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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 15th day of May 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
BRIAN KEARY, Co-Chair
ANGELA JACKSON (not present)
TRISH ANDERSON (not present)
JESSICA PECK
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.
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 Amanda Weeks

11 Inspectors Present:

12 LAVONNE LESTER
13 VERA WOOD
14 YVONNE SMITH
15 JACLYN KNOOP
16 PAM ATHERLEY

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17 Court Reporter:

18 Susan B. Whitson, CCR
19 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, May 15, 2017, was called to order by
4 co-chair Brian Keary. Committee members
5 present are Brian Keary, Jessica Peck, Carla
6 Jones, Tonya Boydston, and Lois Ware.
7 Committee members not present are Trish
8 Anderson and Angela Jackson.

9 Motion to approve the minutes was made by
10 Carla Jones, second by Brian Keary; passed
11 unanimously.

12 Motion to approve the paid violations was
13 made by Jessica Peck, second by Lois Ware;
14 passed unanimously.

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HEARING OFFICER: My name is Dara Hall,
and I'm the Hearing Officer today In The Matter
of Brow Bar. This matter will be heard before
the Cosmetology Technical Advisory Committee.
Today is 15 May 2017. Please turn all cell
phones off or place them on silent mode. I put
that in there for me.

Respondents, please identify yourself for
the record and have a seat at -- where does the
court reporter want them at?

COURT REPORTER: (Indicating.)

HEARING OFFICER: Right across. Okay.
Brow Bar? Anybody here from Brow Bar?

All right. Doesn't appear that Brow Bar
is present.

Counsel for Brow Bar?

No.

All right. Well, there is no reason to
explain the proceedings.

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

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

HEARING OFFICER: All right. Are there

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

3 MR. WHITE: No.

4 HEARING OFFICER: You don't have any
5 exhibits you want to introduce?

6 MR. WHITE: Okay. Yeah. I will introduce
7 this packet of documents, including the
8 complaint -- or Order of Notice of Hearing,
9 actually, is what we call it, as well as the
10 certificate of mailing; it's numbered Pages 1
11 through 11, and I would move to introduce that.

12 HEARING OFFICER: As State's Exhibit 1?

13 MR. WHITE: Yes.

14 HEARING OFFICER: Any objection -- any
15 objection to State's Exhibit 1 being
16 introduced?

17 Hearing none, it is so admitted as State's
18 Exhibit 1 and may be published to the
19 committee.

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

22 HEARING OFFICER: Are you ready to
23 proceed, Counsel?

24 MR. WHITE: I am. I am.

25 HEARING OFFICER: Call your first witness.

1 MR. WHITE: I will call Ms. Vera Wood.

2 WHEREUPON,

3 VERA WOOD,

4 having been called for examination, and having been first

5 duly sworn by the Hearing Officer, was examined and

6 testified, as follows:

7 DIRECT EXAMINATION

8 BY MR. WHITE:

9 Q Ms. Vera Wood, would you state what your job is at
10 the Department of Health?

11 A I'm an inspector for cosmetology.

12 Q Okay. And in that capacity, did you perform an
13 inspection of a salon known as Brow Bar, on November 22,
14 2016?

15 A Yes.

16 Q Okay. In the course of that inspection, did you
17 make a finding regarding whether or not Brow Bar had a
18 current license posted?

19 A Yes. According to the records, that it had expired
20 12/15.

21 Q That was the one that they had posted?

22 A Yes.

23 Q Okay. And so it expired 2015, you said?

24 A Yes, sir.

25 MR. WHITE: Okay. All right. No further

1 questions of this witness.

2 HEARING OFFICER: Any cross from Brow Bar?
3 Apparently not.

4 Does the committee have -- want to ask any
5 questions of this witness at this time?

6 MR. KEARY: They renewed it since then?

7 MR. WHITE: I'm going to -- I was going to
8 call her to establish that, but the answer is
9 yes.

10 HEARING OFFICER: Any other questions for
11 this witness from the committee?

12 If there are none, call your next witness.

13 MR. WHITE: I'll call Ms. --

14 HEARING OFFICER: Oh, first off, you're
15 going to -- are you going the excuse her
16 permanently or temporarily?

17 MR. WHITE: Permanently from this case.

18 HEARING OFFICER: All right. You are
19 permanently excused from this hearing.

20 Call your next witness.

21 MR. WHITE: I'll call Ms. Kelli Kersey.

22 WHEREUPON,

23 KELLI KERSEY,

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

1 testified, as follows:

2 DIRECT EXAMINATION

3 BY MR. WHITE:

4 Q Ms. Kersey, state your job for the Department of
5 Health.

6 A It's Section Chief for Cosmetology and Massage
7 Therapy.

8 Q Okay. And you heard Ms. Wood's testimony about her
9 finding as to the license of Brow Bar. After her
10 finding, did you look up the status of their license in
11 the database?

12 A I did.

13 Q Okay. And what did you determine?

14 A They had renewed on 12/29/2015 for two years, so
15 their license was current.

16 Q So it was a case of their not having the current
17 license posted rather than not having their license
18 current; is that correct?

19 A Correct.

20 Q And is it correct that the -- the rules provide for
21 a 50-dollar fine in that circumstance?

22 A Yes, sir.

23 Q Okay. And is that what we're seeking to impose upon
24 Brow Bar?

25 A Yes, sir.

1 MR. WHITE: Okay. No further questions.

2 HEARING OFFICER: Committee have any --
3 well, anybody have any questions of this
4 witness?

5 There being none, then do you wish to make
6 a closing argument, Counsel -- well, I'm
7 assuming you're resting?

8 MR. WHITE: I'm resting and I'll waive
9 closing.

10 HEARING OFFICER: Okay. That being the
11 case, at this time we will go off the record
12 for the -- for the committee's recess for
13 deliberations and a decision regarding the
14 findings of fact, conclusions of law, or any
15 penalties to be handed down. Once the board
16 reaches a decision we will go back on the
17 record. The deliberations are open to the
18 public under the Freedom of Information Act.
19 All parties may remain and observe the
20 deliberations.

21 We are now off the record.

22 (WHEREUPON, the Committee retired to
23 deliberate, off the record, and returned with
24 the following decision:)

25 HEARING OFFICER: Okay. We will now go

1 back on the record for the committee's
2 decision.

3 MS. BOYDSTON: So we would like to take a
4 vote on --

5 HEARING OFFICER: Make a motion.

6 MS. PECK: I would like to make a motion
7 to fine Brow Bar \$50 for not posting their
8 license, for their license not posted.

9 MS. BOYDSTON: Second?

10 MR. KEARY: Second.

11 MS. BOYDSTON: Do we have a vote? All in
12 favor?

13 COMMITTEE MEMBERS: Aye.

14 MS. BOYDSTON: All opposed?

15 Motion passes.

16 HEARING OFFICER: Let the record reflect
17 the decision is unanimous. Please reduce the
18 board's decision to writing and make or attempt
19 service upon all parties.

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

23 (WHEREUPON, at 9:16 a.m., the
24 above-entitled proceedings were concluded.)

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BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

(CTAC)

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

v.

ELEGANT THREADING SALON

RESPONDENT

ADMINISTRATIVE HEARING

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1 MR. WHITE: I will call for hearing
2 Elegant Threading Salon.

3 HEARING OFFICER: My name is Dara Hall and
4 I am the Hearing Officer today In The Matter of
5 Elegant Threading Salon. This matter will be
6 heard before the Cosmetology Technical Advisory
7 Committee. Today is 15 May 2017. Please turn
8 all cell phones off or place them on silent
9 mode.

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

12 MS. SMITH: Do you want me to go over
13 there?

14 HEARING OFFICER: Are you the respondent
15 or --

16 MS. SMITH: No. No.

17 HEARING OFFICER: Do I have a respondent
18 here for Elegant Threading Salon?

19 All right. They don't seem to be present,
20 so we can skip the counsel part, the notice,
21 explanation of the proceedings.

22 All right. For those of you who are or
23 may be witnesses today in this matter, please,
24 raise your right hands to be sworn in.

25 (WHEREUPON, the witnesses were sworn by

1 the Hearing Officer.)

2 HEARING OFFICER: Are there any other
3 preliminary matters to be discussed or offered,
4 any exhibits to be offered at this time?

5 MR. WHITE: Yes. The department would
6 introduce a packet of documents, including the
7 Order of Notice of Hearing, numbered Pages 1
8 through 11; so I would move to introduce that
9 at this time.

10 HEARING OFFICER: Any objections to the
11 admission of State's Exhibit 1?

12 Hearing none, it is so admitted as State's
13 Exhibit 1 and may be published to the committee
14 at this time.

15 (WHEREUPON, State's Exhibit No. 1 was
16 received in evidence.)

17 HEARING OFFICER: Counsel, are you ready
18 to proceed?

19 MR. WHITE: I am.

20 I will call Ms. Yvonne Smith.

21 WHEREUPON,

22 YVONNE SMITH,

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. Smith, could you state your job for the
4 Department of Health?

5 A Yes. I'm a cosmetology inspector.

6 Q In that capacity, did you perform an inspection of a
7 salon known as Elegant Threading Salon on December 14,
8 2016?

9 A Yes. I did.

10 Q Okay. And did you make a finding with regard to the
11 license that the -- the salon had posted on that date?

12 A Yes, I did. The license had expired on 12/31/15.

13 Q Okay. And they did not produce a current license to
14 you?

15 A No. They didn't.

16 MR. WHITE: Okay. No further questions.

17 HEARING OFFICER: Does the committee have
18 any questions of this witness at this time?

19 MS. BOYDSTON: No.

20 HEARING OFFICER: There being none, do you
21 want to excuse this witness permanently or
22 temporarily?

23 MR. WHITE: Permanently for this hearing.

24 HEARING OFFICER: All right. You are so
25 permanently excused from this hearing.

1 And call your next witness.

2 MR. WHITE: I will call Ms. Kelli Kersey.

3 WHEREUPON,

4 KELLI KERSEY,

5 having been called for examination, and having been first

6 duly sworn by the Hearing Officer, was examined and

7 testified, as follows:

8 DIRECT EXAMINATION

9 BY MR. WHITE:

10 Q Ms. Kersey, could you state your job at the

11 Department of Health?

12 A Section Chief for Cosmetology and Massage Therapy.

13 Q Okay. And in that capacity, did you follow up on a

14 finding that Ms. Yvonne Wood [sic] made with regard to

15 Elegant Threading Salon on December 14, 2016?

16 A I did.

17 Q Okay. Did you look up the status of their license

18 in the database?

19 A Yes.

20 Q Okay. And was it determined that their license

21 expired on 12/31/15?

22 A Yes, sir.

23 Q So they had gone, what, did it -- well, let me ask,

24 did it show that they had renewed?

25 A They have not renewed, it's still expired.

1 Q Still expired?

2 Okay. And so they have been operating without a
3 license for over a year now?

4 A Yes, sir.

5 MR. WHITE: Okay. No further questions.

6 HEARING OFFICER: Committee have any
7 questions for this witness at this time?

8 MR. KEARY: Are they still in business?

9 COURT REPORTER: I can't hear you.

10 MR. KEARY: Are they still in business?

11 THE WITNESS: As far as I know, yeah.

12 MR. KEARY: Okay.

13 THE WITNESS: But we haven't been back
14 since December; so --

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

17 MR. WHITE: No. I -- we rest.

18 HEARING OFFICER: All right. The people
19 coming in, anybody from Elegant Threading
20 Salon? Those in the doorway or just came in?

21 No? All right.

22 All right. Then you rested?

23 MR. WHITE: Yes.

24 HEARING OFFICER: Do you wish to make a
25 closing argument?

1 MR. WHITE: I will waive closing.

2 HEARING OFFICER: At this time we will go
3 off the record for the committee's recess for
4 deliberations and a decision regarding the
5 findings of fact, conclusions of law, or any
6 penalties to be handed down.

7 Did you ask for any particular penalties
8 in this?

9 MR. WHITE: Yes. And I --

10 HEARING OFFICER: Do you want to go ahead
11 and do that?

12 MR. WHITE: I will. The penalty for
13 operating without a license under the rules is
14 \$500, and so that is the -- the penalty that
15 the department is seeking to impose upon the
16 respondent, Elegant Threading Salon. So we ask
17 that that penalty be imposed.

18 Thank you.

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

1 public under the Freedom of Information Act.
2 All parties may remain and observe the
3 deliberations.

4 Remember, committee, that we must vote
5 back on the record on your decision. You
6 can --

7 MR. WHITE: Mr. Hearing Officer, I need to
8 correct an error that I made.

9 HEARING OFFICER: Okay. Go ahead.

10 MR. WHITE: It's -- the fine is actually
11 \$250, not 500.

12 HEARING OFFICER: All right. Thank you.
13 Just remember to come back on the record
14 to vote on it with the court reporter to
15 record.

16 And we are now off the record for
17 deliberations.

18 (WHEREUPON, the Committee retired to
19 deliberate, off the record, and returned with
20 the following decision:)

21 MS. BOYDSTON: Okay. Then we will come
22 back on the record. And we as a committee have
23 come to the conclusion that --

24 HEARING OFFICER: Are you ready to go back
25 on the record? I'm sorry. I thought you were

1 but I want to make sure.

2 MS. BOYDSTON: Did I say that or did I
3 just think it out loud?

4 MS. WARE: No, you said it.

5 HEARING OFFICER: I want to make sure if
6 you were talking to me or talking about it. We
7 will now go back on the record for the
8 committee's decision.

9 Go ahead.

10 MS. BOYDSTON: Okay. As a committee we
11 think that that fine should be doubled because
12 they are --

13 MS. PECK: Can I make a motion?

14 MS. BOYDSTON: -- because they are still
15 operating without a license, so we need to make
16 a motion.

17 MS. JONES: I would like to make a motion
18 that the findings be doubled to 500 instead of
19 250 on Elegant Threading Salon for operating
20 without a license.

21 HEARING OFFICER: You want to make, just
22 for the record, that the penalty should be
23 doubled?

24 MS. JONES: Yes. I would like to make --

25 HEARING OFFICER: You said findings.

1 MS. JONES: -- the record --

2 HEARING OFFICER: Okay. The findings were
3 if they are guilty or not, the penalty is the
4 amount of the fine. Just making sure that it's
5 clear for the record.

6 MS. JONES: I would like the record to
7 show that the finding will be doubled to 500
8 instead of --

9 MS. BOYDSTON: The penalty?

10 MS. JONES: The penalty. I'm sorry.

11 MR. KEARY: I'll second the motion.

12 HEARING OFFICER: I try to be helpful.

13 MR. KEARY: I'll second that motion.

14 MS. BOYDSTON: All in favor?

15 COMMITTEE MEMBERS: Aye.

16 MS. BOYDSTON: All opposed?

17 The motion carried.

18 HEARING OFFICER: Let the record reflect
19 the decision was unanimous; please reduce the
20 board's decision to writing and make or attempt
21 service upon all parties.

22 Respondent is not here for the appeals
23 process, so 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 9:26 a.m., the
above-entitled proceedings were concluded.)

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BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

(CTAC)

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

v.

SUZANNE CECIL

RESPONDENT

ADMINISTRATIVE HEARING

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Examination by the Committee	31
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Motion	34

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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 Suzanne Cecil. This matter will
4 be heard before the Cosmetology Technical
5 Advisory Committee, today is 15 May 2017.
6 Please turn all cell phones off or place them
7 on silent mode.

8 Respondent, please identify yourself for
9 the record and have a seat at the table across
10 from the court reporter.

11 Suzanne Cecil, are you present?

12 Does not appear to be present. Skip that.

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

16 I'm sorry. Are we ready to --

17 MR. WHITE: Yes.

18 HEARING OFFICER: Okay.

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

21 HEARING OFFICER: All right. Are there
22 any other preliminary matters to be discussed
23 or offered at this time?

24 MR. WHITE: Yes. The department would
25 introduce a packet of documents, including the

1 Order of Notice of Hearing, numbered Pages 1
2 through 11.

3 Amazing how it's 11 pages every time.

4 HEARING OFFICER: I was just thinking
5 that.

6 MR. WHITE: Yeah.

7 MS. KERSEY: I did like that.

8 MR. WHITE: And so we would move to
9 introduce this as State's Exhibit No. 1.

10 HEARING OFFICER: All right. Any
11 objection to the admission of State's Exhibit
12 1?

13 Hearing no objection, it is so admitted as
14 State's Exhibit 1 and may be published to the
15 committee at this time.

16 (WHEREUPON, State's Exhibit No. 1 was
17 received in evidence.)

18 HEARING OFFICER: Counsel, are you ready
19 to proceed?

20 MR. WHITE: I am.

21 HEARING OFFICER: Call your first witness.

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

23 WHEREUPON,

24 YVONNE SMITH,

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 DIRECT EXAMINATION

4 BY MR. WHITE:

5 Q Ms. Smith, would you please state your job at the
6 Department of Health?

7 A Yes. I'm a cosmetology inspector.

8 Q Okay. And in that capacity did you perform an
9 inspection of a salon -- or, actually, of an individual
10 named Suzanne Cecil on November 30, 2016?

11 A Yes. I did.

12 Q Okay. And as a result of that inspection, did you
13 make a finding regarding the status of any licenses she
14 had?

15 A Yes, I did. Her practitioner license had expired --
16 excuse me -- on July 30, 2016.

17 Q Okay. So the license she had posted expired on
18 7/30/16?

19 A Yes.

20 MR. WHITE: Okay. No further questions.

21 HEARING OFFICER: Any questions of this
22 witness from the committee at this time?

23 MS. WARE: Yeah. Was it just her or it's
24 two people?

25 THE WITNESS: It was two, but I think the

1 other one paid hers.

2 Yes. The other one paid hers.

3 HEARING OFFICER: Any follow-up questions
4 for this witness from the committee?

5 Any redirect from the State's counsel?

6 MR. WHITE: No.

7 HEARING OFFICER: All right. Do you want
8 to temporarily or permanently excuse this
9 witness?

10 MR. WHITE: Permanently excuse her.

11 HEARING OFFICER: You are permanently
12 excused from this hearing.

13 Call your next witness.

14 MR. WHITE: I'll call Ms. Kelli Kersey.

15 WHEREUPON,

16 KELLI KERSEY,

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

20 DIRECT EXAMINATION

21 BY MR. WHITE:

22 Q Ms. Kersey, would you please state your job here at
23 the Department of Health?

24 A Section Chief, Cosmetology and Massage Therapy.

25 Q Okay. And in that capacity did you follow up on the

1 finding regarding Ms. Cecil's license made by Ms. Yvonne
2 Wood -- I'm sorry -- Ms. Yvonne Smith on November 30,
3 2016?

4 A Yes, sir.

5 Q Okay. Did you look up the status of her license in
6 the database?

7 A Yes, sir.

8 Q And what was the status of her license when you
9 looked it up?

10 A It is -- it expired on 7/30/2016.

11 Q Has she renewed?

12 A She has not.

13 Q Okay. So at least since 7/30/2016 she's been
14 practicing without a license; is that correct?

15 A Correct, yes.

16 Q And continues until this day to do so?

17 A Yes, sir.

18 MR. WHITE: Okay. No further questions.

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

21 MS. BOYDSTON: Have you inspected -- I'm
22 sorry -- have you inspected since this and
23 she's still practicing?

24 THE WITNESS: Well, we only go every six
25 months, so it's not been six months yet.

1 Yeah?

2 MS. PECK: On Page 9 --

3 THE WITNESS: Uh-huh.

4 MS. PECK: -- is that -- does that, I
5 mean, obviously keep happening? Is that what
6 that is? She lets it expire --

7 THE WITNESS: Well, if -- like, if you
8 look -- I mean, she renewed every year. She
9 renewed on 7/30/2012 and that went to 2014,
10 then she renewed on 7/30/2014. You see what
11 I'm saying?

12 MS. PECK: They are the ones that are at
13 the bottom?

14 THE WITNESS: Yeah.

15 MS. PECK: I just saw it expired.

16 THE WITNESS: Oh, the top one, yeah.
17 That's like -- the first line up there is when
18 they were licensed.

19 MS. PECK: Okay.

20 THE WITNESS: And then the ones at the
21 bottom is their license history.

22 MS. PECK: Okay.

23 HEARING OFFICER: Any further questions
24 from the committee?

25 Any redirect for this witness?

1 MR. WHITE: No.

2 HEARING OFFICER: Do you have any other
3 witnesses you would like to call then?

4 MR. WHITE: No. State rests.

5 HEARING OFFICER: Do you wish to make a
6 closing argument?

7 MR. WHITE: I will waive closing. And I
8 will ask that the minimum fine of \$250 be
9 imposed --

10 MS. KERSEY: It's 100 for a person.

11 MR. WHITE: Oh, this is a practitioner
12 license --

13 MS. KERSEY: Yeah.

14 MR. WHITE: -- so it's 100 minimum with
15 discretion all the way up to 1,000.

16 Thank you.

17 HEARING OFFICER: At this time we will go
18 off the record for the committee's recess for
19 deliberations and a decision regarding the
20 findings of fact, conclusions of law, or any
21 penalties to be handed down. Once the board
22 reaches a decision, we will go back on the
23 record. The deliberations are open to the
24 public under the Freedom of Information Act.
25 All 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, and returned with
5 the following decision:)

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

8 MS. BOYDSTON: Okay. As a committee we're
9 going to need to make a motion and vote to
10 raise that fine.

11 MS. PECK: I would like to make a motion
12 to fine Suzanne Cecil for \$200 for not having a
13 current license.

14 MS. WARE: Second the motion.

15 MS. BOYDSTON: All in favor?

16 COMMITTEE MEMBERS: Aye.

17 MS. BOYDSTON: All opposed?

18 Motion carries.

19 HEARING OFFICER: Let the record reflect
20 the decision was unanimous. Please reduce the
21 board's decision to writing or make or attempt
22 service upon all parties.

23 If the respondent -- they are not here to
24 know about their appeal rights.

25 If there are no other questions or

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comments, this hearing is concluded and the
record is closed.

(WHEREUPON, at 9:34 a.m., the
above-entitled proceedings were concluded.)

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1 witnesses.

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

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

7 HEARING OFFICER: Are there any other
8 preliminary matters to be discussed or any
9 exhibits to be offered at this time, Counsel?

10 MR. WHITE: Yes. The department would
11 introduce a packet of documents, including the
12 Order of Notice of Hearing, numbered Pages 1
13 through 10.

14 HEARING OFFICER: Hmm.

15 MR. WHITE: And so we would move that that
16 be introduced as State's Exhibit 1.

17 HEARING OFFICER: Any objections to the
18 admissions of -- to the admissions of State's
19 Exhibit 1 at this time?

20 Hearing no objection, it is so admitted as
21 State's Exhibit 1 and may be published to the
22 committee at this time.

23 (WHEREUPON, State's Exhibit No. 1 was
24 received in evidence.)

25 HEARING OFFICER: Counsel, are you ready

1 to proceed?

2 MR. WHITE: I am.

3 HEARING OFFICER: Call your first witness.

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

5 WHEREUPON,

6 YVONNE SMITH,

7 having been called for examination, and having been first

8 duly sworn by the Hearing Officer, was examined and

9 testified, as follows:

10 DIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Ms. Smith, could you state your job at the

13 Department of Health?

14 A Yes. I'm a cosmetology inspector.

15 Q Okay. And in that capacity, did you perform an

16 inspection of a salon known as CK Nails on December 1,

17 2016?

18 A Yes. I did.

19 Q Okay. And did you make a finding in the course of

20 that inspection regarding the name of that salon?

21 A Yes. The name had changed to Bella Nails and Spa.

22 Q Okay. And so where was that name displayed there at

23 the salon?

24 A On the front of the building.

25 Q Okay. Did you see "CK Nails" displayed anywhere?

1 A No. I didn't.

2 Q Okay. And you may not have researched this, but
3 did -- did you determine what the name of the -- of the
4 salon was on file with the department?

5 A Only it was on --

6 Q If you didn't do that, that's fine.

7 A Oh, no, I didn't. No.

8 Q Okay. But you determined that it was not -- that
9 they were not using the name CK Nails?

10 A Correct.

11 MR. WHITE: Okay. No further questions.

12 HEARING OFFICER: Committee have any
13 questions for this witness at this time?

14 MS. WARE: Oh, yeah. Did you write that
15 about the Google street view shows the Bella?

16 THE WITNESS: No, my supervisor.

17 MS. WARE: Oh, okay.

18 HEARING OFFICER: Any other questions from
19 the committee?

20 There being none, do you want to have any
21 redirect at this time?

22 MR. WHITE: No.

23 HEARING OFFICER: Do you want to
24 permanently or temporarily excuse this witness?

25 MR. WHITE: I will temporarily excuse her.

1 HEARING OFFICER: You are temporarily
2 excused from this hearing.

3 Call your next witness.

4 MR. WHITE: I will call Ms. Kelli Kersey.

5 WHEREUPON,

6 KELLI KERSEY,

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

10 DIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Ms. Kersey, would you state your job at the
13 Department of Health?

14 A Section Chief, Cosmetology and Massage Therapy
15 Section.

16 Q Okay. And in that capacity, did you follow-up on a
17 finding that was made by Ms. Yvonne Smith with regard to
18 an inspection she performed on a salon of CK Nails, on
19 December 1, 2016?

20 A I did.

21 Q Okay. And that finding related to the name that was
22 being used by that salon?

23 A Yes, sir.

24 And it -- if you look on the notes page on Page 9,
25 on 12/28/2015 the renewal notice came in and it indicated

1 the owner had changed the name of the salon, they, like,
2 marked through it. And our renewal coordinator called
3 them and informed them that they had to do a change of
4 status, and it has still not been done.

5 Q Okay. And --

6 A Nor has the license been renewed.

7 Sorry.

8 Q Oh, so -- but we didn't make a specific finding
9 about renewal --

10 A Because it wasn't -- it wasn't expired at the time,
11 but, yeah --

12 Q Okay. But the other as far as --

13 A Uh-huh.

14 Q -- although here today we are not seeking a penalty
15 for the expired license? Right?

16 A Correct.

17 Q Okay. And the rules provide for a penalty for
18 failure to complete the name change, correct?

19 A Correct.

20 Q And that fine is \$50?

21 A Yes, sir.

22 Q Okay. And so that is the only fine we're seeking to
23 impose today?

24 A Yes, sir.

25 Q Just so I'm understanding, so the committee

1 understands, a name change request was sent -- they were
2 informed when they -- okay. They sent in their license
3 with a --

4 A Renewal --

5 Q -- cross through?

6 A -- uh-huh. Correct.

7 Q And they were called or mailed --

8 A They were called.

9 Q -- and told that they needed -- exactly what they
10 needed to do to submit a name change?

11 A Yes, sir.

12 Q And they -- what date was that that they were
13 called?

14 A That was on 12/28/15.

15 Q Okay. And to this date they have not done that?

16 A Correct.

17 MR. WHITE: Okay. No further questions.

18 HEARING OFFICER: Any questions of this
19 witness from the committee?

20 MR. KEARY: So they changed ownership in
21 2013 --

22 THE WITNESS: Yes.

23 MR. KEARY: -- on that, and 2015 was when
24 they sent the letter back in that had the
25 scratched out of the name CK?

1 THE WITNESS: Correct.

2 HEARING OFFICER: Any other questions for
3 this witness?

4 There being none, do you have any
5 redirect?

6 MR. WHITE: No. I don't.

7 HEARING OFFICER: Do you want to excuse
8 this witness?

9 MR. WHITE: Yes.

10 HEARING OFFICER: This witness is
11 excused --

12 MR. WHITE: Sorry. Permanently.

13 HEARING OFFICER: -- permanently.

14 Do you want to recall your temporarily
15 excused witness?

16 MR. WHITE: No.

17 HEARING OFFICER: All right. Do you have
18 any closing argument to make?

19 MR. WHITE: Just that there is a specific
20 rule that requires this name change to be
21 submitted, and the failure to timely do so is a
22 fine of \$50.

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

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

8 We are now off the record.

9 (WHEREUPON, the Committee retired to
10 deliberate, off the record, and returned with
11 the following decision:)

12 HEARING OFFICER: Okay. We will now go
13 back on the record for the committee's
14 decision.

15 MS. BOYDSTON: And our decision is to
16 increase the fines. Do we have a motion on
17 increasing the fine to 150?

18 MR. KEARY: I'll make a motion to increase
19 our fine from 50 to 150.

20 MS. JONES: I would second that motion.

21 MS. BOYDSTON: All in favor?

22 COMMITTEE MEMBERS: Aye.

23 MS. BOYDSTON: All opposed?

24 HEARING OFFICER: For the record, the
25 decision was unanimous for the fine of \$150 for

1 this violation. Please reduce the board's
2 decision to writing and make or attempt service
3 upon all parties. If the -- they are not here
4 to do that.

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

8 (WHEREUPON, at 9:44 a.m., the
9 above-entitled proceedings were concluded.)

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I N D E X

WITNESS	PAGE
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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 Cindy Slay. This matter will be heard before
4 the Cosmetology Technical Advisory Committee.
5 Today is 15 May 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 across
9 from the court reporter.

10 Cindy Slay, are you here? Anybody
11 representing Cindy Slay?

12 Does not appear that Ms. Slay is here.

13 Let's get down to the swearing of
14 witnesses. For those of you who are or may be
15 witnesses today in this matter, please raise
16 your right hands to be sworn in.

17 (WHEREUPON, the witness was sworn by the
18 Hearing Officer.)

19 HEARING OFFICER: Are there any other
20 preliminary matters to be discussed or any
21 exhibits to be offered into evidence at this
22 time?

23 MR. WHITE: Yes. The State would
24 introduce a packet of documents, including the
25 Order of Notice of Hearing, numbered Pages 1

1 through 11; and so we would move to introduce
2 that as State's Exhibit 1.

3 HEARING OFFICER: Any objections to the
4 admission of State's Exhibit 1 at this time?

5 Hearing no objection, it is so admitted as
6 State's Exhibit 1 and may be published to the
7 committee at this time.

8 (WHEREUPON, State's Exhibit No. 1 was
9 received in evidence.)

10 HEARING OFFICER: And, Counsel, are you
11 ready to proceed?

12 MR. WHITE: I am.

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, could you please state your job at the
21 Department of Health?

22 A Section Chief, Cosmetology and Massage Therapy
23 Section.

24 Q Okay. And in that capacity, are you familiar with
25 an investigation of -- conducted by an inspector for the

1 Department of Health named Sondra -- and you're going to
2 have to give me her last name?

3 A Jones.

4 Q -- Sondra Jones on 11/22/2016?

5 A Yes, sir.

6 Q Okay. And Ms. Jones is no longer with the
7 department; is that correct?

8 A Correct.

9 Q Are you familiar with the inspection she did and the
10 findings she made?

11 A Yes, sir. I am.

12 Q Okay. What finding, if any, did Ms. Jones make with
13 regard to the status of the practitioner license of
14 Ms. Slay that she conducted on November 22, 2016?

15 A She found that her license was expired at the time
16 of the inspection and that it wasn't -- the current
17 license wasn't posted.

18 Q Okay. And so did you -- after her findings, did you
19 follow up on those findings by looking up the status of
20 the license on the database?

21 A Yes, sir. I did.

22 Q Okay. So did you determine when her license had
23 expired?

24 A Yes, sir.

25 Q What date was that?

1 A 9/17/2016.

2 Q So it expired on 9/17/2016?

3 A Yes, sir.

4 Q And is it currently in effect or is it still
5 expired? What's the current status?

6 A She actually did renew her license on 12/8/2016.

7 Q Okay. And so expired 9/17, expired -- or renewed
8 12/8?

9 A Yes, sir.

10 Q So she operated for some almost three months without
11 a license?

12 A Correct.

13 Q Okay. And operated for some time after the finding
14 on 11/22 of no license, without a license, correct?

15 A Yes, sir.

16 Q Okay. And what is the minimum penalty that we're
17 seeking to impose for this violation?

18 A \$100.

19 Q And that's the 100-dollar fine for failure to have a
20 current license?

21 A Yes, sir.

22 Q Practitioner license?

23 A Yes, sir.

24 MR. WHITE: Okay. No further questions at
25 this time. No further questions.

1 HEARING OFFICER: Does the committee have
2 any questions for this witness?

3 MS. BOYDSTON: I have one. Did -- so
4 she -- you can renew your license without
5 paying a fine?

6 THE WITNESS: Well, if they renew it
7 before we get the violation -- you know, the
8 inspection sheet -- like the inspectors do the
9 inspection and we -- they mail it to us and
10 then we have to put it in the system. So there
11 is a little break there where somebody can
12 renew their license before we actually
13 internally suspend them so that they can't, and
14 so she renewed it before we had even gotten it
15 and put it in the system.

16 MS. BOYDSTON: Okay.

17 THE WITNESS: Does that make sense?

18 MS. BOYDSTON: Uh-huh.

19 THE WITNESS: There was like Thanksgiving
20 is in there, you know, so --

21 MS. BOYDSTON: Okay.

22 THE WITNESS: But we generally don't let
23 them renew, you know, if they don't renew --

24 MS. BOYDSTON: But we generally don't let
25 them renew, right?

1 THE WITNESS: -- yeah -- if they get in
2 that window before we get the inspection sheet
3 and it gets in the system; so --

4 MS. BOYDSTON: Okay.

5 HEARING OFFICER: Any other questions from
6 the committee?

7 MS. JONES: It said that she -- that
8 she -- all license posted, no. So she -- did
9 she have them posted after she renewed them or
10 did -- is that part of the same not having the
11 current license and having it posted?

12 THE WITNESS: You know, we don't ever give
13 both of those. If it's two, you know, we give
14 one or the other. Does that make sense?

15 MS. JONES: Okay.

16 THE WITNESS: Yeah. Because, of course,
17 if it's expired it's not going to be current.

18 MS. JONES: Right.

19 THE WITNESS: Yeah. So --

20 MS. JONES: Okay.

21 HEARING OFFICER: Any other questions from
22 the committee of this witness?

23 There being none, do you have a closing
24 statement to make?

25 MR. WHITE: Just briefly. It's my

1 understanding -- and it may be a
2 misunderstanding, but it's my understanding
3 that at -- sometimes in the past if -- if they
4 renew after they are found to have had an
5 expired license, sometimes the committee will
6 waive the fine. I would respectfully suggest
7 that may not be the best practice because
8 what's the incentive to keep your license
9 current if all you've got to do once you're
10 caught is renew. So, you know, if I was a
11 practitioner, I might do that, I mean, why not
12 if -- if -- if there is no -- if there is no
13 penalty for -- for not doing it until you
14 get -- if -- if all you've got to do once you
15 get caught is do what you were supposed to do
16 in the first place.

17 So I would suggest that the best -- the
18 better practice is to go ahead and impose the
19 fine for not having a current license,
20 regardless of whether they subsequently renewed
21 like they are supposed to.

22 So that's my closing.

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

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

8 We are now off the record.

9 (WHEREUPON, the Committee retired to
10 deliberate, off the record, and returned with
11 the following decision:)

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

14 MS. BOYDSTON: Okay. We're going to need
15 a motion to raise the violation fine.

16 MR. KEARY: I'll make a motion to raise
17 the fine from the initial to doubling it to
18 200. Because the initial was 100, correct?

19 HEARING OFFICER: Yeah.

20 MR. KEARY: So I'll make a motion to raise
21 it to 200.

22 MS. JONES: I will second that motion.

23 MS. BOYDSTON: All in favor?

24 COMMITTEE MEMBERS: Aye.

25 MS. BOYDSTON: All opposed?

1 MS. PECK: Aye. Nay. Was that nay?

2 MS. BOYDSTON: Motion carries, one
3 against.

4 HEARING OFFICER: All right. Please
5 reduce the board's decision to writing and make
6 or attempt service upon all parties. If there
7 are no other questions or comments, this
8 hearing is concluded and the record is closed.

9 (WHEREUPON, at 9:59 a.m., the
10 above-entitled proceedings were concluded.)

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1 Kelli Kersey introduced two new
2 inspectors, Jaclyn Knoop and Pam Atherley.
3 There is one position left to fill in the
4 office to make a full staff. Teri Preachers
5 returns from leave June 12, 2017.

6 House Bill 1714 to permit the operation of
7 mobile salons was discussed; it will go into
8 effect 90 days after the close of the Regular
9 Session 2017; an ad hoc committee will be
10 appointed to create a licensing procedure.

11 House Bill 1720 to require cosmetology
12 students to have training in domestic violence
13 and sexual assault awareness was discussed; it
14 will go into effect 90 days after the close of
15 the Regular Session 2017; classes to be
16 approved by the Department of Health.

17 Senate Bill 351, which is Act 927 right
18 now, was discussed. Inspectors will be able to
19 test early; instructors will need eight hours
20 of continuing education to renew their license,
21 which will equal eight hours over a two-year
22 period; an ad hoc committee will be appointed
23 to determine procedures.

24 Senate Bill 606 was discussed amending the
25 law concerning the profession of cosmetology;

1 to amend the law concerning schools of
2 cosmetology; and to amend the law concerning
3 the requirements for cosmetology licensing.

4 Public comment, the law regarding braiding
5 was discussed.

6 Tonya Boydston adjourned the meeting at
7 11:42 a.m.

8 (WHEREUPON, at 11:42 a.m., the
9 above-entitled proceedings were concluded.)

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1 CERTIFICATE

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3 STATE OF ARKANSAS)4 COUNTY OF PULASKI)
5

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
9 hearings, held before the Department of Health,
10 Cosmetology Technical Advisory Committee, May 15, 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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