

SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND SALON BELLEZZIO, DEBORAH L. WILLIAMS, OWNER

Come now Salon Bellezzio, Deborah L. Williams, Owner (collectively, "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 cosmetology 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 the Licensee's licenses, 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 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 Licensee.

Licensee acknowledges that Licensee has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline Licensee's 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 establishment license, license number 2009007737, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 329, RSMo.

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

Joint Stipulation of Fact and Conclusions of Law

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

2. Licensee holds a cosmetology establishment license issued by the Board on or about March 27, 2009, License No. 2009007737 for Salon Bellezzio. Salon Bellezzio is located at 1755 NW Burdett Crossing, Blue Springs, Missouri. Licensee's Missouri license establishment license is, and was at all times relevant herein, current and active.

3. On or about December 23, 2010, the Board's inspector inspected Salon Bellezzio. The salon was open and offering services. The Board's inspection identified the following violations: operators were performing services without proper licensure and not all operator licenses were posted in violation of 20 CSR 2085-10.010. The inspection report also stated that licensee Danielle Martin was providing pedicure services for compensation without holding a manicurist license. Additionally, one operator was operating without a rental license. The inspection report also stated that all unlicensed activity was to cease immediately and that all licensees should have a photo attached and in public view.

4. On or about February 17, 2011, the Board sent Licensee a violation notice following the December 23, 2010 inspection. The violation notice stated that all licensees must have their license posted in public view. The violation notice also stated that Martin was providing pedicure services for compensation without proper licensure in violation of § 329.030, RSMo. Finally, the violation notice instructed Licensee to correct all violations immediately.

5. On or about March 14, 2011, the Board's inspector inspected Salon Bellezzio. The salon was open and offering services. The Board's inspection revealed the following violations: operator licenses were not posted with a photo and not all operators performing services were licensed in violation of 20 CSR 2085-10.010. The inspection report also stated that the operator licenses for Sarah O'Dell and Tammy Rollins were not posted prior to providing services. Additionally, Ann Baldwin was found providing pedicure services at the time of the inspection without a manicurist license. Finally, according to the appointment book, O'Dell and Martin had

pedicure services scheduled, and rendered pedicure services, without proper licensure. The inspection report also stated that the violations from the December 23, 2010 inspection had not been corrected.

6. On or about April 5, 2011, the Board sent Licensee a violation notice following the March 14, 2011 inspection. The violation notice stated that all licensees must have their license posted in public view. The violation notice also stated that only class CA and class MO licensees can provide manicure and pedicure services and to allow others to do so is in violation of § 329.030, RSMo. Finally, the violation notice instructed Licensee to correct all violations immediately.

7. On or about May 27, 2011, the Board's inspector inspected Salon Bellezzio. The salon was open and offering services. The Board's inspection revealed the following violations: not all operators performing services were licensed in violation of 20 CSR 2085-10.010. According to the appointment book, licensees Baldwin and Martin were performing pedicure services, and had other pedicure appointments scheduled, without having the proper level of licensure. The inspection report stated that the Board's inspector instructed the licensees to cease and desist unlicensed activity. The inspection report stated that the Board's inspector spoke with Martin about the activity but she stated the master owner (Deborah Williams) instructed them to continue offering pedicure services. The inspection report noted that Martin returned to the pedicure customer in the chair.

8. On or about February 17, 2012, the Board's inspector inspected Salon Bellezzio. The salon was open and offering services. The Board's inspection revealed the following violations: eleven operators were present when the salon is only licensed for eight operators in violation of § 329.045, RSMo and 20 CSR 2085-10.010; not all operator licenses were current or posed with a photo in public view in violation of 20 CSR 2085-10.010 and not all individuals performing services were licensed to perform those services in violation of 20 CSR 2085-10.010. The inspection report stated that the Board's inspector left additional operator license forms at the time of the inspection. The inspection report also stated that licensees Martin, Baldwin and Trueblood had expired class E licenses which were not current due to non-renewal. Additionally, Martin was found performing nail services at the time of the inspection when she does not have the correct level of licensure for that.

9. On or about May 16, 2012, the Board sent Licensee a violation notice following the February 17, 2012 inspection. The violation notice stated that all licensees must have their license posted in public view.

The violation notice also stated that only class CA and class MO licensees can provide manicure and pedicure services and to allow others to do so is in violation of § 329.030, RSMo. The violation notice stated that Martin's Baldwin's and Truebloods' operator licenses were expired due to non-renewal and needed to be reinstated. Finally, the violation notice instructed Licensee to correct all violations immediately.

10. On or about June 26, 2012, the Board's inspector conducted an inspection at Salon Bellezzio. The salon was open and offering services. The Board's inspection revealed the following violations: not all operator licenses were current in violation of 20 CSR 2085-10.010. The inspection report stated that Martin's and Baldwin's class E operator licenses were expired based on non-renewal, however, both had their 2011 licenses posted in public view. Martin was present at the time of the inspection but was not providing services. The inspection report stated that the Board's inspector left reinstatement forms and instructed them to post current licenses prior to providing services.

11. Section 329.030, RSMo states, in relevant part:

It is unlawful for any person in this state to engage in the occupation of cosmetology or to operate an establishment or school of cosmetology, unless such person has first obtained a license as provided by this chapter.

12. Section 329.045, RSMo states, in relevant part:

1. Every establishment in which the occupation of cosmetology is practiced shall be required to obtain a license from the board. Every establishment required to be licensed shall pay to the board an establishment fee for the first three licensed cosmetologists[,] esthetician and/or manicurists, and/or apprentices and an additional fee for each additional licensee. The fee shall be due and payable on the renewal date and, if the fee remains unpaid thereafter, there shall be a late fee in addition to the regular establishment fee or, if a new establishment opens any time during the licensing period and does not register before opening, there shall be a delinquent fee in addition to the regular establishment fee. The license shall be kept and posted in plain view within the establishment at all times.

13. 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.

(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[.]

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

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

15. As a result of Licensee's actions, as described in paragraphs 3 through 10 above, Licensee violated provisions of chapter 329 and lawful regulations adopted pursuant to chapter 329, RSMo, as detailed in paragraphs 11 through 14, for which the Board has cause to take disciplinary action against Licensee's establishment and cosmetology licenses.

16. Cause exists for the Board to take disciplinary action against Licensee's establishment license and operator license under § 329.140.2(6) and (10), 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 the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(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;

...

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter[.]

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:

17. The terms of discipline shall include that the cosmetology establishment license be placed on **PROBATION** for a period of three (3) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to offer and engage in the practice of a cosmetology establishment under Chapter 329, RSMo, provided Licensee adheres to all of the terms of this Settlement Agreement.

I. SPECIFIC REQUIREMENTS

- A. Licensee shall employ only individuals licensed by the Board pursuant to Chapters 328 and 329, RSMo. All individuals not currently holding a license shall obtain an operator license from the Board within thirty (30) days of the execution of this 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 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, 2011.
- 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.

...

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter[.]

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I. SPECIFIC REQUIREMENTS

- A. ~~Licensee shall correct all licensure violations as described in paragraphs 3 through 5 above including reinstating the establishment license for Textures Hair Salon and the operator licenses for Connie Lindsey and Leisia Powers-Marsh. Licensee shall cease and desist from offering or providing services at Textures Hair Salon until Licensee reinstates the establishment license for Textures Hair Salon. Licensee shall pay any delinquency fee owed to the Board.~~
- B. Licensee shall employ only individuals licensed by the Board pursuant to Chapters 328 and 329, RSMo. All individuals not currently holding a license shall obtain an operator license from the Board within thirty (30) days of the execution of this Agreement.

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- 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.
- 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.

18. 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 329, 610, 324, RSMo.

19. 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.

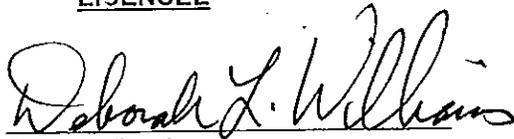
20. Licensee, together with her heirs and assigns, and her attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability,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

21. 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 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

22. 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



Salon Bellezzio
Deborah L. Williams, Owner

Date 1-2-13

BOARD



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

Date 1/7/2013

RECEIVED

JAN 07 2013

Missouri Board of Cosmetology
& Barber Examiners