

BEFORE THE ARKANSAS STATE BOARD OF COSMETOLOGY

BOARD MEETING & PUBLIC HEARING

BE IT REMEMBERED, that on the 17th day of July, 2006, before the members of the Arkansas State Board of Cosmetology, the following public hearing was had and done as follows, to-wit:

A P P E A R A N C E S:

BOARD MEMBERS:

JANE POWELL - President  
CLIFFORD KEENE - 1st Vice President  
NICK DOWNEY - 2nd Vice President  
VEDA TRAYLOR - Secretary  
LAJOY GORDON  
Sherron WEST  
ANN PICKERING  
  
PATRICIA TURMAN  
  
KATHY WITTUM - Director  
  
ARNOLD JOCHUMS - Legal Counsel

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

THEREUPON,

MS. POWELL : The meeting for the Arkansas State Cosmetology Board will now come to order. Madam Secretary, will you call the roll?

MS. TRAYLOR : Everybody's here except Melinda.

MR. KEENE : What about Mitzie?

MS. WITTUM : She has resigned.

MR. KEENE : When did we find that out?

MS. WITTUM : We announced it during the last minute, the June 19th meeting.

MR. KEENE : We did?

MS. POWELL : Yes, uh-huh.

MR. KEENE : Well, I guess I was gone.

MS. POWELL : Yes, Teresa?

COURT REPORTER : You're going to need to speak up just a little bit louder today.

MS. POWELL : Okay.

MS. WITTUM : I think it was said before the meeting got started. I think we were talking about it before the meeting.

MS. TRAYLOR : I guess that's okay.

MS. WITTUM : We are very fortunate to have two ladies helping us through the summer.

1 Paige and Ebony, do you mind standing up for  
2 me?

3 (Paige and Ebony stand.)

4 MS. WITTUM : Paige and Ebony are part of a  
5 pilot program that is being handled by the  
6 Pulaski County Juvenile Services. And  
7 according to the information we received from  
8 the assistant program coordinator, it's an e-  
9 mail that says, "Keeping in it's mission and  
10 developing and coordinated youth-oriented  
11 programming, Pulaski County Juvenile Services  
12 is currently providing summer work experience  
13 for Pulaski County Youth for the Summer of  
14 2006. It is the goal of Juvenile Services to  
15 employ as many as 30 youth during this pilot  
16 program, so that they may equipped with the  
17 necessary employment skills to foster their  
18 professional development. Pulaski County  
19 Juvenile Services prides itself on being able  
20 to collaborate with members of the community in  
21 order to establish a brighter future for our  
22 youth. We also believe that is through the  
23 jointed effort that positive differences are  
24 made on a larger scale."

25 We were fortunate to be able to get Paige

1 and Ebony to help us through the summer. Ebony  
2 will actually be here through this week, and  
3 then she goes on to band camp. But they will  
4 be sending us someone else to help with the  
5 rest of the summer. And Paige will be here, I  
6 believe, until August 18.

7 They are definitely well received in our  
8 office. We're appreciative of the help that  
9 they've given us so far. They started last  
10 week and we're hoping we don't scare them off.  
11 But we certainly welcome them both.

12 (APPLAUSE.)

13 MS. POWELL : At this time, we'll go ahead,  
14 as our hearing officer is not here, we'll go  
15 ahead and take the treasurer's report. And as  
16 you know, Ms. McKinney was our treasure. She  
17 sent me the information for our meeting report.  
18 April 26, '06 the purchase of flowers for Ms.  
19 Traylor for 66.50, leaving us a balance of  
20 171.87. Cabot Florist purchase for Lottie  
21 Bostick, 49.54, leaving us a balance of 124.35.  
22 The board collected today 40.00, leaving us a  
23 balance of 164.35. Ms. Traylor made that  
24 purchase for Ms. Bostick and we need to  
25 disburse the funds.

1 MR. KEENE : Who is that?

2 MS. TRAYLOR : Jane's grandmother.

3 MR. KEENE : I just need to stay home  
4 because I don't know nothing.

5 (LAUGHTER.)

6 MS. POWELL : The next item of business is  
7 to approve the March 27th and May 15th board  
8 meeting minutes. Do I have a motion?

9 MS. WEST: I move that we approve the  
10 minutes.

11 MS. PICKERING : Second.

12 MS. POWELL : There's a motion and a second.  
13 Is there any discussion?

14 (No response.)

15 MS. POWELL : All those in favor, raise your  
16 hand.

17 (Show of hands.)

18 MS. POWELL : It's unanimous. Thank you.  
19 Next is the June 14th Student Advisory  
20 Committee meeting minutes. I need an approval  
21 for those.

22 MS. TURMAN : Madam President, I move to  
23 approve those minutes.

24 MS. WEST: I second.

25 MS. POWELL : I have a motion and a second.

1 Is there any discussion?

2 (No response.)

3 MS. POWELL : All those in favor, raise your  
4 hand.

5 (Show of hands.)

6 MS. POWELL : It's unanimous. You've been  
7 distributed the June 19th Special Board  
8 Meeting, the May and June examination reports,  
9 and the revised rules and regulations, correct?  
10 Does everyone have that copy?

11 (No response.)

12 MS. POWELL : We're going to discuss Rule  
13 6.13.

14 MS. WITTUM : The copy of the rules and regs  
15 that you've got in front of you includes Rule  
16 6.13 that was given final approval. It will go  
17 into effect August 1st of this year. The copy  
18 that you have in there also identifies the  
19 elected date for that.

20 The mileage rate has been increased to 39  
21 cents for any travel related to board members  
22 travel for board business.

23 The office updates -- for those of you who  
24 are not familiar with CLIP, it is -- it stands  
25 for Career Ladder Incentive Program. And it is

1 a program that the staff offers to state  
2 agencies, where they can participate in an  
3 effort to get a bonus payment to be given to  
4 employees who qualify. There's a performance  
5 evaluation process that you have to go through.  
6 The employees have to have goals that they're  
7 required to -- that the agency directors are  
8 required to establish and then provide the  
9 documentation that they have met the goals in  
10 order for the employees to be eligible. I  
11 first learned about CLIP when I came here. The  
12 AG's office didn't -- didn't use that  
13 particular program. What I've learned about it  
14 is that this office was not on the list of  
15 participating agencies. So there was a process  
16 to go through to get us on that list. We are  
17 on it now and we're effective for this fiscal  
18 year. So at the end of this fiscal year we'll  
19 be able to provide the performance evaluations.  
20 We'll be meeting with the inspectors tomorrow  
21 afternoon and the office staff in the next week  
22 or two to give them their goals, so that we can  
23 start working towards measuring those goals and  
24 providing the documentation that will be  
25 necessary at the end of this fiscal year. And

1            hopefully that will mean that the employees who  
2            meet their goals will be able to receive a one-  
3            time bonus pay to award them, basically, for  
4            their efforts.

5            MS. POWELL : You said one time. That means  
6            one time annually, correct?

7            MS. WITTUM : Right.

8            MS. POWELL : You'll renew the process  
9            yearly.

10           MS. WITTUM : Yes. Each year we will have  
11           to go back through the goal-setting process, at  
12           the beginning of each fiscal year. We will  
13           measure those goals throughout the year and at  
14           the end of the year provide documentation.  
15           Does anybody have any questions about that  
16           program?

17           (No response.)

18           MS. WITTUM : The position classifications,  
19           I've had several people mentioned that within  
20           the office, as well as on the board, that  
21           something this board was wanting to do was to  
22           change the position classification to an  
23           unclassified setting, so that this board could  
24           establish salaries for all of the office staff  
25           instead of using the set salaries that are



1 established by the at DF&A. When I spoke with  
2 the budget analyst to see what I needed to do  
3 to get that going, he told me that the  
4 Legislature is not entertaining any possibility  
5 of changing classifications at this time.

6 There is a pay-plan study that's been going on  
7 since before I came. At the end of last year,  
8 we had a lot of questionnaires and information  
9 that all of the staff had to fill out to give  
10 information on each of the jobs. And  
11 apparently that's something that's been going  
12 on state-wide, but they've got all that  
13 information now. They are trying to evaluate  
14 it and determine if their pay-plan scale that  
15 is set currently should be changed in some way.  
16 Until they finish that process though, they're  
17 not going to look at reclassifying any of it.  
18 Does anybody have any questions?

19 MR. DOWNEY : Not at the present, but I will  
20 have.

21 MS. WITTUM : Hopefully, they will finish  
22 that pay-plan study some point in the near  
23 future and we'll be able to make some changes.

24 GL Suite -- most of you are familiar with  
25 GL Suite. It's the new computer system that

1 we're in the process of moving into. I think  
2 it's probably been two or three years behind  
3 getting them into it. We have tentatively set  
4 a date of early September to move into it. We  
5 expect the "Go-live" date to be either  
6 September 8th or September 11th, depending on  
7 how well the data converts from FoxPro into GL  
8 Suite. Once that happens, then we'll be able  
9 to initiate the automation that we've been  
10 successful in getting additional money for to  
11 automate the inspectors. They will be  
12 receiving training tomorrow morning and will be  
13 receiving equipment that would be necessary for  
14 them to use for their automation.

15 We also are going to be automating the  
16 monthly reports process. Currently, we send a  
17 manual list to the schools of each of their  
18 enrolled students. They would manually write  
19 in those -- the hours each student has received  
20 for a given time period and send that back to  
21 us. And then we manually enter the hours.  
22 This automation will allow them to log into a  
23 secure area of the database and, one time a  
24 month, enter those hours themselves, so that we  
25 eliminate the manual process. We're hoping

1           that that will not only make it a more  
2           efficient process, but also reduce the errors  
3           that have occurred in the past because of the  
4           human factor.

5           The website revisions will go hand in hand  
6           with moving into GL Suite. There will be a lot  
7           of areas on both the websites that will have to  
8           be lined out simultaneously for website  
9           revision. Does anyone have any questions about  
10          that?

11                         (No response.)

12          MS. WITTUM : The website will definitely be  
13          user-friendly. It will have a wealth of  
14          information on it, over and above what is on  
15          the current website. It will also -- the test  
16          site that I've seen that the developers have  
17          designed, I think it's a very classy and  
18          elegant look, a very professional look. So it  
19          will look a lot different than how the website  
20          looks currently. We also sent out a request to  
21          schools to give us pictures so that we can  
22          include real pictures on the website. The  
23          developers have fixed all of the screens on the  
24          website to have rotating pictures. And so far  
25          I have only one school who has a camera junkie

1           in their midst. And that's our board  
2           president's school. Wes has done an excellent  
3           job of taking pictures and getting those to me.  
4           So any schools who are here, I definitely want  
5           some pictures. It's not too late to get them  
6           in.

7           MS. LEE: We didn't get the letter. We  
8           never received it.

9           MS. WITTUM : Okay. We'll send it out again  
10          in the next correspondence to the school, but  
11          we definitely could use pictures.

12          MS. LEE: Okay.

13          MS. WITTUM : Part of the information that's  
14          going to be available on the website in the  
15          future, once these revisions have taken place,  
16          will include the minutes from all of the  
17          meetings. So anyone, at any time would be able  
18          to go and access the minutes. We'll also have  
19          statistical information about the exams that we  
20          have each month, as well as a whole list of  
21          other things.

22          MS. POWELL : It will reduce cost.

23          MS. WITTUM : Well, we definitely hope it  
24          will reduce cost. The NIC conference, I have  
25          registered so far: Veda, Nick, Cliff, Pat,

1 LaJoy, and myself. If anyone else is  
2 interested in attending, who is not on this  
3 list, the deadline for early registration is  
4 tomorrow. So we need to get that information  
5 to Debra Morgan. The deadline for hotel  
6 reservations is the 19th, which is Wednesday,  
7 if you haven't made your hotel reservations.  
8 You need to be sure to do that, as well.

9 We also are going to need to purchase a  
10 gift.

11 MS. POWELL : Yes. Our State gift will need  
12 to be purchased for NIC and taken to the  
13 conference. I would request that Veda Traylor,  
14 the secretary, purchase that gift as she has so  
15 many times in the past for us. And I would  
16 recommend that purchase of the gift, the  
17 amount, be between 50 and \$75. Is there any  
18 discussion on that?

19 MS. TRAYLOR : Yes. I'd like some ideas  
20 from somebody. My ideas have about run out.

21 (No response.)

22 MS. POWELL : Well, you can see we're idea-  
23 less on this gift.

24 MS. WEST: We could pick up something, you  
25 know, something from the Clinton Library. I

1 think --

2 MS. TRAYLOR : I don't have time to run down  
3 to the Clinton Library and pick up this and  
4 that, so.

5 MS. POWELL : Well, possibly we might want  
6 to --

7 MS. WEST: They're online. I mean, you  
8 know, they won't --

9 MS. TRAYLOR : I don't have a computer,  
10 Sherron.

11 MS. POWELL : Well, we --

12 MS. TRAYLOR : I'm computer illiterate.

13 (LAUGHTER.)

14 MS. POWELL : What we'd like --

15 MS. WEST: I wasn't suggesting that, Veda.  
16 I was just suggesting -- you asked for  
17 suggestions, so that's what I gave you.

18 MS. TRAYLOR : But you've got to think  
19 about, you've got to pack it and carry it with  
20 you. So you've got to think about something  
21 that's packable. You've got to take all your  
22 wrappings with you.

23 MR. KEENE : You can have it shipped to the  
24 hotel.

25 MS. POWELL : Do we have any volunteers that

1           would want to --

2                   MR. KEENE :   There's the Arkansas Store,  
3           plus I'm assuming we still have an Arkansas  
4           Store here.

5                   MS. TRAYLOR :   Right down on Scott.

6                   MR. KEENE :   It would have been since I  
7           bought the gift a few years back.  It was over  
8           on Reservoir Road, I believe.

9                   MS. TRAYLOR :   No.  There's one right down  
10          here on Markham and Scott, I believe it's on.  
11          Right there in that parking thing.  I just --

12                   MR. KEENE :   We could also have them ship it  
13          to the hotel instead of having to lug it on the  
14          airplane.

15                   (PAUSE.)

16                   MR. KEENE :   I'll take care of it.

17                   MS. POWELL :   So, --

18                   MR. KEENE :   Between 50 and 75?

19                   MS. POWELL :   So you're going to purchase  
20          the gift, Mr. Keene?

21                   MR. KEENE :   I'll purchase it and get it  
22          delivered to the hotel.

23                   MS. POWELL :   Are you going to need the  
24          money to operate on or do you --

25                   MR. KEENE :   No.

1 MS. POWELL : -- do you --

2 MR. KEENE: No. I'll just wait and get a  
3 receipt.

4 MS. POWELL : Okay. In the November board  
5 meeting, we'll take care of it.

6 MR. KEENE : November. Don't we have a  
7 board meeting in September?

8 MS. POWELL : Uh-huh.

9 MR. KEENE : Yeah.

10 MS. POWELL : Did I say November?

11 MR. KEENE : November.

12 MS. POWELL : I'm sorry.

13 MR. KEENE : The meeting in September.

14 MS. POWELL : You knew what I meant.

15 MS. WITTUM : We have a --

16 MR. KEENE : Oh. Pins -- we need state  
17 pins.

18 MS. WITTUM : We've got quite a few that's  
19 left over from last year, but I'll look at the  
20 supply and see if we need to get some more.

21 MS. TRAYLOR : Are the green ones what we've  
22 had left over?

23 MS. WITTUM : Those were all the ones that  
24 were left over from last year.

25 MS. POWELL : Actually, I took her all those



1 gold ones that I had gotten, and I gave those  
2 to her. So she does have some of the gold  
3 ones. Mostly though, you know, we have green.  
4 But we do have what was left over from our last  
5 meeting. I gave her the gold ones.

6 MS. WITTUM : We have the Student Advisory  
7 Committee meeting tomorrow morning at 9:30.  
8 This room was not available and we had exams  
9 going on, so we couldn't use the exam facility.  
10 So it will be at the Real Estate Commission's  
11 office. It's down -- I think it's 7th Street,  
12 off -- on Summit. It's right behind the  
13 Revenue Building.

14 We also have Rater Training coming up on  
15 August 5th and 6th. And the School Overview is  
16 on August 7th at the Blue Flame Room.

17 MS. POWELL : And for those that don't know,  
18 the School Overview is going to be from nine to  
19 one.

20 MS. PICKERING : Now, the training -- the  
21 Rater Training is here, isn't it?

22 MS. WITTUM : Yes, it will here at the exam  
23 facility.

24 MS. PICKERING : Okay.

25 MS. WEST: Do you have an address for the

1 Real Estate Commission Office?

2 MS. WITTUM : Yes. I believe it's 612 West  
3 Summit. And we can -- if you remind me, I'll  
4 get you a copy of the notice that has that  
5 information in it.

6 (CELL PHONE RINGING.)

7 MS. POWELL : Well, let me say at this time,  
8 all cell phones and electronic equipment need  
9 to be turned off during the meeting. Thank  
10 you.

11 MS. PICKERING : Excuse me. I am -- she was  
12 talking about being computer illiterate. I  
13 have a new phone and I don't even know how to  
14 turn the thing off.

15 MS. POWELL : I understand.

16 MS. PICKERING : Who in the world would not  
17 know how to turn a cell phone off, except a 68  
18 year-old woman.

19 (LAUGHTER.)

20 MR. KEENE : We still have one item on here,  
21 that Legislative Committee report? We could do  
22 that --

23 MS. WITTUM : We're going to wait on Kent  
24 Walker.

25 MR. KEENE : Who is he?

1 MS. POWELL : He's our attorney.

2 (PAUSE.)

3 MR. JOCHUMS : What we're sitting here  
4 wondering about is we have some respondents  
5 here, probably on time, and the hearing officer  
6 is not here yet. And my preference is to wait  
7 for the hearing officer, just out of fairness  
8 to the respondents.

9 MS. POWELL : We're going to take a short  
10 break. We'll be back at 9:20.

11 (WHEREUPON a short break was taken, after  
12 which proceedings resumed as follows, to-wit:)

13 MS. POWELL : The meeting will reconvene.

14 HEARING ORDER #06-247: VINH LE

15 AND HEARING ORDER #06-246: XUAN NGUYEN

16 HEARING OFFICER : Mr. Le, Mr. Nguyen, did  
17 you receive the notice of hearing?

18 MR. LE: Yes.

19 MR. NGUYEN : Yes.

20 HEARING OFFICER : Are you represented by  
21 counsel?

22 RESPONDENTS : No.

23 HEARING OFFICER : This is a hearing held on  
24 HO#06-246 and HO#06-247. For the Respondents  
25 benefit, as well as the benefit of anyone

1 present today who may not have appeared in an  
2 administrative hearing and is a formal  
3 proceeding. Similar to a trial proceeding, you  
4 can present testimony and evidence in the form  
5 of documents and other things such as that. And  
6 it is held under the Administrative Procedures  
7 Act and it is open to the public under the  
8 Freedom of Information Act. So if you have any  
9 questions while the hearing is going on, just  
10 ask me about what's going on and I'll be happy  
11 to help you if I possibly can.

12 MR. LE: Okay.

13 HEARING OFFICER : First, we'll have all the  
14 witnesses sworn and then we'll begin testimony.

15 MR. JOCHUMS : Do you want us to swear  
16 everybody that's going to be in a hearing this  
17 morning or do you want to do that separately?

18 HEARING OFFICER : Yeah, I think we can  
19 probably do that, as long as someone will  
20 remind me if someone does come in that hasn't  
21 been sworn yet.

22 MR. JOCHUMS : So this will be all the  
23 inspectors and all the witnesses.

24 HEARING OFFICER : Yes.

25 MR. JOCHUMS : So all the people as

1 respondents or witnesses.

2 HEARING OFFICER : Right. If you're here  
3 for a hearing today, please raise your right  
4 hand and the court reporter will swear you in.

5 (Witnesses are sworn.)

6 HEARING OFFICER : We'll have the attorney  
7 for the State introduce himself.

8 MR. JOCHUMS : My name is Arnold Jochums.  
9 I'm with the Attorney General's office and I'll  
10 be presenting the hearing this morning.

11 HEARING OFFICER : And will each of you  
12 introduce yourself for the record, please?

13 MR. LE: I'm Vinh Le.

14 MR. NGUYEN : Xuan Nguyen.

15 MR. JOCHUMS : The -- Madam Chairman, we  
16 will open with what we have here this morning.  
17 These are related cases and I'm asking that we  
18 consolidate Mr. -- is it Mr. Nguyen operates  
19 Beautiful Nails?

20 MR. LE: Yes, sir.

21 MR. JOCHUMS : And Mr. Le was in his  
22 location on the particular day related to this  
23 hearing doing cosmetological work without a  
24 license when our inspector came in. It's my  
25 understanding that Mr. -- both of these

1 gentlemen, Mr. Nguyen and Mr. Le, don't contest  
2 that he was there working. They -- one or both  
3 of them wanted to make a presentation to you,  
4 as to why the owner shouldn't be fined in this  
5 instance. And also, they're asking for, I  
6 think for leniency in terms of any penalty that  
7 might be imposed. Is that a fair statement,  
8 sir?

9 MR. LE: Yes, sir.

10 MR. JOCHUMS : If -- and since it's more a  
11 matter of leniency, I don't see the necessity  
12 of having the inspector testify that she went  
13 there and saw Mr. Le working on a client. If  
14 that's agreed that he was there working on a  
15 client.

16 MR. LE: Yes, sir.

17 MR. JOCHUMS : Okay. With that, we want to  
18 present the director for just a brief bit of  
19 testimony about this matter.

20 TESTIMONY AND EVIDENCE

21 GIVEN ON BEHALF OF THE STATE BY

22 KATHY WITTUM,

23 having been previously sworn to tell the  
24 truth, testified on her oath as follows, to-  
25 wit:

1 DIRECT EXAMINATION

2 BY MR. JOCHUMS:

3 Q You were previously sworn?

4 A Yes.

5 Q Can you describe the packet that each of the board  
6 members have in front of them?

7 A You have on the top a history of information that  
8 we have on the practitioner, as well as, the salon. It  
9 explains that there is no history of violations for  
10 either of these people. The salon was issued a license  
11 on December 8, 1993. Mr. Vinh Le was issued a  
12 practitioner's license on May 6, 1997. The inspector  
13 was in the facility on February 8, 2006 and observed Mr.  
14 Le working on a person. He did not have a current  
15 license. His license actually expired in 2002. The  
16 civil penalty notice was sent out June 9, 2006. And the  
17 certified receipt was accepted by Mr. Nguyen on June 12,  
18 2006 and by Mr. Le on June 27, 2006.

19 I do want to provide some information about what  
20 happened after the civil penalty letters were issued.  
21 There was an error made by the staff, where a dismissal  
22 letter was sent to Mr. Nguyen, telling him that his  
23 penalty would not be pursued. As soon as that mistake  
24 was brought to my attention, I sent the letter to Mr.  
25 Nguyen explaining to him that that was a mistake and

1 that the civil penalty would stand and he would be  
2 needing to come to this hearing or to satisfy the  
3 penalty before the hearing. That is the purpose for his  
4 appearance today.

5 Q Now did the packet also contain your cover letter?

6 A Yes.

7 Q Each packet, both Mr. Le and Mr. Nguyen's explains  
8 what's happening and their situations?

9 A Yes.

10 Q And in the case with Mr. Nguyen's packet, the  
11 notice of hearing is immediately following.

12 A Yes.

13 Q Now, the only difference with respect to Mr. Le is  
14 that in Mr. Le's packet there is an additional document,  
15 which is the inspection report made by the board  
16 inspector in this case, is that correct?

17 A Yes.

18 MR. JOCHUMS : Madam Hearing Officer, I want  
19 to make these two documents as a combined  
20 exhibit.

21 HEARING OFFICER : They will be accepted as  
22 such.

23 (WHEREUPON, States's Exhibit "1" to HO#06-  
24 247 and HO#06-246 were received into evidence.)

25 HEARING OFFICER : Do you have any



1 objections?

2 MR. LE: No.

3 MR. JOCHUMS : At this point, Madam Hearing  
4 Officer, I'd like to suggest that it would  
5 perhaps be appropriate to have the respondent  
6 give whatever statements or testimony that they  
7 want to give regarding this case today.

8 HEARING OFFICER : I guess we'll begin with  
9 Mr. Le. And if you'll tell the board what  
10 you'd like them to know today.

11 MR. LE: The thing is just what I told Ms.  
12 Wittum earlier. I have a license from  
13 Tennessee. I have a hair shop in Tennessee, so  
14 I didn't know. I haven't been practicing over  
15 in Arkansas, I can't remember when last time it  
16 was. It's been a while. But I have a business  
17 in Tennessee. And my license has always been  
18 renewed ever since I had the license, but is  
19 normally renewed by my mom or my wife because,  
20 you know, we in the same house together, and  
21 usually most of licenses -- I have a bunch of  
22 them out of state and one in Arkansas. But  
23 somehow I guess she forgot to do it since 2002.  
24 Both of them did it. When I went in, back of  
25 my mind I thought I had the license all this --

1 all along. I didn't knew my license expired in  
2 2002, it wasn't renewed since 2002. I told  
3 him, you know, he asked about a license. His  
4 wife was giving birth that week, so he need the  
5 help during the New Year period. I think right  
6 after the New Year period, said his wife was  
7 giving birth, so he asked me for my help that  
8 day. And to be honest with you, I didn't knew  
9 my license didn't renew it since 2002. It was  
10 an honest mistake. I didn't knew about it. I  
11 expected my wife, my mother to do it. So  
12 that's the only thing I have on that scenario.  
13 I was in no way intentionally purpose trying to  
14 get away with you guys, like you know, not  
15 doing it without a license, no. I have license  
16 in other state, too, so.

17 HEARING OFFICER : Mr. Jochums, do you have  
18 any questions of this party?

19 MR. JOCHUMS : Yes. What other states do  
20 you have licenses in?

21 MR. LE: I have a license in Virginia and  
22 one in Florida.

23 MR. JOCHUMS : Now, --

24 MR. LE: But you know, right now, I'm not  
25 even sure the one in Virginia or Florida is

1 renewed, too.

2 MR. JOCHUMS : Okay. Did you say you were  
3 practicing in Arkansas several years ago?

4 MR. LE: Yes, sir.

5 MR. JOCHUMS : Were you at the same salon --

6 MR. LE: Yes, sir.

7 MR. JOCHUMS : -- or a different one?

8 MR. LE: Yes, sir. I was at the same  
9 salon, so he knew that I had the license back  
10 then, also.

11 MR. JOCHUMS : Okay. Now, --

12 MR. LE: It was way back in '97 when I  
13 worked --

14 MR. JOCHUMS : Apparently, if I'm reading  
15 this right, it was in the first week of  
16 February that the --

17 MR. LE: It was little bit, right after New  
18 Year --

19 MR. JOCHUMS : -- the inspector came by.

20 MR. LE: Yeah, something like that.

21 MR. JOCHUMS : How long had you been working  
22 at his shop when she came by?

23 MR. LE: I was just there about a week  
24 because he had somebody left, went out of town.  
25 I was there for that week, I think, I was

1           there.  Because he needed me that week and you  
2           know, I had my own shop over there in Memphis  
3           there, too.  So I was helping him that week, I  
4           think.

5                   MR. JOCHUMS :  Now, you work and live in  
6           Tennessee?

7                   MR. LE:  Yes, sir.

8                   MR. JOCHUMS :  And do you have any intention  
9           to renew?

10                  MR. LE:  Yes, sir.

11                  MR. JOCHUMS :  Okay.

12                  MR. LE:  I mean, now I knew about it.  
13           Yeah, I have to renew.  Just in case I move  
14           here one of these days.

15                  MR. JOCHUMS :  Okay.  Did you have anything  
16           you wanted to say about Mr. Nguyen's situation?

17                  MR. LE:  Mainly is what I --

18                  MR. JOCHUMS :  If not, hat's fine.  He can  
19           speak for himself.

20                  MR. LE:  His English.  He can understand  
21           you, but him for his speaking style is going to  
22           be a little bit hard for you to understand  
23           back.

24                  Mainly, is what he want to say is what I  
25           said earlier.  It's just to say honest, he

1           didn't knew that my license expired. He knew  
2           that I had the license, so that's mainly that's  
3           only thing he have to say on that. You know,  
4           it wasn't anything that he tried to get away  
5           with anything, because he didn't knew my  
6           license was expired. Even I didn't knew until  
7           I got the letter.

8           MR. JOCHUMS : Now, tell me a little bit  
9           about his studio or salon. Where's it at?

10          MR. LE: It's over in West Memphis, over in  
11          Broadway.

12          MR. JOCHUMS : And how many, if you know,  
13          how many regular --

14          MR. LE: As far as I know he have --

15          MR. JOCHUMS : -- employees were going to be  
16          there that day?

17          MR. LE: -- he at least have two people  
18          working. One, you know the guy left. So they  
19          got one left, his wife, and him. Just three.

20          MR. JOCHUMS : So it's often three? Because  
21          apparently the day the inspector was there,  
22          there were three. Three people working.

23          MR. LE: I was filling in for his wife,  
24          yeah. So there's only three people work in  
25          there.

1 MR. JOCHUMS : I have no other questions.

2 HEARING OFFICER : Are there any board  
3 member questions?

4 MS. POWELL : Is it Mr. Le?

5 MR. LE: You can call me Vinh. Be fine.

6 MS. POWELL : Okay. You said you were  
7 licensed in Virginia and Florida?

8 MR. LE: Yes, ma'am.

9 MS. POWELL : Do you have a license, as  
10 well, in Memphis?

11 MR. LE: Yes, ma'am. I do have a license.  
12 I have my own little shop in Tennessee.

13 MS. POWELL : Okay.

14 MR. LE: I have my own shop in Tennessee.

15 MS. POWELL : So you have an establishment  
16 license --

17 MR. LE: Yes, ma'am.

18 MS. POWELL : -- and a practitioner license  
19 --

20 MR. LE: Yes, ma'am. I have both.

21 MS. POWELL : -- in Tennessee?

22 MR. LE: Yes, ma'am.

23 MS. POWELL : Thank you.

24 HEARING OFFICER : Any other questions?

25 MS. WEST: Do you have them here?

1           MR. LE: Matter of fact, I do, but just  
2 happen my wallet's in the car. I can go if you  
3 have need it. I do have a pocket license with  
4 me in my car. I didn't drive this morning, so  
5 I left my wallet in the car. If you need me go  
6 get it, I can get it for you.

7           MS. POWELL : Did he answer your question?

8           MS. WEST: Yes, he did.

9           MS. POWELL : Okay.

10          MR. LE: If you need I go get it. It's no  
11 problem.

12          HEARING OFFICER : Any further questions by  
13 the board?

14          MR. JOCHUMS : I think we should ask and  
15 make sure that the other gentleman has anything  
16 to say.

17          HEARING OFFICER : Certainly. Mr. Nguyen?  
18 Does he have anything further?

19          MR. NGUYEN : (Shaking his head back and  
20 forth.)

21          HEARING OFFICER : Does anyone have any  
22 particular questions, Mr. Jochums or any board  
23 members, that they'd like Mr. Le to ask Mr.  
24 Nguyen, if he'll help us?

25          MR. JOCHUMS : I don't.

1           MR. KEENE : I have a question for Kathy.  
2           It says that Mr. Nguyen was -- has had his  
3           establishment license since '93, December 8,  
4           '93. Was he the original owner of this salon  
5           or has it changed hands?

6           MS. WITTUM : That -- that, I don't know.

7           MR. LE: Can I answer that for you?

8           MS. WITTUM : Yes.

9           MR. LE: As far as I know, I think he took  
10          over in '95, I believe. Previous owner before  
11          that was his brother before that. His brother  
12          transferred that over to him. I think his  
13          brother had it for about a year and then  
14          transferred it over to him. He be having it  
15          like ten plus year already.

16          MR. KEENE : Thank you.

17          HEARING OFFICER : If there are no further  
18          questions, we'll -- I'll ask this question to  
19          the board. Do you all normally go off the  
20          record to do deliberations?

21          MS. WITTUM : Yes.

22          HEARING OFFICER : Okay. Then at this time,  
23          we'll be off the record for deliberations.

24          (WHEREUPON, the board held deliberations  
25          off the record, after which proceedings resumed



1 as follows, to-wit:)

2 HEARING OFFICER : We're back on the record  
3 now for motions regarding HO#06-246. That's  
4 the one we'll begin with.

5 MR. KEENE : I'll make a motion. Finding  
6 the allegations being true, I move to order the  
7 respondent to pay a fine in the amount of  
8 \$250.00, payable within 30 days of receipt of  
9 the Board's order. Failure to pay the fine as  
10 ordered will result in suspension of  
11 respondent's practitioner license beginning 30  
12 days from receipt of the order and continuing  
13 for a period of 90 days from the date the  
14 respondent relinquishes his license to the  
15 Board.

16 HEARING OFFICER : Before the board votes, I  
17 want to make sure you know that you're making  
18 this motion regarding Mr. Nguyen, who owns the  
19 establishment.

20 MR. KEENE : No. That was on Mr. Le.

21 HEARING OFFICER : Well, --

22 MR. KEENE : Well, we started out with Mr.  
23 Le.

24 HEARING OFFICER : All right. Well, go  
25 ahead and do that one first, then.

1 MR. KEENE : That's the one I just did.

2 HEARING OFFICER : That's the one we just  
3 did. All right. I wanted to make sure we had  
4 the right one.

5 MS. POWELL : We have a motion on HO#06-247.

6 MS. TURMAN : Madam President, would you  
7 have Cliff to please repeat that for me,  
8 please?

9 MS. POWELL : Ms. Turman would like for you  
10 to repeat that.

11 MR. KEENE : The motion was, finding the  
12 allegations true to impose a \$250.00 penalty.

13 MS. TURMAN : Thank you.

14 MS. POWELL : Is there a second?

15 MR. DOWNEY : I'll second.

16 MS. POWELL : I have a motion and a second.  
17 Is there any discussion?

18 MR. DOWNEY : The reason I'm going to second  
19 this is I feel like the individual has been  
20 jerked around by a dismissal letter that was  
21 sent to him. So I'll second that.

22 MS. POWELL : I have a motion and a second.  
23 All those in favor, raise your right hand.

24 (Show of hands.)

25 MS. POWELL : All those opposed?

1 (Show of hands.)

2 MS. POWELL : Any abstentions?

3 (PAUSE.)

4 MS. POWELL : Motion carries.

5 HEARING OFFICER : That decision will be  
6 reduced to writing and sent to you, but I think  
7 you probably understand what they've decided.

8 MR. LE: Yes, ma'am.

9 HEARING OFFICER : And now is there a  
10 motion regarding Mr. Nguyen?

11 MR. KEENE : Okay. I'll make a motion.  
12 Finding the allegations being true, I move to  
13 order the respondent to pay a fine in the  
14 amount of \$250.00, payable within 30 days of  
15 receipt of the Board's order. And further the  
16 respondent is ordered to cease and desist from  
17 practicing cosmetology until such time as the  
18 respondent is properly licensed by the board.

19 MR. JOCHUMS : This one had an establishment  
20 license.

21 MR. KEENE : Oh, that's right. Then I did  
22 do the wrong motion earlier. Because hasn't  
23 renewed his license. I believe Mr. Le had not  
24 renewed his license, --

25 MS. POWELL : No, he has not at this point.

1           MR. KEENE : So that was the wrong motion a  
2 while ago. I did number one on the first guy,  
3 but he actually has not renewed his Arkansas  
4 license. So it should have been motion number  
5 three. So -- on Hearing Order 06-246, this is  
6 on Mr. Nguyen, should be motion one. Finding  
7 the allegations being true, I move to order the  
8 respondent to pay a fine in the amount of  
9 \$250.00, payable within 30 days of receipt of  
10 the Board's order. Failure to pay the fine as  
11 ordered will result in a suspension of  
12 respondent's establishment license beginning 30  
13 days from receipt of the order and continuing  
14 for a period of 90 days from the date the  
15 respondent relinquishes his license to the  
16 Board.

17           MR. JOCHUMS : I think that we can let the  
18 original one stand. It's a \$250 civil penalty.  
19 And he'll pay that in front of whatever he has  
20 to pay to get relicensed.

21           MR. KEENE : Okay. Works for me.

22           MS. POWELL : Okay. I have a motion. Do I  
23 have a second?

24           MR. DOWNEY : Second.

25           MS. POWELL : There's a motion and a second.

1 Is there any discussion?

2 (No response.)

3 MS. POWELL : All those in favor of the  
4 \$250.00 fine, raise your right hand.

5 (Show of hands.)

6 MS. POWELL : All those opposed?

7 (Show of hands.)

8 MS. POWELL : Motion carries.

9 HEARING OFFICER : That decision will also  
10 be reduced to writing. You can appeal the  
11 decision of the board through the  
12 Administrative Procedures Act. You will have  
13 to pay a \$250.00 fine in the next 30 days.

14 MR. LE: Yes. Okay. Ms. Wittum, can I  
15 have a question for you?

16 MS. POWELL : Yes?

17 MR. LE: Oh, I'm sorry. I need to ask Ms.  
18 Wittum a question real quick.

19 MS. POWELL : Go ahead.

20 MR. LE: What is the fee for a renew a --

21 MS. WITTUM : Eighteen dollars a year.

22 MR. LE: Sixteen or eighteen?

23 MS. WITTUM : Eighteen.

24 MR. LE: Eighteen dollar a year? So  
25 whatever I give you if those calculate up to --

1 MS. WITTUM : Eighteen dollars for each year  
2 from 2003.

3 MR. LE: -- 2003, 2004, 2005, 2006, four  
4 years, I guess, 72 plus 250?

5 MS. WITTUM : Yes.

6 MR. LE: Okay. I got you.

7 HEARING OFFICER : Unless there are further  
8 questions or discussion, this hearing is called  
9 to a close.

10 MR. JOCHUMS : I want to propose that we do  
11 -- I believe that she's here, Niki White.  
12 That's HO#06-372. It's further back in your  
13 packet.

14 (Board members locating documents.)

15 MR. JOCHUMS : While we're doing that, I'll  
16 just explain to the people in the audience that  
17 we're basically going down the list as printed,  
18 but some of you actually got here before we  
19 started. So we'll take you no matter whether  
20 somebody else wanders in that's earlier than  
21 you. You're still in the higher position and  
22 we'll try not to make you wait too long.

23 This is 06-372, Niki White d/b/a Cuttin'  
24 Up.

25 HEARING ORDER #06-372: NIKI WHITE d/b/a CUTTIN' UP

1 HEARING OFFICER : Ms. White, did you  
2 receive a copy of the order and notice of  
3 hearing?

4 MS. WHITE : Yes, I did.

5 HEARING OFFICER : Okay. And are you  
6 represented by counsel?

7 MS. WHITE : No.

8 HEARING OFFICER : And everybody's been  
9 sworn in that will be on your behalf?

10 MS. WHITE : Yes.

11 HEARING OFFICER : Okay. At this time, I'll  
12 just have you introduce yourselves for the  
13 record.

14 MS. WHITE : Okay. I'm Niki White, owner of  
15 Cuttin' Up Salon.

16 MR. KUTAIT : I'm Page Kutait. I'm the  
17 Deputy Director of the Arkansas Assessment  
18 Coordination Department. I'm not counsel. I  
19 am just here for support.

20 MS. WHITE : I apologize if I appear to be  
21 nervous, because I really am.

22 (LAUGHTER.)

23 MS. WHITE : So, anyway --

24 MR. JOCHUMS : Madam Hearing Officer, our  
25 inspector today is Ms. Bland. Will you pull

1 your chair up?

2 And I'll begin in this case and present  
3 some introductory testimony from the director  
4 and then the inspector's testimony.

5 HEARING OFFICER : And do you have exhibits  
6 you're going to present?

7 MR. JOCHUMS : Yes. I'm going to present  
8 one, a packet consisting of the historical  
9 review, conveyance letter, notice of hearing,  
10 and inspector's report. That will be Board's  
11 Exhibit "1".

12 HEARING OFFICER : Do you have any objection  
13 to that?

14 MS. WHITE : That's -- that's the packet  
15 that I received?

16 MR. JOCHUMS : I think that's it.

17 MS. WHITE : I did? Okay. I have an  
18 objection.

19 HEARING OFFICER : All right. What is your  
20 objection?

21 MR. KUTAIT : The form was changed after  
22 Niki signed it.

23 HEARING OFFICER : What changed after she  
24 signed it?

25 MS. WHITE : Okay. This (indicating) is the



1 inspection that she left me that day when I  
2 signed off and she signed off. And this  
3 (indicating) is the one that I got in the mail.  
4 This (indicating) is the one I posted at the  
5 beauty shop.

6 When I received this in the mail, it's all  
7 of the exact same. There's four points here,  
8 and five here. So this one was added after the  
9 fact.

10 HEARING OFFICER : Okay.

11 MR. KUTAIT : You might want to show them.

12 MS. WHITE : Do I need to bring it to you?

13 MR. JOCHUMS : Does your copy have the last  
14 item as, "Niki did not wash hands between  
15 clients?"

16 MR. KUTAIT : Okay. That wasn't on Niki's  
17 form.

18 MS. WHITE : This is the one I received.  
19 This is the one that was left there that day.  
20 And it does not have that.

21 HEARING OFFICER : Do you want to get a copy  
22 of that as an exhibit for the board to see?

23 MS. WHITE : Do I need to pass it around or

24 --

25 HEARING OFFICER : At this point, can she

1 pass it and then we can get copies made?

2 MR. JOCHUMS : Yes. We can get copies made.  
3 And we can just take some testimony about this,  
4 as well.

5 (Ms. White passes document to board members  
6 to pass around.)

7 MR. JOCHUMS : The board members have a copy  
8 of this one. They do have that. They just  
9 don't have the yellow.

10 MS. WHITE : Okay.

11 HEARING OFFICER : What we will do at this  
12 time, is accept the exhibit from Mr. Jochums as  
13 State's Exhibit "1". And I'll let you -- would  
14 you like to introduce the copy you brought with  
15 you as --

16 MS. WHITE : Yes.

17 HEARING OFFICER : -- as Respondent's Exhibit  
18 "1", also. And those will be accepted and  
19 we'll hear testimony regarding both of them.

20 (WHEREUPON, State's Exhibit "1" and  
21 Respondent's Exhibit "1" to HO#06-372 were  
22 received into evidence.)

23 HEARING OFFICER : All right. Now you can  
24 proceed with your case.

25 MR. JOCHUMS : Okay. My first witness is

1 Kathy Wittum, who was previously sworn.

2 TESTIMONY AND EVIDENCE

3 GIVEN ON BEHALF OF THE STATE BY

4 KATHY WITTUM,

5 having been previously sworn to tell the

6 truth, testified on her oath as follows, to-

7 wit:

8 DIRECT EXAMINATION

9 BY MR. JOCHUMS:

10 Q Kathy, will you give the Board a little overview of  
11 Niki White d/b/a Cuttin' Up?

12 A The establishment license was issued August 3,  
13 1995. There's no history of prior violations for the  
14 establishment or the practitioner.

15 On May 2, 2006 Inspector Bland was in the  
16 establishment and cited the respondent for: failure to  
17 keep the furnishings clean, failure to wash hands before  
18 rendering services on clients, failure to use neck  
19 strips or towels to protect clients' skin, failure to  
20 properly dispose of instruments that cannot be  
21 disinfected, and failure to store instruments in labeled  
22 containers.

23 A civil penalty was issued on June 22, 2006 in the  
24 amount of \$125.00. The certified notice was signed by  
25 Andrea Gray on June 26th.

1 Q And State's Exhibit "1" also contains the cover  
2 letter that you sent to this young lady?

3 A Yes.

4 Q Pages one and two following that is the notice of  
5 hearing setting out the charges this morning?

6 A Yes.

7 Q And the discussed document, entitled Inspection  
8 Report?

9 A Yes.

10 MR. JOCHUMS : No other questions of this  
11 witness.

12 HEARING OFFICER : Does the board have any  
13 questions of Ms. Wittum at this time?

14 MS. TURMAN : Excuse me. I'm very sorry.  
15 When Ms. Bland was doing the -- on here, on the  
16 report she notes here that hands were not  
17 washed. Here it's the same on her copy.

18 HEARING OFFICER : Well, we'll find out when  
19 they testify about this.

20 MS. TURMAN : I just wanted to clarify that.

21 (MULTIPLE DISCUSSIONS TAKING PLACE.)

22 MR. KUTAIT : And you've got our copy.

23 MR. JOCHUMS : I have nothing further. They  
24 may have a question.

25 HEARING OFFICER : Do you have any questions

1 about what Ms. Wittum has just testified about?

2 MS. WHITE : Yes.

3 HEARING OFFICER : Just ask her. You're  
4 just questioning. Do not testify at this  
5 point. Are there any questions that you'd like  
6 to ask her?

7 MS. WHITE : No.

8 (LAUGHTER.)

9 MR. JOCHUMS : My next witness is Inspector  
10 Pat Bland.

11 TESTIMONY AND EVIDENCE

12 GIVEN ON BEHALF OF THE STATE BY

13 INSPECTOR PAT BLAND,

14 having been previously sworn to tell the  
15 truth, testified on her oath as follows, to-  
16 wit:

17 DIRECT EXAMINATION

18 BY MR. JOCHUMS:

19 Q Ms. Bland, you are a board inspector?

20 A Yes, I am.

21 Q And have been for a number of years?

22 A Yes, I have.

23 Q Are you familiar with Niki White?

24 A I sure am.

25 Q And with her salon also?

1 A Yes.

2 Q Where is that salon located?

3 A In Malvern.

4 Q How large is it? Is it a several person salon or a  
5 one person?

6 A Yes, it is. Niki has four or five stylists and  
7 sometimes a nail technician. It's quite a large salon.

8 Q Now, were you there on May 2nd?

9 A Yes, I was.

10 Q And could you tell us about your visit and what you  
11 saw?

12 A Yes. I was there May 2nd to do a routine  
13 inspection. And as noted on my inspection sheet, there  
14 were used wax sticks left in the wax machine. The roll-  
15 about carts were dusty. Neck strips or towels were not  
16 being used to protect the client. And instruments were  
17 left lying on the stations and not put in labeled  
18 containers. Also, I do have Niki did not wash hands  
19 between clients.

20 Q Is that somewhere on this check list?

21 A Yes, it is.

22 Q Can you tell us where?

23 A It's on the very top section, under "Clothing of  
24 practitioner clean". It's the next one down,  
25 "Practitioner washed hands (soap & water or equivalent)

1 before rendering services".

2 Q Are you talking about the right hand column?

3 A It's on the right hand column of the inspection  
4 sheet.

5 Q And it's in a box that has "No" on the top of the  
6 column?

7 A Correct.

8 Q Thank you. Now, on that particular day, how many  
9 people do you remember were working?

10 A Four on that day.

11 Q Okay. And have you --

12 A I had four listed. I'm sorry. I don't recall if  
13 all four were there, but I had four practitioner  
14 licenses current.

15 Q That you saw on the wall?

16 A Correct.

17 Q But there were more -- Niki was not the only --

18 A Right.

19 Q -- one working that day?

20 A That's correct?

21 Q Was she even there?

22 A She was there.

23 Q And each of the items that you've noted or listed  
24 are covered by specific board regulations?

25 A That is correct.

1 MR. JOCHUMS : I also want to, in this case,  
2 make State's Exhibit "2", the Board  
3 Regulations.

4 HEARING OFFICER : Those will be accepted.

5 (WHEREUPON, the Rules and Regulations of  
6 the Arkansas Board of Cosmetology were  
7 incorporated by statute as State's Exhibit "2"  
8 to HO#06-372 and received into evidence.)

9 MR. JOCHUMS : I don't think I have any more  
10 questions either. Thank you.

11 HEARING OFFICER : Do you have questions for  
12 Ms. Bland?

13 MS. WHITE : Well, no. I mean, I just want  
14 to address the board.

15 HEARING OFFICER : Does the board have  
16 questions for Ms. Bland?

17 MS. PICKERING : We're looking at this  
18 sheet, here (indicating). If the last thing  
19 you put down was, "Niki did not wash hands  
20 between clients", why would it not be on her  
21 sheet? Did you do that after you left the  
22 salon?

23 BY THE WITNESS:

24 A The only reason that something would be added is if  
25 I observed a practitioner going from one point to



1 another, one client to another, and I had already made  
2 out my inspection report -- if I saw that practitioner  
3 go directly to another client without washing their  
4 hands or going to the shampoo bowl, then I would note  
5 that. I honestly do not recall why I added that on my  
6 sheet and not on Niki's.

7 MS. TRAYLOR : It's on both sheets.

8 BY THE WITNESS:

9 A I mean, that is the reason that I normally do that.

10 MS. TURMAN : It's on here.

11 MR. KUTAIT : It's checked on both sheets,

12 but --

13 MS. TRAYLOR : It's checked on both sheets.

14 MR. KUTAIT : -- not noted on the bottom.

15 BY THE WITNESS:

16 A It's checked on the copy of both of these, but I

17 did not --

18 MS. TRAYLOR : Yeah. Over in the "Yes/No"

19 columns.

20 MR. DOWNEY : Second line down.

21 MS. TURMAN : It's checked on both columns.

22 MR. JOCHUMS : I'll tell you what. Why

23 don't we just go right to the respondent and

24 find out what she wants to tell us.

25 HEARING OFFICER : We just need to make sure

1 we know who we're directing questions at before  
2 we do that. Okay. Do you have any witnesses  
3 to call today?

4 MR. KUTAIT : No.

5 HEARING OFFICER : Other than just yourself?

6 MS. WHITE : I don't need them. I have them  
7 here, yes, for support but I don't think I need  
8 them.

9 HEARING OFFICER : All right. Then it's  
10 your chance to tell the board what you want  
11 them to hear today.

12 MS. WHITE : Okay. On that, the one about  
13 the washing hands -- this says that I went  
14 straight from one client to the next. I took  
15 my client into the wax room, which has a sink.  
16 And I did wash my hands. Ms. Bland did not ask  
17 me if I did or did not. Yeah, I didn't feel  
18 that it was a problem. She didn't mention that  
19 whenever she was there. Do I need to pass this  
20 around?

21 Then I went -- I had the same client and  
22 went straight to doing his haircut. So -- I  
23 mean, I washed -- I did wash my hands in that  
24 room. She didn't ask me if I did and she  
25 didn't also, you know, say is there a sink in

1           there, so. You know, I -- that's the only way  
2           I can -- I mean, I did wash my hands.

3           MR. KUTAIT : Probably the significance of  
4           it not being written on the form is that, had  
5           it been written on the form, Niki would have  
6           known to say something. But since it wasn't  
7           written on the form --

8           MS. TRAYLOR : It was checked.

9           MR. KUTAIT : -- right. But I was looking  
10          at this form. It's huge. And it's hard to  
11          tell what's "Yes" and what's "No."

12          MS. WHITE : And my record is clean. I  
13          brought my past inspections and I've never had  
14          anything. And so I really didn't know, you  
15          know, how to address it. You know, if there  
16          has been a problem and she's asked me to change  
17          something, I've done it. I don't have a  
18          problem with it. And I feel like, you know, if  
19          I were talked to, it would have been done.  
20          And, you know.

21          HEARING OFFICER : Okay. We're going to  
22          start here to my left, if you have questions  
23          for Ms. White or Ms. Bland, just address them.

24          MS. WHITE : Now, do I go down --

25          MR. JOCHUMS : Please, just address all your

1 issues.

2 HEARING OFFICER : Yes. This is your chance  
3 to tell us about everything.

4 MS. WHITE : Okay. The first one is, "used  
5 wax sticks are left on the wax machine". Prior  
6 to having a wax pot, which we use the sticks --  
7 we use the wax sticks with the roller heads.  
8 We use antiseptic on every client before  
9 rendering the service. So with a roller head,  
10 you cannot -- it's not possible to change a  
11 roller head every single time. We had never  
12 had a problem with that in the past. When we  
13 got the wax pot, we were doing the same  
14 procedure. Using the antiseptic on the  
15 client's skin and we change the wax sticks  
16 daily, which is different from a roller head  
17 that you may use, you know, for quite a few  
18 days. We didn't feel that it was a problem and  
19 she hasn't mentioned it before. And so we felt  
20 that that was appropriate.

21 Okay. The "roll-about carts needed  
22 dusting". I do have someone that comes in and  
23 cleans weekly. The only thing I can think of  
24 is it may have been daily dust. They're black,  
25 you know, I apologize for that. I mean, I

1 don't know -- I mean, I do try to keep a clean,  
2 nice shop. I have pictures of my salon  
3 (indicating). I do -- I'm very strong about  
4 trying to keep everything nice and orderly, not  
5 only for the clients, but for myself and the  
6 other ladies.

7 "Neckstrips or towels are not being used to  
8 protect the client". My policy is to use  
9 either an absolute clean cape or a towel around  
10 the neck. We have a washer and dryer on the  
11 facility that is going constantly. We have 30  
12 capes that we go in and out. And if we don't  
13 have a towel, then we do use a clean cape or  
14 have them change into a smock. Since this  
15 isn't -- I called the state board and they  
16 informed me that that's not okay, but since we  
17 had done that through the, you know, the times  
18 before, you know, I didn't realize it was, you  
19 know, that was not acceptable.

20 Okay. "Instruments are left lying on  
21 stations and not put in labeled containers".  
22 There was a comb laying on one of my girls'  
23 stations. She had just finished a customer and  
24 she was running to get an old lady back behind  
25 -- she lives back behind us. So anyway, she

1 ran out to go get her. We've had problems with  
2 the sanitizers in the past. We first had  
3 Barbicide jars on our stations. And she told  
4 us that -- she came in one time and she told us  
5 that they are not to be used at all. So we got  
6 rid of them. She told us to get a container  
7 with a lid on it. And so I got rid of all the  
8 Barbicide jars, purchased the container with a  
9 lid on it. And then the next time she came in,  
10 she said that's not good. You need something  
11 that has three compartments, Dirty, Sanitizer,  
12 and Clean. So I went out and I purchased that  
13 and that's what we've been using. So it is a  
14 less convenient, you know, to not have  
15 something on your station just to drop a comb  
16 into instead of running back to the back. You  
17 know, I apologize. She was -- we were busy  
18 that day and I'm sure it was just, you know,  
19 inconvenience. But since that, I've called the  
20 state board and they have informed us that we  
21 can have Barbicide jars on our stations. And  
22 since then we have repurchased them and put  
23 them there in addition to this one that we have  
24 in the back section.

25 And then, I've already addressed the one

1 about I did not wash my hands.

2 HEARING OFFICER : Mr. Jochums, any  
3 questions for Ms. White?

4 MR. JOCHUMS : How long have you operated  
5 your shop?

6 MS. WHITE : Eleven years.

7 MR. JOCHUMS : And how many stations are you  
8 set up for?

9 MS. WHITE : I have four stations and  
10 there's four of us that work there right now.  
11 I do not have a nail tech at this time.

12 MR. JOCHUMS : Did I understand you to say  
13 that you've been told different things about  
14 how you should handle the sanitizers?

15 MS. WHITE : Yes. And I'm a little confused  
16 about it, you know. And every time she asked  
17 me to do something, I did act upon it. And  
18 that's why I feel like this is a little bit  
19 harsh, because I am someone that you can talk  
20 to and will, you know, comply with the rules.

21 MR. JOCHUMS : I have no other questions of  
22 Ms. White.

23 HEARING OFFICER : Okay. We'll start to my  
24 right. Questions for Mr. Bland or Ms. White,  
25 but make sure we know who your are addressing.

1 MS. TURMAN : Ms. Bland, could you possibly  
2 explain to us this discrepancy she's stating  
3 about the jars? Can you tell us about this?

4 MS. BLAND : I believe in the past, I have  
5 instructed practitioners and salon owners that  
6 a sanitation container has to be large enough  
7 to hold all instruments. I don't -- and I may  
8 have said this, Niki, I'm not real sure. But I  
9 don't recall telling anyone that they could not  
10 use a Barbicide jar. I normally say, you can  
11 use a Barbicide jar, but you have to have a  
12 container with the Barbicide solution in it  
13 large enough to accommodate what we now use in  
14 the industry, which are these big round  
15 brushes, flat paddle brushes, and larger  
16 instruments than we used to use back some years  
17 ago when we just had wrist-saver brushes that  
18 would fit down in the Barbicide jar. So that  
19 is -- I didn't -- I relay that to all of my  
20 salons, that you needed a container with  
21 Barbicide, large enough to accommodate larger  
22 items. So you know, there may have been some  
23 confusion. I've had confusion in other salons  
24 with that, but I don't recall telling anyone  
25 that they cannot use the Barbicide jar. I do



1 go on and explain to them that they can not  
2 directly put their instruments into the  
3 Barbicide if they use it because they have to  
4 be washed with soap and water prior to  
5 immersion. So I do explain that to them. Yes,  
6 you can use it, but if it's not large enough to  
7 accommodate the big rounds and paddle brushes,  
8 then you need a container with solution in it  
9 to accommodate those instruments.

10 MS. TRAYLOR : But they still have to be  
11 washed before they put them in.

12 MS. BLAND : They still have to be washed.  
13 All instruments have to be washed.

14 MS. TURMAN : And a follow-up question on  
15 this, though. I simply see reading, you did --  
16 that's the first thing I noticed when I was  
17 looking at the inspection report, that you did  
18 note it there that she did not wash her hands,  
19 but you just failed to -- to indicate, you  
20 know, indicate that on your follow-up analysis  
21 at the end.

22 MS. BLAND : It was an oversight on my part.  
23 When I get out, I go through my inspection  
24 reports and try to inspect them before I send  
25 them into the office and make sure that I have

1 copied it on my comments.

2 MS. TURMAN : I also have a question for  
3 Niki. Niki, are you in the habit, normally, of  
4 signing your inspector's report without reading  
5 it?

6 MS. WHITE : Well, I hate to tell you this,  
7 but I've never had anything and so I didn't  
8 expect, you know, anything. And I was very  
9 busy that day. I had -- well, I should've  
10 brought a copy of my book that day, but it was  
11 just extremely busy and I've never had a  
12 problem. I didn't know, you know, to expect  
13 that.

14 MS. TURMAN : Thank you.

15 HEARING OFFICER : Any more questions from  
16 the board members here?

17 (No response.)

18 HEARING OFFICER : Mr. Jochums, any follow  
19 up questions?

20 MR. JOCHUMS : No. I would just comment  
21 that the notice of hearing essentially had  
22 recommended a \$25.00 fine for each of five  
23 health violations. I don't know off the top of  
24 my head know which rule goes with which health  
25 violation. If you find -- obviously, you can

1 find her not guilty completely, or if you find  
2 her less than all five, you can adjust the  
3 penalties accordingly.

4 MS. WHITE : I would like for the board to  
5 consider dropping all charges. Based on my  
6 history.

7 MR. KUTAIT : Niki's never had a problem  
8 before. It's kind of caught her by surprise.

9 MS. WHITE : If you asked me to do five  
10 colors in somebody's hair, I can do that. This  
11 is just not my --

12 (LAUGHTER.)

13 MR. JOCHUMS : Nothing further from me,  
14 then.

15 HEARING OFFICER : Anything further from the  
16 board?

17 (No response.)

18 HEARING OFFICER : We will now go off the  
19 record for a moment for board deliberations to  
20 be made.

21 (WHEREUPON, the board held deliberations  
22 off the record, after which proceedings resumed  
23 as follows, to-wit:)

24 HEARING OFFICER : We're back on record.

25 MS. POWELL : Do I have a motion?

1 MS. TURMAN : Like I said, I may be making -  
2 - I'll will make one that all the fines stand,  
3 except -- because maybe, I do believe our  
4 inspector that said there was a little bit of  
5 problem with that on the report. I think the  
6 rest of the fines should stand, excluding the  
7 hand-washing.

8 MR. JOCHUMS : So that would be \$100.00.

9 MS. TURMAN : Yes.

10 MS. TRAYLOR : I second that.

11 MS. POWELL : I have a motion and a second  
12 that the fine be \$100.00

13 All those in favor, raise your right hand.

14 (Show of hands.)

15 MS. POWELL : All those opposed.

16 (Show of hands.)

17 MS. POWELL : Okay. Any abstentions?

18 Motion carries on motion number one and a fine  
19 of \$100.00.

20 HEARING OFFICER : That finding will be  
21 reduced to writing and sent to you. And if you  
22 wish to appeal it, it can be done so under the  
23 Administrative Procedures Act. Are there any  
24 other questions or comments?

25 MS. CAUDLE : The court reporter needs this

1 gentleman's name.

2 HEARING OFFICER : Yes. Okay. Since there  
3 are no other questions or comments this hearing  
4 will be closed.

5 (MULTIPLE DISCUSSIONS TAKING PLACE.)

6 MS. POWELL : At this time, we're going to  
7 have our Legislative Committee report from our  
8 attorney, Kent Walker.

9 (MULTIPLE DISCUSSIONS TAKING PLACE.)

10 MS. WHITE : While you wait for copies, do  
11 we need to stay?

12 MS. POWELL : No.

13 MR. JOCHUMS : No.

14 MS. POWELL : You may leave.

15 MS. WHITE : We work on Mondays and so we  
16 took off today. Okay. So, what about my copy?

17 MS. WITTUM : She's going to bring a copy  
18 down.

19 MS. WHITE : And then I can leave?

20 MS. WITTUM : Yes.

21 MS. WHITE : Thank you.

22 MS. LEE: While we're waiting, can I make a  
23 comment?

24 MS. POWELL : Sure.

25 MS. LEE: We have a new director. And

1 we've been in the business -- we were just  
2 talking about that, for years and years and  
3 years. And every time our inspector comes, we  
4 find something else out. And this lady up here  
5 is enforcing the laws. I mean, we've had to do  
6 different things that we've not ever had to do  
7 for years and years. And we need her support  
8 and so if something happens in your salon and  
9 you think, oh, you know, they're picking on me  
10 or whatever. It's not. She's just taking each  
11 rule and enforcing them. I mean, we've had to  
12 do some things in school that never have we had  
13 to do, but they're there. Someone wrote the  
14 law and it's there, so we need to have that  
15 support from the board. So don't take it  
16 personally.

17 MS. KUTAIT : Well, but it's hard to take --  
18 not take it personal when you take pride in  
19 what you do. And every time someone comes in  
20 and tells you that you need to change something  
21 and you do it, and then all of a sudden you get  
22 stuck with all these fines. And then you get a  
23 letter in the mail saying you're going to be  
24 fined for it. I mean, I'm all for following  
25 rules and doing what you're supposed to do.

1 MS. LEE: Just get the law book and follow  
2 the rules.

3 MS. KUTAIT : Right. But you know that law  
4 book -- I mean, we expect her, if we're doing  
5 something wrong, she tells us and we change it.  
6 And that's what we do. And to be fined for  
7 that? I mean, we didn't even -- I mean, she  
8 didn't follow back up to see if we're doing it.  
9 I mean, as far as the -- it's just -- I just  
10 don't think that's right. We have had no  
11 problems in that shop. We have a good  
12 reputation and one person can come in there and  
13 take that away from us.

14 MS. WHITE : I've dug around for the rule  
15 book. It's been eleven years since I've had  
16 one, and so I called and requested it on the  
17 28th and I did not receive it until Friday. I  
18 felt also that, you know, I was kind of dropped  
19 the ball on because I wasn't sure what the 4.2  
20 this and 4.2 that -- you know.

21 MS. KUTAIT : And we need her, I realize  
22 that. Because there are shops that truly are a  
23 disgrace to walk to in or people who don't have  
24 licenses that are working. But we -- we follow  
25 the rules and we're being punished. We didn't

1           even get a, you need to get on this. You need  
2           to change this. It's just my -- I just don't  
3           think that's fair to us, because we're trying  
4           to do the right thing.

5           MS. POWELL : I have a board member that  
6           would like to speak.

7           MR. DOWNEY : Madam Chairman, I'd like to  
8           just kind of give a little bit of thought to  
9           this. When you're out here on the highway and  
10          you're running down that highway at 80 miles an  
11          hour and a State Trooper stops you, he does not  
12          take into consideration that you have followed  
13          the law the whole time you've driven, your  
14          whole life. You will get a fine.

15          MS. KUTAIT : I've gotten warnings before.  
16          I know everybody's probably gotten a warning.  
17          That's what I expect her to do is warn me. And  
18          then every time she's told us the change, if  
19          you had seen the pictures, we changed out our  
20          Barbicide. We did it the way she said. And  
21          everything she asked us to do, we changed. And  
22          I feel like we're being pun -- I mean, that's  
23          what she's there for to make sure we're doing  
24          it.

25          HEARING OFFICER : Excuse me.



1 MS. KUTAIT : Okay.

2 HEARING OFFICER : I understand that you're  
3 frustrated, but this --

4 MS. KUTAIT : Well, she started it.

5 HEARING OFFICER : -- hearing is closed. I  
6 will say something to everyone in this room and  
7 I am not part of this board, but I do lots of  
8 board hearings. If you hold a license -- I  
9 hold one. I'm responsible for knowing what the  
10 rules and regulations are for mine. If I think  
11 there are some new rules out there, I best call  
12 and find out what they are or get a book that  
13 tells me and read it. Okay? And I know y'all  
14 probably have an absolutely wonderful shop and  
15 so does everybody else in here, as far as I  
16 know.

17 MS. POWELL : At this time, we're going to  
18 move -- I need to introduce our attorney, Kent  
19 Walker, who's going to bring up our Legislative  
20 Committee Update.

21 MR. WALKER : Good morning, everyone. I'm  
22 Kent Walker. I've been hired by the  
23 Cosmetology Board to represent you both for  
24 legislature and also to assist in revising some  
25 rules and regulations and proposing some new

1           legislation for the upcoming session. I know  
2           I've already met a few of you all and for those  
3           of you that I have not, I hope to get to know  
4           you better during the course of the time frame  
5           of working for you.

6                     I'm starting with a clean slate here, so  
7           all that being said, we have -- I guess two or  
8           three weeks ago we decided to do statewide  
9           meetings. We decided to do each congressional  
10          district, doing outreach throughout the state  
11          to allow members or licensees who don't have  
12          the opportunity to travel, at least to have  
13          access to a location closer in which they might  
14          be able to come and give some input and  
15          hopefully suggest some changes or revisions  
16          that are forthcoming.

17                    All that being said, we chose the sites  
18          based on proximity to the congressional  
19          districts and where they were. And secondly,  
20          about the size of the location itself,  
21          Texarkana, West Memphis, Fayetteville, Little  
22          Rock, of course, all being major areas of  
23          arteries within our state to allow people easy  
24          access. And it was certainly easier for us to  
25          meet. We have chosen various issues on which

1 to focus our endeavors on. If y'all have  
2 copies, they have practitioner issues, scopes  
3 of practice, student issues, board issues, and  
4 continuing education. Unfortunately, due to  
5 the fact that each of those subjects would  
6 require us to probably have an in-depth  
7 discussion, we're not going to hit all of those  
8 at every particular location. We'll emphasize  
9 one or two at each, thereby allowing for a,  
10 what I consider a very forthcoming discussion  
11 allowing more detail to come out than otherwise  
12 does not transpire, knowing that even like this  
13 you certainly can't go over every single topic  
14 that individuals may be concerned with. But  
15 these type of sessions and these type of  
16 events, I think, would allow for people to  
17 vocalize the concerns and then have that  
18 articulated to the board. And then at some  
19 point, may have changes, suggestions, even  
20 revisions of rules or regs or to the statutes  
21 themselves. That's sort of my two cent  
22 introduction. If anybody has any questions at  
23 this point, I could maybe elaborate on further  
24 issues.

25 MS. POWELL : Does anyone from the board

1 have any questions?

2 HEARING OFFICER : They thought you were  
3 going to talk awhile.

4 MR. WALKER : Well, I'm an attorney. I can  
5 take as long as you need me to take.

6 HEARING OFFICER : Well, I know you can.

7 MR. KEENE : I understand you said that you  
8 were going to hit on one or two of those topics  
9 at each one of these sessions. Does that mean  
10 if there's another issue that you're not going  
11 to discuss it?

12 MR. WALKER : No. What we've tried to do is  
13 format it, for example, I believe in West  
14 Memphis we're going to hit practitioner issues,  
15 scopes of practice. And then -- is that right,  
16 Kathy? I believe that's right. And then allow  
17 any subject that people want to discuss to come  
18 have a certain open ended session at the end of  
19 the meeting. So people could bring up anything  
20 that's not even within the parameters of what  
21 we've defined that meeting to be. I know  
22 people in Tex -- you know, in West Memphis may  
23 want to talk about board issues or any of the  
24 other issues. But the problem becomes that we  
25 would have a meeting for six hours at each of

1           these locations. So what we're trying to do is  
2           narrow the scope and thereby, sort of narrow  
3           the time frame, of course, to allow that to  
4           happen. But any issue is open.

5           MR. KEENE : Yeah. But I would think if an  
6           issue was in West Memphis, they'd have the same  
7           one in Ft. Smith.

8           MR. WALKER : I agree.

9           MR. KEENE : So I don't see how you can  
10          narrow it down to having one or two topics  
11          without opening it up to the entire scope.

12          MR. WALKER : I agree. They will be open,  
13          but they won't -- I don't foresee us going  
14          through each rule and reg and statute for all  
15          the subjects, because the time will not allow.  
16          But to do it for two or three would, and then  
17          at the end if someone wanted to talk about the  
18          board or continuing ed, they could, for sure.

19          And I think, it's not only a way to  
20          communicate throughout the state, but a way to  
21          gain feedback on any issue that might be  
22          outstanding with any of the licensees or  
23          teachers.

24          MS. WITTUM : If I may, Kent, to address the  
25          concern that Cliff mentioned. We could -- we

1 haven't discussed it, but we could even after  
2 each one of the meetings prepare some type of  
3 cursory report where we would be able to note  
4 the topics that were brought up at each one of  
5 the meetings so that we could make that  
6 available to people at the next meeting if it  
7 prompts any discussion. The main thing I think  
8 at this point, is just to hear what the public  
9 has to say, so that we'll know exactly which  
10 areas we need to address.

11 MR. KEENE : I think we heard some just a  
12 few minutes ago.

13 (LAUGHTER.)

14 MS. TURMAN : I'm thinking though is this  
15 going to turn in -- I hope it doesn't turn in -  
16 - I know -- I mean, surely we've made -- we've  
17 tried to correct some matters, but it's -- it  
18 could turn into a board bashing session.

19 MR. WALKER : Well, I'll be honest. I don't  
20 know what awaits in terms of state or  
21 perception out there, but I do know that in  
22 terms of creating rules and regs that one, it  
23 is easier to communicate up front and hopefully  
24 get input. Because I mean, everyone here has  
25 their own opinion. I mean, I have my own

1 opinion, etcetera. But at the end of the day,  
2 whatever the rule and reg becomes, it can't be  
3 everyone's opinion. So at least allowing  
4 someone an opportunity or ability to channel  
5 their thoughts somewhere may provide -- my  
6 background, what I have done is have seen that  
7 that will quell a lot of criticism, because  
8 people have had an opportunity to be heard.

9 MS. TRAYLOR : Who'll do these  
10 presentations?

11 MR. WALKER : How will they be structured?

12 MS. TRAYLOR : No. Who is going to do them?

13 MR. WALKER : I don't know that we so much  
14 have gotten that far. I assume the appointees  
15 to the committee.

16 MS. WITTUM: Well, and we don't expect the  
17 forum to be a formal presentation.

18 MR. WALKER : Right.

19 MS. WITTUM : I know we will initiate the  
20 discussion, but then we hope that the public  
21 takes over and they do the majority of the  
22 speaking during this event.

23 MS. POWELL : I think the purpose is for  
24 this committee to be open to hearing what the  
25 public has to say. They're not in the position

1 of resolve at that time.

2 MS. PICKERING : I've got a question. We've  
3 got four districts here. Is it -- and then you  
4 want all board members to be at each event or  
5 just your district? I'm in the West Memphis --  
6 I'll be -- I'm in that district, congressional  
7 district.

8 MS. WITTUM : You can come to -- you're on  
9 the Legislative Committee, so we will have to  
10 arrange for the members of the Legislative  
11 Committee to be at as many of them as possible.  
12 But the other board members, you're welcome to  
13 come to one or all four of the meetings. The  
14 meetings are public, so you're welcome to come  
15 and hear what the public has to say during  
16 those meetings, as well as everyone else.

17 MR. KEENE : Who's on this committee again?  
18 I don't remember.

19 MS. POWELL : We have Nick Downey appointed,  
20 Ann Pickering and Melinda Steele.

21 MS. TRAYLOR : Are you serving in the  
22 capacity of \*\* person?

23 MS. POWELL : Yes, uh-huh.

24 MS. TRAYLOR : So that doesn't give you the  
25 right to vote.



1 MS. POWELL : No.

2 MS. TRAYLOR : \*\*. You did vote on it. You  
3 and Nick were the only two people there.

4 MS. POWELL : Actually, I agreed that I  
5 would be able to attend the scheduled meetings.  
6 There was no vote. And there --

7 MS. TRAYLOR : Yes, it is.

8 MS. POWELL : -- was no other --

9 MS. TRAYLOR : Yes, there was a vote. You  
10 said, I'll be sitting in. I vote with Nick,  
11 yes.

12 MS. POWELL : I concur with Nick that the  
13 schedule was doable, I could meet those  
14 meetings. And he was asked was that what he  
15 could do, because the other two committee  
16 members were not present to work out their  
17 schedules. The decision was based on what Nick  
18 and I felt that we would be able to do, on  
19 calendar schedule. No vote was necessary.

20 MS. WITTUM : And I think it's important to  
21 point out that during these committee meetings,  
22 there won't be formal votes taken. The  
23 committee will be responsible for bringing  
24 recommendations back to the board where you all  
25 will vote formally on any of the issues that

1           are presented to you. It won't be the  
2           legislative committee that dictates exactly  
3           what is going to be part of the meeting out of  
4           all those issues.

5           MS. POWELL : Are there any more questions?

6           MS. WITTUM : They've got a copy of that.

7           MS. POWELL : Also, I might finish up on  
8           your comment, Mr. Keene. Melinda Steele has  
9           requested to not participate on the committee,  
10          so the committee will consist of Nick Downey  
11          and Ann Pickering, and myself officiating.

12          MS. TRAYLOR : I thought you had to have an  
13          odd number on a committee.

14          MS. POWELL : I have three attorneys here.  
15          Maybe one of y'all could tell me is that a fact  
16          or not? I'm finding out on my student council  
17          committee, I have Sherron West and Pat Turman.  
18          So I felt that it would be equally effective,  
19          so. What do you say Mr. Jochums.

20          MR. JOCHUMS : I don't think there's any  
21          rule about it.

22          MS. POWELL : Okay. Thank you.

23          MR. WALKER : We won't be taking any formal  
24          action, at least that I'm aware of. Are there  
25          any other questions relating to the meetings

1           themselves?

2           MS. WEST: Just the format of the meetings,  
3           that -- in other words, how are the invitations  
4           being sent out? Are the people that are  
5           receiving the invitations, I'm sure to the  
6           press and such so that it's an open meeting,  
7           that the people participating will be salon  
8           people or you know, in our business or can  
9           anyone come?

10          MS. WITTUM : We did send a public notice to  
11          the Democrat Gazette and one is posted on our  
12          web page. We've also sent a flyer out to all  
13          of the establishment owners, letting them know  
14          that these meetings are going to take place.  
15          We gave them information about the issues that  
16          the legislative committee has thought would be  
17          prevalent to talk about. And we encouraged  
18          them to share it with all of the practitioners  
19          in their establishment and anyone else that  
20          they thought might would be interested. We've  
21          also sent the same information to the schools,  
22          so that the schools could join us, as well.

23          MS. TURMAN : So it's going to be like an  
24          open town-hall format?

25          MS. WITTUM : Exactly. I know the

1 establishment owners in here probably have  
2 received a copy or should have. And then all  
3 of the board got a copy of that letter, as  
4 well.

5 MS. WEST: I just think this is a good  
6 idea. I really do. I think I told you that at  
7 the time. The only structure that I would  
8 think would be to limit the comments so that,  
9 you know, the people can't --

10 MR. WALKER : We talked about that, having a  
11 time limit on each persons comments because you  
12 have one person talking for half an hour --

13 MS. WEST: Everybody else will leave.

14 MR. WALKER : Correct.

15 MS. WEST: Do we have, like, a sign-in  
16 sheet and they go according to the order that  
17 they are there as the time they want to talk?  
18 Are you going to -- how are you going to handle  
19 that?

20 MR. WALKER : I would recommend the sign-in  
21 sheet. They do that for committee meetings of  
22 the legislatures. It's fairly effective just  
23 to keep things orderly and arrow-lined.

24 MR. KEENE : Also, are minutes going to be  
25 taken?

1 MS. WITTUM : We will not have a court  
2 reporter there, but we will prepare minutes.

3 MR. KEENE : Well, because I know that I  
4 can't attend all four, but I would still like  
5 to know what took place and what was said.

6 MS. WITTUM : We will have a report after  
7 each one and I'll give the board copies of each  
8 of those.

9 MS. PICKERING : Can I ask you about  
10 congressional district one, which is the mid-  
11 south region or whatever you call it. Could  
12 you put that in the Evening Times, because  
13 we've got West Memphis Times -- that meeting?  
14 Could you put that meeting in there?

15 MS. WITTUM : Yes, we'll send it to all of  
16 the local papers, as well, in the immediate  
17 areas.

18 MS. POWELL : We did have, Mr. Keene, have  
19 June 14th, student advisory board meetings this  
20 morning, that we approved. And we'll probably  
21 continue that for both committees.

22 MS. TURMAN : Kathy, would that be feasible  
23 to put each district that these meetings are  
24 going to be taking place in, would it be  
25 feasible to put every -- like, in each

1 newspaper in that district that they're to --

2 MS. WITTUM : That's what Ann was visiting,  
3 yes.

4 MS. TURMAN : Okay.

5 MR. WALKER : Are there more questions with  
6 this?

7 (PAUSE.)

8 MR. WALKER : Mr. Jochums was kind enough to  
9 direct me to the board members' hand book. And  
10 I will say that, for me, this has been very  
11 effective. I know there are some new members  
12 on here, and I would suggest it even if you're  
13 not, because as a practicing attorney I can  
14 tell you, one, I'm never around every area of  
15 the law. And two, you become forgetful in  
16 terms of duties, responsibilities, obligations  
17 and what I consider limitations. So I would  
18 recommend that each member get a copy of this.  
19 I know it's not what you want to spend your  
20 time reading, but it will give you a very  
21 cursory approach of every area which will come  
22 before you. I know it will help me in terms of  
23 having a common language we might be able to  
24 speak when it comes time to develop both these  
25 regulations and probably some new statutes,

1 possibly.

2 And that's all I have for the board. If  
3 there aren't any questions, I'll let y'all  
4 continue.

5 (PAUSE.)

6 MR. WALKER : Well, thank you-all. I look  
7 forward to working with you.

8 BOARD MEMBERS : (In unison) Thank you.

9 MR. JOCHUMS : I want to pick up 06-389,  
10 Rita Landis d/b/a Always Beautiful. And the  
11 inspector on this is Sheila Caudle.

12 HEARING ORDER #06-389: RITA LANDIS

13 d/b/a ALWAYS BEAUTIFUL

14 HEARING OFFICER : Ms. Landis, did you  
15 receive a copy of the order and notice of  
16 hearing in this case?

17 MS. LANDIS : I did.

18 HEARING OFFICER : And are you representing  
19 by counsel today?

20 MS. LANDIS : No.

21 HEARING OFFICER : Would you introduce  
22 yourself for the record, please?

23 MS. LANDIS : Rita Landis.

24 HEARING OFFICER : Mr. Jochums, are you  
25 ready to proceed?

1           MR. JOCHUMS : Yes. I'm going to have two  
2 witnesses this morning, the director and the  
3 inspector. We have passed out to each of the  
4 board members, a packet -- it may have  
5 duplicates in it, but it's supposed to have the  
6 historical review, one page; two pages, a  
7 letter, cover letter that went with the notice  
8 of hearing; the actual notice of hearing, two  
9 pages; and an inspection report, which is both  
10 sides of one page. My particular copy has  
11 another copy of the notice and the order, but I  
12 think they're just duplicates. We want to make  
13 all of that Exhibit "1".

14           And the nature of the case this morning has  
15 to do with operating an establishment without a  
16 license.

17           HEARING OFFICER : Okay. Do you have any  
18 objection to this packet that you received  
19 being introduced into evidence.

20           MS. LANDIS : An objection?

21           HEARING OFFICER : Do you have any objection  
22 to it?

23           MS. LANDIS : No.

24           HEARING OFFICER : No? All right. Then it  
25 will be accepted as State's Exhibit "1".



1 (WHEREUPON State's Exhibit "1" to HO#06-389  
2 was received into evidence.)

3 TESTIMONY AND EVIDENCE

4 GIVEN ON BEHALF OF THE STATE BY

5 KATHY WITTUM,

6 having been previously sworn to tell the  
7 truth, testified on her oath as follows, to-  
8 wit:

9 DIRECT EXAMINATION

10 BY MR. JOCHUMS:

11 Q Ms. Caudle, you've been sworn?

12 A I have.

13 Q You are a board inspector?

14 A I am.

15 Q Have been for a number of years?

16 A Yes, sir.

17 Q Are you familiar with Rita Landis?

18 A Yes, sir, I am.

19 Q And how do you know her?

20 A I had first met her at another salon called Strokes  
21 of Beauty, which she used to own in Hot Springs area.

22 And we had had a complaint on this current salon, called  
23 Always Beautiful on Ouachita, and I went to investigate  
24 the complaint.

25 Q And what -- did you do that in April of this year?

1 A April 13, '06.

2 Q Where is the salon located?

3 A It's on Ouachita Avenue, 618 Ouachita Avenue in Hot  
4 Springs.

5 Q Okay. And what did your investigation reveal?

6 A Ms. Landis is operating a salon. There is no salon  
7 license and she is also not licensed. She is performing  
8 aesthetic services there. She's doing micro-derm  
9 abrasion. She's doing waxing. She has all kinds of  
10 certificates for these areas, maybe that are accepted in  
11 other states, but she does not hold an aesthetics  
12 license in the state of Arkansas.

13 Q And currently does she have any license?

14 A Not to my knowledge, not for cosmetology services.  
15 She also had two young ladies working with her, I  
16 learned from the appointment book. One was a Ms.  
17 Lindsey Blake and she was doing an apprenticeship for  
18 permanent cosmetics under Ms. Landis there. I have  
19 several appointments from the appointment book for  
20 services that she also done micro-derm abrasion there.  
21 Also, she had a young lady named Nikki Phillips who was  
22 apprenticing for permanent cosmetics under Ms. Landis.  
23 And she also done some micro-derm abrasion and some  
24 eyebrow waxing. Couldn't find anything in our records  
25 on Ms. Blake, but Ms. Phillips was enrolled in Ouachita

1 Technical College for cosmetology training. She earned  
2 173 hours while there, but she's never completed her  
3 course or took exam.

4 MR. JOCHUMS : I have no other questions of  
5 this witness.

6 HEARING OFFICER : Ms. Landis, do you have a  
7 question you would like to ask this witness?

8 MS. LANDIS : No.

9 HEARING OFFICER : Okay. Board member  
10 questions?

11 MS. TRAYLOR : How long has the salon been  
12 operating?

13 BY THE WITNESS:

14 A I don't believe that I have that information, Ms.  
15 Traylor. I do not have that information.

16 MR. LANDIS : July 5, 2005.

17 BY THE WITNESS:

18 A I was told when I was there that Ms. Blake had a  
19 cosmetology license or an aesthetician license but --

20 MR. LANDIS : Ms. Blake does in fact have a  
21 cosmetology license.

22 BY THE WITNESS:

23 A -- none of that information was put on my sheets  
24 here for the hearing.

25 HEARING OFFICER : Question?

1 MS. WEST: Do you have a copy of your  
2 license?

3 MS. LANDIS : No. I'm really not a salon.  
4 I do permanent cosmetics. I'm under the Health  
5 Department. And I was apprentice-shiping two  
6 girls, Lindsey Blake and Nikki Phillips. And  
7 Lindsey Blake had her cosmetology license and  
8 we posted everything we needed to while she was  
9 there. Her main goal was to do permanent  
10 cosmetics, so I did through in micro-derm  
11 abrasion while she was there the six months and  
12 she did do some micro-derm abrasion, ten,  
13 maybe. But when she left after her  
14 apprenticeship was up with permanent cosmetics,  
15 she took all her stuff off the wall and left.  
16 So, no, I don't have a license. I don't do  
17 hair or anything like that there. The main  
18 thing was massage, permanent cosmetics, spray  
19 tan, lash extensions. You know, while Lindsey  
20 was there, there was some micro-derm abrasion  
21 and some waxing. But when she left, I didn't  
22 get any -- I didn't hire anybody else to do it.  
23 And she came about a week later, after she was  
24 gone.

25 MR. LANDIS : She arrived four days after

1 Lindsey Blake had left, had completed her  
2 apprenticeship and took her certificate off the  
3 wall. And she just ascertained that we were  
4 performing all these services completely  
5 illegal, which is totally false.

6 MS. LANDIS : I can understand how the  
7 confusion was when she looked at the  
8 appointment book, because the appointment book  
9 is -- is, you know, it's hard to make heads or  
10 tails of it. But Lindsey moved down from Ft.  
11 Smith. Her mother moved her down, rented a  
12 house for me to apprenticeship her -- for free  
13 really, for six months after she went to my  
14 school, because I teach permanent cosmetics.  
15 So while she was there, I did employ her Monday  
16 through Friday. But on the appointment book  
17 through the Health Department, you need fifteen  
18 hours for -- under permanent cosmetics. So on  
19 the appointment book, we've got Nikki down for  
20 fifteen hours and Lindsey down for their  
21 fifteen hours to work on somebody. So it was -  
22 - Lindsey did all the micro-derm abrasion and  
23 all the waxes. And so the appointment book  
24 doesn't say when Lindsey was there for her  
25 week. It just states when their apprenticeship

1 started and when their apprenticeship was up,  
2 so it is confusing.

3 HEARING OFFICER : Yes?

4 MS. POWELL : Ms. Landis, are you certified  
5 to do permanent makeup?

6 MS. LANDIS : I am.

7 MS. POWELL : And do you -- you said that  
8 this was an apprenticeship for this Nikki and  
9 Lindsey?

10 MS. LANDIS : Uh-huh.

11 MS. POWELL : It was an apprenticeship in  
12 permanent cosmetics?

13 MS. LANDIS : Permanent cosmetics.

14 MS. POWELL : And where does micro-derm  
15 abrasions factor -- and lash-extensions, factor  
16 into this scope of practice that you're doing?

17 MS. LANDIS : It isn't really. I mean,  
18 they're not practicing. Lindsey just had her  
19 aesthetician license. So I thought, well,  
20 since she's there, she can do some micro-derm  
21 abrasion and waxing, while she was there.

22 MS. POWELL : So Lindsey is a licensed  
23 aesthetician?

24 MS. LANDIS : Aesthetician, yes.

25 MS. POWELL : But your facility is not a

1 licensed facility?

2 MS. LANDIS : No. I don't do hair or  
3 anything like that. We're strictly permanent  
4 cosmetics and I just threw that in because she  
5 had her license.

6 MS. POWELL : Lindsey is an aesthetician?

7 MS. LANDIS : Yes.

8 MS. POWELL : What is Nikki?

9 MS. LANDIS : Nikki? She was just there to  
10 do -- practice permanent cosmetics.

11 MS. POWELL : And was there --

12 MS. LANDIS : To apprenticeship, not  
13 practice.

14 MS. POWELL : And that is to practice. And  
15 so she was doing an apprenticeship on permanent  
16 cosmetics?

17 MS. LANDIS : Right.

18 MS. POWELL : Was she doing any lash-  
19 extensions?

20 MS. LANDIS : No, huh-uh.

21 MS. POWELL : Or --

22 MS. LANDIS : No micro-derm.

23 MR. LANDIS : She was answering the phone.

24 MS. LANDIS : Yes.

25 MS. LANDIS : Two days a week she did her

1           apprenticeship and the other three days a week  
2           she answered the telephone.

3           HEARING OFFICER : Mr. Jochums, do you have  
4           any more questions at this point? I think we  
5           kind of got a little out of order.

6           MR. JOCHUMS : Well, I know we're a little  
7           out of order. Maybe it would be helpful, it  
8           certainly would be for me, if Ms. Landis will,  
9           number one, go back to the beginning. But  
10          also, in the course, tell us what you are, who  
11          you're licensed by, what you were doing -- what  
12          -- why you think you shouldn't be here and  
13          certainly include somewhere what permanent  
14          cosmetics is for those of us who have not the  
15          foggiest idea of what you're talking about.

16          MS. LANDIS : Okay. Well, about six years  
17          ago my sister started permanent cosmetics. And  
18          I went to see her shop in Mountain Home, Simply  
19          Beautiful. And permanent cosmetics is where  
20          you take a disposable needle, which it's not a  
21          tattoo -- a tattoo, you use ink. And you go  
22          past the dermis layer and you put pigment in  
23          the skin, a color in the skin. And it's not  
24          permanent to where it lasts forever. We say  
25          permanent because you can't wash it off. So,



1 but you do need a touch-up. You may need a  
2 touch-up in a year, five years, seven years.  
3 And there's no pain. I numb the area. So  
4 you're under the Health Department. So you can  
5 go anywhere and go to school, but you have to  
6 abide by the rules of the state of Arkansas to  
7 practice in Arkansas. And since I've been  
8 doing it over three years in Arkansas, that  
9 qualifies me to be a teacher. So I had school  
10 in October to teach seven students. And two of  
11 those students were Lindsey and Nikki. And so  
12 they apprenticeship under me for six months  
13 before they go off and start their own  
14 business. Okay?

15 So then I started -- six years ago I  
16 started Strokes of Beauty. And at Strokes of  
17 Beauty, we did the facials, massages, and  
18 everything that -- almost everything that I'm  
19 doing now. I got sick. I sold the business to  
20 my son. And then nine months later I started  
21 Always Beautiful, which we've been open about a  
22 year and a half. But the main thing I do now -  
23 - I'm not -- I just do permanent cosmetics  
24 mainly. I don't have all the stuff that I did  
25 at Strokes of Beauty, laser and everything like

1           that.

2           The Health Department as far as Nikki and  
3           Lindsey go, they don't have to be working on  
4           somebody those whole fifteen hours a week. If  
5           they're watching me, answering the phone,  
6           learning more about permanent cosmetics, it's  
7           considered being an apprenticeship.

8           MR. JOCHUMS : Have you previously been a  
9           cosmetology or an aesthetician?

10          MS. LANDIS : No, never.

11          MR. JOCHUMS : Never. Never --

12          MS. LANDIS : Huh-uh. I'm really not  
13          interested in that area.

14          MR. JOCHUMS : And you don't do tattoos?

15          MS. LANDIS : No. Huh-huh, no. You have to  
16          have a different license.

17          MR. JOCHUMS : That's a different license  
18          than the one you have?

19          MS. LANDIS : Uh-huh, yes. So Becky Binz  
20          said I do more permanent cosmetics than anyone  
21          in the state. And she's the one from the  
22          Health Department that will come down and  
23          inspect me and you know, that I'm under.

24          MR. JOCHUMS : When -- we heard some  
25          testimony about one of these young ladies doing

1 micro-derm abrasion --

2 MS. LANDIS : Uh-huh.

3 MR. JOCHUMS : -- and does that take an  
4 expensive machine?

5 MS. LANDIS : It's about \$2500.

6 MR. JOCHUMS : \$2500,--

7 MS. LANDIS : Yeah.

8 MR. JOCHUMS : Do you have one of those?

9 MS. LANDIS : I do.

10 MR. JOCHUMS : Okay.

11 MS. LANDIS : I bought it from my son at  
12 Strokes of Beauty. It was mine, then I sold it  
13 to him, then I bought it back.

14 MR. JOCHUMS : Okay. It's still there, but  
15 --

16 MS. LANDIS : It's still there.

17 MR. JOCHUMS : -- you're not using it?

18 MS. LANDIS : No. I use it on myself and my  
19 husband. But no, as far as for money? No.

20 MS. CAUDLE : May I make a comment?

21 MR. JOCHUMS : Not yet. We'll come back to  
22 you.

23 MS. CAUDLE : Okay.

24 MR. JOCHUMS : Which lady was the -- is a  
25 licensed aesthetician?

1 MS. LANDIS : Lindsey Blake. Here's her  
2 certificate.

3 (Holds up document.)

4 MR. JOCHUMS : Would you give the inspector  
5 a chance to look at that?

6 (Inspector takes document.)

7 MS. LANDIS : She's in Ft. Smith.

8 MS. CAUDLE : This was not there when I was  
9 there. She had already quit.

10 MR. JOCHUMS : But that -- does it look like  
11 one of your official copies?

12 MS. CAUDLE : Yes, it is an official.

13 MR. LANDIS : She didn't quit. She was  
14 never actually employed. Pardon. The  
15 apprenticeship program usually costs about five  
16 to ten thousand dollars. And she was, you  
17 know, there as an apprentice and so she wasn't  
18 an actual employee. She did this -- we  
19 actually purchased a micro-derm machine because  
20 she said, I can do that because we had talked  
21 about it. So we purchased the machine and as  
22 she was a licensed aesthetician and started  
23 letting her do micro-derm abrasions and waxing  
24 and such.

25 MR. JOCHUMS : Madam President --

1           MR. LANDIS : So she didn't quit. She  
2 wasn't an actual employee. She was an intern  
3 and she left her internship. She completed it,  
4 like I said, four days before she showed up.  
5 She pulled her license off the wall and took it  
6 with her.

7           MR. JOCHUMS : Let me just ask, did we ever  
8 get this gentleman's name?

9           HEARING OFFICER : Did you raise your hand  
10 to testify, too?

11          MR. LANDIS : I'm here to testify. I'm here  
12 as co-owner of the establishment.

13          HEARING OFFICER : Were you sworn in earlier  
14 is my original question?

15          MS. LANDIS : Yes.

16          MR. LANDIS : Yes.

17          HEARING OFFICER : And would you introduce  
18 yourself for the people of the board and the  
19 court reporter?

20          MR. LANDIS : My name is Quint Landis.

21          HEARING OFFICER : Okay.

22          MR. JOCHUMS : Quint, do you work in the  
23 salon or are you there fairly often?

24          MR. LANDIS : Yeah, I'm there every day.

25          MR. JOCHUMS : And you don't have some other

1 employment that takes you somewhere else?

2 MS. LANDIS : We have a gift shop and a  
3 store.

4 MR. LANDIS : We have another business, too,  
5 that's right next door.

6 MS. LANDIS : So he's back and forth.

7 MR. JOCHUMS : Next -- next to your --

8 MS. LANDIS : Right. He's plumber,  
9 secretary, painter.

10 MR. JOCHUMS : Okay. That's all the  
11 questions I have for this witness.

12 HEARING OFFICER : Okay.

13 MR. JOCHUMS : Ms. Bland indicated that she  
14 wanted to --

15 HEARING OFFICER : Caudle.

16 MR. JOCHUMS : -- respond. Ms. Caudle,  
17 excuse me.

18 MS. CAUDLE : That's okay. On the day that  
19 I was there, I did ask Mr. Landis on the  
20 appointment book on specific appointments for  
21 these young ladies and Ms. Landis. He did tell  
22 me that those were those appointments for those  
23 particular people. I did specifically ask him,  
24 and wrote it down with him in there. I, also,  
25 there's one workroom in the salon there.

1           There's only one workroom that was set up at  
2           that time. There was a micro-derm abrasion  
3           machine in there and the wax pot. I went in  
4           after Ms. Landis finished with a client. I  
5           worked on the appointment book until she  
6           finished, visiting with Mr. Landis out front in  
7           the reception area and writing everything down.  
8           There was a wax pot, a micro-derm abrasion  
9           machine. In my notes here I put, I asked Rita  
10          who uses the micro-derm abrasion machine and  
11          the wax pot and she said, "I do." That she  
12          done those services. Also, on the appointment  
13          book, he said that it was an apprenticeship,  
14          that nobody quit. On the appointment book on  
15          April 4, 2006 it had a note, "Nikki's last day  
16          - quit."

17                 MR. LANDIS : She quit the apprenticeship  
18                 program. She didn't quit employment there.

19                 MS. CAUDLE : That's all of my explanations.

20                 MR. JOCHUMS : Thank you.

21                 MS. CAUDLE : You're welcome.

22                 MR. JOCHUMS : I have no other questions for  
23                 any of these witnesses.

24                 HEARING OFFICER : Okay. Ms. Landis, any  
25                 further comments you'd like to make to the

1 board before they start asking questions?

2 MS. LANDIS : Yeah. When she asked me what  
3 we did here, and I did tell her micro-derm  
4 abrasion. I didn't mean specifically that I  
5 do. If you would look at my appointment book,  
6 I mean, I am booked up with permanent  
7 cosmetics. I'm not even interested in micro-  
8 derm or anything like that. And I knew it was  
9 a loaded question anyway, you know, I'm not  
10 going to say that I do stuff when, you know,  
11 she's there to inspect. So Nikki has never  
12 done a micro-derm. Nikki does all the micro-  
13 derms.

14 MR. LANDIS : Lindsey.

15 MS. LANDIS : Lindsey does all the micro-  
16 derms or did all the micro-derms. Nikki was  
17 there to apprenticeship and Nikki does stuff by  
18 the rules. I mean, she wouldn't even dare  
19 touch it. She doesn't even know how to work  
20 the machine. So, you know, but the book is  
21 hard to read and I can understand where she  
22 would get confused because we've got names all  
23 over it. But the girls' names are at the  
24 bottom and that means apprenticeship. That  
25 doesn't mean micro-derm or it doesn't mean.



1 MR. LANDIS : I have a question. It is a  
2 violation to have one workroom?

3 MS. POWELL : Well, I think -- let me ask --

4 MR. LANDIS : Why is that --

5 MS. POWELL : -- Ms. Landis, then. You're  
6 saying your facility is not licensed by the  
7 Cosmetology Board, correct?

8 MS. LANDIS : Yeah. Uh --

9 MS. POWELL : And you did have an  
10 aesthetician performing --

11 MS. LANDIS : Right.

12 MS. POWELL : -- aesthetic services,  
13 correct?

14 MS. LANDIS : Right. And I really -- I  
15 promise I don't know that much about  
16 cosmetology and I thought her just having this  
17 license for the six months would be okay for,  
18 you know.

19 MS. POWELL : I understand --

20 MS. LANDIS : She brought in her stuff and  
21 it was --

22 MS. POWELL : -- what you're saying.

23 MS. LANDIS : -- all labeled. And she put  
24 up stuff, you know, on the walls. And then she  
25 took it down and cleaned up when she left, so I

1 just know about, you know, my part.

2 MS. POWELL : But you did not have a salon  
3 license?

4 MS. LANDIS : Right. And I saw --

5 MS. POWELL : And you did have an  
6 aesthetician --

7 MS. LANDIS : Yes.

8 MS. POWELL : -- or an aesthetician  
9 performing services in your facility?

10 MS. LANDIS : Right. I was unaware of  
11 needing another license.

12 MS. CAUDLE : Ms. Stone previously owned  
13 another salon that was licensed called Strokes  
14 of Beauty.

15 MS. POWELL : Right. I heard her say --

16 MS. LANDIS : Right. And my mother was the  
17 aesthetician and she did all that for me.

18 HEARING OFFICER : Does the board have any  
19 questions for either witness, and please make  
20 sure we know who you're addressing.

21 Ms. Traylor?

22 MS. TRAYLOR : Did I understand them to say  
23 there's -- everybody worked out of this one  
24 room. Is that right?

25 MS. CAUDLE : There was only room, but it

1 was only set up for a one operator salon. And  
2 these other two girls would come in under the  
3 apprenticeship program, the way I understand  
4 it, and work under Ms. Stone, so --

5 MS. TRAYLOR : Where did they --

6 MS. CAUDLE : So everyone wasn't working at  
7 the same time.

8 MS. TRAYLOR : Well, where did the  
9 aesthetician work when she was ?

10 MS. CAUDLE : I -- that was just one  
11 appointment made at a time.

12 MR. LANDIS : There's two different work  
13 stations in the one room.

14 MR. JOCHUMS : I want to just call Kathy,  
15 just very briefly.

16 HEARING OFFICER : Sure.

17 TESTIMONY AND EVIDENCE

18 GIVEN ON BEHALF OF THE STATE BY

19 KATHY WITTUM,

20 having been previously sworn to tell the  
21 truth, testified on her oath as follows, to-  
22 wit:

23 DIRECT EXAMINATION

24 BY MR. JOCHUMS:

25 Q Ms. Wittum, the board has previously received

1 Exhibit "1", which includes a historical summary. After  
2 your inspector came in, you made an administrative  
3 decision to send them a penalty letter, as I understand.  
4 Is that true?

5 A Yes.

6 Q Can you -- and at that point, you were recommending  
7 a fine of \$1000.00 in penalties. What is the rationale  
8 upon which you selected that amount, if you could, just  
9 explain that for us.

10 A I -- I took into account that she had been licensed  
11 because I had visited with Inspector Caudle and knew  
12 that she had previously had a salon that was licensed by  
13 the Cosmetology Board and thought that she should have  
14 known that in order to have someone perform cosmetology  
15 services within the establishment that the person needed  
16 to be licensed.

17 MR. JOCHUMS : I have no other questions.

18 MR. KEENE : Let me -- I want to make sure I  
19 understood what you just said. You said she  
20 used to own a salon?

21 BY THE WITNESS:

22 A Uh-huh, yes. Strokes of Beauty, I believe was the  
23 name of it. And she just said that she sold it to her  
24 son and then eight, nine months later, opened up Always  
25 Beautiful.

1 MS. LANDIS : Uh-huh.

2 MR. KEENE : Yeah, but it was never -- she  
3 never said that it was a licensed  
4 establishment. She just said she had another  
5 business that she sold.

6 BY THE WITNESS:

7 A I think --

8 MS. POWELL : Sheila said that earlier in  
9 her testimony.

10 MS. CAUDLE : Yes. She was licensed.

11 MR. KEENE : Okay.

12 HEARING OFFICER : Other board member  
13 questions?

14 MS. POWELL : Is your son still operating?

15 MS. LANDIS : He is.

16 MS. WEST: I want to address a question to  
17 Ms. Rita. All right. One establishment, you  
18 needed a -- you had to have a license,  
19 cosmetology from the Cosmetology Board. You  
20 knew that?

21 MS. LANDIS : I don't remember her getting a  
22 license. I don't know, what, do you pay like  
23 \$15 and get a license for the place? See, my  
24 mother was the aesthetician. And I had a bunch  
25 of different people working there, so I don't

1 remember six years ago.

2 MS. WEST: You don't remember. So --

3 MS. LANDIS : I just know I hired her and  
4 she put up everything she needed to, got the  
5 room ready, and we just -- you know.

6 MS. PICKERING : Although you did not do --  
7 in the first salon, you did not do hair?

8 MS. LANDIS : No.

9 MS. PICKERING : You did not do any?

10 MS. LANDIS : Huh-uh.

11 MS. PICKERING : You had to have a license  
12 from the Cosmetology Board to run that  
13 business.

14 MS. LANDIS : Right.

15 MS. PICKERING : Okay. And then when you  
16 took over this second business --

17 MS. LANDIS : Uh-huh.

18 MS. PICKERING : Or third maybe, because you  
19 sold the second one to your son, you had no  
20 idea then? Is that what you're saying, you had  
21 no idea that you were supposed to purchase a  
22 license from the Board of Cosmetology?

23 MR. LANDIS : She didn't know, because I  
24 asked her. I said, you know, do we fall under  
25 the Board of Cosmetology and she said no.

1           Because it was an actual salon, it was called a  
2           day spa. The other business and this business  
3           is called a day spa, where you do mostly other  
4           services besides cosmetology. And I had asked  
5           her, do we have to have a cosmetology license.  
6           She said no, at my other establishment, my mom  
7           just hung her certificate on the wall, her  
8           aesthetician. And that's why we just hung hers  
9           on the wall, Lindsey's, and I just assumed that  
10          she knew what she was talking about. I wasn't  
11          aware that we had to be licensed. I knew we  
12          had to be licensed under the Health Department  
13          and we have several certificates up there for  
14          the Health Department rules and regulations.  
15          But I -- she didn't, she honestly didn't know  
16          and I didn't know either because I had asked  
17          her. And she was, you know, she thought that  
18          you just hang a license on the wall, which we  
19          should've investigated further and found that  
20          out because it's not worth a \$1000 fine when  
21          it's only \$18 or whatever. But yeah, we didn't  
22          -- we, neither one of us, knew that. She  
23          thought her other establishment wasn't licensed  
24          actually.

25                   MS. PICKERING : Thank you.

1 HEARING OFFICER : Are there any other board  
2 member questions before we take up motions?

3 MS. POWELL : Do I have a motion?

4 MS. TURMAN : Madam President?

5 MS. POWELL : Ms. Turman?

6 MS. TURMAN : I make a motion that the \$1000  
7 fine stands because they were operating without  
8 a license and all you have to do is pick up the  
9 phone and call to make sure that you're  
10 operating. So I make the motion that the \$1000  
11 fine stands.

12 MS. GORDON : Second.

13 MS. TRAYLOR : I second that motion.

14 MS. POWELL : I have a motion and a second.  
15 All those in favor, raise your right hand.

16 (Show of hands.)

17 MS. POWELL : All those opposed?

18 (Show of hands.)

19 MS. POWELL : Two opposed. Motion carries.  
20 There will be a \$1000 fine.

21 BOARD MEMBER : Madam President, can we have  
22 a little break or do we need to go on?

23 MS. WITTUM : Thank you.

24 MS. POWELL : Thank you.

25 HEARING OFFICER : Thank you. The decision



1 will be reduced to writing and if you wish to  
2 appeal, you may do so under the Administrative  
3 Procedures Act.

4 MS. POWELL : Okay. At this time, we're  
5 going to take a five minute recess.

6 (WHEREUPON a short break was taken, after  
7 which proceedings resumed as follows, to-wit:)

8 BREAK

9 MR. JOCHUMS : Madam Hearing Officer, I  
10 propose to take up HO#06-390, Starlene Munz;  
11 and HO#06-391, Sherry Curry-Chimes. And since  
12 these involve a practitioner and an  
13 establishment I propose we consolidate them for  
14 purposes of this hearing, if there are no  
15 objections.

16 HEARING OFFICER : Okay.

17 MR. JOCHUMS : We've already started the  
18 morning by asking the respondents to take  
19 seats, so I guess we're now ready to proceed.

20 HEARING OFFICER : Sure. Would all of you  
21 at the table introduce yourselves for the  
22 record, please.

23 MS. CURRY-CHIMES : I'm Sherry Curry-Chimes.

24 MR. MUNZ: I'm John Munz, co-owner of the  
25 Star Studio.

1 MS. MUNZ: My name is Star Munz, owner of  
2 Star Studio.

3 MR. JOCHUMS : With regard to the Munz's and  
4 Star Studio, I want to make Exhibit "1" the  
5 packet containing a historical overview,  
6 conveyance letter signed by the director, the  
7 notice of hearing, and -- I think there are two  
8 copies of the letter and notice of hearing. At  
9 the very back of this document, which each of  
10 the board members should have, is an inspection  
11 report, which in this case is printed on two  
12 pages. I think the original was probably on  
13 one.

14 With regard to Sherry Curry-Chimes, I want  
15 to make an exhibit of the historical summary,  
16 the official notice and directive cover letter  
17 and the notice of hearing. This particular set  
18 does not have the inspector's report related to  
19 it. That would be Exhibit "2" in the combined  
20 hearing.

21 HEARING OFFICER : Do you-all have any  
22 objection to these being introduced today, to  
23 the board?

24 MR. MUNZ: No, ma'am.

25 HEARING OFFICER : They will be accepted as

1 State's Exhibits "1" and "2" then.

2 (WHEREUPON State's Exhibits "1" and "2" to  
3 HO#06-390 and HO#06-391 were received into  
4 evidence.)

5 MR. JOCHUMS : And I want to call Sheila  
6 Caudle as my first witness.

7 TESTIMONY AND EVIDENCE

8 GIVEN ON BEHALF OF THE STATE BY

9 INSPECTOR SHEILA CAUDLE,

10 having been previously sworn to tell the  
11 truth, testified on her oath as follows, to-  
12 wit:

13 DIRECT EXAMINATION

14 BY MR. JOCHUMS:

15 Q Sheila, are you -- Ms. Caudle, are you familiar  
16 with the Star Studio?

17 A I am.

18 Q And is that in your regular territory?

19 A Yes, sir, it is.

20 Q Okay. And did you have occasion to inspect that in  
21 April of this year?

22 A I did on April the 12th.

23 Q Can you tell us about your inspection, please?

24 A Ms. Wittum had asked me to go out to check on some  
25 permanent cosmetics possibly being done at Star Studio

1 in Hot Springs. At the time of my inspection, I found a  
2 room there being used by Ms. Curry or Chimes. She's  
3 goes by both. She had some certificates with both names  
4 on them. She had several certificates, the Society of  
5 Permanent Cosmetics, she had three of those dating back  
6 from '99, 2000 and for the calendar year of 2004. She  
7 had a Clinical Esthetician at the Eclipse Medical  
8 Incorporated for Vasculight TM in '99; a certificate of  
9 completion for Endermologie, training program. There  
10 were several, several more certificates, the American  
11 Institute Interdermol Cosmetics, a Masters Certificate  
12 in 2004. She was not there that day. I also went  
13 through the appointment book for the salon. She had  
14 several phone messages trying to set up appointments for  
15 laser hair removal, permanent eyebrows, laser hair  
16 removal for the bikini area, and what kind of Hepatitis  
17 shot is needed for permanent makeup. I also recorded  
18 where she had eleven appointments in the month of  
19 February on the books scheduled with Ms. Chimes. Most  
20 of the entries didn't reflect what services the clients  
21 wanted. On February 24th, there was one at 11:30. It  
22 stated Michelle, consult/appointment. And on March 14th  
23 at 9:00 it states Debbie - lips. Like I said, Star had  
24 told me that she was out of town, in Dallas, I believe  
25 she said for some of her cosmetic things. In her room

1 that she had set up for her there were supplies. There  
2 was towels, release forms, skin creme, acid peel,  
3 hydrating mask, makeup remover, stimulating oxygen. All  
4 these supplies were in her room. There was no license  
5 posted.

6 Q Is this studio --

7 A It's a hair salon.

8 Q So is there another room or stations for hair  
9 cutting?

10 A Yes. There's one, two --

11 MS. MUNZ: Three.

12 BY THE WITNESS:

13 A -- three and then the restroom. There's three  
14 separate rooms. There's -- you walk in and there's a  
15 big reception desk. And on this side is hairstylists  
16 and you keep going back and there's the restroom and the  
17 laundry room. And on this side there's more  
18 hairstylists and a room here (indicating) and a room  
19 here (indicating).

20 MR. MUNZ: Pretty decent description.

21 (LAUGHTER.)

22 BY MR. JOCHUMS:

23 Q And Ms. Curry is in a room by herself?

24 A Yes, she is.

25 Q Okay. Now from your knowledge does she hold an

1 Arkansas license?

2 A I wasn't aware that she did, but she just showed me  
3 she does have an Arkansas license for aesthetics.

4 Q She has an Aesthetics license?

5 A Uh-huh. That she got through reciprocity,  
6 according to her paperwork here, on October 19, 2005.

7 Q And it seems to be --

8 A Yes. It is a --

9 Q -- current?

10 A -- reciprocity receipt printed from our office that  
11 she has.

12 Q And it would have been in place during the time  
13 we're talking about?

14 A Yes, it would have.

15 MR. JOCHUMS : I have no other questions for  
16 this witness.

17 HEARING OFFICER : Does the board have any  
18 questions for Ms. Caudle at this time?

19 MS. WEST: I have one question. When you  
20 said in place, the reciprocity receipt, was it  
21 posted?

22 BY THE WITNESS:

23 A No.

24 MS. WEST: No.

25 BY THE WITNESS:

1 A No. There was no license posted at the time I was  
2 there.

3 MS. WEST: Okay. Thank you.

4 MR. JOCHUMS : Okay. I'm going to call  
5 Kathy Wittum.

6 HEARING OFFICER : Okay.

7 TESTIMONY AND EVIDENCE

8 GIVEN ON BEHALF OF THE STATE BY

9 KATHY WITTUM,

10 having been previously sworn to tell the  
11 truth, testified on her oath as follows, to-  
12 wit:

13 DIRECT EXAMINATION

14 BY MR. JOCHUMS:

15 Q Ms. Wittum, you're familiar with this case.

16 A Yes.

17 Q You issued the notice of hearing, is that correct?

18 A Yes.

19 Q Do I understand correctly that part of the  
20 allegations of this notice are essentially practicing  
21 out of the scope of practice?

22 A Yes.

23 Q And can you elaborate on that?

24 A We did find that Ms. Curry was licensed as an  
25 aesthetician, however, she is -- as an aesthetician she

1 is not permitted to do laser hair removal. Only a  
2 licensed electrologist can perform those services. So  
3 that is the part dealing with practicing outside the  
4 scope. According to the information that the inspector  
5 brought, there was a notice of -- in the workroom that  
6 Ms. Curry used, saying that she was a licensed medical  
7 aesthetician. And she indicated that a doctor Fathi  
8 Fam, is the medical director who is supervising her. I  
9 called the Medical Board and he's not licensed here in  
10 Arkansas. I'm not sure if he's licensed somewhere else,  
11 but the only provision that might would have allowed her  
12 to perform some type of services outside of the scope of  
13 what her aesthetician license allows, would be  
14 Regulation 22 under the Medical Board, but she would  
15 have had to be an employee of the doctor who was  
16 soliciting her -- or providing clients or patients to  
17 her to do services that the physician believed were  
18 necessary. And according to the medical board here,  
19 that this doctor is not licensed here in Arkansas.

20 Q With regard to both files, both Star's and also the  
21 practitioner, what do you recommend for civil penalties?

22 A My civil penalty recommendation was \$1000.00 for  
23 each because of the practicing outside the scope of her  
24 license.

25 MR. JOCHUMS : I have no other questions of



1           this witness. And at this time we can take  
2           testimony from the respondents.

3           HEARING OFFICER : Do you-all have any  
4           questions that you would like to ask either of  
5           the witnesses that have testified so far? I  
6           mean, you're going to get a chance to tell us -  
7           - to testify, but do you have questions?

8           MS. MUNZ: No.

9           MS. CURRY-CHIMES : No, ma'am.

10          HEARING OFFICER : Okay. We'll start with  
11          Star. Tell us what you'd like to tell the  
12          board today.

13          MS. MUNZ: As far as I know of, she's never  
14          done any laser removal in the shop themselves  
15          at all. She used the room for a consulting,  
16          because our salon is so big, she figured that  
17          if she got to know everybody and consolidated  
18          with them. She did more of them in-home. But  
19          I've never had any other problems otherwise.  
20          She always kept her license with her. When she  
21          was not there, the room was locked, so -- and  
22          most of her stuff was taken with her. She was  
23          in and out several times out of the month.

24          MS. CURRY-CHIMES : Is it my turn?

25          MR. MUNZ: When -- on the books, which Ms.

1 Caudle didn't see, because I had Dallas books  
2 up there, too. When she came to me probably in  
3 August sometime of last year and wanted to get  
4 a room and do this and do that. I said, well -  
5 - first I try to check references. I try to  
6 check backgrounds. I try to be thorough in  
7 what I do. I also work for the State myself,  
8 so I try to be very thorough. You know, I  
9 don't want to break any laws, or regulations or  
10 polices or procedures. So I told her what she  
11 could do. I said, now you can talk to our  
12 customers. You can, you know, if they have  
13 questions about laser treatment or whatever,  
14 you know, skin therapy, you know, you can  
15 answer those questions. As I understand, you  
16 can still consult, as long as you don't take  
17 any money, take any fees, do any procedures  
18 until I check you out, then we'll be, you know,  
19 as I understand we'll be all right. So that's  
20 why you saw those, Ms. Caudle, on the books, as  
21 far as people calling in and --

22 MS. CAUDLE : Uh-huh. The phone messages.

23 MR. MUNZ: Yes, ma'am. The phone  
24 messages. And at that time, and it'll only  
25 show on my records, everything checked out

1 fine. She had dealt with this Fathi Fam doctor  
2 out of Dallas. And then she told me that Dr.  
3 Stout, she's trained with Dr. Stout for over  
4 six months, so she could do anything above and  
5 beyond the aesthetician's license. So with me,  
6 she came in 11/28/05. And then she stayed  
7 probably about the first week in December and  
8 then she left for her Christmas, New Year's and  
9 all that. And came back, I'm showing January  
10 16, '06, came back and as Ms. Caudle's records  
11 shown on February, that's true. Came in and  
12 worked through part of February. Then she left  
13 to Ohio in March. Come back, I think, for a  
14 weekend, if I remember right. Then took off  
15 for her spring break in March. And she said,  
16 I'm getting married. Of course, every time she  
17 left out of town to Dallas or Ohio -- she had  
18 clients in both, she took all of her stuff with  
19 her. And before she always took some of her  
20 paperwork. Now, she left most of the -- what  
21 Ms. Caudle saw, the certificates on the wall.  
22 She took her Arkansas license. She took some  
23 other licenses from Ohio and Texas that she had  
24 and kept them with her. That's why we left the  
25 room locked at all times, unless she was there

1 working. And that way if our inspector showed  
2 up then she could talk to her and inspect her  
3 or whatever she needed to do. She wasn't there  
4 most of the time anyway. She basically had her  
5 office -- an office I basically rented to her  
6 for consultations and to set up appointments.  
7 And a lot of stuff she went to -- whatever she  
8 did in-home, I don't know what she did. But  
9 when she went to other people's homes and did  
10 stuff in-home, she did the stuff, as far as  
11 consultation and appointment setting out of my  
12 office or at my salon. Then she went ahead and  
13 she said, well, I'm getting married and I'm  
14 taking most of my stuff, but I'm leaving some  
15 of my stuff here. Can I pick it up in late  
16 April? I said, not a problem. I said, but I'm  
17 losing rent on that room, so you're going to  
18 have to -- so you know, I bumped her rent down  
19 to keep it a simple fee so she could afford it.  
20 And that way I was getting a little bit of  
21 something for my room because I couldn't rent  
22 it out, because I was, you know, -- she needed  
23 it basically to store her stuff in. So and  
24 that was until 4/22, so during that whole time,  
25 she wasn't even in there in April doing

1 anything. So that's where -- I mean,  
2 everything -- Ms. Caudle's right, everything  
3 coincides with March 14 -- or the March and the  
4 February. I mean, so she's correct, so as far  
5 as that part in setting up apartments and doing  
6 consulting.

7 MS. CURRY-CHIMES : Okay. When I left  
8 Dallas, I stopped doing laser hair removal. My  
9 overhead was really high. And I was starting  
10 over. I got divorced, left Dallas, and came to  
11 Arkansas. And I transferred my license and my  
12 license was transferred on October 19.

13 The messages that she had seen -- I pulled  
14 up the addresses and phone numbers for my  
15 Dallas messages where I had done laser hair  
16 removal and was in a doctor's office. In fact,  
17 I was in skin enhancement at Dr. Stout's office  
18 there, in clean-up. And when I did my  
19 internship for permanent cosmetics, I worked  
20 out of Dr. Stout's office. And they Becky Binz  
21 tested me out there. And so I used to go and  
22 forth and I'd work out of Dr. Stout's office.  
23 And so that's how I built my clientele down  
24 here. So when I got divorced, I moved to  
25 Arkansas. So I worked out of Dr. Stout's

1 office and I leased a room and started building  
2 a clientele on my own, over at Star's.

3 And then over the holidays, my roommate and  
4 I went to -- went back to home to Ohio, she's  
5 from Ohio. And I met someone and I got  
6 engaged. So now I live in Ohio. And I've been  
7 -- I haven't been in Arkansas hardly at all.  
8 And I was -- my tables and my micro-derm  
9 abrasion machine and all my equipment -- which  
10 I don't own a laser anymore. I haven't done  
11 any laser in Arkansas, because I just couldn't  
12 afford it. And when I was in Dr. Stout's  
13 office, he has a laser and I just operate it.  
14 So, I wasn't there. And what I do have is I  
15 have a three-ring notebook that I have all my  
16 certifications in, that I keep with me. And I  
17 have copies. The one's that are framed and  
18 everything -- I'm still moving stuff to Ohio.  
19 I mean, it's a big move. It's a 1000 miles,  
20 expensive. And I had a lot of stuff to get  
21 done, because I just moved it from Dallas and  
22 trying to get it to Ohio, all of it. But  
23 that's where I live now. And I wasn't -- I  
24 didn't get a notice of this. John called me up  
25 and let me know what was going on. But I do --

1 I've had my license for a long time, I just --  
2 I've never left my license there when I would  
3 travel. So it was with me when I was in Ohio.  
4 And I wasn't actually -- even actually  
5 practicing there. John was just actually,  
6 basically like storing my stuff for me.

7 MR. MUNZ: And I never went and checked to  
8 look on the wall. I mean, when she was -- in  
9 March, when she finished up late March and she  
10 said I'm getting married, I'm doing this and  
11 doing that, but I still need to have -- leave  
12 my stuff, some of my stuff here. As far as I  
13 was concerned she was not doing a day more of  
14 work, period. So that's why -- and that's why  
15 we locked it. I mean, the room stayed locked.  
16 We didn't use it for anything. I told the rest  
17 of the girls, I said, that's Sherry's stuff.  
18 Don't go in there. She's done. She's going to  
19 come back and get most of her stuff and be  
20 done. So she was not even, you know, the last  
21 week of March was probably her last week. And  
22 which Ms. Caudle can, you know, could show that  
23 March 14 that she had her last consultation  
24 appointment at 9:00.

25 HEARING OFFICER : All right. Board, do you

1 have any questions?

2 MR. JOCHUMS : Let me ask a couple really  
3 quick. Where is this Dr. Stout?

4 MS. CURRY-CHIMES : He has a dermatology  
5 clinic right off of Central.

6 MR. JOCHUMS : In Hot Springs?

7 MS. CURRY-CHIMES : Yes.

8 MR. JOCHUMS : Let me ask the inspector,  
9 what kind of machines did you see in this room  
10 of hers?

11 MS. CAUDLE : There really wasn't, I don't  
12 think, any machines in there, but there were  
13 some supplies. Just some supplies that was  
14 left.

15 MR. JOCHUMS : So you didn't actually see a  
16 working area?

17 MS. CAUDLE : And her table was not in  
18 there. I noted that. There was no table set  
19 up in there. There were some supplies and  
20 consultation cards, some towels, makeup  
21 remover. Just some bottle supplies on one  
22 shelf.

23 MR. JOCHUMS : Let me go back to the lady in  
24 green.

25 (LAUGHTER.)



1 MS. CURRY-CHIMES : I am green today, aren't  
2 I?

3 MR. JOCHUMS : Were you doing some kind of  
4 services in your house?

5 MS. CURRY-CHIMES : No. I was not. I used  
6 to do home parties, VIP parties, where I'd get  
7 groups and the VIP -- it'd be kind of like a  
8 Tupperware party, and they'd get their facial  
9 for free. And that's how I built my clientele.  
10 I had girls who came to me from Hot Springs to  
11 Dallas. And so that's how this all came about.  
12 I ended up moving back to Hot Springs and going  
13 back and forth to Dallas every four to six  
14 weeks. And they'd invite me to their home and  
15 we'd have a little spa party. That's how that  
16 -- that's how I got started in Arkansas  
17 actually. And then I met Dr. Stout. So then I  
18 worked -- he offered to let me work out of his  
19 office, which was really a great thing. So I'd  
20 come back every four to six weeks. But I  
21 wasn't actually -- I wasn't actually because  
22 I'd already moved and they just -- Star had my  
23 stuff locked up in a room until I could get it  
24 all. It wasn't stuff that I needed. I had all  
25 my equipment with me.

1                   MR. JOCHUMS : I don't think I have any  
2 other questions.

3                   HEARING OFFICER : Board member questions?

4                   MR. KEENE : I have one. These VIP parties  
5 that you were doing, what kind of services did  
6 you perform?

7                   MS. CURRY-CHIMES : Facials, masking, you  
8 know, enzymes -- I use a line called -- it's by  
9 West Texas Clinical Skin Care and it's an  
10 herbal glycolicolage. And then you cleanse the  
11 face and then you mask it. It's just a typical  
12 basic facial. Once the girls' in Hot Springs  
13 aunt had come to me, and I had always wanted to  
14 come to Hot Springs. She told me about her  
15 family here. So they invited me up and then we  
16 kind of got started doing that. And then  
17 that's what got me started getting involved in  
18 Hot Springs and thinking I wanted to move here.  
19 I like it a lot better than Texas. And I still  
20 like it better than Ohio.

21                   (LAUGHTER.)

22                   MS. CURRY-CHIMES : A lot better. I'm  
23 really having a hard time adjusting.

24                   HEARING OFFICER : Other board member  
25 questions?

1 MS. POWELL : Where is the laser machine  
2 now?

3 MS. CURRY-CHIMES : I filed bankruptcy when  
4 I was in Dallas and gave all the equipment  
5 back. I was going through a divorce and my  
6 husband and I had a business together.

7 MS. POWELL : So at the time of the  
8 inspection, the laser machine was not on the  
9 premises?

10 MR. MUNZ: No.

11 MS. POWELL : And when you were doing the  
12 in-home services, were you licensed in the  
13 state of Arkansas?

14 MS. CURRY-CHIMES : Yes. I had applied for  
15 recipro -- I applied for my license before I  
16 ever actually came down. I wasn't in -- I  
17 wasn't actually working out of anybody's home  
18 or John's establishment before I actually  
19 visited in October.

20 MS. POWELL : So in October you had already  
21 received your license prior to having your  
22 parties?

23 MS. CURRY-CHIMES : Yes, ma'am. If I'm  
24 understanding you.

25 MS. POWELL : Well, you had gone through

1 reciprocity, correct, in October?

2 MS. CURRY-CHIMES : Uh-huh.

3 MS. POWELL : And you had a license, a  
4 practitioner's license, right?

5 MS. CURRY-CHIMES : Right.

6 MS. POWELL : Were you employed at a salon  
7 at that time?

8 MS. CURRY-CHIMES : I had my own business in  
9 Dallas and --

10 MS. POWELL : But in Arkansas?

11 MS. CURRY-CHIMES : No, I did not. I worked  
12 in Dr. Stout's office. The girls started  
13 coming there. And -- I was explaining to John  
14 and Star that's that what I had done and how I  
15 got started in Arkansas, but whenever I would  
16 come to Arkansas, I would work out of his  
17 office. The home parties is just what got me  
18 started and how I came down here.

19 MS. POWELL : But you weren't employed in  
20 John's salon at the time you were doing the  
21 home parties?

22 MS. CURRY-CHIMES : No, ma'am. No --

23 MS. POWELL : So you were just traveling --

24 MS. CURRY-CHIMES : Right.

25 MS. POWELL : -- to home to home. You were,

1           like, traveling?

2                   MS. CURRY-CHIMES : I still lived in Dallas  
3           and I'd come down every four to six weeks. And  
4           it started out like that, but then I got  
5           introduced to Dr. Stout and started working out  
6           of his facility and decided to do an internship  
7           with him. And Dr. Fam is still my medical  
8           director, but it's in the state of Texas. And  
9           I just -- had the paperwork to work with Dr.  
10          Stout. There is paperwork that says Dr. Fam  
11          and I have cards that say that for clients in  
12          Texas. And here in Dr. Stout's. Did I answer  
13          that right?

14                   (LAUGHTER.)

15                   MS. POWELL : You answered it the way you  
16          obviously did.

17                   (LAUGHTER.)

18                   MS. POWELL : I would suggest you get an  
19          Arkansas law and rulebook and that you might  
20          want to look up in there, but there's no  
21          provisions made for a traveling aesthetician in  
22          our cosmetology rules. Nothing for in-home  
23          services or anything of that nature.

24                   MS. CURRY-CHIMES : I'll do that. I didn't  
25          have to do a whole lot of it before I met Dr.

1 Stout. They introduced me to him. I didn't  
2 know. I will get that.

3 MS. TRAYLOR : What is that Dr. -- did he,  
4 that you worked in his office, did he have a  
5 cosmetology license or aesthetician's licence  
6 in order for you to practice in there?

7 MS. CURRY-CHIMES : When you work under a  
8 doctor, it's governed by the medical board.  
9 And it doesn't have to have anything. You  
10 don't have to be a licensed aesthetician to  
11 work for a doctor and you can do micro-derm and  
12 chemical peels as long as the doctor is on  
13 premedis.

14 MS. POWELL : Well, you're very  
15 knowledgeable on the medical end on this.

16 MS. CURRY-CHIMES : It's all I've ever done.

17 HEARING OFFICER : Any other board member  
18 questions?

19 (No response.)

20 HEARING OFFICER : Any follow up, Mr.  
21 Jochums?

22 MR. JOCHUMS : I also want to make  
23 additional exhibit the regulations. I think I  
24 forgot to mention that before. I think the  
25 board can proceed to the deliberations.

1 HEARING OFFICER : Does the board have a  
2 copy -- I don't know whether they need it, but  
3 a copy of the reciprocity letter so you'd know  
4 the date the license was received? Or would  
5 you like a copy of that? Would it be helpful  
6 or just having her tell you today, is that  
7 sufficient?

8 MS. WITTUM : It's on the cover sheet.

9 HEARING OFFICER : It is.

10 MS. TURMAN : I have a question of her.

11 HEARING OFFICER : Okay.

12 MS. TURMAN : Okay. Ms. Caudle, when you  
13 went in, actually you did not see anybody  
14 performing any work, but what you did see was  
15 the appointment book?

16 MS. CAUDLE : Not in her room. Her room was  
17 locked and Star did have to unlock it and let  
18 me in.

19 MS. TURMAN : There wasn't any activity.

20 MS. TRAYLOR : No.

21 MS. CAUDLE : Only hair being done.

22 HEARING OFFICER : If there are no -- yes,  
23 ma'am.

24 MS. TRAYLOR : How long did you practice in  
25 your home to build your clients? Or their home

1 or -- how long would you be doing this to get  
2 your clientele built up?

3 MS. CURRY-CHIMES : I came down -- I made  
4 two trips to Arkansas. And Sheila Jones, the  
5 Joneses were really good friends with the  
6 Stouts. They said I should talk to Dr. Stout  
7 and see about working with him. And he was in  
8 the process of opening up a skin enhancement  
9 facility in Dallas, so they introduced me to  
10 him. And what I did was I'd come down here and  
11 work for him some and then I worked for him in  
12 the Dallas office, helping him build his  
13 clientele. So it was a process -- I was very  
14 busy in Dallas, so I worked out of his facility  
15 in skin enhancement for two years after he  
16 opened her and I would come every four weeks  
17 and work a week in his office down here.

18 MS. TRAYLOR : You had an aesthetician's  
19 license in Texas?

20 MS. CURRY-CHIMES : Oh, yes, ma'am.

21 HEARING OFFICER : Does the board have more  
22 questions?

23 (No response.)

24 MR. JOCHUMS : I'd suggest we start with  
25 Sherry, in terms of the motions.



1 HEARING OFFICER : Yes.

2 MR. KEENE : I'll make a motion.

3 HEARING OFFICER : Okay.

4 MR. KEENE : Finding the allegations being  
5 true, I move to order the respondent to pay a  
6 fine in the amount of \$250.00 payable within 30  
7 days of receipt of the board's order. Failure  
8 to pay the fine as ordered will result in  
9 suspension of respondent's aesthetician license  
10 beginning 30 days from receipt of the order and  
11 continuing for a period of 90 days from the  
12 date the respondent relinquishes her license to  
13 the board.

14 MS. POWELL : I have a motion. Do I have a  
15 second.

16 (No response.)

17 MS. POWELL : Motion dies for the failure of  
18 a second.

19 (PAUSE.)

20 MS. POWELL : Is there any discussion?

21 MR. KEENE : Well, I can make a motion to  
22 dismiss the case.

23 MR. JOCHUMS : Well, then make it.

24 MR. KEENE : It's made.

25 MS. POWELL : I have a motion dismissing the

1 case.

2 (PAUSE.)

3 MS. POWELL : Motion dies for failure of a  
4 second.

5 (PAUSE.)

6 MS. POWELL : Yes, Ms. Traylor?

7 MS. TRAYLOR : Finding the allegations being  
8 true, I move to order the respondent to pay a  
9 fine in the amount of \$500.00 payable within 30  
10 days of receipt of the board's order. Failure  
11 to pay the fine as ordered, will result in a  
12 suspension of the respondent's aesthetician's  
13 license.

14 MS. GORDON : Second.

15 MS. POWELL : I have a motion and a second.  
16 Is there any discussion?

17 (No response.)

18 MS. POWELL : All those in favor, raise your  
19 right hand.

20 (Show of hands.)

21 MS. POWELL : All those opposed?

22 (Show of hands.)

23 MS. POWELL : Three. Motion carries. The  
24 fine is \$500.00. Thank you. And that was on  
25 Ms. Chimes.

1 HEARING OFFICER : You still have a motion  
2 regarding the salon.

3 MS. POWELL : I need a motion for Ms. Munz.

4 (PAUSE.)

5 MS. POWELL : Ms. Traylor?

6 MS. TRAYLOR : Finding the allegations being  
7 true, I move to order the respondent to pay a  
8 fine in the amount of \$500.00 payable within 30  
9 days of receipt of this board's order. Failure  
10 to pay the fine as ordered will result in  
11 suspension of the respondent's cosmetology  
12 license.

13 MR. JOCHUMS : It's an establishment.

14 MS. TRAYLOR : Establishment, okay. I  
15 thought one of them was a hairdresser.

16 MS. POWELL : I have a motion.

17 MS. GORDON : Second.

18 MS. POWELL : I have a motion and a second.  
19 Is there any discussion?

20 MR. KEENE : I'd like to know how those two  
21 people that just made that motion found -- came  
22 to the decision to make it.

23 MS. TRAYLOR : Do I have to explain that?

24 HEARING OFFICER : I guess you can refuse to  
25 answer his question.

1 MS. TRAYLOR : Well, I don't have a problem  
2 with it, because I find that this lady was  
3 working without a license. She was working --

4 BOARD MEMBERS : No. No.

5 MS. TRAYLOR : -- in homes.

6 MS. CAUDLE : No.

7 MS. TRAYLOR : In homes.

8 HEARING OFFICER : Even your inspector says  
9 she wasn't working without a license.

10 MS. TRAYLOR : Well, but in homes she was  
11 without a license in a cosmetology place. She  
12 was doing it in her home.

13 MR. KEENE : This hearing is about a salon,  
14 not her.

15 MS. CURRY-CHIMES : No, ma'am. I wasn't.  
16 Not in my home. I didn't live here at the  
17 time.

18 HEARING OFFICER : This is the salon, so  
19 were they guilty of --

20 MS. POWELL : This hear -- excuse me. This  
21 hearing is on 390. This is going to be on  
22 Starlene Munz. This is Starlene Munz here  
23 (indicating), the salon owner.

24 MS. GORDON : I have a question.

25 HEARING OFFICER : Yes.

1 MS. GORDON : She didn't know that she was  
2 working in her salon and didn't have a license  
3 posted?

4 MS. CAUDLE : Huh-uh.

5 MS. GORDON : When she was working there?

6 MS. CURRY-CHIMES : No.

7 MS. MUNZ: No. She had her license.

8 MS. GORDON : I know she had a license, but  
9 they were not posted when she was working. Is  
10 that what I heard someone say?

11 MR. MUNZ: Ma'am, on April 12th, she --

12 MS. CAUDLE : No, ma'am.

13 MR. MUNZ: -- was not there any longer.

14 She was gone by the 27th of March.

15 MS. GORDON : When she was there --

16 MS. MUNZ: When she was there she did have  
17 them posted. She just kept them with her at  
18 all times. When she would, then she took her  
19 license with her because the door would be  
20 locked. Nobody was in there working.

21 MS. GORDON : Well, why was the door open  
22 the day the inspector came?

23 MR. MUNZ: It wasn't.

24 MS. CAUDLE : It wasn't.

25 MS. MUNZ: I had to unlock it.

1 MS. CAUDLE : She had to unlock it and let  
2 me in. I --

3 MS. CURRY-CHIMES : I was using it for  
4 storage.

5 MS. MUNZ: Yeah. I kept it locked so  
6 nobody could enter the room.

7 MS. POWELL : Are you confused, LaJoy?

8 MS. GORDON : Yeah. I thought she was -- I  
9 thought she was there.

10 MS. CAUDLE : No, ma'am.

11 MS. CURRY-CHIMES : I wasn't.

12 MS. MUNZ: I was --

13 MS. CAUDLE : No.

14 MS. MUNZ: I was there working.

15 MS. GORDON : But you was working?

16 MS. POWELL : Do you want to withdraw your  
17 motion?

18 MS. GORDON : Let me understand this first.  
19 When you got there, she was not there.

20 MS. CAUDLE : No, ma'am.

21 MS. GORDON : You just went in to inspect  
22 her area --

23 MS. CAUDLE : I just had a complaint on the  
24 permanent cosmetic thing. And I went in to  
25 inspect the salon.

1 MS. GORDON : So you were not there just on  
2 a regular inspection?

3 MS. CAUDLE : No, ma'am.

4 MS. GORDON : You was there on a complaint.

5 MS. CAUDLE : Yes, ma'am. And the room was  
6 locked. I asked Star and she said that she had  
7 some stuff in a room there. And I asked her to  
8 unlock the room for me so I could see in it.

9 MS. CURRY-CHIMES : And all my equipment was  
10 gone.

11 MR. MUNZ: There was no equipment or  
12 anything. That's why it was --

13 MS. GORDON : I don't understand why you  
14 needed to see in it, if she was not --

15 MS. CAUDLE : Because --

16 MS. MUNZ: Because she had had a complaint  
17 that was called in on me.

18 MS. CAUDLE : Because of the complaint I  
19 wanted to see what kind of certificate she had,  
20 if she had a license posted. We didn't have  
21 her name or anything at that point. We just  
22 had a name of a person possibly working in that  
23 salon.

24 MS. POWELL : Actually, Sheila was following  
25 protocol.

1 MS. CAUDLE : Right.

2 MS. POWELL : Sheila followed protocol to --

3 MS. CAUDLE : I investigated the complaint.

4 MS. POWELL -- investigate the complaint.

5 MS. GORDON : And when you got there, she  
6 was not there?

7 MS. CAUDLE : No, ma'am.

8 MS. GORDON : Her license was not there.

9 MS. CAUDLE : No, ma'am.

10 MS. GORDON : There was no -- was there  
11 evidence there that she had been working?

12 MS. CAUDLE : Yes, ma'am, which I testified  
13 to. She had appointments. She had eleven  
14 appointments from February to March.

15 MS. GORDON : The day that you was there,  
16 did she have an appointment?

17 MS. CAUDLE : No, ma'am. She had no  
18 appointments in the month April whatsoever.

19 MS. TRAYLOR : But she had been working in  
20 the salon.

21 MS. CAUDLE : She was licensed. Her license  
22 was not posted, but she was licensed to do  
23 aesthetics work. She got licensed in this  
24 state October 19, 2005.

25 MS. POWELL : Through reciprocity.



1 MS. CAUDLE : Which means she had a license  
2 to do aesthetics work, but it was not posted on  
3 the wall.

4 MS. CURRY-CHIMES : And whenever I was there  
5 it was posted.

6 MS. CAUDLE : They was not posted on the  
7 wall because she had moved everything.

8 MS. GORDON : She was not there.

9 MR. MUNZ: Right.

10 MS. CAUDLE : No, ma'am.

11 MR. MUNZ: Right.

12 MS. WITTUM : Well, and one thing I think we  
13 don't need to lose sight of is that the Munz  
14 gave testimony of the calendar period from the  
15 time they first met Ms. Curry to the time she  
16 left and it -- if memory serves me correctly,  
17 she wasn't there for most of that time.

18 MR. MUNZ: Yes, ma'am.

19 MS. WITTUM : So she was not doing services  
20 in the establishment --

21 MR. MUNZ: Correct.

22 MS. WITTUM : -- for much of that time.

23 MR. MUNZ: Right.

24 MS. TURMAN : Madam President, can we re-  
25 address something because I want to make it

1 clear, even on the vote that we just took.

2 MS. POWELL : Well, --

3 MR. MUNZ: Yeah, that's what I was --

4 MS. TURMAN : Can we do that?

5 (MULTIPLE DISCUSSIONS TAKING PLACE.)

6 MS. TURMAN : Okay. Our attorney says we  
7 can't.

8 HEARING OFFICER : I'm not your attorney.  
9 That man on the end is your attorney.

10 MS. TURMAN : Okay. That man on the end  
11 then. Can we re-address this?

12 MR. JOCHUMS : What do you want to re-  
13 address?

14 MS. TURMAN : I just want to know if she was  
15 practicing without a license, what time frame  
16 was she -- and going into homes?

17 MR. JOCHUMS : Pat, from what she said she  
18 had a license from October on and all this  
19 happened after October.

20 MR. MUNZ: Right.

21 MS. TURMAN : We're going --

22 MS. TRAYLOR : But she was going into homes.

23 MR. JOCHUMS : Including when she was going  
24 into homes.

25 MS. TURMAN : When she was going into homes,

1 would that license when she was going into the  
2 homes?

3 MR. JOCHUMS : No.

4 MS. TRAYLOR : No, it wouldn't.

5 MR. JOCHUMS : And I think that's probably  
6 why you fined her.

7 MR. KEENE : Yeah, but we fined her \$500  
8 bucks.

9 MS. TURMAN : I wanted to make sure we'd  
10 done that properly, too.

11 MR. JOCHUMS : Yeah. We're through with  
12 her. Now we're on the salon.

13 MS. TURMAN : I'm sorry.

14 MS. POWELL : So now that we have  
15 clarification on this issue of Ms. Munz and  
16 LaJoy has withdraw her second.

17 MS. TRAYLOR : She did? We didn't hear her.

18 MS. POWELL : Yes. She withdrew her second.  
19 Do you need to withdraw your motion?

20 MS. TRAYLOR : I will, but -- I don't --

21 MS. POWELL : Okay. Do I -- do we want to  
22 start all over now and make a motion now,  
23 please?

24 MS. PICKERING : I'd like to make a motion.

25 MS. POWELL : All right, Ms. Pickering.

1 MS. PICKERING : I'd like to make a motion  
2 finding that there is insufficient evidence to  
3 support the charges filed against the  
4 respondent in this matter. I move that this  
5 matter be dismissed.

6 MR. KEENE : I'll second it.

7 MS. POWELL : I have a motion and a second  
8 to dismiss Starlene Munz, salon owner. Is  
9 there any discussion?

10 (No response.)

11 MS. POWELL : All those in favor, raise your  
12 right hand.

13 (Show of hands.)

14 MS. POWELL : Four. All those opposed?

15 (Show of hands.)

16 MS. POWELL : Two. Any abstentions? One.  
17 Motion carries.

18 HEARING OFFICER : The decisions in these  
19 two matters in this hearing will be reduced to  
20 writing and sent to the respondents. If you  
21 wish to appeal the decision you may do so under  
22 the Administrative Procedures Act. And that  
23 concludes this.

24 MR. JOCHUMS : And the one that got a civil  
25 penalty needs to be sure to leave your Ohio

1 address here, so we can get all your  
2 correspondence to you.

3 MS. CURRY-CHIMES : Can I do that upstairs?

4 MR. JOCHUMS : Yes, you can do that  
5 upstairs.

6 HEARING OFFICER : At this time, unless  
7 there's further discussion, this hearing is  
8 closed. And I believe that is the conclusion  
9 of the hearings today.

10 MS. WITTUM : Thank you.

11 MR. JOCHUMS : Wait. We do have some more  
12 hearings.

13 (MULTIPLE DISCUSSIONS TAKING PLACE.)

14 MR. JOCHUMS : Let me propose that -- what I  
15 would like to propose -- actually, we have some  
16 people that didn't show today. We have -- now  
17 are two of those on a continuance?

18 MS. WITTUM : They are at the bottom, if you  
19 go on down past --

20 MR. JOCHUMS : If we grant those, does that  
21 take anybody off the list of the no-shows?

22 MS. WITTUM : No. I listed them separate.

23 MR. JOCHUMS : Okay. Let me go back. At  
24 your 9:00 hearing list that's in front of  
25 everybody, we can cross out 46 and 47, that we

1 had hearings on. HO#06-252 has been paid, so  
2 cross that off. Niki White, we had a hearing  
3 on. That's 372, cross that off. Nathan Dendy,  
4 I'm told paid, 06-373. Cross that one off.  
5 Then we had hearings of these last three cases,  
6 06-389, Rita Landis; and 06-390, Star Munz; and  
7 391, Sherry Chimes. If you cross all those  
8 off, we have the remaining hearing items. Now,  
9 I think that we can, for the purposes of  
10 handling these no-shows, state that the notice  
11 of hearing in each and every one of these cases  
12 contains a paragraph which reads, "(The  
13 person's name) may be heard in person or by  
14 counsel and may offer such witnesses,  
15 affidavits, documentary evidence and/or  
16 depositions in defense of the above charges as  
17 may be reasonably desired. The Board will  
18 consider Respondent's failure to appear at the  
19 hearing or to obtain a continuance as the  
20 desire not to contest the factual allegations  
21 contained in this notice. In that case, the  
22 Board may impose appropriate sanctions in the  
23 Respondent's absence." I believe with that  
24 statement in the notice of hearing that we can  
25 proceed to making findings that the allegations

1           have been proved in each of those cases and  
2           that the fine mentioned in the far right hand  
3           column be approved.

4           HEARING OFFICER : I think that all that  
5           would be required would be that --

6           MR. JOCHUMS : Just one motion.

7           HEARING OFFICER : One motion and actually  
8           testimony that some sort of proof was received  
9           by the board that these notices were actually  
10          received by these people.

11          MR. JOCHUMS : Okay.

12          HEARING OFFICER : I know they're sent with  
13          return notice required, so.

14          MR. JOCHUMS : Right. Kathy Wittum is the  
15          executive director.

16          HEARING OFFICER : She can probably testify  
17          to that.

18          MR. JOCHUMS : She's looking through the  
19          stack.

20          MS. WITTUM : Okay. I have three different  
21          stacks here. One is where the civil penalty  
22          certified receipt was accepted. One where it  
23          was returned unclaimed, but we sent it out  
24          regular mail. I think you told me that that's  
25          sufficient. And then we've got a small stack

1 here, where the certified has not been returned  
2 and we have not received it back from the post  
3 office. So these people we do not know for  
4 certain that they have received their notice.

5 MR. JOCHUMS : Why don't we cross them off  
6 the list.

7 HEARING OFFICER : So cross them off the  
8 list and then you would make a motion for  
9 everyone else.

10 MS. WITTUM : Okay. So that's 384, 380,  
11 379, --

12 MR. DOWNEY : Did you say 384?

13 MS. WITTUM : 384 --

14 MR. DOWNEY : I don't even have that listed  
15 on mine.

16 MS. POWELL : It's on the backside.

17 BOARD MEMBER: Yes, you do.

18 MS. WITTUM : It's on the backside.

19 BOARD MEMBER: You're way too far back.

20 MR. DOWNEY : Okay. Then they're not in  
21 numerical order?

22 MS. WITTUM : Yes, they are.

23 MS. GORDON: Yes, they are.

24 MR. DOWNEY: Okay. I got it.

25 MS. POWELL : 384, and 380, she said.



1 MS. WITTUM : And 379.

2 MS. POWELL : 379.

3 MS. WITTUM : And on the front page, 251 and  
4 250, 245 -- and that's it.

5 MS. POWELL : Yes, Mr. Downey?

6 MR. DOWNEY: Madam Chairman, I make a  
7 motion that we accept the penalties that have  
8 been marked for each of these individuals, plus  
9 a \$25.00 administration fee.

10 MS. TRAYLOR : I second that motion.

11 MS. POWELL : I have a motion and a second.  
12 Is there any discussion?

13 (No response.)

14 MS. POWELL : All those in favor, raise your  
15 right hand.

16 (Show of hands.)

17 MS. POWELL : It's unanimous. Motion  
18 carries.

19 MR. JOCHUMS : Okay. Then moving on to the  
20 section in bold in the middle of the second  
21 page, Respondents who have waived their right  
22 to a hearing. In fact in these cases, -- have  
23 these people actually paid?

24 MS. WITTUM : These people have paid.

25 MR. JOCHUMS : Okay. So they've not only

1 had notice, they've paid their penalty. And we  
2 just need a motion to approve the civil  
3 penalties received in each and every one of  
4 these cases.

5 MS. TRAYLOR : I so move.

6 MS. POWELL : I have a motion.

7 MR. KEENE : Second.

8 MS. POWELL : I have a motion and a second  
9 to approve. Is there any discussion?

10 (No response.)

11 MS. POWELL : All those in favor raise your  
12 right hand.

13 (Show of hands.)

14 MS. POWELL : It's unanimous. Motion  
15 carries.

16 MS. WITTUM : We'll leave those two to the  
17 September meeting.

18 MR. JOCHUMS : I don't think that we have  
19 anything else that requires the Hearing Officer  
20 or even the court reporter.

21 MS. POWELL : We're --

22 MS. WITTUM : We're done.

23 MR. JOCHUMS : We're done.

24 MS. POWELL : Hearing no further business,  
25 the meeting is adjourned.

1 (WHEREUPON, the proceedings of the meeting  
2 were concluded.)  
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STATE'S EXHIBIT "1"

HO#06-247: VINH LE

HO#06-246: XUAN NGUYEN

STATE'S EXHIBIT "1"

HO#06-372: NIKI WHITE d/b/a CUTTIN' UP

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RESPONDENT'S EXHIBIT "1"

HO#06-372: NIKI WHITE d/b/a CUTTIN' UP

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STATE'S EXHIBIT "1"

HO#06-389: RITA LANDIS d/b/a ALWAYS BEAUTIFUL

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STATE'S EXHIBIT "1"

HO#06-390: STARLENE MUNZ d/b/a STAR STUDIO

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STATE'S EXHIBIT "2"

HO#06-391: SHERRY CURRY-CHIMES

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