

L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
Heber M Wells Building
160 East 300 South - Box 146741
Salt Lake City, Utah 84114-6741
Telephone (801) 366-0310

**BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE ISSUANCE OF) **MEMORANDUM OF**
A PROBATIONARY LICENSE TO) **UNDERSTANDING AND ORDER**
MEGAN ANN LINIHAN TO)
PRACTICE AS A COSMETOLOGIST/BARBER) **CASE NO. DOPL 2008- 292**
IN THE STATE OF UTAH)

MEGAN ANN LINIHAN ("Respondent") submitted an application for licensure as a Cosmetologist/Barber in the State of Utah on or about October 22, 2008. On the Qualifying Questionnaire Respondent answered "yes" to question #16. Documentation has been received by the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") showing that Respondent entered a guilty plea on or about April 4, 2001 to one count of attempted forgery, a 3rd degree felony, amended to a misdemeanor, in Utah Third District Court. Respondent entered a guilty plea on or about April 4, 2001 to one count of attempted illegal possession/use of controlled substance, a 3rd degree felony amended to a misdemeanor, in Utah Third District Court. Respondent entered a guilty plea on or about September 16, 2004 to one count of driving under the influence of alcohol/drugs, a misdemeanor. Respondent entered a guilty plea on or about June 1, 2005 to one count of alcohol related reckless reduced, a misdemeanor, in Salt Lake City Justice Court.

Based upon Respondent's conduct described above, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued a probationary license to practice as a Cosmetologist/Barber in the State of Utah, subject to the following terms and conditions, which shall be in effect for a period of three years, commencing upon the date this Memorandum of Understanding and Order is approved by the

Division Director as evidenced by her signature

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(c) Respondent understands that the issuance of the Order in this matter is disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2)
- 2 Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division to induce Respondent to enter into this agreement
- 3 Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter
- 4 Respondent acknowledges that this Memorandum of Understanding and Order, if adopted by the Director of the Division, will be classified as a public document The Division may release this Memorandum of Understanding and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities
- 5 Respondent shall successfully complete and satisfy the following terms and conditions
 - a Respondent shall meet with the Cosmetology/Barbering Licensing Board ("Board") at the first scheduled Board meeting following the effective date of this Memorandum of Understanding and Order Respondent shall then meet with the Board on a quarterly basis or at such other greater or lesser frequency as determined by the Board and Division for the duration of the Memorandum of Understanding and Order Respondent agrees to meet with an assigned staff member prior to the first Board meeting
 - b Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole If Respondent has not successfully completed all the terms and conditions of Respondent's criminal probation at the time Respondent's administrative probationary period ends, the period of Respondent's administrative probation shall be extended until all the conditions of Respondent's criminal probation have been successfully completed
 - c Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or possession of alcohol

in any form Respondent agrees to abstain from the personal use or possession of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which the substance is intended

- d Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug/alcohol analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug/alcohol testing The designated company may also request such samples and Respondent shall comply with such requests The Division shall determine when and where Respondent is to submit herself for testing Respondent shall pay for the cost of drug/alcohol testing and shall accurately complete and sign any and all release forms requested by the Division or the drug/alcohol testing company with respect to drug/alcohol testing, including but not limited to, forms authorizing the company to send the drug/alcohol test results to the Division Any report from an drug/alcohol testing company that indicates that Respondent failed to provide a sample for drug/alcohol analysis as directed will be considered a positive drug/alcohol test result for Respondent and will subject Respondent to additional sanctions Any drug/alcohol test result or pattern of results that indicates that the sample provided by Respondent for drug/alcohol analysis is diluted to an extent that it cannot be analyzed, will be considered a positive drug/alcohol test result for Respondent and will subject Respondent to additional sanctions
- e Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status This notification is required regardless of whether Respondent is employed in Respondent's profession
- f Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address
- g Respondent shall maintain a current license at all times during the period of this agreement
- h If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order

- i If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.
- j Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer to submit performance evaluations to the Board on a monthly basis for six months and quarterly thereafter. The receipt of an unfavorable report from an employer may be considered to be a violation of the terms of this Stipulation and Order. If the Respondent is independently employed as a cosmetologist/ barber, Respondent shall submit the required employer report, completed by the manager or owner of the facility in which performance of occupation occurs. If the Respondent is not employed as a cosmetologist/ barber, she must submit the form to the Board on the date it is due and indicate on that form that Respondent is not currently employed in Respondent's licensed occupation or that Respondent is not currently working.
- k Respondent shall provide to Respondent's employer(s) a copy of this Stipulation and Order and cause each employer to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the employer.
- 6 Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's licensed area of practice.
- 7 Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative or judicial review of that partial denial of licensure.
- 8 If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license will be lifted and Respondent's license will not be subject to further restriction.
- 9 If Respondent violates any term or condition of this Memorandum of Understanding and Order, the Division may take action against Respondent, including imposing appropriate

sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

- 10 The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately after the Division Director signs the Order page of this Memorandum of Understanding and Order. Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in this Memorandum of Understanding and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions.
- 11 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties. There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order.
- 12 Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order. Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY 
SALLY A STEWART
Bureau Manager

BY 
MEGAN ANN LINIHAN

DATE DEC 16 2008

DATE 12 13 08

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY 
L MITCHELL JONES
Counsel for the Division

DATE 17 November 2008

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **MEGAN ANN LINIHAN**, is hereby approved by the Division of Occupational and Professional Licensing. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2). The terms and conditions of the Memorandum of Understanding are incorporated herein and constitute my final Order in this case.

DATED this 17 day of December, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F DAVID STANLEY
Director