

SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND SHALONDA CAMPBELL

Come now Shalonda Campbell and the Missouri Board of Cosmetology and Barber Examiners ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's cosmetology student license will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's licenses, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

Licensee acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to present evidence on her own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against her and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her licenses. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to her.

Licensee acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline her license, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's cosmetology student license, numbered 2011035118 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2011 and Chapter 329, RSMo.

RECEIVED

FEB 17 2012

Missouri Board of Cosmetology
& Barber Examiners

Joint Stipulation of Fact and Conclusions of Law

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo Cum. Supp. 2011, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo (as amended).

2. On or about September 13, 2011, Campbell applied for a Missouri cosmetology student license to enroll at Elaine Steven Beauty College, 10420 West Florissant Road, St. Louis, Missouri. On her application, Campbell answered "yes" to the question "In the last ten (10) years have you been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, whether or not sentence was imposed?"

3. With her September 13, 2011 application and answer of "yes" to the question regarding criminal history, Campbell included a statement. Campbell stated: "I Shalonda D. Campbell was convicted of domestic assault second degree on 8/11/11 due to I was in an abuse relationship. I was protecting myself and my 3 children that was in the house with me. I did 120 days in St. Louis County Jail and I am currently on probation for 5 years. I was in school before all this happened at Forest Park with the intentions of enrolling in Elaine Steven Beauty College this Fall. When attending Forest Park my grades and attendance were good. I really enjoy doing hair and hope that you will understand my situation and give me this career opportunity."

4. A review of Missouri court records shows that on August 11, 2011, Campbell pled guilty to the class C felony of domestic assault in the second degree in the Circuit Court of St. Louis County, Missouri. The Court sentenced Campbell to seven years incarceration, execution of sentence suspended, and placed Campbell on five years probation supervised by Missouri Board of Probation and Parole.

5. On or about September 18, 2011, the Board issued Campbell a probated student cosmetology license to enroll at Elaine Steven Beauty College. The license was placed on probation for the entire training program, subject to standard terms of probation.

6. On or about October 14, 2011, Campbell applied for a student cosmetology license to enroll at National Academy of Beauty Arts, 157 Concord Plaza, Lower Level, St. Louis, Missouri. On her application, Campbell answered "no" to the question "In the last ten (10) years have you been adjudicated and found guilty,

RECEIVED
FEB 17 2012

Missouri Board of Cosmetology
& Barber Examiners

or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, whether or not sentence was imposed?"

II.

CONCLUSIONS OF LAW

7. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo 2000, which provides:

The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. The Board has cause to deny or refuse Campbell's application for a cosmetology student license pursuant to § 329.140.2, RSMo, which provides:

The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter[.]

9. As a result of Campbell's actions as set forth in paragraphs 2 through 6 above, the Board has cause to deny or refuse Campbell's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2) and (3), RSMo.

10. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary

RECEIVED
FEB 17 2012

action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

11. The Board issues this Order in lieu of denial of Campbell's application for a cosmetology student license. The Board has determined that this Order is necessary to ensure the protection of the public.

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000:

12. The terms of discipline shall include that the cosmetology student license be placed on PROBATION for the period during which she is enrolled in cosmetology school and receiving training hours, not to exceed five (5) years from the effective date of this Order. During Licensee's probation, Licensee shall be entitled to enroll as a cosmetology student, provided she adheres to all of the terms of his Settlement Agreement.

I. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall submit reports to the Missouri Board of Cosmetology and Barber Examiners, Post Office Box 1062, Jefferson City, Missouri 65102, stating truthfully whether she has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period. The first report shall be due July 1, 2012.
- C. Licensee shall keep the Board apprised of her current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Licensee shall comply with all provisions of the Chapter 329, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew her licenses and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's licenses in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes herself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 329, or fails to advise the Board of her current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 329.140.3, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor her compliance with the terms and conditions of this Settlement Agreement.

RECEIVED

FEB 17 2012

- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 329, RSMo, by Licensee not specifically mentioned in this document.

13. The parties to this Agreement understand that the Missouri Board of Cosmetology and Barber and Examiners will maintain this Agreement as an open record of the Board as provided in Chapters 329, 610, 324, RSMo.

14. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

15. Licensee, together with her heirs and assigns, and her attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

16. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to:

Administrative Hearing Commission, Truman State Office Building, Room 840, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

RECEIVED

FEB 17 2012

Missouri Board of Cosmetology
& Barber Examiners

17. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of act and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE

BOARD


Shalonda Campbell



Emily R. Carroll,
Executive Director
Missouri Board of Cosmetology and Barber Examiners

Date 02/13/12

Date 2/21/12

RECEIVED

FEB 17 2012

Missouri Board of Cosmetology
& Barber Examiners

000309 FEB 17 2012