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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE ISSUANCE OF A PROBATIONARY LICENSE TO **JACKILYN LETICIA JEWKES** TO PRACTICE AS A COSMETOLOGIST/BARBER IN THE STATE OF UTAH	)))))	**MEMORANDUM OF UNDERSTANDING AND ORDER** **CASE NO. DOPL 2013-** 163

JACKILYN LETICIA JEWKES ("Respondent") submitted an application for renewal/ reinstatement of licensure as a cosmetologist/barber in the State of Utah on or about February 15, 2013. On the Qualifying Questionnaire Respondent answered "yes" to question #3. 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 pleaded guilty, on or about April 11, 2011, to one count of theft by deception, a Class A misdemeanor, in Third District Court, Salt Lake City, Salt Lake County, State of Utah Respondent's probationary period of 18 months was revoked and reinstated on or about February 4, 2013. Respondent was convicted, on or about July 17, 2012, of one count of possession of drug paraphernalia, a Class B misdemeanor, in Sandy Justice Court, Salt Lake County, State of Utah Respondent was convicted, on or about December 18, 2012, of one count of possession or use of a controlled substance, amended to a Class B misdemeanor, in Sandy Justice Court, Salt Lake County, State of Utah Respondent has acknowledged her unsafe behavior and errors in judgment were directly related to her use and/or abuse of drugs and/or alcohol in her application for renewal/ reinstatement

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 four years, commencing upon the date this Memorandum of Understanding and Order is approved by the

Division Director as evidenced by his 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)(a) and (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(6) and Utah Code Ann. § 58-1-401(2)(a). Respondent agrees that Respondent engaged in conduct that led to a guilty plea and/or conviction of a crime that involved moral turpitude and/or a crime that, when considered with the functions and duties of a cosmetologist/barber, bears a reasonable relationship to Respondent's ability to safely and/or competently practice as a cosmetologist/barber Respondent is aware of the provisions contained in Utah Code Ann. § 58-11a-301(4)(c) and Utah Administrative Code R156-11a-302, regarding the Division's ability to deny Respondent license based upon a lack of good moral character

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 Board as directed at a 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 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

c 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 Memorandum of Understanding and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Memorandum of Understanding and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Memorandum of Understanding and Order.

d. Respondent shall maintain an active license at all times during the period of this agreement.

e Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

f 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, 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

g Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole. Respondent shall provide documentation of completion of Respondent's criminal probation to the Division and the Board 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

h. 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

i Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for alcohol and/or drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct alcohol and/or drug 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 for testing Respondent shall check in daily with the Division's designated probation monitoring agency/testing agency to determine if Respondent is required to provide a sample for drug analysis. Respondent shall pay for the cost of alcohol and/or drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to alcohol and/or drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from an alcohol and/or drug testing company that indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive alcohol and/or drug test result for Respondent and will subject Respondent to additional sanctions. Any alcohol and/or drug test result or pattern of results that indicates that the sample provided by Respondent for alcohol and/or drug analysis is diluted to an extent that it cannot be analyzed, will be considered a positive alcohol and/or drug test result for Respondent and will subject Respondent to additional sanctions

j. Failure of Respondent to pay the costs associated with this Memorandum of Understanding and Order constitutes a violation of the Memorandum of Understanding and Order.

k The Division may take appropriate action to impose sanctions if· (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by an administration or prescription by a lawful practitioner for a current medical condition, or (ii) Respondent violates any federal, state or local law relating to Respondent's practice, the Controlled Substance Act, or a term or condition of this Memorandum of Understanding and Order Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law

l. Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source

m Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy Respondent may submit the name of a prescribing practitioner specialist to the Division who provides care that the regular prescribing practitioner cannot provide The Division will review the request by Respondent and determine if Respondent may receive prescriptions

from the prescribing specialist. Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner. All prescribing practitioners must be informed of any and all of Respondent's addiction/abuse problems. Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required. Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval Respondent shall provide the Division with a copy of all Respondent's prescriptions for prescription drugs, controlled substances, or any other mood altering substance, within forty-eight (48) hours after the prescription has been written.

n. Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division within forty-eight (48) hours of being issued. Respondent shall report to the Division within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual

o. Respondent shall participate in a professional support group or 12-step program to address Respondent's use of drugs and/or alcohol. Documentation that reflects Respondent's continuing and regular attendance at such support group or 12-step meetings shall be provided to the Division on a quarterly basis. "Regular attendance" means Respondent shall attend the support group or 12-step program at least two times per month.

p. In the event Respondent does not practice as a cosmetologist/barber for a period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing The period of time in which Respondent does not practice shall not be counted toward the time period of this Memorandum of Understanding and Order. Respondent must work at least eight (8) hours per week and no more than forty-eight (48) hours per week to be considered "practicing" in Respondent's profession. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome

q. If Respondent does not practice as a cosmetologist/barber for a period of one year, Respondent's license shall be suspended indefinitely and the term of probation shall be tolled. When Respondent once again practices as a cosmetologist/barber, Respondent shall submit proof of employment to the Division, and the suspension of Respondent's license shall be immediately lifted

r. While employed in Respondent's licensed occupation, Respondent shall notify any employer/supervisor of Respondent's restricted status and the terms of this agreement. Respondent shall further cause Respondent's employer/supervisor 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/supervisor may be considered to be a violation of the terms of this Memorandum of Understanding and Order If the Respondent is not employed as a cosmetologist/barber, Respondent shall submit the required employer report 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

s Respondent shall provide to Respondent's employer/supervisor(s) a copy of this Memorandum of Understanding and Order and cause each employer/supervisor to acknowledge to the Board in writing that a copy of this Memorandum of Understanding and Order has been provided to the employer/supervisor

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, citation or fine, 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 If the Divisions files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Memorandum of Understanding and Order, the period of Respondent's probation shall be tolled during the period that the Petition or

Order to Show Cause Petition has been filed and is unresolved

12 Respondent understands that the disciplinary action taken by the Division in this Memorandum of Understanding and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

13 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

14. 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

BY _____
SALLY A STEWART
Bureau Manager

DATE 04/19/2013

RESPONDENT

BY _____
JACKILYN LETICIA JEWKES

DATE 4/9/2013

JOHN E. SWALLOW
ATTORNEY GENERAL

BY _____
L MITCHELL JONES
Counsel for the Division

DATE 19 Apr 13

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **JACKILYN LETICIA JEWKES**, 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(6) 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 22 day of April, 2013.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director