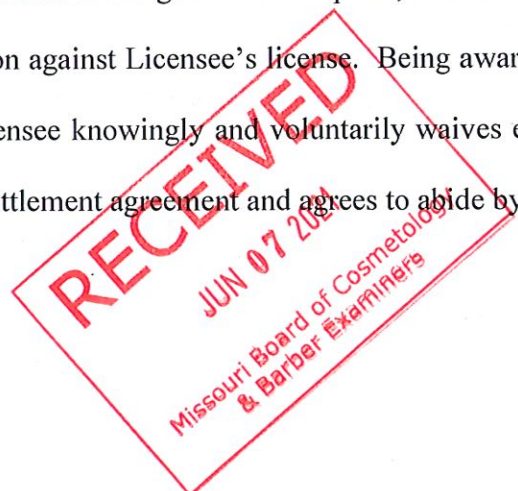


SETTLEMENT AGREEMENT BETWEEN
MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS
AND KURTIS SMITH

Come now Kurtiss Smith (“Licensee” or “Smith”) 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 operator license, license number 2015040528, will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo, the parties hereto 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 Barber operator license, license number 2015040528, is 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 Board of Cosmetology and Barber Examiners is an agency of the State of Missouri created and established pursuant to § 328.015, RSMo, and § 329.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Licensee holds a Barber operator license, license number 2015040528, which is current and active. Licensee's operator license was expired at certain times relevant to this dispute, and Licensee renewed his license on or about December 15, 2020.

3. Licensee is the owner and operator of an unlicensed barber establishment located at 8193 Big Bend Boulevard, Saint Louis, Missouri 63119.

4. On or about October 14, 2020, the Board's inspector conducted an inspection of the establishment.

5. The Board's inspection revealed that the establishment was open for business despite its lack of an establishment license, in violation of 20 CSR 2085-10.010(1)(C) and Section 328.115, RSMo, and Licensee's operator license was expired, due to non-renewal, in violation of 20 CSR 2085-5.040(2).

6. On or about October 19, 2020, the Board sent Licensee a violation notice regarding the October 14, 2020 inspection.

7. On or about November 18, 2020, the Board's inspector conducted an inspection of the establishment.

8. The Board's inspection revealed that the establishment was open for business despite its lack of an establishment license, in violation of 20 CSR 2085-10.010(1)(C) and Section 328.115, RSMo, and Licensee's operator license was expired, due to non-renewal, in violation of 20 CSR 2085-5.040(2).

9. On or about December 7, 2020, the Board sent Licensee a violation notice regarding the November 18, 2020 inspection.

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

11. The Board's inspection revealed that the establishment was open for business despite its lack of an establishment license, in violation of 20 CSR 2085-10.010(1)(C) and Section 328.115, RSMo.

12. On or about January 7, 2021, the Board sent Licensee a violation notice regarding the December 22, 2020 inspection.

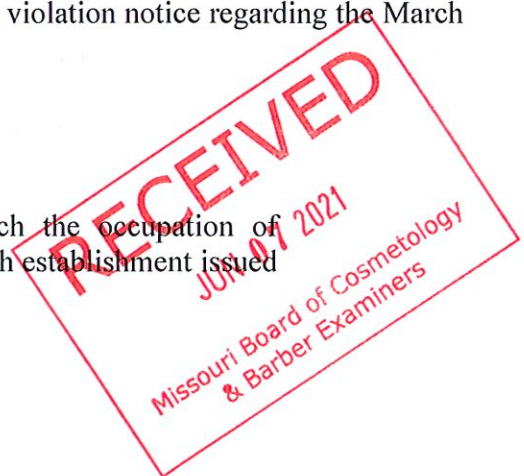
13. On or about March 1, 2021, the Board's inspector conducted an inspection of the establishment.

14. The Board's inspection revealed that the establishment was open for business despite its lack of an establishment license, in violation of 20 CSR 2085-10.010(1)(C) and Section 328.115, RSMo.

15. On or about March 9, 2021, the Board sent Licensee a violation notice regarding the March 1, 2021 inspection.

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.



17. Regulation 20 CSR 2085-10.010(1) states, in relevant part:

(C) No establishment shall open in Missouri until the board receives a completed application, on a form supplied by the board, the biennial establishment fee is paid, the establishment passes a board inspection, and the application is approved by the board. If an establishment opens for business before the board issues the original establishment license, a delinquent fee shall be assessed in addition to all other required licensure fees, and the board may take legal action pursuant to Chapter 328 and/or 329, RSMo.

18. Regulation 20 CSR 2085-5.040(2) states, in relevant part:

Renewals. Every two (2) years (biennially) the renewal application for active licensees must be completed, signed, accompanied by the appropriate renewal fee, and returned to the board office prior to the expiration date of the license. All licenses shall expire on September 30 of each odd-numbered year. Any application postmarked after September 30 will be returned and the applicant will be required to reinstate.

...

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

19. Licensee's conduct, as set forth above, constitutes misconduct, misrepresentation and/or dishonesty in the performance of the functions or duties of a Barber, for which the Board has cause to take disciplinary action against Licensee's Barber operator license pursuant to § 328.150.2(5), RSMo.

20. Licensee's conduct, as set forth above, constitutes a violation of Chapter 328, RSMo, and lawful regulations adopted pursuant to Chapter 328, RSMo, for which the Board has cause to take disciplinary action against Licensee's Barber operator license pursuant to § 328.150.2(6), RSMo.

21. Licensee's conduct, as set forth above, constitutes a violation of a professional trust or confidence, for which the Board has cause to take disciplinary action against Licensee's Barber operator license pursuant to § 328.150.2(13), RSMo.

22. Cause exists for the Board to take disciplinary action against Licensee's Barber operator license under § 328.150.2(5), (6), and (13), RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 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 any one or any combination of the following causes:

...

(5) Incompetency, 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;

...

(13) Violation of any professional trust or confidence[.]

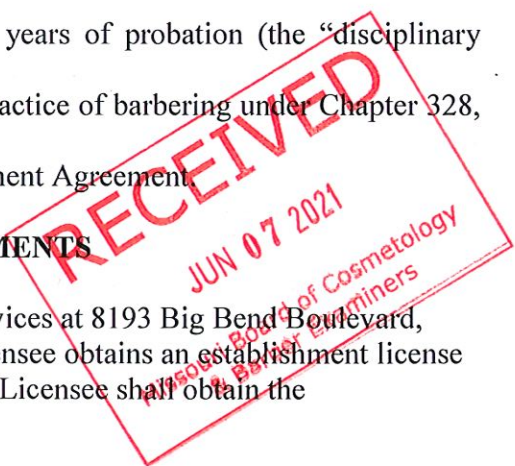
Joint Agreed Disciplinary Order

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 328, RSMo:

1. Licensee's Barber operator license, license number 2015040528, is hereby placed on **PROBATION** for a period of three years. During the three years of probation (the "disciplinary period"), Licensee shall be entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided Licensee adheres to all the terms of this Settlement Agreement.

I. SPECIFIC REQUIREMENTS

A. Licensee shall not offer to provide or provide services at 8193 Big Bend Boulevard, Saint Louis, Missouri 63119 unless and until Licensee obtains an establishment license from the Board pursuant to Chapter 328, RSMo. Licensee shall obtain the



establishment license within thirty (30) days of the effective date of 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 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.

C. Licensee shall comply with all provisions of Chapter 328, 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 328, or fails to advise the Board of Licensee's current place of business and residence, 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 § 328.150.3, 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.

2. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapters 328 and/or 329, RSMo, by Licensee not specifically mentioned in this document.

3. 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.

4. 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.

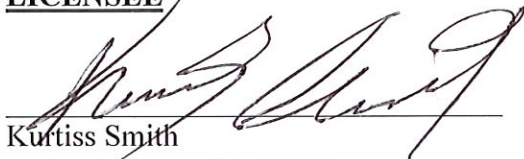
5. Licensee, together with Licensee's heirs, assigns, and attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability,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

6. 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.



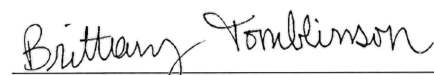
7. If Licensee requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing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

LICENSEE


Kurtiss Smith
Barber License # 2015040528

Date 5-22-21

BOARD


Brittany Tomblinson, Executive Director
Board of Cosmetology and Barber Examiners

Date 6/10/2021