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ARKANSAS DEPARTMENT OF HEALTH
COSMETOLOGY SECTION
COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

BE IT REMEMBERED that on Monday, the 21st day of May 2018, 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:

- LOIS WARE, Chair
- TONYA BOYDSTON
- CARLA JONES (not present)
- DANIEL 'REX' PAXTON
- ANGELA WILSON

REPORTED BY:

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

MAY 21, 2018, CTAC

1 APPEARANCES:

2 ON BEHALF OF THE COMMITTEE:

3 VICKI PICKERING, ESQ.

4 HEARING OFFICER:

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

8 Staff Members Present:

9 KELLI KERSEY - Section Chief
CONNIE MELTON, ADH Branch Chief, Health Systems Licensing
10 and Reg
TERI PREACHERS - Administrative Specialist
11 AMANDA WEEKS
REGAN WINTZ
12 PAM ATHERLEY
VERA WOOD
13 YVONNE SMITH
KRISTA WELLS -Inspector Supervisor
14 JACKLYN KNOPP

15 ALSO PRESENT:

16 Tanya Digby
Tonya Osagie
17 Lizzie Smith

18 Court Reporter:

19 Susan B. Whitson, CCR
Arkansas Supreme Court Certificate No. 158
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BEFORE THE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

(CTAC)

IN THE MATTER OF:

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

v.

TANYA DIGBY

RESPONDENT

ADMINISTRATIVE HEARING

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1 P R O C E E D I N G S

2 MS. WARE: Next we have our hearing.

3 HEARING OFFICER: All right. My name is
4 Dara Hall and I'm the Hearing Officer today In
5 The Matter of Tanya Digby. This matter will be
6 heard before the Cosmetology Technical Advisory
7 Committee. This hearing concerns the matters
8 specified in the Order and Notice of Hearing.
9 Today is 21 May 2018. Please turn all cell
10 phones off or place them on silent mode so as
11 not to disrupt these proceedings.

12 Ms. Digby, please identify yourself.

13 MS. DIGBY: That would be me.

14 HEARING OFFICER: And where are we having
15 her sit, Court Reporter?

16 COURT REPORTER: Over here.

17 HEARING OFFICER: Have a seat where the
18 Court Reporter indicated.

19 MS. DIGBY: Where?

20 COURT REPORTER: Right over here will be
21 fine.

22 HEARING OFFICER: Okay. Yeah. I have a
23 simple rule when I do hearings; whatever my
24 court reporter wants, I'm very good with it.

25 MS. DIGBY: I don't have a problem with

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1 that.

2 HEARING OFFICER: Because she's the most
3 important person in here.

4 Are you represented by counsel, ma'am?

5 MS. DIGBY: No.

6 HEARING OFFICER: Are you aware you have
7 the right to have counsel present?

8 MS. DIGBY: Am I what?

9 HEARING OFFICER: Are you aware that you
10 have the right to counsel --

11 MS. DIGBY: Oh, I don't need to have
12 counsel.

13 HEARING OFFICER: -- to be present?

14 MS. DIGBY: Right. Absolutely.

15 HEARING OFFICER: I'm not saying you do.

16 MS. DIGBY: Right. Yes. Absolutely.

17 HEARING OFFICER: Just got to get it on
18 the record that --

19 MS. DIGBY: Absolutely.

20 HEARING OFFICER: If at any time you do
21 not understand these proceedings, please let me
22 know, we'll take a pause and I'll try to
23 explain things to the best of my ability. All
24 right?

25 MS. DIGBY: Thank you.

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1 HEARING OFFICER: Thank you.

2 Did you receive a copy of the Order and
3 Notice of Hearing concerning today's matter?

4 MS. DIGBY: Yes.

5 HEARING OFFICER: Great. Are you ready to
6 proceed on this matter?

7 MS. DIGBY: Absolutely.

8 HEARING OFFICER: Committee's counsel,
9 please identify yourself for the record.

10 MS. PICKERING: Vicki Pickering.

11 HEARING OFFICER: Are you ready to proceed
12 on this matter?

13 MS. PICKERING: Yes, I am.

14 HEARING OFFICER: Great.

15 All right. Now I'll give an explanation
16 of these proceedings, for the benefit of anyone
17 present here today who may not have appeared in
18 an administrative hearing, the Committee will
19 base its decision solely on the evidence
20 presented here today. This hearing is held
21 pursuant to the Administrative Procedures Act,
22 which means that the strict rules of evidence
23 do not apply and the parties will be given
24 latitude in introducing evidence. This is to
25 promote a fair hearing and to provide the

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1 Committee with adequate information to make a
2 decision.

3 The administrative adjudicatory process
4 should be much more expeditious and less
5 expensive for all parties than a judicial
6 proceeding. The hearing should be much less
7 formal, consistent with the fundamentals of
8 fairness, impartiality, and thoroughness.
9 Although we are somewhat informal, I do have to
10 keep order because my number one goal as the
11 Hearing Officer is to develop a fair, accurate,
12 and intelligible record that can be reviewed.
13 Please assist me with that. The main way you
14 can do that is to assist my court reporter in
15 not talking over -- over each other, not
16 talking -- two or three people talking at one
17 time, she cannot record. She's a great court
18 reporter but that's -- you just can't hear, you
19 can't understand things. So if y'all keep that
20 in mind for me, that would be great.

21 I will grant objections or caution the
22 parties only as necessary. Unless there is,
23 you know, two attorneys adverse to each other,
24 I don't have to worry about that much; but
25 should something come up, if somebody does say

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1 "objection" or you have an objection or you
2 don't understand something, let me know and
3 we'll pause and take it from there. All right?

4 Is there anything you have in your
5 possession that you want the Committee to
6 consider, then you must offer it into evidence
7 today. All right?

8 All participants in the hearing should be
9 aware that these proceedings are subject to the
10 Freedom of Information Act, and as such all
11 parts of the hearing, including the
12 deliberations of the committee, are open to the
13 public.

14 MS. DIGBY: Okay. Here's three copies.
15 Who gets them?

16 HEARING OFFICER: Okay. Hold on. I'll
17 ask for that in a minute. Okay?

18 MS. DIGBY: Okay.

19 HEARING OFFICER: We'll get there for you.
20 We'll get there.

21 Next thing on the agenda is, for those
22 people who may or are going to be witnesses
23 today in this matter, please raise your right
24 hands to be sworn in.

25 I assume you're going to want to testify,

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1 ma'am?

2 MS. DIGBY: I guess so, yes.

3 I mean this is pretty much self
4 explanatory.

5 HEARING OFFICER: I understand but --

6 MS. DIGBY: So, yeah, they're --

7 HEARING OFFICER: -- if you don't get
8 sworn in then you can't testify.

9 MS. DIGBY: Okay. Absolutely, then, yes.

10 HEARING OFFICER: All right. Please raise
11 your right hands to be sworn.

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

14 HEARING OFFICER: All right. And who do
15 we have down here?

16 MS. SMITH: I'm Yvonne Smith, Cosmetology
17 and Massage Therapy Inspector.

18 HEARING OFFICER: All right. Make sure my
19 court reporter gets your name. I know she's
20 got your name. Is that it?

21 MS. PICKERING: That's the witness for
22 this hearing.

23 HEARING OFFICER: Okay. That's all I can
24 see. I just wanted to make sure there wasn't
25 anybody to by side that swore in.

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1 MS. KERSEY: And me.

2 HEARING OFFICER: Oh, and Kelli. Thank
3 you.

4 I knew there was somebody I would probably
5 miss by looking this way.

6 Okay. Are there any other preliminary
7 matters to be discussed or offered at this
8 time?

9 That's your cue, ma'am.

10 MS. DIGBY: So you need these?

11 HEARING OFFICER: That would be --

12 MS. DIGBY: Okay.

13 HEARING OFFICER: -- one of the things
14 that can be offered.

15 MS. DIGBY: So who do I give these copies
16 to? There is three of them.

17 MS. PREACHER: Do you need one? Do you
18 have one?

19 MS. DIGBY: I have one, yes.

20 HEARING OFFICER: Now, are these all the
21 same thing?

22 MS. DIGBY: Yes.

23 HEARING OFFICER: All right. Then we'll
24 label them as Respondent's Exhibit Alpha.

25 Any objections to them?

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1 MS. PICKERING: If I could look at it
2 first.

3 HEARING OFFICER: I figured you might want
4 to.

5 MS. PICKERING: I thought that would be
6 smart.

7 MS. PREACHER: I'll go make copies.

8 HEARING OFFICER: Yeah.

9 Susan, let's go off the record while they
10 are examining the exhibits.

11 (WHEREUPON, a brief recess was held.)

12 HEARING OFFICER: Let's go back on the
13 record, Susan.

14 Okay. After that brief recess for CTAC
15 attorney to review Exhibit A, do you have any
16 objections to Exhibit A?

17 MS. PICKERING: We have no objection.

18 HEARING OFFICER: There being no
19 objection, it is entered into evidence and may
20 be published to the committee.

21 (WHEREUPON, Respondent's Exhibit A was
22 received in evidence.)

23 HEARING OFFICER: Do you have any
24 exhibits?

25 MS. PICKERING: Yes, I do. It's the

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1 Notice of the Hearing, the packet, an appeal
2 packet that's with your stack of stuff, and
3 that would be CTAC Exhibit 1.

4 HEARING OFFICER: All right. Okay.

5 MS. PICKERING: So it has --

6 HEARING OFFICER: Okay. So you have one
7 exhibit and it is 11 pages; is that correct?

8 MS. PICKERING: Yes, that's correct.

9 HEARING OFFICER: All right. Any
10 objections to their exhibits, ma'am?

11 MS. DIGBY: No.

12 HEARING OFFICER: There being no
13 objections, it is so admitted into evidence as
14 CTAC Exhibit 1 and may be published to the
15 committee.

16 (WHEREUPON, CTAC Exhibit No. 1 was
17 received in evidence.)

18 HEARING OFFICER: All right. Anything
19 else that we need to handle before we get
20 going?

21 MS. PICKERING: No, sir.

22 HEARING OFFICER: All right. Do either of
23 you wish to make an opening statement?

24 Or, actually, before we get to opening,
25 let me ask the -- the CTAC chairman, do you

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1 wish to have a brief recess to review these
2 exhibits?

3 MS. WARE: Yes.

4 HEARING OFFICER: All right. Then we will
5 go off the record for the short recess for the
6 Committee to review these exhibits.

7 (WHEREUPON, a brief recess was held.)

8 HEARING OFFICER: We'll now go back on the
9 record, the Committee having ample time now to
10 review the exhibits.

11 Does either party wish to make an opening
12 statement?

13 MS. PICKERING: I'll make just a brief
14 one.

15 This is a violation -- or a Notice of
16 Hearing that arose out of an investigation that
17 occurred on July 27, 2017, and it is an alleged
18 violation of failure to use a sanitary neck
19 strip, in violation of Rule No. 5.1(C).

20 That's it.

21 HEARING OFFICER: All right. Ma'am, would
22 you -- if you would like to make an opening
23 statement, you can. It should not be
24 testimony, you will get a chance to testify
25 when it's your turn. This just tells the

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1 Committee kind of a preview, kind of like a
2 trailer for a movie or something of what's
3 going to -- what evidence you're going to put
4 on and what it's going to show.

5 MS. DIGBY: I pretty much -- I don't know,
6 I mean this right here says that -- pretty much
7 everything. I don't really need to say -- I
8 mean, I don't really know what you're asking me
9 to do.

10 HEARING OFFICER: Then just say something
11 like, "Please look at my exhibits --

12 MS. DIGBY: Please look at my exhibits.

13 HEARING OFFICER: -- "and that will
14 explain it."

15 And there you go. That will be it for
16 you.

17 MS. DIGBY: Thank you.

18 HEARING OFFICER: You may call your first
19 witness, attorney for CTAC.

20 MS. PICKERING: Okay. I'll call Yvonne
21 Smith.

22 WHEREUPON,

23 YVONNE SMITH,

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

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1 testified, as follows:

2 DIRECT EXAMINATION

3 BY MS. PICKERING:

4 Q Would you state your name and occupation.

5 A Okay. Yvonne Smith, Cosmetology and Massage Therapy
6 Inspector.

7 Q Okay. Did you conduct an inspection of Embellish
8 Salon and Lash Bar on July 27, 2017?

9 A I did. Yes.

10 Q And would you tell the Committee about what you
11 found that day?

12 A Well, on that day I went in for a routine inspection
13 and I found, I guess, Tanya Digby was working on a client
14 and the client didn't have any protection, didn't have a
15 towel nor a neck strip.

16 Q Okay. And it's my understanding that Ms. Digby's
17 defense today is that it was not her, that it was a Tonya
18 Cheslek that was there instead of her. What's your
19 response to that --

20 A The license --

21 Q -- in looking at your inspection report?

22 A Well, the license that was posted at that particular
23 station was that of Tanya Digby.

24 Q Okay.

25 A And that's when I wrote the violation for her.

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1 Q Okay. And in looking at your inspection report
2 here, when you write down your notes and practitioners,
3 what -- what do you write there? What names do you --
4 are you sure to include on that?

5 A Well, I write the license, what's on the license,
6 the name, the number, the expiration date, and I write
7 if -- if they are not working I put NW, not working.

8 On that particular one, Tanya Digby was working.
9 That was the license that was posted at that station and
10 that -- that was the person working there.

11 Q Okay. Anything -- so tell -- would you say again
12 what the violation was, what you -- what the hairdresser
13 was doing that she was in violation for?

14 A The works -- the person that was there was working
15 on a client, and during my inspection I check for neck
16 strips or, you know, some type of protection, and there
17 was no towel nor a neck strip on the client.

18 Q Okay. Did you talk to the hairdresser?

19 A I asked if there was a towel or neck strip and they
20 said no.

21 MS. PICKERING: Okay. I don't think I
22 have anything further.

23 HEARING OFFICER: Cross of this witness?

24 MS. DIGBY: Yes.

25 CROSS-EXAMINATION

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1 BY MS. DIGBY:

2 Q So you spoke to me?

3 A Well, I spoke to the person that was at that station
4 that day.

5 MS. DIGBY: Okay. Because license are not
6 posted on our stations.

7 HEARING OFFICER: I'm sorry, that's
8 testimony.

9 MS. DIGBY: Okay.

10 HEARING OFFICER: You just ask her
11 questions.

12 MS. DIGBY: Okay.

13 HEARING OFFICER: It's questioning for her
14 time.

15 BY MS. DIGBY:

16 Q Okay. So you're saying the license are posted on
17 each individual stations?

18 A I don't remember.

19 Q Okay. Why wasn't the citation or whatever issued
20 when the violation was occurred? Why didn't you write
21 it -- present them with the -- you know, with the
22 violation then? Why go back to the office and then mail
23 it to them?

24 A No, I present -- whoever signed the inspection
25 sheet, I go over whatever the violation is with that

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1 person.

2 Q And who was that person?

3 A Jordan -- I guess that's Tether.

4 MS. DIGBY: Okay. I guess that's all the
5 questions I have, I don't know what --

6 HEARING OFFICER: That's okay.

7 MS. DIGBY: Okay.

8 HEARING OFFICER: You're fine.

9 Does the Committee have any questions for
10 this witness?

11 I can't see y'all; so --

12 MR. PAXTON: Where are the license posted?

13 MS. DIGBY: When you first walk in, right
14 behind the front desk on a bar.

15 HEARING OFFICER: Any other questions on
16 this side?

17 It doesn't appear so -- oh, I'm sorry. I
18 don't want to rush anybody.

19 Any questions from anyone on this side?

20 MS. BOYDSTON: If it is -- if it is -- if
21 it's the time and if it's not that person and
22 someone else is working, where is that person's
23 license?

24 MS. DIGBY: Can I answer that?

25 HEARING OFFICER: No. It's not your time

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1 to testimony --

2 MS. DIGBY: Oh, sorry.

3 HEARING OFFICER: -- testify. It's -- the
4 only person that you can ask a question of is
5 right here, the one that is sworn in and on the
6 stand at this time.

7 THE WITNESS: There was not a license for
8 Tonya Cheslek anywhere. I wrote the license --
9 the people that were working in the salon and I
10 wrote their information. I did not see a
11 license for her anywhere in the salon.

12 MS. WILSON: So July of last year they
13 were -- the licenses were posted on the
14 stations?

15 THE WITNESS: I don't remember, to be
16 honest. I just got the license and who was
17 working that day is what I got.

18 MS. WILSON: Okay.

19 HEARING OFFICER: Any additional questions
20 at this time?

21 MS. BOYDSTON: No.

22 HEARING OFFICER: There don't appear to be
23 any.

24 Any redirect?

25 MS. PICKERING: No redirect.

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1 I do have one more witness though.

2 HEARING OFFICER: That's great.

3 Would you like to excuse this witness
4 temporarily, subject to recall?

5 MS. PICKERING: Yes. Thank you.

6 HEARING OFFICER: You are so excused.
7 Call your next witness.

8 MS. PICKERING: Okay. Call Kelli Kersey.

9 WHEREUPON,

10 KELLI KERSEY,

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

14 DIRECT EXAMINATION

15 BY MS. PICKERING:

16 Q Would you state your name and occupation.

17 A Kelli Kersey, Arkansas Department of Health,
18 Cosmetology and Massage Therapy Section, Section Chief.

19 Q Okay. Have you researched the -- the license of
20 Tonya Cheslek?

21 A I have.

22 Q And is Tonya Cheslek licensed, according to our --

23 A I could not find her in our system --

24 Q Okay.

25 A -- under that name.

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1 MS. PICKERING: No further questions.

2 HEARING OFFICER: All right. Cross for
3 this witness?

4 MS. DIGBY: Yes.

5 CROSS-EXAMINATION

6 BY MS. DIGBY:

7 Q Do you look for -- did you look in the barber?

8 She's a barber. She's not a cosmetologist.

9 A We're not -- we don't regulate barbers; so --

10 Q She's -- like, it's only --

11 A But they are supposed to still have their license
12 up.

13 Q Right. And she didn't have hers posted because she
14 hadn't purchased the salon license yet either. But now
15 she has, since all of this has come about, now it's
16 posted but she did not have one posted.

17 HEARING OFFICER: All right. Any
18 questions of this witness from the Committee?
19 All right. There don't appear to be any.
20 Any redirect?

21 MS. PICKERING: No redirect.

22 HEARING OFFICER: All right. Would you
23 like to excuse this witness temporarily,
24 subject to recall?

25 MS. PICKERING: Yes.

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1 HEARING OFFICER: You are so excused.

2 Call your next witness.

3 MS. PICKERING: I have no further
4 witnesses.

5 HEARING OFFICER: All right. Now it's
6 your turn.

7 MS. DIGBY: Okay. I don't have any
8 questions for her, it's just why is it --

9 HEARING OFFICER: No, no, no.

10 MS. DIGBY: Oh.

11 HEARING OFFICER: Now you get to testify.

12 MS. DIGBY: Okay.

13 HEARING OFFICER: You don't have to ask
14 questions.

15 MS. DIGBY: Okay.

16 HEARING OFFICER: I mean, unless you want
17 to. You can ask yourself questions.

18 MS. DIGBY: No, go ahead.

19 HEARING OFFICER: It might take longer but
20 you can go ahead.

21 MS. DIGBY: Go ahead.

22 HEARING OFFICER: No. You testify now.
23 It's your turn.

24 WHEREUPON,

25 TANYA DIGBY,

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

4 DIRECT TESTIMONY

5 THE WITNESS: So what do you want me to
6 say now?

7 HEARING OFFICER: Just tell the Committee
8 why you're not guilty of this violation.

9 THE WITNESS: Because it wasn't me, I
10 didn't work that day.

11 My -- the license are not posted on the
12 stations.

13 I've never met this woman a day in my
14 life.

15 I rent a booth two days a week. On those
16 two days I come in and work on that station.

17 I don't understand why the violation
18 wasn't given the time that she walked in. I
19 mean, how can she -- if she wasn't written up
20 then and given a piece of paper then to the
21 person who was working at that station, I mean,
22 how could she just assume it was me?

23 I don't really -- I don't know what else
24 to say.

25 HEARING OFFICER: Cross?

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1 MS. PICKERING: I don't have any
2 questions.

3 HEARING OFFICER: Committee have any
4 questions for this witness?

5 MS. WARE: I do.

6 HEARING OFFICER: Go ahead.

7 MS. WARE: I don't know what page it is,
8 but with -- what is this next business deposit,
9 is that --

10 THE WITNESS: That's Tonya, showing that
11 she had -- she did work that day and had a
12 deposit on this little Square thing, it was one
13 of these little white things --

14 MS. WARE: Uh-huh.

15 THE WITNESS: -- showing that she had it
16 deposited into her account on that day. She
17 sent me a copy of that showing she had proof
18 that she worked.

19 MS. WARE: Oh, okay. But Tonya is a
20 barber?

21 THE WITNESS: Yes, ma'am.

22 MS. WARE: But what did you say she didn't
23 have --

24 THE WITNESS: At the time -- and I didn't
25 know this, I didn't know she needed one, but at

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1 the time she didn't have a barber license for
2 the shop so therefore she didn't have her
3 license posted. But since then she's gone down
4 to the barber -- because she went to the barber
5 board and got a license for the shop and got a
6 license for -- to sit on the station now, so
7 her license are sitting on our station.

8 MS. WARE: Okay.

9 MS. BOYDSTON: So the day that she came
10 in, just to be clear, you were not working?

11 THE WITNESS: No, ma'am.

12 MS. BOYDSTON: But you are --

13 THE WITNESS: I'm Tanya.

14 MS. BOYDSTON: -- Tanya?

15 THE WITNESS: Yes, ma'am.

16 MS. BOYDSTON: I get it. I'm Tonya, so
17 I'm getting all of these names.

18 So you -- you were not working, but
19 Tanya --

20 THE WITNESS: Tonya was.

21 MS. BOYDSTON: Tonya was working?

22 THE WITNESS: Yes.

23 MS. BOYDSTON: With no license present at
24 the time?

25 THE WITNESS: Correct.

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1 MS. BOYDSTON: Okay. So, basically, your
2 case is it's a mistake of just --

3 THE WITNESS: Correct.

4 MS. BOYDSTON: -- not identifying the
5 right person?

6 THE WITNESS: Right.

7 MS. BOYDSTON: But you realize that you --
8 every -- this is what's given to every salon
9 and it does have the violations on it?

10 THE WITNESS: Right.

11 MS. BOYDSTON: So this is the violation;
12 this is the --

13 THE WITNESS: Right.

14 MS. BOYDSTON: -- like, what she's got
15 checked was given that day --

16 THE WITNESS: Right.

17 MS. BOYDSTON: -- and it's given to the
18 person who signs it or the salon owner.

19 THE WITNESS: Right. So I just feel like
20 if it was given to the individual since, you
21 know, we are booth renters, given to the
22 individual that was fined or, you know what I'm
23 saying, was violated, whatever, then all of
24 this would have been pretty much solved.

25 MS. BOYDSTON: Right. Sometimes the

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1 individual is not even there --

2 THE WITNESS: Right. Right.

3 MS. BOYDSTON: -- who gets the violation,
4 so --

5 THE WITNESS: Got you.

6 MS. BOYDSTON: So you can't do that.

7 THE WITNESS: Got you.

8 MS. BOYDSTON: You give it to the salon.

9 THE WITNESS: Got you.

10 MS. BOYDSTON: And so then it's a public
11 record because it's hung in the salon.

12 THE WITNESS: Got you.

13 MS. BOYDSTON: You know, but --

14 THE WITNESS: I mean I didn't even know I
15 had a violation against me until I went to go
16 renew my license and then -- then they said I
17 couldn't renew my license. And then my boss
18 says, "Oh, well, you had a letter come in the
19 mail for you a couple of months ago," and then
20 I finally get that letter from her that was --
21 I guess she signed for it, because it shows
22 that she signed for it and say --

23 MS. WARE: What -- I'm sorry. Go ahead.

24 THE WITNESS: Saying that I had a
25 violation for code number such and such and

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1 such, and I had to call the state board to find
2 out what the code -- what it was that I had a
3 violation for.

4 MS. WARE: So Jordan is the salon owner?

5 THE WITNESS: Whitney and Jordan both are
6 the salon owner.

7 MS. WARE: Whitney and Jordan; but Jordan
8 signed the violation?

9 THE WITNESS: Correct. Whitney signed for
10 the -- my certified letter.

11 MS. BOYDSTON: So that the violation
12 should be, technically, against the person who
13 has the barber license?

14 THE WITNESS: Correct.

15 MS. BOYDSTON: But you realize there is no
16 way for anybody to know any of that, because
17 for an inspector to come in, the license that
18 are there and the people that are there --

19 THE WITNESS: Correct.

20 MS. BOYDSTON: -- are all -- that's all
21 there is to go by.

22 THE WITNESS: Absolutely.

23 MS. WARE: And it appeared that three
24 people were working that day.

25 MS. BOYDSTON: Uh-huh.

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1 MS. WARE: And then on Exhibit C, that
2 just means that you wasn't there that day, that
3 July 27th?

4 THE WITNESS: That's my work schedule,
5 correct, yes.

6 MS. WARE: Okay. So you was out on that
7 day?

8 THE WITNESS: I don't ever work on
9 Thursdays.

10 MS. WARE: Okay.

11 THE WITNESS: I don't rent that space on
12 Thursdays. So, like, if I wanted to work on a
13 Thursday, I couldn't because Tonya already has
14 that space, she pays for that space on
15 Thursdays.

16 MS. WARE: Okay.

17 HEARING OFFICER: No additional questions
18 from the Committee?

19 Ma'am, would you like to add any testimony
20 at this time, based on those questions?

21 MS. DIGBY: No, sir.

22 HEARING OFFICER: Any recross?

23 MS. PICKERING: No recross.

24 HEARING OFFICER: Since there wasn't any
25 first cross but -- all right then. Do you have

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1 any other witnesses you would like to call?

2 MS. DIGBY: No.

3 HEARING OFFICER: All right. Then you
4 rest your case at this time?

5 MS. DIGBY: Well, I have one more
6 question, I guess.

7 I tried to renew my license and they
8 wouldn't let me renew them, so now I've gone to
9 expired license, so now for me to renew them I
10 have to pay a penalty for them being expired.
11 I don't feel like I should have to pay that
12 penalty because it wasn't my fault why I
13 couldn't renew my license.

14 HEARING OFFICER: That's really not what
15 this hearing is about. It's only what was
16 sent, apparently, to your salon and not given
17 to you for a while, that Order and Notice of
18 Hearing. That's what -- what we can handle
19 today. You might speak to them after this
20 hearing about the license thing. They did hear
21 you, though, so maybe the Committee will give a
22 recommendation about that as well.

23 MS. DIGBY: Thank you.

24 HEARING OFFICER: So then you rest after
25 that?

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1 MS. DIGBY: Absolutely.

2 HEARING OFFICER: All righty.

3 MS. PICKERING: May I call one more
4 witness in rebuttal?

5 HEARING OFFICER: Okay. You may.

6 MS. PICKERING: Okay. I call Kelli Kersey
7 again.

8 WHEREUPON,

9 KELLI KERSEY,

10 having been recalled for examination, and having been
11 first duly sworn by the Hearing Officer, was examined and
12 testified, as follows:

13 REDIRECT EXAMINATION

14 BY MS. PICKERING:

15 Q Ms. Kersey, would you explain how the penalties are
16 issued?

17 A Okay. Well, the inspectors do the inspection, they
18 give the salon a copy, and then they bring us back the
19 other copy and we research and then we mail out the
20 violation -- sorry -- once we figure out who it is.

21 So on cases like this -- this is just an
22 assumption -- but there was three people not working that
23 day. Jordan whatever signed it, so that's how she
24 deciphered that it was Tanya Digby working at that
25 station.

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1 I'm not sure if she asked Jordan when he signed it
2 who was working at that station, I mean she may have.
3 But, anyway, that's why we -- we don't give it to them --
4 they can't give it to them. The inspectors cannot give
5 them the violation at that point; they can give them the
6 inspection sheet but we have to mail out the letters and
7 stuff.

8 Q And was this letter mailed to Ms. Digby?

9 A It looks like it was mailed to her and the salon;
10 and the address that we have in the system was 1045
11 Downing Street in Benton.

12 Q And you assume that that's her home address?

13 A I'm assuming that's -- yeah. And they are made on
14 the same -- the letters are made on the same day.

15 Q And was that signed for as received by Ms. Digby?

16 A I don't see the green card. I see where it was sent
17 but I don't see that she signed for it.

18 Q Okay. But it was signed for by the salon?

19 A Yes. Yes.

20 MS. PICKERING: Okay. No further
21 questions.

22 HEARING OFFICER: Cross?

23 MS. DIGBY: No.

24 HEARING OFFICER: You don't have any
25 questions about addresses or delivery or

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1 anything?

2 MS. DIGBY: Well, no. I mean, I got the
3 letter. I mean, the address she has is the
4 incorrect address, I used to live there, but
5 now they have my correct address. So the
6 Downing in Benton, it was my previous address a
7 year ago, I guess, but I've moved since then so
8 y'all didn't have my current address. So but
9 they did mail it to my shop and my boss didn't
10 give it to me. She left it on the -- I mean,
11 so unorganized. But anyway, I finally got it
12 once I asked about it, so I didn't receive
13 the -- the complaint.

14 HEARING OFFICER: All right. Thank you.

15 Does the Committee have any additional
16 questions for the CTAC witness?

17 MR. PAXTON: Whose address is Rocky Reef
18 Circle?

19 MS. DIGBY: That's my correct -- my
20 current address.

21 MR. PAXTON: And the salon is on Cantrell?

22 MS. DIGBY: Yes.

23 MR. PAXTON: Okay. That's all.

24 HEARING OFFICER: All right.

25 MS. PICKERING: I have one more for

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1 Ms. Kersey, if I may.

2 HEARING OFFICER: Go ahead.

3 MS. PICKERING: I'm sorry. I promise I'll
4 stop asking questions after that.

5 BY MS. PICKERING:

6 Q Is it the cosmetologist's duty to inform the
7 committee of any changes of address?

8 A Yes.

9 MS. PICKERING: No further questions.

10 HEARING OFFICER: All right. Any
11 questions for this witness based on that?

12 MS. DIGBY: Huh-uh.

13 HEARING OFFICER: Is that a no?

14 MS. DIGBY: No.

15 HEARING OFFICER: Thank you.

16 Well, all right --

17 MS. WARE: Well, can --

18 HEARING OFFICER: Go ahead.

19 MS. WARE: -- we call Yvonne? Can I ask
20 her a question?

21 HEARING OFFICER: Call who?

22 MS. WARE: Yvonne. The witness.

23 HEARING OFFICER: Yes. Do you want to
24 recall Ms. Yvonne?

25 MS. WARE: Uh-huh.

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1 HEARING OFFICER: Do you have anything
2 against that Ms. Pickering?

3 MS. PICKERING: No objection.

4 HEARING OFFICER: Then you may ask
5 questions of Ms. Yvonne.

6 WHEREUPON,

7 YVONNE SMITH,

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

11 MS. WARE: I'm trying to see how many was
12 working, which ones was not working?

13 THE WITNESS: There were two -- three
14 working. And where there is NW means not
15 working.

16 MS. WARE: So Amber wasn't working; right?

17 THE WITNESS: No.

18 MS. WARE: Okay. So it was, like,
19 Jennifer, Tonya, and Jordan, I guess, were who
20 was working?

21 THE WITNESS: Yes.

22 MS. WARE: Okay.

23 HEARING OFFICER: Any additional questions
24 for this witness?

25 Any cross based on that?

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1 MS. DIGBY: No.

2 HEARING OFFICER: Any redirect based on
3 that?

4 MS. PICKERING: No, sir.

5 HEARING OFFICER: Do you want to excuse
6 this witness again?

7 MS. PICKERING: Yes.

8 HEARING OFFICER: You're -- you're excused
9 again temporarily, subject to recall, but we're
10 about at the end of this.

11 All right. So does anybody else have any
12 further witnesses to recall, call, or anything?

13 MS. PICKERING: No.

14 HEARING OFFICER: All right. Does either
15 party wish to make a closing argument?

16 MS. DIGBY: No.

17 MS. PICKERING: I actually don't either.

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

25 The deliberations are open to the public

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

4 We are now off the record.

5 (WHEREUPON, the Committee retired to
6 deliberate, off the record, from 9:39 a.m. to
7 9:42 a.m., and returned with the following
8 decision:)

9 HEARING OFFICER: All right. We'll now go
10 back on the record for the Committee's
11 decision.

12 MS. WARE: Okay. Do we have a motion?

13 MS. BOYDSTON: I make a motion that we
14 found this person to be not guilty of 5.1(C),
15 violation of neck strip, by reason of mistaken
16 identification.

17 MS. WILSON: I second.

18 MS. WARE: All in favor?

19 COMMITTEE MEMBERS: Aye.

20 HEARING OFFICER: All right. For the
21 record, the decision was unanimous. Please
22 reduce the Committee's decision -- decision to
23 writing and make or attempt service upon all
24 parties.

25 If the respondent -- well, there is no

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1 appeal of this one -- skip that language.

2 Are there any questions or comments
3 regarding this hearing?

4 There don't appear to be any, so this
5 hearing is concluded and the record is now
6 closed. Thank you, ma'am.

7 (WHEREUPON, at 9:43 a.m., the
8 above-entitled hearing was concluded.)

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P R O C E E D I N G S

1
2 HEARING OFFICER: All right. My name is
3 Dara Hall and I'm the Hearing Officer today In
4 The Matter of Phase 1 School of Cosmetology.
5 This matter will be heard before the
6 Cosmetology Technical Advisory Committee. This
7 hearing concerns matters specified in the Order
8 and Notice of Hearing. Today is 21 May 2018.
9 Please turn all cell phones off or place them
10 on silent mode so as not to dis -- so as not to
11 disrupt these proceedings.

12 Respondent, please identify yourself for
13 the record and have a seat at the table in the
14 exact space you're at.

15 MS. OSAGIE: My name is Tonya Osagie.

16 HEARING OFFICER: All right. And you
17 represent the Phase 1 School of Cosmetology?

18 MS. OSAGIE: Yes, sir.

19 HEARING OFFICER: All right. Thank you.

20 MS. OSAGIE: You're welcome.

21 HEARING OFFICER: Are you represented by
22 counsel?

23 MS. OSAGIE: No.

24 HEARING OFFICER: All right. Are you
25 aware that you have the right to have counsel

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1 present?

2 MS. OSAGIE: Yes.

3 HEARING OFFICER: If at any time you do
4 not understand this proceeding, please let me
5 know and we'll take a pause and I'll try to
6 explain that, whatever is going on, to the best
7 of my ability. All right?

8 MS. OSAGIE: Thank you.

9 HEARING OFFICER: Thank you.

10 Did you receive a copy of the Order and
11 Notice of Hearing concerning today's matter?

12 MS. OSAGIE: Yes, sir.

13 HEARING OFFICER: Are you ready to proceed
14 on this matter?

15 MS. OSAGIE: Yes, sir.

16 HEARING OFFICER: All right. Committee's
17 counsel, please identify yourself for the
18 record.

19 MS. PICKERING: Vicki Pickering.

20 HEARING OFFICER: Are you ready to proceed
21 on this matter?

22 MS. PICKERING: Yes, sir.

23 HEARING OFFICER: All right. Ma'am, were
24 you here earlier when I read the long-winded
25 explanation of these proceedings?

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1 MS. OSAGIE: I was, sir.

2 HEARING OFFICER: Then we will not make
3 you do that again.

4 MS. OSAGIE: Thank you.

5 HEARING OFFICER: We will skip over to
6 swearing in the witnesses. For those of you
7 who are or may be witnesses today in this
8 matter, please raise your right hands to be
9 sworn in.

10 And I would think -- yes, I would think
11 you would want to testify, so good.

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

14 HEARING OFFICER: All right. Does my
15 court reporter get all the names down here on
16 this row of who swore in?

17 MS. KNOPP: Jacklyn Knopp.

18 MS. SMITH: Yvonne Smith.

19 MS. ATHERLEY: Pam Atherley.

20 COURT REPORTER: Could you say your last
21 name again?

22 MS. ATHERLEY: Atherley.

23 COURT REPORTER: Thank you.

24 HEARING OFFICER: Do you need anybody to
25 spell those at a break?

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1 COURT REPORTER: I have those.

2 HEARING OFFICER: Okay. You've got them?
3 Good.

4 All right. All right. Are there any
5 preliminary matters to be discussed or offered
6 at this time?

7 MS. PICKERING: We have the packet that
8 includes the Notice of Hearing; it's six pages
9 of information.

10 HEARING OFFICER: So CTAC Exhibit 1, and
11 it would be six pages?

12 MS. PICKERING: Yes.

13 HEARING OFFICER: Any objections?

14 MS. OSAGIE: No.

15 HEARING OFFICER: There being no
16 objection, it is so admitted into evidence and
17 may be published to the committee.

18 (WHEREUPON, CTAC Exhibit No. 1 was
19 received in evidence.)

20 HEARING OFFICER: Ma'am, do you have any
21 documents that you would like the Committee to
22 examine?

23 MS. OSAGIE: I don't have them on my
24 person. I think in the letter it said that
25 they could be published, the time cards.

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1 MS. KERSEY: Uh-huh. I have them.

2 MS. OSAGIE: Okay. I want to -- I would
3 bring mention to a couple of them that was in
4 error.

5 MS. PICKERING: We will introduce those as
6 Ms. -- as the witness refers to them, if that's
7 okay.

8 MS. OSAGIE: Okay.

9 MS. KERSEY: There are so many of them is
10 why we didn't copy them.

11 MS. OSAGIE: Yes.

12 HEARING OFFICER: All right. Then we're
13 ready to proceed then?

14 MS. OSAGIE: (Nodding head up and down.)

15 HEARING OFFICER: At this time the -- oh,
16 I'm sorry. We already did that. We've already
17 admitted them.

18 It's only six pages, so I'll ask, does the
19 Committee actually want to request a recess to
20 examine the six pages?

21 MS. BOYDSTON: Yes.

22 HEARING OFFICER: Yes. Then we're off the
23 record for the Board to take a short recess to
24 review these exhibits.

25 (WHEREUPON, a brief recess was held.)

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1 HEARING OFFICER: We're now back on the
2 record after a brief recess for the Committee.
3 Does either party wish to make an opening
4 statement at this time?

5 MS. PICKERING: Yes, I'll make a brief
6 one.

7 This is a hearing against Phase 1 School
8 of Cosmetology, and the violation that has been
9 alleged is, after an investigation was
10 conducted -- or began November 16, 2017, it was
11 found that the school did not report the
12 correct number of hours from the student time
13 cards to the database, and that's it. And I
14 believe it was 17 students were discovered at
15 this hearing -- I mean at this investigation.

16 HEARING OFFICER: All right. Ms. Osagie,
17 did I get that name right?

18 MS. OSAGIE: Yes, you did.

19 HEARING OFFICER: All right. You'll get a
20 chance to testify later, as you may have
21 observed before, but now you can make an
22 opening statement, kind of like that, of your
23 theory of why you think there was no violation
24 from the school or what evidence you will put
25 on or what you will be able to prove during

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1 this hearing. All right?

2 MS. OSAGIE: Other than my testimony, I
3 have no documentation, because I sent
4 everything that was requested from the school
5 to --

6 HEARING OFFICER: I -- I got that.

7 MS. OSAGIE: -- to Kelli.

8 HEARING OFFICER: But you can tell what
9 your testimony is going to show.

10 MS. OSAGIE: It will show that there were
11 some errors made with the time cards.

12 HEARING OFFICER: Okay. Thank you.

13 MS. OSAGIE: You're welcome.

14 HEARING OFFICER: Now you may call your
15 first witness.

16 MS. PICKERING: Okay. I'll call Kelli
17 Kersey.

18 WHEREUPON,

19 KELLI KERSEY,

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

23 DIRECT EXAMINATION

24 BY MS. PICKERING:

25 Q Would you state your name and occupation.

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1 A Kelli Kersey, Arkansas Department of Health,
2 Cosmetology and Massage Therapy Section, Section Chief.

3 Q Okay. Was an investigation -- was an investigation
4 conducted on the Phase 1 School of Cosmetology?

5 A It was.

6 Q Okay. And was it done as a result of a complaint?

7 A Yes, it was.

8 Q Okay. And could you tell the Committee just a
9 little bit about the complaint?

10 A We had a complaint that hours weren't getting
11 reported right to the section, and so generally when that
12 happens we will conduct an audit. So this is -- this is
13 actually an audit. We don't go out to the school; we get
14 the school to send us all their time cards and we do it
15 for all the students that are enrolled for a six-month
16 period. So they have to send us their -- so these
17 records are actually from June to November of 2016 --
18 '17.

19 MS. OSAGIE: '17.

20 THE WITNESS: Yeah.

21 MS. OSAGIE: Yes.

22 THE WITNESS: And I have -- so what we do
23 when we get those is we put them on a
24 spreadsheet like this and we put each student.
25 And, like, the first line, where -- well,

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1 that's not showing up, is it. Sorry. June
2 here. These are what was on the time card,
3 this was the sign-in sheet, and then this, this
4 is what was in CLIPS, this was on the time
5 card, so that's what we do for every student.

6 BY MS. PICKERING:

7 Q Do you have a copy of that, what you're referring
8 to?

9 A I do have a copy of it. It's very tiny when you
10 print it out so that's why we brought this. So you can
11 see, like, in August, on this student, the time cards
12 said 14.3 and in CLIPS it was 162; so there was a
13 discrepancy of 148 hours.

14 Q Okay. Did -- so Phase 1 sent you the records that
15 you requested?

16 A Correct.

17 Q Okay. And once you received those records, what
18 you're saying is you take those records and compile them
19 into this document?

20 A Correct.

21 MS. PICKERING: Okay. So I would move to
22 offer the document compiled from the records as
23 Committee's Exhibit 2.

24 HEARING OFFICER: All right. Any
25 objections to those records?

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1 MS. OSAGIE: No, sir.

2 HEARING OFFICER: There being no
3 objections, they are so admitted and may be
4 published to the committee.

5 Let's make sure and get my court reporter
6 one, and it will be CTAC's 2.

7 (WHEREUPON, CTAC Exhibit No. 2 was
8 received in evidence.)

9 MS. PICKERING: Okay. And this is exactly
10 what's on the screen --

11 THE WITNESS: Yeah.

12 MS. PICKERING: -- but if you guys want to
13 look at it too --

14 THE WITNESS: Good luck. It's very tiny
15 to get it all on one page.

16 MS. WARE: So the red is the number
17 missing?

18 THE WITNESS: Uh-huh, it's actually, it
19 can be either over or under. Okay? So some of
20 them actually had hours -- too many hours put
21 into CLIPS reported to us and some had too
22 little hours.

23 MS. WARE: Oh, okay.

24 MR. PAXTON: How does that work?

25 Like, I've been out of school for 15

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1 years.

2 THE WITNESS: Uh-huh.

3 MR. PAXTON: I don't -- like, what's the
4 time card? Is that the student clocking in?

5 THE WITNESS: Yes.

6 MR. PAXTON: And what is CLIPS?

7 THE WITNESS: Okay. CLIPS is our system
8 that all the schools are tied into, they have a
9 log in. And each month they have to report
10 their hours off of the time cards that the
11 students -- we never see the time cards unless
12 we ask for them. We're -- we trust the schools
13 that they are going to put the accurate hours
14 in there. So --

15 MR. PAXTON: So schools would get a report
16 every day, every week, whatever, and then they
17 take that report and put it into CLIPS for the
18 State?

19 THE WITNESS: Correct.

20 MR. PAXTON: Thank you.

21 THE WITNESS: Correct.

22 BY MS. PICKERING:

23 Q So you read -- let's go back a little bit.

24 A Okay.

25 Q So you received the documentation from Phase 1 and

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1 compiled it into this document. And then if you could, I
2 know you kind of went through it a little bit, but kind
3 of go into a little more detail of what --

4 A Okay.

5 Q -- and the specific students that you found to be in
6 violation.

7 A Okay. I'm going to -- well, you can't -- some of it
8 is cut off.

9 Okay. So this student had 148 hours overage put
10 into CLIPS. So she -- this person had -- well, there was
11 no proof that they actually earned the 148 hours that
12 were put into CLIPS. Okay?

13 HEARING OFFICER: The record is going to
14 be very unclear when you say "this person." Do
15 you have a name?

16 THE WITNESS: Oh, sorry. Willie Andrea
17 Bowser.

18 HEARING OFFICER: Thank you. That will
19 help out.

20 THE WITNESS: Okay.

21 BY MS. PICKERING:

22 Q Okay. And so let me stop you right there so it's
23 clear.

24 A Uh-huh.

25 Q The time sheets that you have, and that's reflected

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1 here in the pink --

2 A Correct.

3 Q -- the time sheets totalled --

4 A Total -- okay. So the time cards for this month --

5 sorry, I don't know what happened to my total here

6 because I had a total -- they totalled -- what is that,

7 700 -- no, 70 hours .8, 70.8 hours.

8 Q Okay.

9 A Okay. And then --

10 Q And what was reported --

11 A And in CLIPS -- but what was reported in CLIPS was

12 218.

13 Q Okay. So that --

14 A Okay.

15 Q -- that makes for the 148 hours?

16 A So that makes for the 148 hours; correct.

17 Q Thank you.

18 MS. WARE: Ah.

19 THE WITNESS: Yep. Okay.

20 BY MS. PICKERING:

21 Q Okay. So let's move to the next one.

22 A Okay. So the next one is Lanasia Buchanan; she --

23 so she had 15.5 too many hours reported in CLIPS that

24 didn't -- that weren't reflected on the time card.

25 Q Okay. Move on to the next one.

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1 A Okay. Lashaye Burks, she only had 1.49 overage.

2 Q Okay.

3 A Okay. Arnelle Clayburn, she had 1.73 hours overage.

4 Erica Preshae --

5 THE WITNESS: Is that how you say that?

6 MS. OSAGIE: Yes, ma'am.

7 THE WITNESS: Cothran, she had 25 hours
8 over.

9 So there is a negative -- you see this
10 negative here, 4.5 was actually on the time
11 card but they only entered 4.3 for that month,
12 so if it's a negative in this column, that
13 means they didn't actually report enough hours.

14 BY MS. PICKERING:

15 Q Wasn't an overage --

16 A Right.

17 Q -- it was just an incorrect number?

18 A Right. But when you add it all up for the six
19 months, it was actually 25 overage.

20 Q Overage?

21 A Yeah.

22 Lucille Daniels -- let's see. On hers it's a
23 negative, so they actually shorted this student 6.2
24 hours.

25 And I can't see that one myself. Denkins? Who is

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1 that? Kandra Denkins, she had 82.6 hours overage
2 reported that was not on the time cards.

3 MS. OSAGIE: Yeah. That's just a -- if I
4 may, Ms. Kelli.

5 HEARING OFFICER: No, not at this time.

6 MS. OSAGIE: Okay. I'm sorry. Okay.

7 HEARING OFFICER: You'll get your chance.

8 MS. OSAGIE: Okay. That was one that I
9 was looking for.

10 THE WITNESS: Alynicia Elliott had 9.58
11 hours reported overage.

12 I don't know how to say these names. I'm
13 sorry. T-r-i--t-i-a?

14 MS. OSAGIE: Shumecia.

15 THE WITNESS: Estell, she was actually
16 shorted 2.8 hours.

17 On the -- in the letter that's in the
18 packet, it says that there were three students'
19 time -- time cards reflected the exact hours.
20 This is one of them, this -- sorry -- Lonnie
21 Gosha, because there was actually no hours.
22 Yeah. I think that is all three.

23 This one is Andrea Henry. She -- hers was
24 correct too because you can see that it's 130,
25 130, that was one of the correct ones.

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1 Sorry, I'm trying to make sure I can see
2 these.

3 Desure Jackson, she had 66.2 hours entered
4 that weren't on the time cards.

5 Shenna Johnson, she had 6.82 hours
6 reported that weren't on the time cards.

7 Patresa Johnson was one of the zero hours.

8 Contrell Johnson, 12.12 hours overage.

9 Ebony Jones, 97.2 hours overage from the
10 time cards.

11 Angelica Liddell, she actually was shorted
12 3.7 hours.

13 Slyvia McChristian, overage of 4.76.

14 Britany McNeal was zero hours.

15 Alycia Osagie had 2.35 hours overage.

16 Gail Owens 24.22 hours overage.

17 Tyree Speed 36.6 hours overage.

18 Ashley Vance, she was shorted 3.9 hours.

19 Nicole Waters 18.4 hours overage.

20 BY MS. PICKERING:

21 Q That's all the students?

22 A That's all of them.

23 Q Okay. Did you give Phase 1 a chance to -- I mean
24 did you mail them a copy of the finding, give them a
25 chance to respond and correct --

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1 A I did.

2 Q And what were the results of that?

3 A The results were that she -- her response was, this
4 is all the time cards and the time sheets that we have.

5 Q Okay. So nothing to correct it?

6 A So nothing -- correct.

7 Q Did any of the investigators visit the school?

8 A They did for a different matter.

9 Q Okay.

10 A Yeah.

11 Q I don't think I have anything further. Do you have
12 anything further you would like to add?

13 A No. I think that's it.

14 MS. PICKERING: All right. No further
15 questions.

16 HEARING OFFICER: All right. Ms. Osagie,
17 you can ask this witness questions now.

18 MS. OSAGIE: I have no questions.

19 HEARING OFFICER: All right. Does the
20 Committee have any questions for this witness?

21 MS. WARE: I do.

22 How many students in all were there?

23 THE WITNESS: There was 24 students.

24 MS. WARE: Twenty-four students, and four
25 just had zero hours?

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1 THE WITNESS: Three of them actually did.
2 There was three that had zero.

3 MS. WARE: Three?

4 THE WITNESS: Yeah. 17 had more reported,
5 and four students had actually earned more
6 hours than were reported to the section.

7 HEARING OFFICER: Any questions from this
8 side of the committee to my right?

9 MS. WILSON: For Kelli?

10 HEARING OFFICER: For Ms. -- yes, for
11 Ms. Kersey.

12 Or from this side either, I'm just trying
13 to -- I don't want to leave anybody out.

14 MS. BOYDSTON: Are those cards
15 electronically added? Totalled? Or are they
16 totalled --

17 MS. OSAGIE: No. Manually.

18 THE WITNESS: Yeah. Manually totalled.

19 MS. OSAGIE: Yeah. That's part of the
20 problem.

21 THE WITNESS: Y'all can see those too. Do
22 y'all want to see those too?

23 MS. PICKERING: Can we?

24 HEARING OFFICER: Yeah. As long as my
25 court reporter gets a copy of them, yeah, it's

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1 in evidence.

2 So we're going to identify these as
3 Exhibit 3, then.

4 Any objection though before we give them
5 out?

6 THE WITNESS: Oh, sorry. Sorry.

7 MS. OSAGIE: No, sir.

8 HEARING OFFICER: Then they are admitted
9 as CTAC's 3 and may be given to the Committee.

10 Thank you, ma'am.

11 MS. OSAGIE: You're welcome.

12 (WHEREUPON, CTAC Exhibit No. 3 was
13 received in evidence.)

14 HEARING OFFICER: I didn't think you would
15 object.

16 (WHEREUPON, a brief recess was held.)

17 HEARING OFFICER: All right. We're now
18 going to go back on the record after that brief
19 recess.

20 And let me put it on the record that my
21 court reporter will need a copy of all of this
22 and we will -- it's been admitted as CTAC 3,
23 so -- and right now that's CTAC 2 being given
24 to the court reporter, you can mark it as such,
25 it's being admitted into evidence.

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1 MS. PICKERING: So she has a copy of
2 everything now except for Exhibit 3, and we
3 will give you that.

4 HEARING OFFICER: Right. Yeah. Yeah.

5 Let's go off the record right now, if we
6 could, for a quick recess.

7 (WHEREUPON, a brief recess was held.)

8 HEARING OFFICER: All right. At this time
9 we will go back on the record after the recess
10 for the Committee to examine all the
11 Exhibit 3s -- or all of Exhibit 3, which is
12 quite voluminous.

13 All right. Now, where are we at on
14 questioning? We were questioning Ms. Kersey,
15 but I forget, any -- any redirect for her?

16 MS. PICKERING: No. No questions from me.

17 HEARING OFFICER: Any cross now for her
18 again?

19 I think I've already asked --

20 MS. OSAGIE: No.

21 HEARING OFFICER: -- but I just want to
22 make sure everybody gets their chance.

23 And does the Committee have any questions
24 now for Ms. Kersey, having seen the voluminous
25 Exhibit 3s.

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1 MS. WARE: Yes.

2 HEARING OFFICER: Go ahead.

3 MS. WARE: Have these been corrected?

4 THE WITNESS: Not yet. We wait until
5 after a hearing to do that.

6 MS. WARE: Okay.

7 THE WITNESS: And it's our practice not to
8 punish the student.

9 MS. WARE: Okay.

10 THE WITNESS: It's the school's
11 responsibility to report them correctly.

12 MS. WARE: Okay.

13 MR. PAXTON: So when you say that, in the
14 event that these people who have 148 hours
15 over, that will just be okay to the student,
16 essentially, is what my understanding --

17 THE WITNESS: Yes. Because they already
18 think that -- I mean when -- because the
19 students can check their hours as well, and so
20 if they think that they are 148 hours ahead and
21 they have thought that for months, then, yes,
22 we're not going to take that away from them
23 because that's not their fault.

24 MS. WARE: Okay.

25 MR. PAXTON: And they can be -- they can

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1 check their hours via CLIPS?

2 THE WITNESS: Uh-huh. They can.

3 MR. PAXTON: Okay.

4 HEARING OFFICER: Any additional
5 questions?

6 There don't appear to be any. Do you want
7 to excuse this witness temporarily subject to
8 recall?

9 MS. PICKERING: Yes. Thank you.

10 HEARING OFFICER: You're so excused.

11 And just for the record, that CLIPS
12 acronym is pretty nice.

13 You may call your next witness.

14 MS. PICKERING: I have no further
15 witnesses.

16 HEARING OFFICER: All right. Then now
17 it's Ms. Osagie's turn. You can now testify,
18 ma'am.

19 WHEREUPON,

20 TONYA OSAGIE,

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: Unfortunately the hours were

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1 entered incorrectly, whether it was mistakenly
2 or knowingly. I have a couple of instructors
3 and a student instructor that was helping me
4 and I just gave them too much -- too many -- I
5 trusted them with -- with, I guess, the hours
6 that I should have been doing. And after the
7 audit, no one does the hours except me now.
8 And I even bought a ribbon where the hours are
9 very visible, they are no longer shallow. And
10 I also found out that we were using a regular
11 calculator and we should have been using a time
12 calculator to add the hours. So a lot of
13 things have been rectified as far as trying to
14 correctly put the hours in. Unfortunately I'm
15 a private school, a small school, and I'm
16 working on one of the hand machines; but, of
17 course, that's very costly so I am making
18 amends to correct those mistakes.

19 HEARING OFFICER: All right. Is that all
20 your testimony, ma'am?

21 THE WITNESS: Yes, sir.

22 HEARING OFFICER: All right. Cross?

23 MS. PICKERING: I have no questions.

24 HEARING OFFICER: Questions from the
25 Committee?

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1 MS. WARE: Yes.

2 Do you have a copy of your contract?

3 THE WITNESS: Of my contract?

4 MS. WARE: Yeah. It was in here about
5 discrepancy in your contract -- contract, about
6 overtime.

7 THE WITNESS: I don't have a copy with me,
8 but the students are given a copy.

9 MS. WARE: Yeah. I was just wanting to
10 see too.

11 THE WITNESS: Oh, I don't have a copy with
12 me.

13 MS. WARE: Okay.

14 MS. WILSON: Is your school accredited?

15 THE WITNESS: No, ma'am.

16 MS. WILSON: All right.

17 MS. WARE: So --

18 THE WITNESS: That's something that we're
19 working on. I'm in talks with the community
20 college about coming under their umbrella and
21 coming under their technical section of the
22 school; so that's something that we're
23 working -- working towards.

24 MS. BOYDSTON: Where -- where is your
25 school located?

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1 THE WITNESS: Blytheville.

2 MS. BOYDSTON: Okay.

3 MS. WARE: So how long has that time clock
4 been like this, that you can't very -- that you
5 can't read their time very well?

6 THE WITNESS: It was like that for quite a
7 while. What happened was I was -- I was
8 accredited under Park West, and Park West had
9 the time -- the hand machine. And so they went
10 bankruptcy and a lot of stuff transpired with
11 them, so I had to go back to using the regular
12 clock. And they had trouble finding the ribbon
13 for it and, luckily, one of the stores, the
14 computer stores found the ribbons for that
15 specific clock, so now I bought all of them
16 that they had.

17 MS. WARE: Because this is very hard to
18 read.

19 MS. BOYDSTON: Yeah. I couldn't read it
20 at all. Like it was invisible time.

21 THE WITNESS: Yeah. I mean, it's --

22 MS. WARE: Do y'all not use sign-in
23 sheets? Sign in and out?

24 THE WITNESS: We do.

25 And like I said, having instructor

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1 trainees and my instructor that was working
2 with me at the time, which neither one of them
3 are there anymore, just kind of giving them
4 maybe too much leeway or too much expectations
5 that things will be done right. It's a hard
6 lesson.

7 MS. WILSON: You said you were accredited?

8 THE WITNESS: Under Park West I was, but
9 Park West went bankruptcy and closed down.

10 MS. WILSON: What's Park West?

11 THE WITNESS: It's a beauty school out of
12 North Carolina -- it's a barber school out of
13 North Carolina and I came under their umbrella
14 for a couple of years.

15 MS. WILSON: Was it, like, a branch
16 campus?

17 THE WITNESS: Yes. But they closed down
18 in, I think, March, and Phase 1 opened in June.

19 MS. WILSON: So who was their accreditor?

20 THE WITNESS: NACCAS.

21 MS. WILSON: Okay.

22 THE WITNESS: But, unfortunately, when
23 they closed, all of the technical machinery
24 that was left there at the campus couldn't be
25 used because it was tied into the other eight

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1 campuses, so I had to get a new time clock and
2 it was a manual time clock.

3 MS. WILSON: Okay.

4 MS. WARE: Could you explain about your
5 overtime pay? Are the students penalized if
6 they go over or if they --

7 THE WITNESS: They are. And that's
8 something that was instituted because, me
9 personally, that's one of the reasons why I
10 didn't seek reaccreditation because I couldn't
11 stomach the students coming out owing a bill.
12 But it got to the point where I have -- I never
13 charged students for overtime but it got to a
14 point where I was having too many with
15 overtime, so I re-instituted the rule of
16 overtime charges.

17 MS. WARE: And what are those?

18 THE WITNESS: Any -- anything over your
19 contracted hours is \$10 per hours. And I give
20 them 12 months to complete the program, which
21 entails six extra weeks of time to complete the
22 program.

23 MS. WARE: What if they doesn't -- they do
24 not show up on the Saturdays?

25 THE WITNESS: They are fined \$50.

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1 MS. WARE: Fifty?

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

3 MS. BOYDSTON: So the ones that -- that
4 their hours were behind, have they been charged
5 because their hours are behind already because
6 of the mistakes?

7 THE WITNESS: No. I only have one student
8 that's in overtime, and their hours were not
9 incorrect.

10 MS. WILSON: Were they on this list?
11 Because I didn't see one student without
12 incorrect hours.

13 THE WITNESS: Britany Daniels, she's on
14 there.

15 MS. WILSON: Okay. Because every one of
16 them that I looked at had discrepancies.

17 THE WITNESS: I mean her hours were not to
18 the point where that affected her overtime
19 charge. I think she had, like, two hours or
20 six hours or something like that in
21 discrepancies.

22 MS. WARE: Two hours short? She was two
23 hours short?

24 THE WITNESS: I can't remember if she was
25 short or over.

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1 MS. BOYDSTON: The person that wrote this
2 letter --

3 THE WITNESS: Yes.

4 MS. BOYDSTON: -- complaining about her
5 hours was the only one that did not have
6 incorrect hours?

7 THE WITNESS: Yeah. And actually --

8 MS. WILSON: They just weren't excessive.

9 THE WITNESS: Actually I have a letter
10 from Britany but I didn't admit it because it
11 said that only the audit was going to be
12 discussed here in the hearing, that nothing
13 else in that complaint would be discussed
14 except for the audit. But as the questions are
15 coming forth, when I received the -- the letter
16 and really sat down and read it, I was appalled
17 because a lot of things that were put in the
18 letter were untruth. And in talking to
19 Britany, because she is still there, and she
20 was very apologetic and she even -- she sent a
21 letter, an email to the Board stating some
22 things that she felt would probably -- you
23 know, needed to be aired out, the truth.

24 MS. BOYDSTON: Uh-huh. The only reason
25 that I -- I was asking is that what would tie

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1 it together at all to me would be if those
2 students had been charged because of those
3 mistakes.

4 THE WITNESS: No.

5 MS. BOYDSTON: That's the only reason that
6 I -- I was asking that.

7 THE WITNESS: No, ma'am.

8 MS. PICKERING: And if I could clarify,
9 the only issue we are here today is the audit,
10 not the contract or anything else in the
11 complaint.

12 THE WITNESS: Okay.

13 MS. BOYDSTON: Okay. Thank you.

14 MS. WILSON: Okay. I'm good.

15 MS. BOYDSTON: Okay.

16 HEARING OFFICER: All right. Are there
17 any additional questions for this witness?

18 Oh, before we actually do that, do you
19 have anything -- any additional testimony you
20 would like to give now?

21 THE WITNESS: I do. I would just like to
22 share with the Board that I am -- I'm a
23 cosmetologist 25 years and I've owned a school
24 for ten years, and although there may have been
25 calls, I've never had a formal complaint filed

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1 against me, and I believe that's because I have
2 the students at heart. I really am for the
3 students to obtain their license and be very
4 prominent in this field. And I would ask, I
5 don't know if it's for compassion, because I am
6 working with the college, the college in
7 Blytheville to try to partner with them, and of
8 course anything negative will probably dispel
9 that chance to come aboard and offer
10 Blytheville something special with us
11 partnering with ANC College. I think that will
12 be taken into consideration.

13 HEARING OFFICER: Cross?

14 CROSS-EXAMINATION

15 BY MS. PICKERING:

16 Q Yes. Ms. Osagie, you mentioned Park West, and I may
17 have missed your testimony on this, but did you have any
18 relationship with them or how did the transfer work?

19 A No. Actually I was -- actually my school was in
20 Missouri and I was in the process of becoming accredited,
21 and I met the owners of Park West at the NACCAS
22 convention for prospects. And they approached me and
23 made a proposition that was really, at that time, really
24 great. And so I closed my school in Missouri and came to
25 Arkansas -- to Blytheville, where I'm originally from,

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1 where I've had my salon for 25 years, and that's how I
2 connected with them.

3 Q Were you familiar -- were you familiar with any of
4 their previous problems with the cosmetology board?

5 A I was not. Unfortunately I was not.

6 Q All right.

7 A It's a hard lesson learned.

8 Q Okay.

9 A I know, I've talked to Ms. Kelli on that. It was a
10 hard lesson learned.

11 MS. PICKERING: Okay. No further
12 questions.

13 HEARING OFFICER: Any questions from the
14 Committee for this witness?

15 MS. WILSON: So did you share the same
16 name? Park West was -- it's a different --

17 THE WITNESS: No. Park West was their
18 name.

19 MS. WILSON: Right.

20 THE WITNESS: So I was -- I -- I was under
21 their umbrella with their name.

22 MS. WILSON: But then you wouldn't --
23 wouldn't be accredited -- you never got your
24 accreditation?

25 THE WITNESS: No. Right. I just came --

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1 MS. WARE: Okay.

2 THE WITNESS: I just came under their
3 company with their accreditation.

4 That make sense?

5 MS. WILSON: No.

6 THE WITNESS: I worked for Park West.

7 MS. WILSON: But your -- the establishment
8 is either accredited by NACCAS or it's not.

9 THE WITNESS: It -- it was. NACCAS came
10 down and they did the -- the internal, all of
11 that thing, all of that, and that specific
12 campus was accredited.

13 MS. WILSON: Uh-huh. Then -- then you
14 would have to have the same name for a
15 connection with Park West?

16 THE WITNESS: It was Park West. It was
17 Park West. Park --

18 MS. WILSON: So it wasn't Phase 1
19 Cosmetology?

20 THE WITNESS: Correct. Park West
21 wasn't -- Park West went bankruptcy and closed
22 down.

23 MS. WILSON: And you changed your name?

24 THE WITNESS: And then I changed the name.
25 Yes.

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1 MS. WILSON: Okay. Because I was, like,
2 well, it wouldn't work that way.

3 THE WITNESS: That's right.

4 HEARING OFFICER: Any additional questions
5 of Phase 1 or Park West?

6 THE WITNESS: Phase 1.

7 HEARING OFFICER: Okay. If there are no
8 further questions, do you have any other
9 witnesses to call, ma'am?

10 MS. OSAGIE: No, sir.

11 HEARING OFFICER: All right. In that case
12 we are at the point of this where we do closing
13 arguments if desired. Would you like to do a
14 closing for the CTAC?

15 MS. PICKERING: I would actually like to
16 do rebuttal real quick with Ms. Kersey.

17 HEARING OFFICER: All right. Then we will
18 recall Ms. Kersey.

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 REDIRECT EXAMINATION

25 BY MS. PICKERING:

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1 Q Okay. Ms. Kersey, you heard some of the questions
2 from the Committee members about the time sheets. Can
3 you explain that?

4 A I can. And I'm glad they brought that up. These
5 are very difficult to read.

6 MS. OSAGIE: Uh-huh.

7 THE WITNESS: Yeah. I actually brought in
8 some younger eyes to help me. There was two
9 people in the office that helped me. I mean,
10 we got real creative. If you put a cell phone
11 light on these you could see them a lot better.
12 Okay. If we could not read them, we did ask
13 them for clearer ones.

14 MS. OSAGIE: For the -- yes.

15 THE WITNESS: Okay. So what is on this is
16 actually what is on these. Okay?

17 MS. BOYDSTON: Okay.

18 THE WITNESS: Yeah, because I agree --

19 MR. PAXTON: We have to trust you because
20 we couldn't see it.

21 MS. OSAGIE: Those are my original cards.

22 THE WITNESS: Yeah. Yeah.

23 HEARING OFFICER: So what you're refer
24 to --

25 BY MS. PICKERING:

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1 Q What is on Exhibit 3 is reflective of what is on
2 Exhibit 3?

3 A Correct. Correct. I'm sorry.

4 HEARING OFFICER: On -- on Exhibit 2?

5 THE WITNESS: Two, yeah.

6 HEARING OFFICER: Because that's your 2
7 and that's 3.

8 MS. PICKERING: What is on Exhibit 2 is
9 what's reflected on Exhibit 3 --

10 HEARING OFFICER: Right.

11 MS. PICKERING: Correct.

12 MS. BOYDSTON: So this is six months'
13 worth of -- the totals that you have are six
14 months in the making --

15 THE WITNESS: Correct.

16 MS. BOYDSTON: -- for each student?

17 THE WITNESS: For each student. Yes.

18 Yes.

19 BY MS. PICKERING:

20 Q Okay. And just so we talked about this, the issue
21 of Park West that was brought up by Ms. Osagie, could you
22 just kind of generally explain what the issue was?

23 A Okay. Park West actually came -- had the same
24 issues with the hours.

25 MS. BOYDSTON: Ah.

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1 THE WITNESS: We worked with the -- our
2 last attorney, Elizabeth, and we -- we got that
3 worked out. And they actually -- I mean it's
4 actually almost the same exact problems with
5 this. We weren't going to -- we weren't going
6 to bring that up so -- because she did open a
7 new school under Phase 1 because she didn't
8 want to associate herself with Park West.

9 So she had -- originally was going to do a
10 change of name and change of owner, but then
11 she rethought about it and was, like, I don't
12 want to, I don't want to be associated with
13 them, so she did open a new school; so --

14 MS. PICKERING: Okay. Thank you. I have
15 no further questions.

16 HEARING OFFICER: Do you have any
17 questions for this witness at this time?

18 MS. OSAGIE: I do not. Thank you, sir.

19 HEARING OFFICER: All right. Does the
20 Committee have any follow-up questions for this
21 witness?

22 There don't appear to be any to the right.
23 And to my front, don't appear to be any. So
24 you want to excuse this witness again?

25 MS. PICKERING: Yes.

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1 HEARING OFFICER: You're excused.

2 MS. PICKERING: For the last time.

3 HEARING OFFICER: Hopefully for the last
4 time.

5 Does either party wish to make a closing
6 argument at this time?

7 MS. PICKERING: I don't. I don't believe
8 I do. I think everything has been hashed out
9 in testimony.

10 HEARING OFFICER: Ms. Osagie?

11 MS. OSAGIE: No. No thank you.

12 HEARING OFFICER: All right. At this time
13 we will go off the record for the Committee's
14 recess for deliberations and a decision
15 regarding the findings of fact, conclusions of
16 law, and/or any penalties to be handed down.
17 Once the Committee reaches a decision, we will
18 go back on the record.

19 The deliberations are open to the public
20 under the Freedom of Information Act. All
21 parties may remain and observe the
22 deliberations.

23 We're now off the record.

24 (WHEREUPON, the Committee retired to
25 deliberate, off the record, from 10:33 a.m. to

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1 10:34 a.m., and returned with the following
2 questions:)

3 HEARING OFFICER: At this time we will go
4 back on the record.

5 I understand that we have a need to call
6 Ms. Kersey again to clarify some of the issues
7 regarding these penalties -- I mean these
8 allegations.

9 Go ahead.

10 WHEREUPON,

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

15 FURTHER REDIRECT EXAMINATION

16 BY MS. PICKERING:

17 Q Okay. Ms. Kersey, would you explain to the
18 Committee what the options are as far as penalties --

19 A Yes.

20 Q -- and findings?

21 A The penalties are just like for anything in
22 cosmetology, it can go from 25 to \$1,000 per violation.
23 And we -- we actually don't have a recommendation for
24 y'all. We feel like that y'all can make that -- you
25 know, it's your decision on --

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1 Q And is -- is the statute -- is the 17-26-105 --

2 A Yes.

3 Q -- that's referred to -- this doesn't go into detail
4 in the notice --

5 A Right.

6 Q -- but in the statute itself it sets out those; is
7 that correct?

8 A Correct. Yeah. Let me get there.

9 Q Real quick before I let you go.

10 A Right here.

11 Q Okay. And specifically what number is it?

12 A Okay. It's actually statute 17-26-104(5)(B) it
13 tells the penalties. The minimum penalty shall be \$25
14 and the maximum penalty of \$1,000 is authorized if the
15 penalty is imposed by the committee in lieu of revocation
16 or suspension of a license.

17 MS. PICKERING: Okay. I think I'm
18 finished.

19 I will --

20 HEARING OFFICER: Ms. Osagie, do you have
21 any questions --

22 MS. OSAGIE: No, sir.

23 HEARING OFFICER: -- for this witness
24 about the penalties?

25 MS. OSAGIE: No, sir.

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1 HEARING OFFICER: Does the Committee have
2 any questions? Because now is the time to ask
3 them, while we're on the record.

4 MR. PAXTON: Sorry.

5 HEARING OFFICER: No. No. It's -- it's
6 good that you asked it and we go on the record.

7 There don't appear to be any questions
8 about them, and we got the right statute cited,
9 so y'all can look at that as well.

10 Ready to go off the record again for the
11 last time, I hope?

12 MS. PICKERING: Yes.

13 HEARING OFFICER: At this time we will go
14 off the record again for the Committee's recess
15 for deliberations.

16 We are now off the record.

17 (WHEREUPON, the Committee retired to
18 deliberate, off the record, from 10:36 a.m. to
19 10:42 a.m., and returned with the following
20 questions:)

21 HEARING OFFICER: At this time we're going
22 to go back on the record. I believe the CTAC
23 counsel would like to direct the Committee's
24 attention, I believe, to the statement of fact
25 on the Order and Notice of Hearing.

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1 MS. PICKERING: So it -- it is the
2 Committee's -- or the counsel and staff's
3 position that No. 2 says, the investigation
4 found that Phase 1 School of Cosmetology didn't
5 report the correct number of hours from the
6 student time cards to the CLIPS database, and
7 so what our position is and what it has been in
8 the past is that's per student, because it was
9 per each student's time card that was
10 incorrectly reported; so there were 17 students
11 in this investigation that were incorrectly
12 reported.

13 MS. BOYDSTON: Okay.

14 HEARING OFFICER: And, Ms. Osagie --

15 MS. PICKERING: And the statute -- if I
16 may go over one more thing. The statute says
17 it's up to \$1,000 per violation. So that --
18 that's our position. But we didn't make a --
19 we didn't make a recommendation on the amount
20 of the fine, but it's our --

21 MS. BOYDSTON: Thank you for clarifying
22 because I was reading that as one.

23 MS. WILSON: Seventeen students out of 21
24 students --

25 HEARING OFFICER: And that's -- the

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1 minimum was \$25 --

2 MS. BOYDSTON: Uh-huh.

3 HEARING OFFICER: -- up a max of 1,000 in
4 your statute; is that correct?

5 MS. PICKERING: Yes. That's correct.

6 HEARING OFFICER: Just want to make sure
7 they got both sides of that.

8 MS. WILSON: Twenty-one students.

9 MS. PICKERING: And there were 17 students
10 that were incorrectly reported.

11 MS. WILSON: Twenty-one. 17 had more
12 hours reported and four had less hours
13 reported.

14 MS. PICKERING: Yes, that's correct.

15 MS. WARE: And three had correct hours.

16 MS. PICKERING: Yes.

17 MS. WARE: All right.

18 HEARING OFFICER: So, Ms. Osagie, is there
19 anything to add?

20 MS. OSAGIE: No. So the question, is that
21 per student or per statute?

22 HEARING OFFICER: I believe the CTAC's
23 position was the violation is per student where
24 the hours were not right, and then that's a
25 violation for each one that has incorrect

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1 hours.

2 I believe I summarized that correctly?

3 MS. PICKERING: Yes. That's correct.

4 HEARING OFFICER: All right. So does the
5 Committee have any questions for their counsel
6 at this time about the statute and/or what
7 can -- what constitutes a violation?

8 If not, we'll go back into deliberations,
9 and we so will go off the record for the
10 Committee's recess once against for
11 deliberations.

12 We're now off the record.

13 (WHEREUPON, the Committee retired to
14 deliberate, off the record, from 10:44 a.m. to
15 10:48 a.m., and returned with the following
16 discussion:)

17 HEARING OFFICER: At this time we will go
18 back on the record again --

19 MS. WARE: Okay.

20 MS. OSAGIE: It's to the counsel.

21 HEARING OFFICER: -- for Ms. Osagie to
22 make a comment to the Committee.

23 MS. KERSEY: She wants to make a comment
24 to you all.

25 HEARING OFFICER: Go ahead.

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1 MS. OSAGIE: Yes. I heard Mr. Paxton and
2 Ms. Wilson were saying the quality of the
3 school, because of the issue with the hours;
4 but in rebuttal to that, I have great
5 graduation rate and licensure passing of the
6 test. So my students are prepared to enter
7 into the cosmetology realm through testing,
8 theory, and practical teaching, instructing;
9 so, I mean, I wanted to make that sure -- I
10 think I've only had one student to fail the
11 tests and not be licensed. And I think I've
12 licensed, in this -- since I've been back in
13 Arkansas, maybe 40, almost 50 students. So I
14 am doing that job.

15 I -- you know, I didn't get into
16 everything, but my school opened in June and my
17 mom died in July, and -- I apologize -- but I
18 didn't want to go that route, but it's taken me
19 a minute to get back to where I was. And I'm
20 back, I'm there full time, I'm very active in
21 the -- I didn't say that because I didn't want
22 that to be a part, but it had a lot to do with
23 some things in the way it was ran with the
24 instructor and the other instructor trainee
25 being there, but now I'm there full time and I

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1 am on top of my cards, I am doing what I'm
2 supposed to do and not putting it in somebody's
3 hands. So it's not the blame game, it was just
4 mitigating circumstances that did not allow me
5 to be there like I normally am.

6 HEARING OFFICER: All right, ma'am.

7 MS. OSAGIE: Sorry.

8 HEARING OFFICER: Are you finished? I
9 wanted to make sure I gave you adequate time.

10 MS. OSAGIE: I am finished.

11 HEARING OFFICER: Thank you, ma'am.

12 MS. OSAGIE: You're welcome.

13 HEARING OFFICER: At this time we'll go
14 back off the record for the Committee's recess
15 for deliberations.

16 We are now off the record.

17 (WHEREUPON, the Committee retired to
18 deliberate, off the record, from 10:50 a.m. to
19 10:50 a.m., and returned with the following
20 questions:)

21 HEARING OFFICER: All right. We'll go
22 back on the record at this time so the
23 Committee can ask Ms. Osagie questions.

24 MS. WARE: So was that June of last year
25 that you purchased the school?

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1 MS. OSAGIE: June 2016? Wasn't it two
2 thousand and -- I can't remember.

3 MS. WARE: 2016?

4 Okay. That's --

5 MS. OSAGIE: It was June 2016, because
6 it's been two years this June.

7 MS. WARE: Okay.

8 MS. OSAGIE: And I opened in June 2016 and
9 my mom died in July 2016, a month later. Not
10 even a month.

11 MS. WARE: Okay.

12 COURT REPORTER: I can't hear you and
13 we're still on the record.

14 HEARING OFFICER: We're on the record so
15 the committee needs to speak up for my court
16 reporter until we go off the record.

17 You can go off the record again and
18 deliberate.

19 MR. PAXTON: Want to go off the record?

20 HEARING OFFICER: All right. And before
21 we go off the record, let's just make sure we
22 have all the dates right because we don't go
23 back on for the dates. Because I believe this
24 inspection was from June to November of 2017;
25 is that right?

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1 MS. OSAGIE: Correct. It's taken a long
2 time.

3 HEARING OFFICER: All right. And you're
4 talking about what happened in 2016; right,
5 before? Previously?

6 MS. OSAGIE: Well, correct. But it's --

7 HEARING OFFICER: Okay.

8 MS. OSAGIE: -- I mean, it's just --

9 HEARING OFFICER: I just didn't want to go
10 back on the record because somebody said --

11 MS. OSAGIE: -- taken me a while to get
12 back where I need to be.

13 HEARING OFFICER: I got you. I just
14 didn't want to come back on because of '16 and
15 '17, it was off, and dates commonly get done
16 incorrectly because of, you know, the memories
17 don't -- they don't remember exactly the year,
18 they misstated so --

19 MS. OSAGIE: No, I'm certain.

20 HEARING OFFICER: -- I just want to make
21 sure we're clear.

22 MS. OSAGIE: I'm very certain.

23 MS. PICKERING: And I just want to be
24 clear. Ms. Kersey is looking at the computer
25 records and that's correct.

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1 MS. WARE: It was June 2016?

2 MS. KERSEY: It was June 2016 and this was
3 June 2017.

4 MS. WARE: Okay. '17.

5 HEARING OFFICER: Okay. So we got all the
6 dates down?

7 Any questions for anybody else before we
8 go off the record again?

9 There don't appear to be any. We're going
10 to go off the record again for the Committee's
11 recess for deliberations.

12 We're now off the record.

13 (WHEREUPON, the Committee retired to
14 deliberate, off the record, from 10:52 a.m. to
15 10:57 a.m., and returned with the following
16 decision:)

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

20 Do you have a motion?

21 MR. PAXTON: I would like to make a motion
22 in regards to 17-26-104(5)(B), \$200 per
23 violation, which there were 21 students
24 affected, for a total of 4,200.

25 MS. WILSON: I second the motion.

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1 MS. WARE: All in favor?

2 COMMITTEE MEMBERS: Aye.

3 HEARING OFFICER: All right. Let the
4 record reflect that the Committee's decision
5 was unanimous. Please reduce the Committee's
6 decision to writing and make or attempt service
7 upon all parties. If the Respondent cares to
8 appeal the decision, appeal can be taken under
9 any specific provision relating to this
10 Board -- I mean this Committee, or under the
11 AP -- Arkansas Administrative Procedures Act,
12 found at Arkansas Code Annotated § 25-15-201.

13 Are there any comments or questions about
14 this proceeding?

15 I don't hear any so this hearing is
16 concluded and the record is closed.

17 Thank you.

18 (WHEREUPON, at 11:03 a.m., the
19 above-entitled hearing was concluded.)

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1 Kelli Kersey reported there were no updates.

2 There was no public comment.

3 The meeting was adjourned.

4 (WHEREUPON, at 11:06 a.m., the
5 above-entitled proceedings were concluded.)

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