

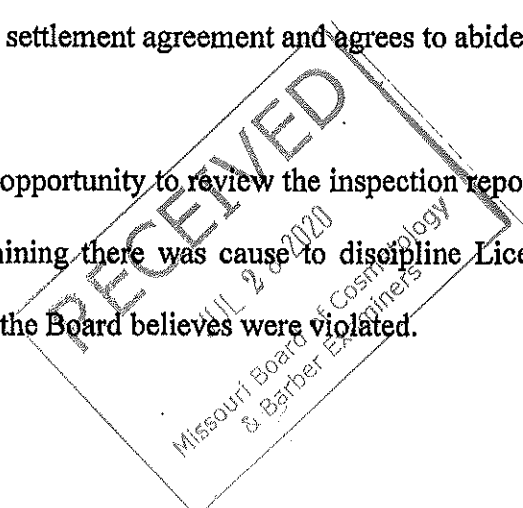
**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND
BARBER EXAMINERS AND KINETIC KUTS, LLC**

Come now Kinetic Kuts, LLC ("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, the parties 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.

Licensee acknowledges that Licensees had the opportunity to review the inspection reports and other documents relied upon by the Board in determining there was cause to discipline Licensee's licenses, along with citations to law and/or regulations the Board believes were violated.



For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's cosmetology establishment license, license number 2006013443, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 329, RSMo.

Joint Stipulation of Facts 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 cosmetology establishment license, license number 2006013443, which was issued by the Board located at 1912 Star Drive, Liberty, Missouri 64068. Licensee's cosmetology establishment license is current and active, and was so at all times relevant herein.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to Chapter 621, RSMo, and § 329.140, RSMo.

4. On or about November 21, 2019, the Board's inspector conducted an inspection of the establishment.

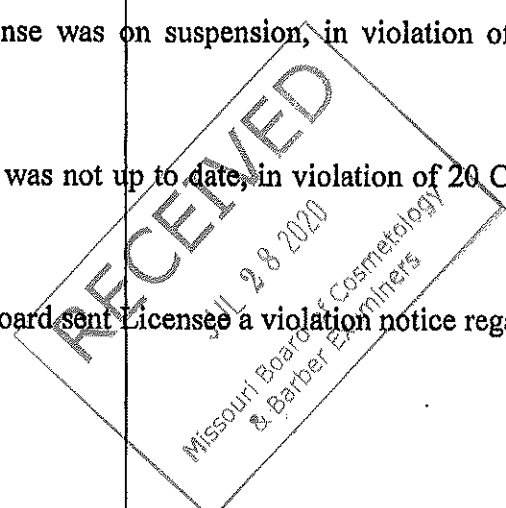
5. The Board's inspection revealed the following violations of Missouri regulations:

(a) There was no photo attached to Hannah Johnson's posted operator license, in violation of 20 CSR 2085-10.010(3);

(b) Haley Walton's operator license was on suspension, in violation of 20 CSR 2085-10.060(3); and,

(c) The employee reporting form was not up to date, in violation of 20 CSR 2085-10.030(1).

6. On or about December 5, 2019, the Board sent Licensee a violation notice regarding the November 21, 2019 inspection.



7. On or about January 22, 2020, the Board's inspector conducted an inspection of the establishment.

8. The Board's inspection revealed the following violations of Missouri regulations:

(a) The bathroom sink and closet in the shampoo room were dirty, and the faucet in the bathroom was not in good repair, in violation of 20 CSR 2085-11.020(1)(B);

(b) Haley Walton's operator license was on suspension, in violation of 20 CSR 2085-10.060(3);

(c) Soiled towels were not in a closeable leak-proof container, in violation of 20 CSR 2085-11.020(2)(A)(3);

(d) Haley Walton's posted operator license was suspended, in violation of 20 CSR 2085-10.060(1); and,

(e) The employee reporting form was not up to date, in violation of 20 CSR 2085-10.030.

9. On or about January 29, 2020, the Board sent Licensee a violation notice regarding the January 22, 2020 inspection.

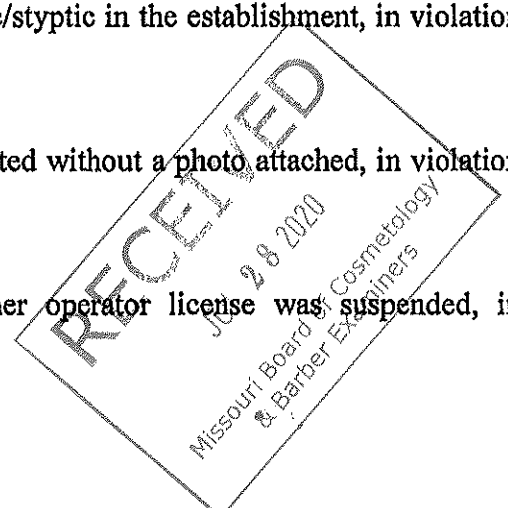
10. On or about February 20, 2020, the Board's inspector conducted an inspection of the establishment.

11. The Board's inspection revealed the following violations of Missouri regulations:

(a) There was no liquid or spray antiseptic/styptic in the establishment, in violation of 20 CSR 2085-11.020(2)(F);

(b) Emily Byrd's operator license was posted without a photo attached, in violation of 20 CSR 2085-10.010(3); and,

(c) Haley Walton was working while her operator license was suspended, in violation of 20 CSR 2085-10.060(3).



12. On or about March 9, 2020, the Board sent Licensee a violation notice regarding the February 20, 2020 inspection.

13. Regulation 20 CSR 2085-10.010(3) states, in relevant part:

(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.

14. Regulation 20 CSR 2085-10.030 states, in relevant part:

(1) All barber and cosmetology establishment licensees shall:

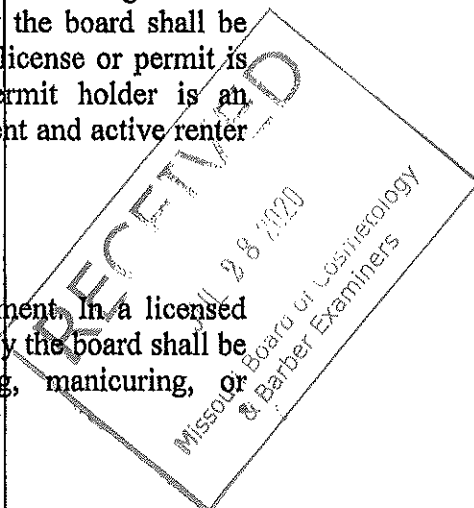
(A) Designate on a form approved by the board the names of any employees practicing, or authorized to practice, as barbers or cosmetologists at the licensed establishment. The form shall remain current at all times and shall be signed by each employee as designated by the board. The form required by this section shall be maintained on the premises of the licensed establishment and shall be available to the board, its inspector or other designee, upon request

15. 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.

16. Regulation 20 CSR 2085-11.020(1) states, in relevant part:

(B) Floors, Walls, Ceilings, Equipment, and Contents. For areas where all classified occupations of cosmetology are practiced, including retail cosmetic sales counters, all floors, walls, ceilings, equipment, and contents shall be constructed of washable materials and must be kept clean and in good repair at all times. Commercial-type carpet may be used.

...

(D) Restrooms. All cosmetology establishments shall provide adequate and conveniently located restrooms, for use by patrons and operators. All schools shall provide two (2) or more restrooms to separately accommodate male and female students. All restrooms shall be provided with, at least, an operating toilet, a functional sink with hot and cold running water, soap (liquid or powder), and individual towels. Floors, walls, ceilings, and fixtures shall be made of washable materials and kept clean and in good repair at all times.

17. Regulation 20 CSR 2085-11.020(2)(A) states, in relevant part:

2. Clean towels shall be used for each patron. A closed cabinet or drawer shall be provided for clean towels and linens.

3. Soiled towels shall be placed in a closeable, leakproof container immediately upon completion of use.

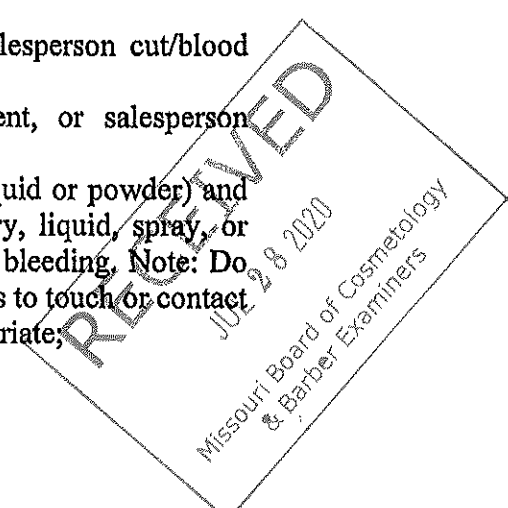
18. Regulation 20 CSR 2085-11.020(2)(F) states, in relevant part:

(F) Blood Spill Procedures. If a cut is sustained or a blood spill should occur, the following steps must be followed by the licensee, apprentice, or salesperson:

1. Licensee, apprentice, student, or salesperson cut/blood spill procedure:

A. Licensee, apprentice, student, or salesperson must stop service immediately;

B. Clean cut area with soap (liquid or powder) and water and apply antiseptic. If necessary, liquid, spray, or powder styptic may be applied to stop bleeding. Note: Do not allow containers, brushes, or nozzles to touch or contact the wound—use an applicator as appropriate;



- C. Cover injury with adhesive bandage..
- 2. Patron cut/blood spill procedure.
 - A. Licensee or student must stop service immediately;
 - B. Licensee or student must place disposable gloves on hands;
 - C. Cleanse cut area of patron, apply antiseptic and/or liquid styptic or spray styptic, as necessary[.]

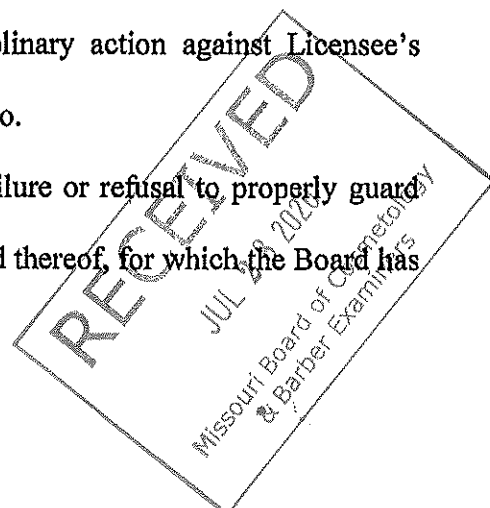
19. Licensee's conduct, as set forth above, constitutes incompetence, misconduct, gross negligence, misrepresentation, and/or dishonesty in the performance of the functions or duties of an establishment for which the Board has cause to take disciplinary action against Licensee's cosmetology establishment license pursuant to § 329.140.2(5), RSMo.

20. Licensee's conduct, as set forth above, constitutes a violation of Chapter 329, RSMo, and lawful regulations adopted pursuant to Chapter 329, RSMo, and assisting or enabling persons to violate Chapter 329, RSMo, and lawful regulations adopted pursuant to Chapter 329, RSMo, for which the Board has cause to take disciplinary action against Licensee's cosmetology establishment license pursuant to § 329.140.2(6), RSMo.

21. Licensee's conduct, as set forth above, constitutes assisting or enabling any person to practice or offer to practice a profession regulated by Chapter 329, RSMo, who is not licensed and currently eligible to practice under this chapter, for which the Board has cause to take disciplinary action against Licensee's cosmetology establishment license pursuant to § 329.140.2(10), RSMo.

22. 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 cosmetology establishment license pursuant to § 329.140.2(13), RSMo.

23. Licensee's conduct, as set forth above, constitutes 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 cosmetology establishment license pursuant to § 329.140.2(15), RSMo.

24. Cause exists for the Board to take disciplinary action against Licensee's cosmetology establishment license under § 329.140.2(5), (6), (10), (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 the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(5) Incompetence, 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;

...

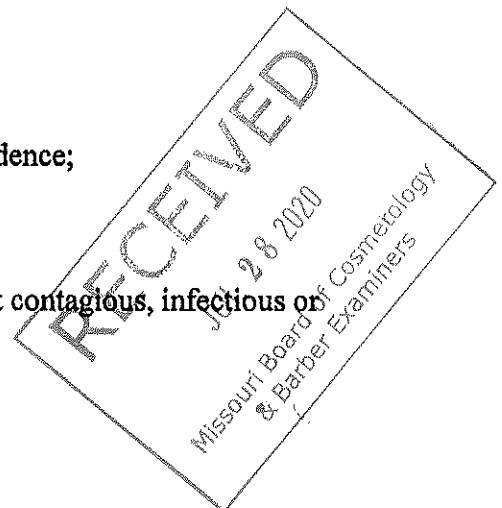
(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not licensed and currently eligible to practice under this chapter;

...

(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 Chapters 621 and 329, RSMo:

1. Licensee's cosmetology establishment license shall be placed on **PROBATION** for a period of three (3) years. During Licensee's probation, Licensee shall be entitled to engage in the practice of cosmetology under Chapter 329, RSMo, provided Licensee adheres to all of the terms of this settlement agreement.

I. SPECIFIC REQUIREMENTS

A. Within thirty days of the effective date of this Agreement, Licensee shall correct all violations of Missouri regulations and statutes identified in this Settlement Agreement.

II. GENERAL REQUIREMENTS

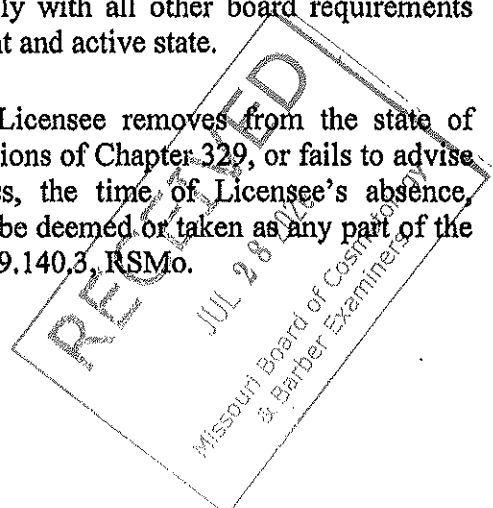
A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.

B. Licensee shall keep the Board apprised of Licensee's current address and telephone number. Licensee shall inform the Board within ten days of any change of address and telephone number.

C. Licensee shall comply with all provisions of Chapter 329, RSMo, and all Board regulations; 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.

D. 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.

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



F. 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.

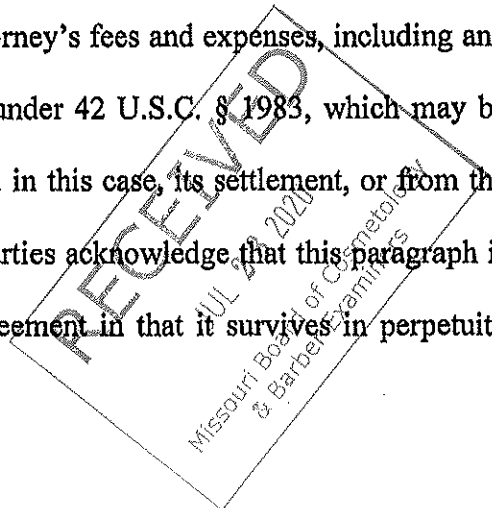
G. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, including imposition of revocation.

H. 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.

2. The parties to this agreement understand that the Missouri Board of Cosmetology and Barber and Examiners will maintain this agreement as an open record of the Board as provided in Chapters 329, 610, 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. Licensee understands that Licensee may, either at the time the Settlement Agreement is signed by all parties or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit Licensee's request to Administrative Hearing Commission, United States Post Office Building, P.O. Box 1557, Jefferson City, Missouri 65102.

6. If Licensee requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

Bradley K. Whitt

Kinetic Kuts, LLC
d/b/a Sport Clips Mo 907
Bradley Whitt (Owner)
License Number 2006013443

Date 6-29-20

BOARD

Brittany Tomblinson, Executive Director
Board of Cosmetology and Barber Examiners

Date _____

