SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND THE HOOD BARBERSHOP, LEONARD COOPER, OWNER

Come now The Hood Barbershop, Leonard Cooper, 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 barber establishment and barber operator licenses 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 he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his 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 him 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 his licenses. Being aware of these rights provided him 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 him.

Licensee acknowledges that he has received a copy of the inspection reports and other documents relied upon by the Board in determining there was cause to discipline his licenses, 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 barber establishment license,

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

numbered 2009006588 and barber operator license, numbered 2004019255 are subject to disciplinary action by the Board in accordance with the provisions of Chapters 621, 328 and 329, RSMo.

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 barber establishment license issued by the Board, license No. 2009006588 for The Hood Barbershop. The Hood Barbershop is located at 5900 Vivion Road, Kansas City, Missouri. Licensee's Missouri barber establishment license is now current and active.

3. Licensee holds a barber operator license issued by the Board, license number 2004019255. Licensee's barber operator license is now current and active.

4. On or about September 29, 2011, the Board's inspector conducted an inspection of The Hood Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violations: the barber chairs had tears in the vinyl and needed repairing, the floor going into the restroom was falling in and needed repairing; the workstation and floor had hair on and around it which needed to be cleaned up, all in violation of 20 CSR 2085-11.010.

5. On or about December 14, 2011, the Board sent Licensee a violation notice following the September 29, 2011 inspection. The inspection notice identified the violations from the September 29, 2011 inspection report and instructed Licensee to correct all violations immediately.

6. On or about January 13, 2012, the Board's inspector conducted an inspection of The Hood Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violation: the floor near the restroom was damaged and in need of repair in violation of 20 CSR 2085-11.010. Additionally, Licensee's establishment license and operator license were expired due to non-renewal and therefore were not current in violation of §§ 328.020, 328.080 and 328.115, RSMo, and 20 CSR 2085-10.010.

7. On or about February 7, 2012, the Board sent Licensee a violation notice following the January 13, 2012 inspection. The inspection notice identified the violation from the January 13, 2012 inspection report and instructed Licensee to correct all violations immediately.

8. On or about February 29, 2012, the Board's inspector conducted an inspection of The Hood Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violation: the floor near the restroom was damaged and in need of repair in violation of 20 CSR 2085-11.010. The inspection report also stated that the floor was in the process of repair. Additionally, Licensee's establishment license and operator license were expired due to non-renewal and therefore were not current in violation of §§ 328.020, 328.080 and 328.115, RSMo, and 20 CSR 2085-10.010.

9. Licensee reinstated his barber operator license on or about March 16, 2012 and his establishment license on or about March 14, 2012.

10. On or about March 28, 2012, the Board sent Licensee a violation notice following the January 13, 2012 inspection. The inspection notice identified the violation from the February 29, 2012 inspection report and instructed Licensee to correct all violations immediately.

11. On or about April 24, 2012, the Board's inspector conducted an inspection of The Hood Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violations: no EPA registered disinfectant was available in the establishment, the disinfectant jar was empty and therefore not deep enough to immerse the implements, and the barber chair was torn and in need of repair in violation of 20 CSR 2085-11.010.

12. On or about June 7, 2012, as a result of the inspections described in paragraphs 4, 6, 8 and 11 above, the Board invited Licensee to its sanitation workshop on June 25, 2012. Licensee did not attend the sanitation workshop.

13. On or about July 11, 2012, the Board inspector conducted an inspection of The Hood Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violations: the shampoo bowl was broken and the drain pipe was not connected in violation of 20 CSR 2085-11.010.

14. Section 328.020, RSMo, states, in relevant part:

> It shall be unlawful for any person to practice the occupation of a barber in this state, unless he or she shall have first obtained a license, as provided in this chapter.

15. Section 328.080, RSMo, states, in relevant part:

1. Any person desiring to practice barbering in this state shall make application for a license to the board and shall pay the required barber examination fee.

2. The board shall examine each qualified application and, upon successful completion of the examination and payment of the required license fee, shall issue the applicant a license authorizing him or her to practice the occupation of barbering in this state[.]

16. Section 328.115, RSMo, states, in relevant part:

1. 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. A new license shall be obtained for a barber establishment within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure, established under subsection 2 of this section, for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.

17. 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" × 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.

18. 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;

...

(D) Water Supply and Waste Disposal. Hot (not to exceed one hundred twenty degrees (120°) Fahrenheit) and cold water must be available to all lavatories and shampoo bowls at all times. Lavatories and shampoo bowls shall be provided with soap (liquid or powder) and paper towels;

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

(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[.]

19. As a result of the violations, as described above in paragraphs 4 through 13, The Hood Barbershop violated chapter 328, RSMo, and lawful regulations adopted pursuant to chapter 328, RSMo, as described above in paragraphs 14 through 18 for which the Board has cause to take disciplinary action against Licensee's establishment and operator licenses.

20. Cause exists for the Board to take disciplinary action against Licensee's establishment license under § 328.150.2(6) and (15), and 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;

...

(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 § 621.045.3, RSMo 2000:

21. The terms of discipline shall include that the barber establishment license, license number 2009006588 and the barber operator license, license number 2004019255, 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 barbering under Chapter 328, RSMo, provided he adheres to all of the terms of his Settlement Agreement.

I. SPECIFIC REQUIREMENTS

A. Licensee shall correct all sanitation violations within 30 days of the date of 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 he 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. Licensee shall keep the Board apprised of his 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 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 his license(s) 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 himself from the state of Missouri, ceases to be currently licensed under provisions of Chapters 328 and 329, or fails to advise the Board of his 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 his 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 Chapters 328 and 329, RSMo, by Licensee not specifically mentioned in this document.

22. 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.

23. 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.

24. Licensee, together with his heirs and assigns, and his 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.

25. 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.**

26. 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

Leonard Cooper
The Hood Barbershop
Leonard Cooper, Owner

Leonard Cooper
Leonard Cooper

Date 1-2-13

BOARD

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

Date 1/8/2013

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Missouri Board of Cosmetology
& Barber Examiners

BEFORE THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS, Petitioner,	)	
v.	)	Case No. 14-002 PV
LEONARD COOPER, d/b/a THE HOOD BABERSHOP, Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DISCIPLINARY ORDER

At its regularly scheduled meeting on January 26, 2015, at approximately 9:00 a.m., and pursuant to notice described in the Findings of Fact, the Missouri State Board of Cosmetology and Barber Examiners ("Board") took up the probation violation complaint alleging that The Hood Barbershop, Leonard Cooper, Owner (collectively, "Respondent"), has failed to comply with the terms of probation of Respondent's probationary barber operator license, license number 2004019255 and Respondent's probationary barber establishment license, license number 2009006588.

The Board appeared at the hearing through its attorney Jamie Cox. Despite adequate notice, Respondent did not appear individually or by legal counsel at the January 26, 2015 hearing. Division of Professional Registration Chief Legal Counsel Sarah Ledgerwood served as the Board's legal advisor at the hearing, during deliberations.

Findings of Fact

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

2. Respondent is a natural person whose address of record for the Board is 6000 Freeman Avenue, Kansas City, Kansas 66102,

3. Respondent holds a probationary barber operator license issued by the Board, license number 2004019255. Respondent's probationary barber operator license was not at all relevant times, current and valid.

4. Respondent holds a probationary barber establishment license issued by the Board, license number 2009006588. Respondent's probationary barber establishment license was not at all relevant times, current and valid.

5. Respondent owns and operates a barber establishment, The Hood Barbershop, located at 5900 Vivian Road, Kansas City, Missouri 64119.

6. Respondent's probationary barber operator license was placed on probation on or about January 8, 2013, by a Settlement Agreement entered into between the Board and Respondent, because of licensing and sanitation violations found at the establishment.

7. During the probationary period, Respondent was entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided that Respondent adhere to all of the terms and conditions of the January 8, 2013 Settlement Agreement.

8. The January 8, 2013 Settlement Agreement states, on page 6, paragraph B, that Respondent, identified as Licensee, during the disciplinary period, shall comply with all provisions of Chapters 328 and 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws.

9. The January 8, 2013 Settlement Agreement states, on page 6, paragraph D, that Respondent, identified as Licensee, during the disciplinary period, shall comply with all provisions of Chapters 328 and 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws.

10. On or about October 24, 2013, the Board's inspector conducted an inspection of The Hood Barbershop, which revealed that Respondent had not renewed his probationary barber operator and barber establishment licenses and no current licenses were posted, in violation of 20 CSR 2085-10.010(4)(B), 20 CSR 2085-10.010(3), 20 CSR 2085-10.010(3)(A) and 20 CSR 2085-5.040(2)(A).

11. On or about December 5, 2013, the Board sent Respondent a Violation Notice for the violations found during the October 24, 2013 inspection and indicating that all violations must be corrected immediately.

12. On or about January 21, 2014, Respondent was issued another Violation Notice from the Board, informing him that he failed to provide the Board with a timely submitted report of compliance, which was due by January 1, 2014.

13. On or about March 19, 2014, the Board's inspector conducted an inspection of The Hood Barbershop which revealed that Respondent had not renewed his barber establishment license, though the establishment continued to operate, in violation of 20 CSR 2085-11.010(4)(B).

14. On or about March 19, 2014, the Board's inspector conducted an inspection of The Hood Barbershop which revealed that Respondent had not renewed his barber operator license, though operator services continued to be performed, in violation of 20 CSR 2085-5.040(2)(A).

15. On or about March 19, 2014, the Board's inspector conducted an inspection of The Hood Barbershop which revealed that the disinfectant solution was not deep enough to immerse implements to guarantee proper sanitization, a violation of 20 CSR 2085-11.010(2)(D).

16. On or about March 19, 2014, the Board's inspector conducted an inspection of The Hood Barbershop which revealed that the floors, walls, ceilings, windows, equipment and contents were not clean and in good repair, a violation of 20 CSR 2085-11.010(1)(A).

17. On or about March 19, 2014, the Board's inspector conducted an inspection of The Hood Barbershop which revealed that there were no bandages and/or liquid or spray stypic/antiseptic available, a violation of 20 CSR 2085-11.010(2)(H).

Conclusions of Law

18. The Board has jurisdiction in this proceeding, pursuant to the January 8, 2013 Settlement Agreement and § 324.042 RSMo, to determine whether Respondent has violated the terms and conditions of the January 8, 2013 Settlement Agreement for his probationary barber establishment license and his probationary barber operator's license.

19. Section 324.042 RSMo provides:

> Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be

authorized to impose in an initial disciplinary hearing.

20. Respondent violated the terms of probation set forth in the January 8, 2013 Settlement Agreement, as described in the Findings of Fact of this Order.

21. The January 8, 2013 Settlement Agreement and § 324.042, RSMo, allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of January 8, 2013 Settlement Agreement as described in the Findings of Fact of this Order.

Decision and Order

22. It is the decision of the Missouri State Board of Cosmetology and Barber Examiners that Respondent has violated the terms of the January 8, 2013 Settlement Agreement and Respondent's probationary barber operator license, license number 2004019255 and Respondent's probationary barber establishment license, license number 2009006588, therefore, are subject to further disciplinary action.

23. The Missouri State Board of Cosmetology and Barber Examiners orders that Respondent's probationary barber operator license, license number 2004019255 and Respondent's probationary barber establishment license, license number 2009006588, which are currently on probation until January 23, 2016, be placed on **PROBATION** for a period of two (2) additional years. The additional years will conclude January 23, 2018. Respondent 's entire period of probation is subject to the terms and conditions set forth below.

Terms and Conditions

During the aforementioned probation, Respondent shall be subject to the following terms and conditions:

A. Respondent shall appear at the next in-person meeting of the Board and shall, during the disciplinary period, appear in person for interviews with the Board or its designee upon request.

B. During the disciplinary period, Respondent shall comply with all provisions of Chapters 328 and 329, RSMo (as amended), all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

C. During the probation period, Respondent shall keep the Board informed of Respondent's current home and work telephone numbers. Respondent shall notify the Board in writing within ten days (10) of any change in this information.

D. During the probationary period, Respondent shall timely renew Respondent's probationary barber establishment license and probationary barber operator license and shall timely pay all fees

required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.

E. During the probationary period, Respondent shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.

F. Respondent shall continue to submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The next such report shall be received by the Board on or before July 1, 2015.

G. If, at any time during the probationary period, Respondent changes Respondent's address from the state of Missouri, or ceases to maintain his barber establishment license current or active under the provisions of Chapters 328 and 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.

H. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.

I. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.

J. Any failure by Respondent to comply with any condition of discipline set forth herein constitutes a violation of this Order.

24. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 328, 329, 610, and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 25th DAY OF March, 2015.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Emily R. Carroll

Emily R. Carroll, Executive Director