposing of supplied?

1 MR. KEARY: -- for not disposing of
2 supplies and instruments immediately after use,
3 on -- or equipment furnishings cleaned on
4 11/17.

5 HEARING OFFICER: There you go.

6 MS. ANDERSON: Uh-huh. Okay. I make a
7 second to that motion.

8 MR. KEARY: All in favor?

9 COMMITTEE MEMBERS: Aye.

10 MR. KEARY: Any opposed?

11 HEARING OFFICER: All right. Let the
12 record reflect the Committee's decision as to
13 the failing to dispose of supplies or
14 instruments, they are found guilty of that.

15 Any other violations that the Committee
16 would like to vote on?

17 MS. ANDERSON: The form --

18 MR. WHITE: Well, can I speak?

19 HEARING OFFICER: We're back on the
20 record. You can speak when we're on the
21 record. You just can't speak when we're off
22 the record.

23 MR. WHITE: Well, there was -- there was
24 one more finding in the finding of fact. There
25 was one more violation set forth in the finding

1 of fact. No. 2 there -- I'm sorry, No. 3
2 there.

3 HEARING OFFICER: Number three. Yeah.

4 MR. KEARY: Yeah, I covered both of those.

5 MS. ANDERSON: He mentioned it. He
6 mentioned equipment. Yes, sir.

7 MR. WHITE: Did he cover both of them?

8 MS. ANDERSON: He did equipment and
9 implements. Yes, sir. Yes, sir.

10 MR. WHITE: Okay. I missed it.

11 HEARING OFFICER: Okay. As long as you
12 covered didn't dispose of and didn't clean,
13 then we're good to go. Now the penalty phase.

14 MR. KEARY: I think I stumbled through
15 both of them.

16 HEARING OFFICER: All right. Penalty
17 phase.

18 MR. WHITE: Can I just clarify -- can I
19 just clarify, your -- is it the Committee's
20 decision that you are finding, as -- as set
21 forth in statements of fact two and three on
22 Page 1 of the hearing packet?

23 MR. KEARY: Correct.

24 MS. ANDERSON: Yes.

25 HEARING OFFICER: You're finding them to

1 be true?

2 MR. KEARY: Correct.

3 MS. ANDERSON: Yes.

4 HEARING OFFICER: Okay. Does that clear
5 the record up for you?

6 MR. WHITE: It is.

7 HEARING OFFICER: All right. And now
8 under the penalties, if you choose to, do you
9 desire to hand any down, Mr. Chairman?

10 MR. KEARY: I would like to make a motion
11 to uphold the penalty of 100-dollar fine.

12 MS. ANDERSON: Say what they are, rule.

13 MR. KEARY: Under rule of basically
14 violation of 18 -- 15-820.

15 MS. ANDERSON: Break it down. Go to
16 Page 12. That's easier.

17 MR. KEARY: For the violations of
18 Rule 5.1, No. 8, and (21)a.

19 MS. ANDERSON: And Rule 5.1(C) (8) and
20 (21).

21 MR. KEARY: 5.1(C) (8) and (21)a. Okay.

22 MS. ANDERSON: And the fine is?

23 MR. KEARY: And the findings of 100-dollar
24 fine.

25 MS. ANDERSON: I would like to second that

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motion.

MR. KEARY: All agree?

COMMITTEE MEMBERS: Yes.

MR. KEARY: Any opposed?

HEARING OFFICER: The vote on a 100-dollar penalty for the violations is unanimous.

Please reduce the Board's decision to writing and make or attempt service upon all parties.

If the Respondent cares -- well, they are not here so they can appeal it if they choose.

If there are no other questions or comments, this hearing is concluded and the record is closed.

(WHEREUPON, at 11:27 a.m., the above-entitled hearing was concluded.)

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1 HEARING OFFICER: Ashley Howard is what
2 we'll take up next.

3 My name is Dara Hall and I am the Hearing
4 Officer today In The Matter of Ashley Howard.
5 This matter will be heard before the
6 Cosmetology Technical Advisory Committee.
7 Today is 20 March 2017.

8 Respondent Ashley Howard, please identify
9 yourself for the record and have a seat at the
10 table.

11 Are you Ms. Howard?

12 MS. WOOD: Nope.

13 HEARING OFFICER: All right. Are you
14 representing Ms. Howard?

15 MS. WOOD: Nope.

16 HEARING OFFICER: Okay. Ashley Howard?
17 Okay. No response.

18 Counsel for the State, are you ready to
19 proceed on this matter?

20 MR. WHITE: I am.

21 HEARING OFFICER: Please identify yourself
22 for the record.

23 MR. WHITE: Brooks White.

24 HEARING OFFICER: Are there any
25 preliminary matters to take up?

1 MR. WHITE: No.

2 HEARING OFFICER: You have no exhibits you
3 would like admitted?

4 MR. WHITE: Yes. I would move to
5 introduce the hearing packet, which is Pages 1
6 through 13, as State's Exhibit A.

7 HEARING OFFICER: Any objection to State's
8 Exhibit A?

9 There being no objections, it is so
10 admitted and shall be marked for identification
11 as State's Exhibit A.

12 (WHEREUPON, State's Exhibit No. A was
13 received in evidence.)

14 HEARING OFFICER: Do you have any
15 witnesses you would like to call?

16 MR. WHITE: Yes. I will call Ms. Vera
17 Wood.

18 HEARING OFFICER: All right. Ms. Wood,
19 would you raise your right hand, please?

20 WHEREUPON,

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

25 HEARING OFFICER: Proceed.

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 Q Ms. Wood, what is your job with the Department of
4 Health?

5 A Inspector for Cosmetology.

6 Q Okay. And in that job, did you conduct an
7 inspection of a salon called Vivid Salon on November 16,
8 2016?

9 A Yes.

10 Q Okay. Where is Vivid Salon located?

11 A 201 North 21st Street, Fort Smith.

12 Q Okay. And in that -- in that inspection, did you
13 make any findings of any violations?

14 A I did.

15 Q Okay. What finding did you make?

16 A I found that Ms. Ashley -- Ms. Ashley Howard was
17 working in the salon and did not have a license posted,
18 and was informed that she had sent for them and I marked
19 it as being unlicensed because she couldn't prove it to
20 me, and it not being posted, and not having a current
21 license.22 Q So her current license -- there was no current
23 license posted for Ms. Howard?

24 A There was no license whatsoever for Ms. Howard.

25 Q Okay. And there was --

1 MR. WHITE: Okay. No further questions.

2 HEARING OFFICER: Any questions from the
3 Committee of this witness?

4 There being no questions, do you have
5 another witness to call?

6 MR. WHITE: Yes. I'll call Ms. Kelli
7 Kersey.

8 HEARING OFFICER: You've previously been
9 sworn in, right, Ms. Kersey?

10 MS. KERSEY: Yes, sir.

11 HEARING OFFICER: You are still under oath
12 so you may testify.

13 WHEREUPON,

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

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q Ms. Kersey, Ms. -- could you state what your job is
21 at the Department of Health?

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

24 Q Okay. And after Ms. Wood -- you heard her testimony
25 that she made a finding that there was no license posted.

1 After that finding was made, based upon your knowledge
2 of this -- your knowledge of this inspection, was the
3 status of Ms. Howard's license checked in the relevant
4 database?

5 A It was.

6 Q Okay.

7 A It expired 9/1/2014.

8 Q So it was in fact the case that as of the inspection
9 date, she did not have a current license; is that
10 correct?

11 A Correct.

12 MR. WHITE: Okay. No further questions.

13 HEARING OFFICER: Any questions from the
14 Committee of this witness?

15 There being none, call your next witness.

16 MR. WHITE: We rest.

17 HEARING OFFICER: The State rests. Do you
18 wish to make a closing argument at this time?

19 MR. WHITE: No. I will waive closing.

20 HEARING OFFICER: At this time we will go
21 off the record for the Committee's recess for
22 deliberations and a decision regarding the
23 findings of fact, conclusions of law, or any
24 penalties to be handed down. Once the Board
25 reaches a decision we will go back on the

1 record.

2 I forgot to ask, did you have a -- you
3 didn't have any statement of facts or
4 penalties, right?

5 MR. WHITE: No. I don't.

6 HEARING OFFICER: Okay. Once the Board
7 reaches a decision, we will go back on the
8 record.

9 The deliberations are open to the public
10 under the Freedom of Information Act. All
11 parties may remain and observe the
12 deliberations.

13 We are now off the record.

14 (WHEREUPON, the Committee retired to
15 deliberate, off the record, from 11:33 a.m. to
16 11:34 a.m., and returned with the following
17 decision:)

18 HEARING OFFICER: Okay. We will now go
19 back on the record for the Committee's
20 decision.

21 MS. ANDERSON: The statement of fact is
22 that we find Ashley Howard, when the inspection
23 was done at Vivid Salon on 11/16/2016, was not
24 having a valid license.

25 MR. KEARY: Second? Would anybody like to

1 second that motion?

2 MS. JONES: I'll second that.

3 MR. KEARY: Would anybody like to make a
4 motion of the --

5 MS. ANDERSON: We've got to vote.

6 HEARING OFFICER: You've got to vote on
7 your motion.

8 MR. KEARY: Let's vote. All in favor?

9 COMMITTEE MEMBERS: Aye.

10 MR. KEARY: Any opposed?

11 HEARING OFFICER: For the record, the vote
12 on the finding of fact that she, Ms. Howard,
13 did not have a valid or current cosmetology
14 license is -- she's found guilty of that by the
15 Commission.

16 Now for the penalty phase, Mr. Chairman?

17 MR. KEARY: Would anybody like to make a
18 motion for the penalty?

19 MS. ANDERSON: I would like to find that
20 5.1(A) for enforcement of current license as
21 well as unlicensed person is for Ashley Howard,
22 that fine, as well as she did not have a
23 license posted, 5.1(B)(3), and that fine being
24 \$100.

25 MS. JONES: I'll second that motion.

1 MR. KEARY: Now we need to vote on it.

2 MS. JONES: Yep.

3 MR. KEARY: All opposed?

4 MS. ANDERSON: Aye.

5 MR. KEARY: All in favor?

6 COMMITTEE MEMBERS: Aye.

7 MS. ANDERSON: Excuse me.

8 HEARING OFFICER: For the record, did
9 somebody -- did somebody want to oppose this
10 motion?

11 MS. ANDERSON: No. We do not. Sorry. He
12 said it backwards.

13 HEARING OFFICER: All those in favor --
14 can we do that again, just so we make sure we
15 get it right?

16 MR. KEARY: All in favor?

17 COMMITTEE MEMBERS: Aye.

18 MR. KEARY: Any opposed?

19 HEARING OFFICER: Okay. The vote being
20 unanimous to fine Ms. Ashley Howard \$100
21 passes; please reduce the board's decision to
22 writing and make or attempt service upon all
23 parties. If there are no other questions or
24 comments, this hearing is concluded and the
25 record is closed.

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(WHEREUPON, at 11:35 a.m., the
above-entitled hearing was concluded.)

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1 HEARING OFFICER: All right. My name is
2 Dara Hall and I'm the Hearing Officer today In
3 The Matter of Hollywood Studios. This matter
4 will be heard before the Cosmetology Technical
5 Advisory Committee. Today is 20 March 2017.

6 Respondent, please identify yourself for
7 the record and have a seat at the table.

8 Hollywood Studios, counsel, representative,
9 owner? Hollywood Studios?

10 Hollywood studios is not present nor a
11 representative, so are you ready to proceed on
12 this matter, State's Counsel?

13 MR. WHITE: Yes.

14 HEARING OFFICER: Do you have any
15 preliminary matters for -- we need to consider?

16 MR. WHITE: Well, I would move that we
17 introduce the hearing packet of the State, it's
18 numbered Pages 1 through 13, as State's Exhibit
19 A.

20 HEARING OFFICER: Any objections to
21 State's Exhibit A being admitted into evidence?

22 Hearing none, it is -- State's Exhibit A
23 is admitted into evidence at this time.

24 (WHEREUPON, State's Exhibit No. A was
25 received in evidence.)

1 HEARING OFFICER: Are you ready to proceed
2 on this matter?

3 MR. WHITE: Yes.

4 HEARING OFFICER: Would you like to call
5 your first witness?

6 MR. WHITE: Yes. I will call Ms. Vera
7 Wood.

8 HEARING OFFICER: Let the record reflect
9 Ms. Wood was previously sworn and is still
10 under oath. Do you understand that --

11 THE WITNESS: Yes.

12 HEARING OFFICER: -- Ms. Wood?

13 THE WITNESS: Yes.

14 HEARING OFFICER: Proceed.

15 Sorry.

16 WHEREUPON,

17 VERA WOOD,

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

21 DIRECT EXAMINATION

22 BY MR. WHITE:

23 Q Okay. Ms. Wood, did you -- and you're a -- you're a
24 health inspector for the Department of Health, correct?

25 A I'm a cosmetology inspector for the health

1 department, yes.

2 Q I'm sorry. Yes.

3 Okay. And in that capacity did you conduct an
4 inspection of a salon called Hollywood Studios on
5 November 4, 2016?

6 A Yes.

7 Q Okay. And as a result of that inspection, did you
8 have any findings that you made?

9 A We did.

10 Q Okay. What finding did you make?

11 A When we entered the salon we found that there were
12 persons operating as a hair salon but had no license for
13 a salon in the establishment.

14 Q Okay. There was no salon license posted?

15 A No, sir.

16 MR. WHITE: Okay. No further questions.

17 HEARING OFFICER: Any questions by the
18 Committee of this witness?

19 MR. KEARY: Yes.

20 HEARING OFFICER: Go ahead.

21 MR. KEARY: Our packet says that it was
22 inspected by Ms. Smith and Lester.

23 MS. KERSEY: Yeah, that's just a typo.

24 MR. KEARY: Okay.

25 MS. KERSEY: It's on the inspection sheet.

1 Sorry I butted in there.

2 Sorry.

3 Objection.

4 HEARING OFFICER: You can do any
5 corrections of typos that you wish. I would
6 prefer if you would put them on the record
7 clearly that you were striking things out and
8 changing them.

9 MS. KERSEY: Okay.

10 HEARING OFFICER: If you would like to do
11 that, we can do that in another -- in a moment.

12 Any other questions by the Committee of
13 this?

14 Does the State's counsel wish to make an
15 amendment to Exhibit A?

16 MR. WHITE: Yes.

17 You know, this is not part of any findings
18 of fact, but it -- there is just a, I suppose,
19 an informal time line that states "Inspected by
20 Yvonne Smith and Lavonne Lester."

21 HEARING OFFICER: Is that Page 5 of your
22 Exhibit A?

23 MR. WHITE: Yes. Yes.

24 HEARING OFFICER: And you're going to
25 remove --

1 MR. WHITE: Yes. Well, yeah, I mean,
2 that's -- we just have it on the record that it
3 was a typo, that it was actually Ms. Vera Wood
4 and Ms. Yvonne Smith, and so I guess we can
5 cross out Lavonne Lester and replace with Vera
6 Wood.

7 HEARING OFFICER: Yes, you can do that.

8 MR. WHITE: Okay.

9 HEARING OFFICER: That amendment is so
10 made and should be reflected in the record.

11 MR. WHITE: Okay.

12 HEARING OFFICER: Do you need a moment to
13 make that?

14 COURT REPORTER: I don't alter documents.

15 HEARING OFFICER: All right. All right.
16 Well, it's in the records. We're good.

17 Call your next witness.

18 MR. WHITE: We rest.

19 Well, no, we don't rest. I'm sorry. I
20 call Kelli Kersey.

21 HEARING OFFICER: For the record,
22 Ms. Kersey has previously been sworn. And you
23 acknowledge you're still under oath?

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

25 Kelli Kersey, Arkansas Department of

1 Health, Cosmetology Section, Section Chief.

2 HEARING OFFICER: Do you acknowledge
3 you're still under oath?

4 THE WITNESS: Yes. Got it.

5 Sorry.

6 HEARING OFFICER: Okay. You're good then.
7 Proceed.

8 WHEREUPON,

9 KELLI KERSEY,

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

13 DIRECT EXAMINATION

14 BY MR. WHITE:

15 Q Ms. -- Ms. Kersey, did you, after the finding was
16 made by Ms. Smith and Ms. Wood, was -- based upon your
17 knowledge of this inspection, was the status of any
18 license that an entity called Hollywood Studios had
19 checked in the relevant database?

20 A Yes.

21 Q Okay. What was determined?

22 A The license was expired at the time of inspection.

23 MR. WHITE: Okay. No further questions.

24 HEARING OFFICER: Any questions from the
25 Committee of this witness?

1 MR. KEARY: The fine is 250 for this one?

2 THE WITNESS: It's a salon.

3 MR. KEARY: Not an individual?

4 Okay. I got you. I'm good.

5 HEARING OFFICER: Any other questions for
6 this witness?

7 Any follow-up questions at this time?

8 MR. WHITE: No.

9 HEARING OFFICER: All right. I'm going to
10 excuse this witness temporarily.

11 Do you have any other witnesses you would
12 like to call?

13 MR. WHITE: No. We rest.

14 HEARING OFFICER: All right. Do you wish
15 to make a closing argument?

16 MR. WHITE: No. We waive closing.

17 HEARING OFFICER: At this time we'll go
18 off the record for the Committee's recess for
19 deliberations and decision regarding findings
20 of fact, conclusions of law, or any penalties
21 to be handed down. Once the Board reaches a
22 decision we will go back on the record.

23 The deliberations are open to the public
24 under the Freedom of Information Act, all
25 parties may remain and observe the

1 deliberations.

2 We will now go off the record.

3 (WHEREUPON, the Committee retired to
4 deliberate, off the record, from 11:42 a.m. to
5 11:43 a.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 MR. KEARY: Would anyone like to make a
11 motion?

12 MS. ANDERSON: I will.

13 As the statement of fact for the
14 Department of Health versus Hollywood Studios,
15 we find the findings of the violation of the
16 inspection without the salon establishment
17 having a license on 11/4/2016.

18 MS. WARE: Second.

19 MR. KEARY: Second?

20 Okay. Would anybody like to make a motion
21 for --

22 HEARING OFFICER: You need to vote on this
23 finding that they lacked -- the establishment
24 lacked a valid license.

25 MR. KEARY: We need to vote. All agree?

1 MS. JONES: All in favor?

2 MR. KEARY: In favor?

3 COMMITTEE MEMBERS: Aye.

4 MR. KEARY: Any opposed?

5 HEARING OFFICER: All right. There -- let
6 the record reflect it is a unanimous finding,
7 that Hollywood Studios did not possess a
8 current valid license on the inspection of
9 November 4, 2016.

10 All right. Would you like to go to
11 penalty phase, Mr. Chairman?

12 MR. KEARY: Would anybody like to make a
13 motion on the penalties?

14 MS. ANDERSON: I will make a motion,
15 please. We find that Hollywood Studios has
16 violated Rule 5.1(A)(5), the salon license is
17 not current, and 5.1(B), that the license is
18 not posted in the reception area, being a
19 250-dollar fine.

20 MS. WARE: Second the motion.

21 MR. KEARY: All right. Let's vote on it.
22 Got you this time.

23 All in favor?

24 COMMITTEE MEMBERS: Aye.

25 MR. KEARY: Any opposed?

1 HEARING OFFICER: The vote finding a
2 penalty of a fine of 250 against Hollywood
3 Studios is unanimous. Please reduce the
4 Board's decision to writing and make or attempt
5 service upon all parties.

6 If there are no other questions or
7 comments, this hearing is concluded and the
8 record is closed.

9 (WHEREUPON, at 11:45 a.m., the
10 above-entitled hearing was concluded.)

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1 HEARING OFFICER: My name is Dara Hall and
2 I'm the Hearing Officer today In The Matter of
3 Shear Defiance. This matter will be heard
4 before the Cosmetology Technical Advisory
5 Committee. Today is 20 March 2017.

6 Respondent, please identify yourself for
7 the record and have a seat at the table.
8 Calling for Shear Defiance, counsel,
9 representative, owner, operator of Shear
10 Defiance? Anybody present?

11 It does not appear that Shear Defiance is
12 present.

13 Counsel for the State, please identify
14 yourself for the record.

15 MR. WHITE: I'm Brooks White.

16 HEARING OFFICER: Are you ready to proceed
17 on this matter?

18 MR. WHITE: Yes, I am.

19 HEARING OFFICER: Do you have any
20 witnesses that need to be sworn?

21 MR. WHITE: Yes. Well, she's already
22 sworn. That's Kelli Kersey.

23 HEARING OFFICER: Is that your only
24 witness?

25 MR. WHITE: It is.

1 HEARING OFFICER: All right. For the
2 record, you acknowledge you are still under
3 oath?

4 MS. KERSEY: Yes, sir.

5 HEARING OFFICER: Do you have any other
6 preliminary matters? Any exhibits to
7 introduce?

8 MR. WHITE: Yes. I would move that the
9 hearing packet, which is numbered Pages 1
10 through 16, be admitted as State's Exhibit A.

11 HEARING OFFICER: Is there any objection
12 to State's Exhibit A being admitted into
13 evidence at this time?

14 Hearing no objections, it is so admitted
15 into evidence.

16 (WHEREUPON, State's Exhibit No. A was
17 received in evidence.)

18 HEARING OFFICER: Proceed with your first
19 witness.

20 WHEREUPON,

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

25 DIRECT EXAMINATION

1 BY MR. WHITE:

2 Q Okay. Ms. Kersey, as a Section Chief, are you aware
3 of an inspection that occurred at a salon called Shear
4 Defiance on November 18, 2016?

5 A Yes, sir.

6 Q Okay. Who conducted that inspection?

7 A Sondra Jones, and she is no longer with the
8 department.

9 Q Okay. But you are knowledgeable of the findings
10 that were made?

11 A Yes, sir.

12 Q Okay. And what were the findings that were made as
13 a result of that inspection?

14 A The salon was unlicensed and -- sorry -- and the --
15 yeah, and the practitioner is unlicensed. Sorry.

16 Q Okay. So it was determined as a result of the
17 inspection that Shear Defiance had no license?

18 A Yes.

19 Q Okay. And it was also determined that a
20 practitioner had no license?

21 A That would have been a separate matter.

22 Q Right.

23 A So --

24 Q That person is not a party to this proceeding,
25 correct?

1 A Correct. Correct.

2 Q Okay. So the only thing involved in this proceeding
3 is the failure of Shear Defiance to have a license?

4 A Correct.

5 Q Okay. And was -- after the inspection, was it
6 looked up in the database as to the status if any of any
7 license of Shear Defiance?

8 A There was no license, there was no evidence of
9 license.

10 Q And there is -- was it correct there was no evidence
11 they had ever had a license?

12 A Correct.

13 MR. WHITE: Okay. No further questions.

14 HEARING OFFICER: Any questions from the
15 Committee of this witness at this time?

16 MS. ANDERSON: Yes. I do.

17 So at this time, on Page 11 you have a
18 penalty for them of \$500. Can you explain
19 that, how that --

20 THE WITNESS: It's an -- that's a salon
21 that doesn't have a license.

22 MS. ANDERSON: Okay.

23 THE WITNESS: Unlicensed salon --

24 MS. ANDERSON: Unlicensed salon.

25 THE WITNESS: -- is \$500.

1 MS. WARE: Oh, okay.

2 MS. ANDERSON: But we're not finding the
3 practitioner, that's a separate finding?

4 THE WITNESS: Correct.

5 MS. ANDERSON: Okay. So it would not be
6 (7), it would just be that the license -- an
7 unlicensed salon and that it wasn't posted?

8 THE WITNESS: Correct.

9 MS. ANDERSON: And that's \$500?

10 THE WITNESS: Uh-huh.

11 MS. ANDERSON: Thank you.

12 HEARING OFFICER: Any follow-up questions
13 for this witness?

14 Any need to redirect?

15 MR. WHITE: No.

16 HEARING OFFICER: Okay. State have
17 another witness they would like to call?

18 MR. WHITE: No. We rest.

19 HEARING OFFICER: State wish to make a
20 closing argument?

21 MR. WHITE: No.

22 HEARING OFFICER: At this time we will go
23 off the record for the Committee's recess for
24 deliberations and a decision regarding the
25 findings of fact, conclusions of law, or any

1 penalties to be handed down. Once the Board
2 reaches a decision we will go back on the
3 record. These deliberations are open to the
4 public under the Freedom of Information Act.
5 All parties may remain and observe the
6 deliberations.

7 We are now off the record.

8 (WHEREUPON, the Committee retired to
9 deliberate, off the record, from 11:49 a.m. to
10 11:50 a.m., and returned with the following
11 decision:)

12 HEARING OFFICER: Okay. We will now go
13 back on the record for the Committee's
14 decision.

15 MR. KEARY: Would anybody like to make a
16 motion?

17 MS. JONES: I will try. I would like to
18 make a motion in the findings of Shear
19 Defiance, that on the visit the department
20 found that they were operating without a
21 license, under Rule 5.1(A), conducting
22 operations in a cosmetology establishment
23 without a license.

24 MS. WARE: Second the motion.

25 MR. KEARY: Second. All right. Now we

1 need to vote on it. All in favor?

2 COMMITTEE MEMBERS: Aye.

3 MR. KEARY: Any opposed?

4 HEARING OFFICER: Let the record reflect
5 the vote finding Shear Defiance was operating
6 an establish -- was found guilty of operating
7 an establishment without a current valid
8 license.

9 Would you -- Chairman, would you like to
10 go into the penalty phase now?

11 MR. KEARY: Yes. Thank you.

12 Would anybody like to make a motion on the
13 penalties?

14 MS. JONES: I would like to make a motion
15 that the 500-dollar fine stands for Shear
16 Defiance for operations without a license --

17 MR. KEARY: All right.

18 MS. JONES: -- on 11/18/2016.

19 MR. KEARY: All in favor?

20 COMMITTEE MEMBERS: Aye.

21 MS. JONES: We need a second.

22 MS. ANDERSON: Oh, excuse me. Second.
23 I'll second your motion.

24 MR. KEARY: All right. All in favor?

25 COMMITTEE MEMBERS: Aye.

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MR. KEARY: Any opposed?

HEARING OFFICER: Let the record reflect the vote was unanimous to fine Holly -- no, Shear Defiance \$500 for operating an establishment without a current valid license. Please reduce the Board's decision to writing and make or attempt service upon all parties.

If there are no other questions or comments, this hearing is concluded and the record is closed.

(WHEREUPON, at 11:52 a.m., the above-entitled hearing was concluded.)

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1 Kelli Kersey gave an update on the ad hoc
2 committee meeting. They discussed infection
3 control, did not make any changes.

4 Discussion was held regarding what is
5 pending before the legislature at this time.

6 The electronic inspection is being tested.

7 New inspector, Jaclyn Knopp, from Conway
8 was introduced. Interviews were held for the
9 fifth position, a candidate has been chosen and
10 the name has been submitted.

11 The inspector that was doing the massage
12 inspections is now going to do the paperwork
13 and the cosmetology inspectors are going to do
14 the massage inspections.

15 Meeting adjourned.

16 (WHEREUPON, at 12:07 p.m., the
17 above-entitled proceedings were concluded.)

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3 CERTIFICATE

4 STATE OF ARKANSAS)

5 COUNTY OF PULASKI)

6 I, SUSAN B. WHITSON, Certified Court Reporter
7 and notary public in and for Pulaski County, State of
8 Arkansas, do hereby certify that the meeting and hearings
9 held before the Arkansas Department of Health,
10 Cosmetology Technical Advisory Committee, March 20, 2017,
11 was taken by me in Stenotype and was reduced to
12 computer-generated typewritten form by me or under my
13 direction and supervision; that the witnesses were duly
14 sworn by the Hearing Officer; and that the same is a true
15 and correct reflection of the proceedings that occurred,
16 to the best of my knowledge and ability.

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

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

6 SIGNED AND SWORN this _____ day of
 7 _____.

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 SUSAN B. WHITSON, CCR, #158
 NOTARY COMMISSION #12388076
 NOTARY PUBLIC IN AND FOR
 PULASKI COUNTY, ARKANSAS

My Commission Expires: June 4, 2022.

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