**SETTLEMENT AGREEMENT BETWEEN THE STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND MICHELLE'S NEW IMAGE, MICHELLE TAYLOR, OWNER**

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Michelle's New Image, by Michelle Taylor, owner, ("Petitioner") and the State Board of Cosmetology and Barber Examiners ("Board") enter into this Settlement Agreement ("Agreement") for the purpose of resolving the question of whether Petitioner's cosmetology establishment license and class CA cosmetologist license will be subject to discipline. Petitioner shall receive a probated license by the Board.

Pursuant to § 536.060, RSMo, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri, and additionally, the parties hereto waive the right to a disciplinary hearing before the Board under § 621.110, RSMo. Petitioner and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

Petitioner acknowledges that she understand the various rights and privileges afforded by law, including the right to a hearing of the claims against her; the right to appear and be represented by legal counsel; the right to have all claims 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 behalf at the hearing; the right to ruling on questions of law by the Administrative Hearing Commission; the right to a decision based upon the record of the hearing by a fair and impartial Administrative Hearing Commission concerning the claims pending against her; the right to a disciplinary hearing before the Board at which time Petitioner may present evidence in mitigation of discipline; and the right to obtain judicial review of the decision of the Administrative Hearing Commission and the Board. Being aware of these rights provided to them by law, Petitioner knowingly and voluntarily waives each

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and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of the this document as those terms pertain to her.

Petitioner acknowledges that the Board and its attorney followed the procedure enumerated in § 621.045, RSMo, including, but not limited to providing Petitioner with a written description of the specific conduct for which discipline is sought and citations to the law and rules violated, together with copies of any documents which form the basis thereof.

For the purpose of settling this dispute, Petitioner stipulates her establishment license, numbered 045861, and her individual cosmetology license, numbered 083676, are subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 329, RSMo.

The parties stipulate and agree that the disciplinary order agreed to by the Board and Petitioner in Part II herein is based only on the agreed upon stipulation of facts and conclusions of law set out in Part I herein. Petitioner understands that the Board may take further disciplinary action against Petitioner's licenses based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

Based upon the foregoing, the Board and Petitioner stipulate to the following:

## JOINT STIPULATION OF FACTS & CONCLUSIONS OF LAW

1. The Board is an agency of the State of Missouri created and existing pursuant to §328.015, RSMo, for the purpose of executing and enforcing the provisions of §§ 328 and 329, RSMo, relating to Barbers and Barber Colleges.

2. Petitioner holds a cosmetology establishment license issued by the Board on or about June 10, 1994, License No. 045861 for Michelle's New Image. Michelle's New Image is located at 7040 West Florissant, St. Louis, MO. Petitioner also holds a class CA cosmetologist license,

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issued by the Board on or about May 24, 1987. License No. 083676. Petitioner's Missouri license establishment license and cosmetologist license were at all times relevant herein, and are now, current and active.

3. On or about September 28, 2011, the Board received a complaint from S.G. about services she received from a Madronica Owens at Michelle's New Image. S.G. alleged in her complaint that Owens was her stylist at Michelle's New Image. S.G. stated she went to Michelle's New Image for a relaxer, Madronica Owens put the relaxer on her head and then left the shop. S.G. stated her head started burning but Owens had not returned. S.G. stated that Petitioner then approached her and S.G. told Petitioner that her head was burning. Petitioner then proceeded to wash S.G.'s hair with water only, which S.G. stated allowed the relaxer to keep working, and stated that Owens would return. S.G. stated that she sat under the shampoo bowl for about ten minutes before Owens came back. S.G. stated Owens then washed her hair. She stated she had been talking to the owner of the beauty shop next door. S.G. stated that after the visit, her hair was over-processed because Petitioner only washed her hair with water and Owens left the salon. S.G. stated her scalp itched, burned, swelled and her hair "shredded.". She stated when she returned to the salon, Petitioner stated that S.G.'s hair was over-processed but did not accept responsibility. Petitioner also stated that Owens was working that day without a license.

4. Owens holds an expired student barber license, license number 2008009392. The Board issued the student barber license on April 1, 2008 for Antonio's Barber College. The Board terminated the license on November 18, 2008, the date Owens received her diploma. Owens does not hold a current and valid cosmetologist license.

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5. 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 posted in plain view within the establishment at all times.

6. 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[.]

7. Regulation 20 CSR2085-10.010 states, in relevant part:

(3) Display of license. Establishment licenses shall be posted within the establishment in plain view at all times so that tit 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.

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8. As a result of the facts described in paragraphs 3 through 4 above, in violation of the statutes and regulations contained in paragraphs 5 through 7, Petitioner violated chapter 329, RSMo and lawful regulations adopted pursuant to chapter 329, RSMo, for which the Board has cause to take disciplinary action against Petitioner's beauty/barber establishment license.

9. Cause exists for the Board to take disciplinary action against Petitioner's beauty/barber establishment 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 his certificate of registration or authority, permit or license for anyone or any combination of the following causes:
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> . . . .
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> (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;
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> . . . .
>
> (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[.]

## JOINTLY AGREED UPON DISCIPLINARY ORDER

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

10. The terms of discipline shall include that the cosmetology establishment license and class CA cosmetology license, be placed on **PROBATION** for a period of three (3) years

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("disciplinary period"). During Petitioner's probation, Petitioner shall be entitled to offer and engage in the practice of cosmetology under chapters 329, RSMo, provided Petitioner adheres to all the terms of this Settlement Agreement, including the specific and general requirements set forth below.

11. SPECIFIC REQUIREMENTS:

Petitioner shall employ only Missouri licensed operators, 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.

12. GENERAL REQUIREMENTS

a. Petitioner 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. Petitioner shall submit reports to the Missouri Board of Cosmetology and Barber Examiners, Post Office Box 1062, Jefferson City, Missouri 65102, stating truthfully whether Petitioner 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, 2013.

c. Petitioner shall keep the Board apprised of Petitioner's current home and work addresses and telephone numbers. Petitioner shall inform the Board within ten days of any change of home or work address and home or work telephone number.

d. Petitioner 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, Petitioner shall timely renew Petitioner's licenses and timely pay all fees required for licensing and comply with all other Board requirements necessary to maintain Petitioner's licenses in a current and active state.

f. If at any time during the disciplinary period, Petitioner removes Petitioner from the state of Missouri, ceases to be currently licensed under provisions of Chapter 329, or fails to advise the Board of Petitioner's current place of business and residence, the time of Petitioner'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 § 329.140.3, RSMo.

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

h. If Petitioner 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 Chapters 329, RSMo, by Petitioner not specifically mentioned in this document.

13. Upon the expiration of the probationary period, Petitioner, Michelle Owens, establishment license numbered 045861, and individual cosmetology license numbered 083676, shall be fully restored if all requirements of law and the terms and conditions of this Agreement have been satisfied.

14. If any alleged violation of this Agreement occurs during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it, either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred. Petitioner agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

15. No additional discipline shall be entered by the Board pursuant to the preceding paragraph of this Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 329, RSMo.

16. If the Board determines that Petitioner has violated a term or condition of this Agreement, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the Circuit Court, the Board may, in its direction, vacate and set aside the discipline imposed herein and impose such further discipline as the Board deems appropriate and may elect to pursue any lawful remedies or procedures afforded it, and the Board is not

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bound by this Agreement in its determination of appropriate legal actions concerning such violation.

17. The parties to this Agreement understand that the Board will maintain this Agreement as an open and public record of the Board as required by Chapters 328, 329, 610, and 324, RSMo.

18. The terms of this Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this 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.

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

20. Petitioner understands that he may, either at the time the Agreement is signed by all parties, or within fifteen (15) days thereafter, submit the Agreement to the Administrative

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Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Petitioner. If Petitioner desires the Administrative Hearing Commission to review this Agreement, Petitioner may submit her request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P. O. Box 1557, Jefferson City, Missouri 65101.

21. If Petitioner has requested review, this Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Agreement sets forth cause for disciplining Petitioner. If Petitioner has not requested review, this Agreement becomes effective fifteen (15) days after the document is signed by the Executive Director of the Board.

**PETITIONER**

Michelle Taylor 1-2-13

Michelle's New Image — Date
Michelle Taylor, Owner

**STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS**

Emily R Carroll 5/1/2013

Emily Carroll — Date
Executive Director

Respectfully submitted,
**TINA M. CROW HALCOMB, L.L.C.**

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