

MINUTES
South Carolina Board of Cosmetology
Hearings
10:00 a.m., September 29, 2014
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 108
Columbia, South Carolina 29210

1. Meeting Called to Order

- a. Public notice of this meeting was properly posted at the S. C. Board of Cosmetology office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

2. Rules of the Meeting Read by the Hearing Officer, Melanie Thompson

3. HEARINGS – Tracey Perlman and Andrew Rogers

a. MOAs

i. Nail Spa (SALON 89372) 2013-157

In this case of Nail Spa the discussion included but was not limited to issues found during an inspection. During the May 31, 2013 inspections 3 young ladies ran out of the back door and hid behind the trash dumpster while 2 others remained in the salon performing nail services, 1 of the 2 left in the salon was unlicensed. The salon license could not be located. The owner/manager Bich-Chau Ngoc Bui, informed the inspector she purchased the salon from the previous owner but had not turned in the salon application at that time. On June 14, 2013 a re-inspection was performed and it was found that 5 unlicensed individuals were performing nail services on members of the public. The owner/manager Bich-Chau Ngoc Bui, has agreed to violating the South Carolina Code of Laws sections 40-13-110(A)(1), 40-13-110(A)(2), and 40-10-110(1)(f).

ii. Bich-Chau Ngoc Bui (Registered Cosmetology #68075) 2013-158

In this case of Bich-Chau Ngoc Bui the discussion included but was not limited to issues found during an inspection. The violation on this case will mirror those of case# 2013-157 due to Bich-Chau Ngoc Bui being the owner/manager of the Nail Spa salon.

Bert Von Herman, Attorney for Bich-Chau Ngoc Bui, explained his client was not appreciative of the severity of the violations and the allegations until he explained them to her. Ms. Bui came to the United States in 1999. She became licensed in 2001 in Georgia and Alabama. Ms. Bui moved to South Carolina in 2011. The salon was purchased the beginning of April 2013 and at the end of April is when she obtained a salon license. The individuals working in the salon were not licensed in South Carolina but they were licensed in other states and Ms. Bui thought that would be okay for them to work until they received licensure in South Carolina. Ms. Bui is not denying the violations were committed but is asking for grace.

Ms. Thompson requested to enter into executive session for legal advice.

Ms. Thompson called the hearings back to order.

Ms. Thompson's recommendation for case 2013-157 is as follows:

- \$1500 penalty to be paid within 90-days of signing the order and
- 1 year probation and if any other violations occur the salon's license should be immediately administratively suspended

Ms. Thompson's recommendation for case 2013-158 is as follows:

- \$500 penalty to be paid within 90-days of signing the order and
- 3 hour law class to be completed within a 90-day period of signing the order

The recommendations will be presented to the full Board, they have the right to accept, reject or modify the Hearing Officer's recommendations.

b. Hearings

- i. 2013-173** Granted a continuance
- ii. 2014-103** Granted a continuance
- iii. 2013-174** Granted a continuance
- iv. 2014-102** Granted a continuance

v. Molly Birdsall (Registered Cosmetology #65743) 2013-179

In this case of Molly Birdsall the discussion included but was not limited to issues found during an inspection. Molly Birdsall was not present but Tracey Perlman, General Counsel asked to go on with the hearing because Ms. Birdsall was notified. The violation in this case is that Molly Birdsall did not report her criminal background history information on her initial application neither her renewal application. Investigator George Barr conducted an investigation due to a complaint that was filed. There were a number of violations on Ms. Birdall's criminal background from forgery, shoplifting, driving under the influence and suspension and possession of ice crack/cocaine. The date of Ms. Birdsall's last arrest was April 26, 2013 for shoplifting and she was convicted.

It is the State's position that based on Ms. Birdsall extensive criminal history it reveals deception when the initial application was submitted for the examination as well as her renewal application. Ms. Birdsall has committed a dishonorable, unethical and unprofessional act that is likely to deceive or harm the public by not fully disclosing her criminal background information. Ms. Birdsall has violated South Carolina Code of Laws section 40-1-110 (1)(g).

Ms. Thompson requested to enter into executive session for legal advice.

Ms. Thompson called the hearings back to order.

Ms. Thompson's recommendation for case 2013-179 is as follows:

- Recommendation is to dismiss the complaint as having a criminal background. It does not necessarily mean the respondent lacks the ethical competence to practice. The state did not allege in the complaint that the respondent failed to disclose her criminal background in her application which could have been grounds for discipline. With that allegation, the issue is not properly submitted; therefore, the recommendation is to dismiss this case. The recommendation will go before the full Board for review; they will agree or change the sanction.

The recommendations will be presented to the full Board, they have the right to accept, reject or modify the Hearing Officer's recommendations

vi. Chesley Phillips 2013-4, 2013-138, and 2013-168

In this case of Chesley Phillips the discussion included but was not limited to issues found pertaining to continuing education. The purpose of this hearing is to determine whether the respondent should have disciplinary actions taken against her license. There are 3 cases against Ms. Phillips and the first case is failure to obtain Board approval on a date change for a continuing education class. Ms. Phillips did appear before the Board to get the venue changed but not the date changed which led to some confusion. The dates in question are December 2nd & 3rd 2012 and December 3rd & 4th 2012. In cases 2013-138 and 2013-168 the complaints are similar. The allegation is that Ms. Phillips failed to turn her class verification information in to USC in the time frame required.

In closing Ms. Perlman stated the State has proven its cases against Ms. Phillips because the submission to USC was not remitted in the allotted time frame. Ms. Phillips has not followed the requirements and she does not take the requirements of the contract with LLR and USC seriously. Ms. Phillips has violated South Carolina Code of Laws section 40-13-110 (1)(a), South Carolina Code of Regulations 35-24 (F)(1), 35-24 (F)(2), and 35-24 (F)(3). In closing Ms. Phillips stated in regards to the South Carolina Code of Laws 40-13-110 (1)(a) it was either an oversight or an error on her and her staff's part but it was never intentional. As for South Carolina Code of Regulations 35-24 (F)(1) and 35-24(F)(2) the providers are not responsible for submitting these, that is left to LLR staff. As for 35-24(F)(3) Ms. Phillips stated she and her were been negligent in this area but it was not intentional.

Ms. Thompson requested to enter into executive session for legal advice.

Ms. Thompson called the hearings back to order.

Ms. Thompson's recommendation for case 2013-4, 2013-138, and 2013-168 is as follows:

- Recommendation is to dismiss these cases because there were no findings of any disciplinary violations. As the testimonies show the respondent was not aware of the issues of the dates at the time the classes were offered. There were no guidelines specified for CE providers that offered online classes. However, Ms. Thompson did recommend to Ms. Phillips to pay closer attention when filing the CE submissions and when completing her paperwork to USC. Ms. Thompson also recommends that a letter of caution be issued to the respondent.

The recommendations will be presented to the full Board, they have the right to accept, reject or modify the Hearing Officer's recommendations.