

**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY
AND BARBER EXAMINERS AND GREGORY SHAW D/B/A LEGENDARY CUTZ**

Come now Gregory Shaw d/b/a Legendary Cutz ("Licensee") 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 barber establishment license will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's 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 Licensee and, subsequently, the right to a disciplinary hearing before the Board at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against Licensee's license. Being aware of these rights provided Licensee 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 Licensee.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

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 barber establishment license, number 2005009348, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621, 328, and 329, RSMo.

Joint Stipulations of Fact and Conclusions of Law

1. The Board of Cosmetology and Barber Examiners is an agency of the State of Missouri created and established pursuant to § 329.015, RSMo, and § 328.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Licensee holds a barber establishment license, license number 2005009348, and does business as Legendary Cutz located at 7214 N. Oak Trafficway, Kansas City, Missouri 64118 ("Legendary Cutz").

3. Licensee's establishment license is current and active.

4. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Chapter 621, RSMo, and § 328.150, RSMo.

5. On or about May 5, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

6. The Board's May 5, 2015 inspection revealed the following violation: backbars, workstations and/or rollabouts were not clean in that a station was covered in hair clippings and needed to be cleaned inside and out in violation of 20 CSR 2085-11.010.

7. On or about May 22, 2015, the Board sent Licensee a violation notice regarding the May 5, 2015 inspection.

8. On or about June 24, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

9. The Board's June 24, 2015 inspection revealed the following violations: backbars, work-stations and/or rollabouts were not clean in that a station needed to be cleaned inside and out; an unlicensed individual was providing and/or offering to provide services; all current operator licenses were not posted in public view; and an individual was operating a rental space without an establishment license in violation of § 328.115, RSMo, 20 CSR 2085-10.010, 20 CSR 2085-11.010, and 20 CSR 2085-10.060.

10. On or about July 7, 2015, the Board sent Licensee a violation notice regarding the June 24, 2015 inspection.

11. On or about August 7, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

12. The Board's August 7, 2015 inspection revealed the following violations: an unlicensed individual was providing and/or offering to provide services; all current operator licenses were not posted in public view; and an individual was operating a rental space without an establishment license in violation of § 328.115, RSMo, 20 CSR 2085-10.010, and 20 CSR 2085-10.060.

13. On or about August 13, 2015, the Board sent Licensee a violation notice regarding the August 7, 2015 inspection.

14. On or about September 11, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

15. The Board's September 11, 2015 inspection revealed the following violations: backbars, work-stations and/or rollabouts were not clean in that a station needed to be cleaned inside and out; an unlicensed individual was providing and/or offering to provide services; all current operator licenses were not posted in public view; and an individual was operating a rental space without an establishment license in violation of § 328.115, RSMo, 20 CSR 2085-10.010, 20 CSR 2085-11.010, and 20 CSR 2085-10.060.

16. On or about September 23, 2015, the Board sent Licensee a violation notice regarding the September 11, 2015 inspection.

17. On or about October 13, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

18. The Board's October 13, 2015 inspection revealed the following violations: the establishment license was not current and the expired establishment license posted in public view; clean tools were not in a closed container; a work station was not clean; and the floor was not free of accumulated hair clippings in violation of § 328.115, RSMo, 20 CSR 2085-10.010, and 20 CSR 2085-11.010.

19. On or about October 26, 2015, the Board sent Licensee a violation notice regarding the October 13, 2015 inspection.

20. On or about December 3, 2015, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

21. The Board's December 3, 2015 inspection revealed the following violations: a work station needed to be cleaned inside and out and the floor and a chair were not free of accumulated hair clippings in violation of 20 CSR 2085-11.010.

22. On or about December 17, 2015, the Board sent Licensee a violation notice regarding the December 3, 2015 inspection.

23. On or about January 5, 2016, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

24. The Board's January 5, 2016 inspection revealed the following violations: backbars, work-stations and/or rollabouts were not clean in that a station needed to be cleaned inside and out; an unlicensed individual was providing and/or offering to provide services; all current operator licenses were not posted in public view with a photo attached; and an individual was operating a rental space

without an establishment license in violation of § 328.115, RSMo, 20 CSR 2085-10.010, 20 CSR 2085-11.010, and 20 CSR 2085-10.060.

25. On or about January 21, 2016, the Board sent Licensee a violation notice regarding the January 5, 2016 inspection.

26. On or about March 23, 2016, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

27. The Board's March 23, 2016 inspection revealed the following violations: clippers had hair in them; the floor around a station was dirty; a work station needed to be cleaned inside and out; the container for waste hair was not covered; and the floor was not free of accumulated hair clippings in violation of 20 CSR 2085-11.010.

28. On or about April 15, 2016, the Board sent Licensee a violation notice regarding the March 23, 2016 inspection.

29. On or about May 5, 2016, the Board's inspector conducted an inspection at Legendary Cutz. The establishment was open at the time of the inspection.

30. The Board's May 5, 2016 inspection revealed the following violations: solution was not deep enough to immerse implements; clippers had hair in them; the floor was dirty; a work station needed to be cleaned inside and out; scissors and combs were left on a work station and needed to be cleaned and disinfected; and the floor was not free of accumulated hair clippings in violation of 20 CSR 2085-11.010.

31. Section 328.115.1, RSMo, states, in relevant part:

The owner of every establishment in which the occupation of barbering is practiced shall obtain a license for such establishment issued by the board before barbering is practiced therein[.]

32. Section 328.010(2), RSMo, defines a barber establishment as follows:

“Barber establishment”, that part of any building wherein or whereupon any occupation of barbering is being practiced including any space or barber chair rented within a licensed establishment by a person licensed under this chapter, for the purpose of rendering barbering services[.]

33. Regulation 20 CSR 2085-10.060 states, in relevant part:

(1) Pursuant to Chapters 328 and 329, RSMo, no barber or cosmetology establishment owner, manager, or proprietor shall permit any person who does not hold a current Missouri barber or cosmetology license to practice as a barber or cosmetologist in the establishment. No license or permit issued by the board shall be posted in a licensed establishment unless the license or permit is current and active, and the licensee or permit holder is an employee of the establishment or holds a current and active renter establishment license issued by the board.

(2) License Posted. Every licensed barber and cosmetologist shall post a current license issued by the board in front of the barber's working chair or the cosmetologist's work station where it shall be readily seen by all patrons.

(3) Prohibited Practices Within An Establishment. In a licensed establishment, only persons properly licensed by the board shall be allowed to perform barbering, hairdressing, manicuring, or esthetician services on any person within the establishment. The provisions of this section shall apply even if services are being provided for no compensation[.]

34. Regulation 20 CSR 2085-10.010 states, in relevant part:

(2) Rental Space/Chair Licensing. Any person licensed by the board who rents individual space or a booth/chair within a licensed establishment for the purposes of practicing as a barber or cosmetologist shall be required to obtain a separate establishment license for the rental space. Licensees that rent individual space or a booth/chair within a licensed barber or cosmetology establishment for the purposes of operating as a barber or cosmetologist must possess a current establishment license as well as an operator license. This section does not apply to licensees operating as establishment employees.

(E) Display of License. The current establishment license for the rental space/chair shall be posted in a conspicuous place at all times. The licensee's barber or cosmetology license shall also be posted at each respective work station.

(G) Except as provided herein, no person shall provide or offer to provide barber or cosmetology services at a rented space, booth or chair before an establishment license has been obtained as required by this rule. If barber or cosmetology services are performed or offered at the rented space or chair before an establishment license is issued as required by this section, a delinquent fee shall be assessed in addition to all other required licensure fees, and the board may take legal action pursuant to Chapters 328 and/or 329, RSMo.

(3) Display of License. Establishment licenses shall be posted within the establishment in plain view at all times so that it may be easily seen by the public. Establishment licenses issued to a station or booth rental establishment shall be posted in plain view at the respective work station.

(A) Operator licenses, apprentice licenses, or student temporary permits shall either be posted at each respective assigned work station or all posted together in one (1) conspicuous, readily accessible, central location within the establishment area that will allow easy identification of the persons working in the establishment by clients, board representatives, or the general public.

(B) A two inch square (2" × 2") photograph taken within the last five (5) years shall be attached to operator licenses. A two inch square (2" × 2") photograph taken within the last five (5) years shall be attached to apprentice licenses and student temporary permits.

(4) Renewals and Reinstatements.

(A) All existing, currently licensed establishments in Missouri shall submit on or before the renewal date, a completed establishment renewal application to the board with the biennial renewal fee. Renewal notices are sent out by the board as a courtesy. It is the responsibility of the holder(s) of the establishment license to renew the license by the

expiration date. Failure to receive a renewal notice does not relieve the holder(s) of this responsibility.

(B) Reinstatement of License. The holder(s) of an establishment license which has not been renewed by the renewal date shall be required to submit a late fee in addition to the biennial renewal fee in order to reinstate the license. The holder(s) of the establishment license who continues to operate although the license has not been renewed shall be subject to disciplinary action for operating an unlicensed establishment if the establishment license is not reinstated within fourteen (14) days following the mailing of a notice to the holder(s) or sixty (60) days from the renewal deadline, whichever is later, for operating an establishment without a license.

35. Regulation 20 CSR 2085-11.010 states, in relevant part:

(1) Physical facilities of barber establishments and schools shall consist of the following:

(A) Floors, Walls, Ceilings, Windows, Equipment and Contents. All floors, walls, ceilings, windows, equipment and contents shall be kept clean and in good repair. Use of cloth or plush-covered barber chairs is strictly prohibited;

...

(2) All barber establishments and schools shall comply with:

(A) Patron Protection:

...

5. All implements shall be disinfected after use on each patron (refer to subsection (2)(C));

...

(B) Covered Waste Receptacles. Every barber establishment or school shall be required to have a covered waste receptacle for the disposal of hair and debris, and a covered waste receptacle for soiled towels. Hair clippings shall be swept up and disposed of in a covered receptacle after each patron;

(C) Disinfecting and Storing Implements. All implements used in barbering shall be disinfected before use on each patron with an Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions. Every

barber establishment or school shall have a sufficient supply of disinfectant and disinfectant that shall immediately be replaced if it becomes contaminated. All supplies that cannot be disinfected shall be disposed of in a covered waste receptacle immediately after use. Implements not in use shall be stored in a disinfectant solution or in a clean, dust-tight cabinet or drawer. The following disinfectant procedures shall be followed:

1. For non-electrical:
 - A. Wash in soapy water;
 - B. Rinse in clean water;
 - C. Totally immerse in an EPA-registered disinfectant used according to manufacturer's instructions;
 - D. Dry with clean cloth or air dry; and
 - E. Store in clean, dust-tight cabinet or drawer; and

2. For electrical:
 - A. Remove all foreign matter;
 - B. Disinfect with EPA-registered disinfectant according to manufacturer's instructions;
 - and
 - C. Store in clean, dust-tight cabinet or drawer;

(I) Covered Waste Receptacles. Any barber establishment or school shall be required to have covered waste receptacles for the disposal of hair. Hair clippings shall be swept up and disposed of in a covered waste receptacle after each patron[.]

36. Licensee's conduct, as set forth above, constitutes a violation of, and/or assisting and/or enabling another to violate, Chapter 328, RSMo, and lawful regulations adopted pursuant to Chapter 328, RSMo, including § 328.115, RSMo, 20 CSR 2085-10.010, 20 CSR 2085-10.060, and 20 CSR 2085-11.010 for which the Board has cause to take disciplinary action against Licensee's barber establishment license pursuant to § 328.150.2(6), RSMo.

37. Licensee's conduct, as set forth above, constitutes misconduct, misrepresentation and/or dishonesty in the performance of the functions and/or duties of a barber establishment for which the Board has cause to take disciplinary action against Licensee's barber establishment license pursuant to § 328.150.2(5), RSMo.

38. Licensee's conduct, as set forth above, constitutes a violation of a professional trust and/or confidence for which the Board has cause to take disciplinary action against Licensee's barber establishment license pursuant to § 328.150.2(13), RSMo.

39. Licensee's conduct, as set forth above, constitutes a failure to display a valid license required by Chapter 328, RSMo, and the rules promulgated thereunder, for which the Board has cause to take disciplinary action against Licensee's barber establishment license pursuant to § 328.150.2(12), RSMo.

40. Licensee's conduct, as set forth above, constitutes a failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof for which the Board has cause to take disciplinary action against Licensee's barber establishment license pursuant to § 328.150.2(15), RSMo.

41. Cause exists for the Board to take disciplinary action against Licensee's barber establishment license under § 328.150.2(5), (6), (12), (13), and (15), RSMo, which states in pertinent part:

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 his certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

...

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

...

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

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 § 328.150, RSMo, and §621.045, RSMo:

1. The terms of discipline shall include that Licensee's barber establishment license, license number 2005009348, be **SUSPENDED** for two (2) days. During the period of suspension, Licensee shall not offer or engage in the practice of a barber establishment under Chapter 328, RSMo. Immediately following the suspension, Licensee's license shall be placed on **PROBATION** for a period of five (5) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to offer and engage in the practice of a barber establishment under Chapter 328, RSMo, provided Licensee adheres to all the terms of this Settlement Agreement.

I. SPECIFIC REQUIREMENTS

A. Licensee shall correct all violations noted on inspection dates May 5, June 24, August 7, September 11, October 13, and December 3, 2015 and January 5, March 23, and May 5, 2016 within 30 days of the date of execution of this Settlement Agreement.

II. 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 Licensee 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 January 1, 2017.

C. Licensee shall keep the Board apprised of Licensee's 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 Chapters 328 and 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 Licensee's license(s) and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license(s) in a current and active state.

F. If at any time during the disciplinary period, Licensee removes from the state of Missouri, ceases to be currently licensed under provisions of Chapters 328 and 329, or fails to advise the Board of Licensee's current place of business and residence, the time of Licensee's 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 § 328.150, RSMo.

G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor Licensee's compliance with the terms and conditions of this Settlement Agreement.

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 revocation.

I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapters 328 and 329, RSMo, by Licensee not specifically mentioned in this document.

2. The parties to this Agreement understand that the Missouri Board of Cosmetology and Barber Examiners will maintain this Agreement as an open record of the Board as provided in Chapters 328, 329, 610 and 324, RSMo.

3. 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.

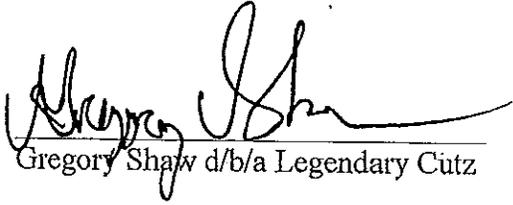
4. Licensee, together with Licensee's heirs and assigns, and Licensee's attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, 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.

5. 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, United States Post Office Building, Third Floor, 131 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

6. 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 fact and conclusions of law stating that the facts

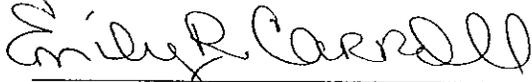
agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE


Gregory Shaw d/b/a Legendary Cutz

Date 9-15-16

BOARD


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

Date 9/19/2016