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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 28th day of August, 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.

TECHNICAL ADVISORY COMMITTEE:

TONYA BOYDSTUN, Chair
CARLA JONES
LOIS WARE

REPORTED BY:

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

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 BROOKS WHITE, ESQ.

4 HEARING OFFICER:

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

8 Staff Members Present:

9 KELLI KERSEY - Section Chief
CONNIE MELTON, ADH Branch Chief, Health Systems Licensing
10 and Reg
TERI PREACHERS - Administrative Specialist
11 PAM ATHERLEY

12 Inspectors Present:

13 LAVONNE LESTER
VERA WOOD
14 YVONNE SMITH
KRISTA WELLS -Inspector Supervisor
15 JACLYN KNOPP

16 ALSO PRESENT:

17 Daniel 'Rex' Paxton
Andrea Wilson
18 Connie Johnston
Jenetta Hughes
19 Deanne Spear
Rachel Willis
20 Tina Reagan
Erica Finnel
21 Chasity Lankford
Tonya Byrd
22 Barbara Douglas

23 Court Reporter:

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

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P R O C E E D I N G S

The meeting of the Department of Health
Cosmetology Technical Advisory Committee was
called to order by Tonya Boydston. Committee
members also present are Carla Jones and Lois
Ware.

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1 MR. WHITE: By the way, I would just like
2 to put on the record that, while it's certainly
3 no offense to you new members and we look
4 forward to working with you, but you're not
5 officially part of -- of the advisory board
6 right now so you won't be participating in
7 deliberations --

8 MS. KERSEY: Right.

9 MR. WHITE: -- and so forth.

10 MS. KERSEY: We told them that --

11 MR. WHITE: Okay.

12 MS. KERSEY: -- when we sent them the
13 letter.

14 MR. WHITE: All right.

15 HEARING OFFICER: All right. Ready to
16 start?

17 MR. WHITE: Yes.

18 HEARING OFFICER: All right. My name a
19 Dara Hall and I'm the Hearing Officer today In
20 The Matter of Angela Kelly. This matter will
21 be heard before the Cosmetology Technical
22 Advisory Committee. Today is 28 August 2017.
23 Please turn all cell phones off or place them
24 on silent mode so as not to disrupt these
25 proceedings. I usually check my own one,

1 that's why I put that in there. I think I'm
2 good. I was good, okay. Now I'm good again.

3 Respondent, please identify yourself for
4 the record. Ms. Kelly? Angela Kelly, are you
5 here?

6 Does not appear that Angela Kelly is here,
7 so we can skip all the explanations of the
8 proceedings for her, and there would be no
9 counsel.

10 So we'll skip to swearing in of witnesses.
11 For those of you who are or may be witnesses
12 today in this matter, please, raise your right
13 hands to be sworn in. All right.

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

16 HEARING OFFICER: Would you please give
17 your names to the court reporter so she can
18 identify who was sworn in for the record?

19 MS. KERSEY: Kelli Kersey, Arkansas
20 Department of Health, Cosmetology and Massage
21 Therapy Section Chief.

22 MS. WELLS: Krista Wells, Arkansas
23 Department of Health, Cosmetology and Massage
24 Therapy Inspector Supervisor.

25 HEARING OFFICER: Thank you.

1 Are there any other preliminary matters to
2 be discussed or offered at this time, Counsel?

3 MR. WHITE: Yes.

4 The State would move to introduce the --

5 HEARING OFFICER: Oh, before you do that,
6 identify yourself for the record too.

7 MR. WHITE: Okay. I'm Brooks White. I'm
8 the counsel for the Arkansas Department of
9 Health.

10 HEARING OFFICER: Thank you. Go ahead.

11 MR. WHITE: Yes.

12 The State would like to introduce the
13 hearing packet, which is numbered Pages 1
14 through 11, as State's Exhibit A.

15 HEARING OFFICER: As Exhibit A. Any
16 objection to the admission of Exhibit A?

17 Hearing no admission [sic] it is so
18 entered into evidence as Exhibit A and may be
19 published to the committee at this time.

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

22 HEARING OFFICER: Does the committee wish
23 to have a recess to review Exhibit A briefly?

24 MS. BOYDSTON: No, we're good.

25 HEARING OFFICER: We're good?

1 All right. Counsel, are you ready to
2 proceed?

3 MR. WHITE: Yes. I'll just make a brief
4 opening statement, if that's okay.

5 HEARING OFFICER: Yes.

6 MR. WHITE: This -- we had taken at the
7 last meeting disciplinary action against the
8 salon that's owned by this lady, Angela Kelly,
9 Shear Defiance Salon, numerous violations. One
10 of the findings that was made at the audit --
11 or the inspection that happened on February
12 2nd of this year was that it was discovered
13 that she had altered her license certificate.
14 It -- the one that she had posted had an
15 expiration date of 11/24/15. Well, she altered
16 the 5 at the end of it to make it look like a
17 6; however, it was not good enough work that it
18 was not discovered by our inspectors, and so
19 that's the basis of the action today.

20 All right. I will call Ms. Kelli Kersey.

21 WHEREUPON,

22 KELLI KERSEY,

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

1 DIRECT EXAMINATION

2 BY MR. WHITE:

3 Q Ms. Kersey, could you state what your job is at the
4 Department of health?5 A I am the Section Chief for the Cosmetology and
6 Massage Therapy Section.7 Q Okay. Did you, on February 2, 2017, conduct an
8 inspection of a salon known as Shear Defiance Salon
9 that's owned by Ms. Angela Kelly?

10 A Yes, sir.

11 Q Okay. Did anyone else go with you on that
12 inspection?

13 A Krista Wells, our inspector supervisor.

14 Q So it was you and Krista?

15 A Yes, sir.

16 Q Okay. And did you make certain findings with regard
17 to Ms. Kelly as a result of that inspection?18 A Yes. She had -- we -- I -- we found that her
19 license had been altered from a 5 -- from 2015 to '16.20 Q Okay. And I want to ask you about Page 8 of the
21 hearing packet.

22 A Okay.

23 Q And --

24 A Oh, okay.

25 Q -- if I could, this document you have right here in

1 front of you, is that the original certificate that was
2 hanging in her --

3 A Yes, sir.

4 Q Okay.

5 A It's her original license.

6 Q If you could just pass that around to the --

7 HEARING OFFICER: For the record, is that
8 the original that is the copy on Page 8 of
9 Exhibit A?

10 MR. WHITE: Yes. That's correct.

11 HEARING OFFICER: All right.

12 BY MR. WHITE:

13 Q And I want to ask you about the -- so the -- did you
14 look up her license in the database after -- after the
15 inspection?

16 A Yes, sir.

17 Q Okay. And what was the actual expiration date?

18 A 11/24/2015.

19 Q Okay. And can you, by observing that certificate,
20 can you see that the -- the 5 at the end of the year had
21 been altered to look like a 6?

22 A Yes, sir.

23 Q Okay. Did you ask her about that, Ms. -- Ms. Kelly?

24 A Yes. We -- I did. On the phone I asked her about
25 it.

1 Q Okay.

2 A She was not present but we talked to her.

3 Q And she denied that she did it?

4 A Yes.

5 Q Okay. And so based upon your observation of that
6 certificate, does it appear to you that it has in fact
7 been deliberately altered so that it reads 11/24/16
8 instead of '15?

9 A Yes, sir. And you can look on Page 4 of the packet
10 also and that lists the license and when it's been
11 renewed.

12 Q Right. And, in fact, we know it's been altered, do
13 we not, because the -- the Department's database reflects
14 she never had a license with an expiration date effective
15 11/24/16; is that correct?

16 A Correct.

17 Q Okay. And clearly the database reflected it expired
18 11/24/15, right?

19 A Yes, sir.

20 MR. WHITE: Okay. No further questions.

21 HEARING OFFICER: Okay. Cross from
22 Ms. Kelly? Cross?

23 Still not here.

24 Does the committee have any questions for
25 this witness?

1 MS. JONES: No. I do not.

2 MS. BOYDSTON: No.

3 HEARING OFFICER: No questions from the
4 committee.

5 All right. Would you like to excuse this
6 witness?

7 MR. WHITE: Yes.

8 HEARING OFFICER: Temporarily subject to
9 recall?

10 MR. WHITE: Yes.

11 HEARING OFFICER: You are so excused.

12 Call your next witness.

13 MR. WHITE: We rest.

14 HEARING OFFICER: You don't have another
15 witness you swore in?

16 MR. WHITE: Well, we did, but I think it
17 would just be cumulative.

18 HEARING OFFICER: Okay. That's your call.

19 All right. Do you wish to make a closing?

20 MR. WHITE: I think we will waive closing.

21 HEARING OFFICER: All right. Then at this
22 time we will go off the record for the
23 committee's recess for deliberations and a
24 decision regarding the findings of fact,
25 conclusions of law, or any penalties to be

1 handed down. Once the board reaches a
2 decision, we'll go back on the record.

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

7 We are now off the record.

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

10 HEARING OFFICER: We will now go back on
11 the record at this point --

12 MR. WHITE: Okay.

13 HEARING OFFICER: -- and you can make your
14 closing.

15 MR. WHITE: This is a pretty severe thing
16 she did here, and so it's obviously up to you
17 all what penalty you want to impose. You can
18 revoke her license if you choose to do so.
19 However, we discussed that -- I discussed it
20 with the section people, and the recommendation
21 we would make would be a four month suspension.
22 So that's what I wanted to tell you.

23 Thank you.

24 HEARING OFFICER: Okay. Again, the
25 committee will go on the recess for

1 deliberations and a decision regarding the
2 finding of fact -- deciding the issues in this
3 case. All parties may remain and observe the
4 deliberations.

5 We are now again off the record.

6 (WHEREUPON, the Committee retired to
7 deliberate, off the record, from 9:14 a.m. to
8 9:16 a.m, and returned with the following
9 questions:)

10 HEARING OFFICER: All right. At this time
11 we will go back on the record.

12 And I understand the committee may have a
13 questions on the law for your counsel. Go
14 ahead.

15 MR. WHITE: It's either money or
16 suspension/revocation. You cannot do both.
17 The rules -- the only -- the maximum fine you
18 can assess against her is \$100, so if you
19 assess her \$100, that's it, that's all that you
20 can do. And so the alternative to that is
21 either -- is to suspend or revoke, it's your
22 call. If you revoke, then she can't reapply
23 for a year and she has to go through the whole
24 application process again. If you suspend, my
25 understanding is that after the suspension is

1 over, she can be reinstated by paying all of
2 her back penalties, which she doesn't have any
3 as an individual right now. So after the
4 suspension is over I don't think she has to go
5 through any other process. Her license is in
6 good standing as long as she is current on
7 her -- her application -- or her license fees,
8 so she would have to get those current.

9 MS. BOYDSTON: Other than this, is there
10 any other repercussions for just making up your
11 own state license?

12 MR. WHITE: Well, not under the rules. I
13 mean, there could be some criminal liability,
14 but that's not our jurisdiction or your
15 jurisdiction. So under the rules it would be
16 what I just outlined.

17 MS. BOYDSTON: Okay. Anybody? That just
18 doesn't seem like very much for everything that
19 she continues to do.

20 MR. WHITE: Well, that's y'all's call, not
21 mine.

22 MS. BOYDSTON: Right. Okay. So we go
23 back off the record at this time, or is that
24 your call?

25 MR. WHITE: If you're through asking me

1 questions.

2 HEARING OFFICER: And make sure you're --

3 MS. BOYDSTON: Do you guys have any other
4 questions?

5 MS. WARE: No.

6 HEARING OFFICER: Okay. Are you ready to
7 go back off the record?

8 MS. BOYDSTON: I think.

9 HEARING OFFICER: At this time we will go
10 on the -- go off the record for more
11 deliberations by the committee.

12 (WHEREUPON, the Committee retired to
13 deliberate, off the record, from 9:18 a.m. to
14 9:20 a.m., and returned with the following
15 decision:)

16 HEARING OFFICER: All right. We will now
17 go back on the record for the committee's
18 decision.

19 MS. BOYDSTON: We have decided to go with
20 the recommendation from Mr. --

21 HEARING OFFICER: You need a motion and
22 then a vote.

23 MS. BOYDSTON: -- White, so we need a
24 motion and then a vote.

25 So you two, get --

1 MS. JONES: Well, I would like to make a
2 motion that we -- In The Matter of Angela
3 Kelly, with her many disciplinary actions, that
4 we need to give her the four month suspension
5 of her license.

6 MS. WARE: Second the motion.

7 MS. BOYDSTON: The motion carries.

8 HEARING OFFICER: All right. We will
9 now -- I'm sorry. The vote was unanimous to
10 suspend Ms. Kelly's license for four months, is
11 that correct, with no fine?

12 MS. JONES: Yes.

13 MS. BOYDSTON: Yes.

14 HEARING OFFICER: Okay. And that was
15 unanimously voted on. I was just making sure
16 we didn't want a fine in there before we
17 conclude this case.

18 MS. WARE: He said we could do just one.

19 MS. JONES: He said we couldn't fine her
20 and suspend.

21 MR. WHITE: I think the rules indicate
22 either/or on that, my understanding.

23 HEARING OFFICER: Okay. Just making sure.

24 The vote was unanimous to suspend her
25 license for four months, her cosmetology

1 license, her individual one. Please reduce the
2 board's -- I mean the committee's decision to
3 writing and make or attempt service upon all
4 parties.

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

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

10 ---o---

11 MS. BOYDSTON: We're adjourned.

12 (WHEREUPON, at 9:22 a.m., the
13 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 hearing,
9 held before the Arkansas Department of Health,
10 Cosmetology Technical Advisory Committee, August 28,
11 2017, 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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