

**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND
BARBER EXAMINERS AND LADY JANE'S ANTIOCH MO LLC**

Come now Lady Jane's Antioch MO 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 beauty shop 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.

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, number 2017001073, 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 beauty shop establishment license, license number 2017001073, which was issued by the Board, for an establishment located at 5251 N. Antioch Road, Kansas City, MO 64119. Licensee's establishment license is current and active.

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

4. On or about October 2, 2019, the Board's inspector conducted an inspection of Lady Jane's Antioch MO LLC.

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

(a) Amber Rigley's and Meagan Van Artsdalen's operator licenses were expired due to non-renewal, in violation of 20 CSR 2085-7.040(2)(A);

(b) The expired establishment license and multiple expired operator licenses were posted, in violation of 20 CSR 2085-10.060(1);

(c) The establishment did not have an employee reporting form available, in violation of 20 CSR 2085-10.030(1); and,

(d) The establishment was licensed for three operators, but there were four operator licenses posted, in violation of 20 CSR 2085-10.050(1).

6. On or about October 23, 2019, the Board sent Licensee a violation notice regarding the October 2, 2019 inspection.

7. On or about December 26, 2019, the Board's inspector conducted an inspection of Lady Jane's Antioch MO LLC.

8. The Board's inspection revealed that Tanaya Tacker, Anna White, and Kelsey Elder were working in the establishment without a rental license, in violation of 20 CSR 2085-10.060(1).

9. On or about January 6, 2020, the Board sent Licensee a violation notice regarding the December 26, 2019 inspection.

10. On or about February 6, 2020, the Board's inspector conducted an inspection of Lady Jane's Antioch MO LLC.

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

(a) Amber Rigley's operator license was inactive, in violation of 20 CSR 2085-7.040(3);

(b) Meagan VanArtsdalen, Anna White, and Tanaya Tacker were working in the establishment without a rental license, in violation of 20 CSR 2085-10.060(1); and,

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

12. On or about March 5, 2020, the Board sent Licensee a violation notice regarding the February 6, 2020 inspection.

13. 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.

14. Regulation 20 CSR 2085-10.050 states:

(1) The minimum biennial fee for a cosmetology establishment shall license the establishment for up to three (3) operators, including apprentices, students with temporary permits, or both. An additional fee is required for each additional operator working in the establishment. If at any time during the license period the number of operators working in the establishment exceeds the number of operators for which the establishment is licensed, it is the responsibility of the holder(s) of the establishment license to submit written notification to the board along with the fee for each additional operator.

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.

16. Regulation 20 CSR 2085-7.040(2) states, in relevant part:

(C) Any licensee who fails to renew shall not perform or offer to perform any act for which a license is required.

17. Regulation 20 CSR 2085-7.040(3) states, in relevant part:

(B) An inactive cosmetologist is not eligible to practice in Missouri and will be subject to disciplinary action if he/she practices or offers to practice in Missouri.

18. 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 establishment license pursuant to § 329.140.2(5), RSMo.

19. 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 establishment license pursuant to § 329.140.2(6), RSMo.

20. 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 establishment license pursuant to § 329.140.2(10), RSMo.

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

22. Cause exists for the Board to take disciplinary action against Licensee's establishment license under § 329.140.2(5), (6), (10) and (13), 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[.]

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 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

Victoria [Signature]

Lady Jane's Antioch MO LLC
License Number 2017001073

Date 1/5/2021

BOARD

Brittany Tomblinson

Brittany Tomblinson, Executive Director
Missouri Board of Cosmetology and Barber
Examiners

Date 1/5/2021