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

IN THE MATTER OF THE LICENSE OF) **SURRENDER**
NICHOLE C. BOYD TO) **STIPULATION AND ORDER**
PRACTICE AS A)
COSMETOLOGIST/BARBER) **CASE NO DOPL 2013- 181**
IN THE STATE OF UTAH)

NICHOLE C. BOYD (“Respondent”) and the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah (“Division”) stipulate and agree as follows

- 1 Respondent admits the jurisdiction of the Division over her and over the subject matter of this action
- 2 Respondent acknowledges that she enters into this Stipulation knowingly and voluntarily
- 3 Respondent understands that she has the right to be represented by counsel in this matter and her signature below signifies that she has either consulted with an attorney or waives her right to counsel in this matter

4 Respondent understands that she is entitled to a hearing before the State of Utah's Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Board ("Board"), or other Division Presiding Officer, at which time Respondent may present evidence on her own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document she hereby waives the right to a hearing and any other rights to which she may be entitled in connection with said hearing Respondent understands that by signing this document she hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4)

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities.

7. Respondent admits the following facts are true

- a. On or about December 20, 2010 Respondent voluntarily entered into a Memorandum of Understanding and Order ("MOU") in DOPL Case No 2010-454, wherein Respondent was granted a probationary license subject to certain terms and conditions. The period of probation was for four years
- b. Respondent violated the terms and conditions of the MOU by failing to meet with the Board as required in Section 5(a) of the Order.

- c. Respondent violated the MOU by failing to successfully complete all criminal sanctions as required by Section 5(c).
- d. Respondent violated the MOU by failing to notify the Division in a timely manner of her employment status or business address as required by Sections 5(e) and 5(j) of the Order
- e. Respondent violated the MOU by failing to comply with calling and testing requirements for drug and/or alcohol testing as required by Sections 5(f) and 5(g) of the Order
- f. Respondent violated the MOU by failing to submit employer/supervisor acknowledgement or performance report information as required by Sections 5(l) and 5(m) of the Order

8. Respondent admits that her conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a). Respondent hereby surrenders her license to act as a cosmetologist/barber in the State of Utah along with all residual rights pertaining to said license. Respondent agrees that the issuance of the Order in this matter constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(6)(a) and Utah Code Ann. § 58-1-401(2)(a). Respondent agrees not to reapply for licensure as a cosmetologist/barber in the State of Utah until three years has elapsed from the effective date of this Stipulation and Order. The Division does not guarantee that any future application by Respondent for licensure will be granted. If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a cosmetologist/barber in the State of Utah. Respondent understands that she will not receive any refund of license or renewal fees previously paid to the Division.

9 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of her having reviewed this Stipulation, and this waiver shall survive such nullification

10. 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 regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation

11. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law

12 Respondent understands that the disciplinary action taken by the Division in this Stipulation 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 Respondent understands and agrees that if Respondent has been issued an Order by the Division to pay an administrative penalty or a fine, and Respondent has not paid the administrative penalty or fine in full at the time this Stipulation and Order becomes effective, then Respondent may not reapply for licensure in the State of Utah, in any profession or occupation, until Respondent has paid the administrative penalty or fine

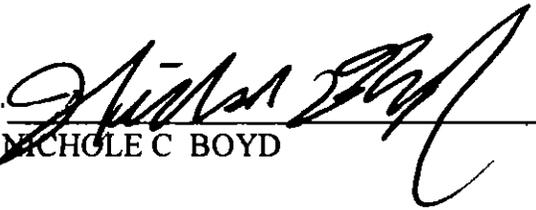
in full. Respondent understands and agrees that any application for licensure submitted by Respondent shall be denied for the reason of failure to pay an administrative penalty or fine by the Division until Respondent has paid the administrative penalty or fine in full. The Division may also deny the license for any other lawful reason. Respondent understands and agrees that this surrender of Respondent's license(s) does not extinguish any obligation Respondent has to pay any administrative penalty or fine previously ordered by the Division.

14. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

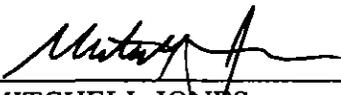
BY: 
SALLY A. STEWART
Bureau Manager

BY: 
NICHOLE C BOYD

DATE 05/01/2013

DATE: 4-30-13

JOHN E SWALLOW
Attorney General

BY: 
L. MITCHELL JONES
Assistant Attorney General

DATE 1 May 2013

ORDER

THE ABOVE STIPULATION, in the matter of **NICHOLE C. BOYD** is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. 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)(a). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 1 day of May, 2013

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


MARK B STEINAGEL
Director

Investigator Sally A Stewart