



THE OHIO STATE BOARD OF COSMETOLOGY

1929 GATEWAY CIRCLE GROVE CITY, OHIO 43123
(614) 466-3834 & FAX: (614) 644-6880 WWW.COS.OHIO.GOV

September 12, 2013

Mr. Randall J. Meyer
Ohio Inspector General
30 East Broad Street, Suite 2940
Columbus, Ohio 43215

OFFICE OF
INSPECTOR GENERAL
2013 SEP 16 PM 4:42

RE: Report of Investigation on James P. Trakas
Former Executive Director, The Ohio State Board of Cosmetology
File ID NO.: 2012-CA00071
Date of Report: August 13, 2013

Dear Inspector General Meyer:

The Ohio State Board of Cosmetology ("Board") thanks you for giving the Board the opportunity to respond to the above mentioned Report of Investigation on James P. Trakas, former Executive Director of the Board. The Board agrees with your finding that the former Director exceeded the Board's authority¹ when he attempted to use a settlement agreement as a tool to encourage a salon's owners to allow an independent contractor to continue to work in their salon. The former Director's attempt to negotiate the retention of an independent contractor working in a licensee's salon in exchange for the reduction or elimination of a fine on the licensee was outside the scope of the permissible terms for punishment under R.C. 4713.64 and for the reduction of fines and penalties under OAC 4713-8-02(B).

It should be noted, however, that while the Board members have retained the power to approve, modify or disapprove of a settlement agreement as required by R.C. 119.09, and as restated in OAC 4713-8-02(C), Board members have permitted the Executive Director, in consultation with the Board's Assistant Attorney General, to negotiate settlement agreements. Thus, historically the Executive Director of the Board always has been involved with administrative settlements. The Board members then may reject, modify or approve the results of the settlement negotiations. Former Executive Director Trakas' negotiation of an independent contractor issue as part of a settlement agreement for a cosmetology salon's alleged violation, however, was unique. But, he had been involved with the negotiation of settlements before and after the settlement agreement in question, and all of the settlements negotiated were within the scope of power of the Board. Former Executive Director Trakas also approved the notices of violation before they were sent, and would raise questions about the alleged violations before signing a notice of violation.

One small correction should be made to the very thorough Report of Investigation. Daveen Zborovsky was not the unlicensed individual who came into the Board on the day of the inspection of the Aqua Hair Salon and Spa, March 21, 2012, and who quickly received her independent contractor's license. Ms. Zborovsky had first received her independent contractor's

license in 2009 and had renewed it in a timely manner in 2011. See attached Exhibit A. Another individual came to the Board that day to renew her license and to avoid punishment for operating as an independent contractor without the correct license. Until recently, the policy was to allow an individual acting as an independent contractor, but having only a managing cosmetology license approximately two days to procure the proper license. If the proper license was obtained, the individual was not finedⁱ. This policy, however, has been changed, but it was still in place on the day of the inspection. Now, any licensee performing cosmetology services outside of what the license permits is issued a notice of violation.

RECOMMENDATION AND RESPONSE

The recommendation that the Board determine if the conduct of former Executive Director Trakas warrants further administrative action or training is moot, because Mr. Trakas resigned the day the report was issued, citing concern that his actions had harmed the integrity of the Board.

On behalf of the members of the Board of The Ohio State Board of Cosmetology, who voted to support this Response to the Report, I would like to thank you for allowing the Board an opportunity to respond to your Report. If you have any questions, please feel free to contact me.

Sincerely,



Thomas Taneff, Chairman
The Ohio State Board of Cosmetology

cc: Samuel H. Porter
Assistant Chief Counsel, Office of Governor John R. Kasich

ⁱ Under R.C. 4713.13, the Board has the power to punish any person violating its laws or rules by issuing a fine, by suspending or revoking a license, and, most recently, by offering corrective action courses. The Board has the power to mitigate any punishment under OAC 4713-8-02(B).

ⁱⁱ The independent contractor's license, like a salon license, can be obtained by someone holding a managing cosmetology license for payment of a licensing fee and completion of paperwork. R.C. 4713.39, OAC 4713-13-02. In contrast, to obtain a cosmetology or a managing cosmetology license, an individual must fulfill certain requirements and take an examination. R.C. 4713.20, R.C. 4713.25, R.C. 4713.28, R.C. 4713.30.



This is an active PDF form click each line to complete the form



The mission of the Ohio State Board of Cosmetology is to protect and support the public through regulation and education while promoting the integrity of the industry.

Kevin L. Miller, Executive Director

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FEE: \$75.00
Money Order, Personal or Corporate Checks Only
Made Payable to: Treasurer State of Ohio Richard Cordray

INDEPENDENT CONTRACTOR APPLICATION

PLEASE TYPE OR USE ONLY BLUE OR BLACK INK. All licenses will be mailed to your home address as indicated from the information below. Processing of this application may take thirty (30) days. Incomplete applications will be returned. You are required to hold an active, current manager's license in order to receive an Independent Contractor's license. Both licenses must be displayed in the salon in which you are working and both licenses must be renewed.

As an Independent Contractor's license this license allows you to work in more than one salon as long as both the Manager and Independent Contractor licenses are posted at the salon in which you are working. The type of license you hold determines the type of salon in which you are permitted to work.

All required information must be submitted, otherwise your application will be returned and delay processing.

Zborovskiy Dancer G [Redacted]
(Current Last Name) (First Name) (Middle Initial) (Social Security #)

[Redacted] Grove City Ohio 43123 Franklin
(Address) (City) (State) (Zip Code) (County Required)

[Redacted] [Redacted] [Redacted]
(Full Date of Birth) (Area Code & Phone No.) (E-mail Address)

[Redacted] [Redacted]
(Complete Ohio Manager ID# Required) (Salon Name and ID# Required)

ALL APPLICATIONS MUST BE NOTARIZED BEFORE SUBMITTING TO THE OHIO BOARD.

AFFIDAVIT

State Ohio County Franklin

I swear or affirm that all information contained in this application and the documents attached are true and accurate to the best of my knowledge and belief.

Dancer Dancer
(Signature of Applicant must be signed in front of the Notary)

Subscribed in my presence and sworn to before me this 21st day of January Year 2009

NOTARY SEAL

(Rev. 10/07)

(Notary) Public - Commission Expiration Date is Required

MAR 10 2009

KAREN MOORE
Notary Public, State of Ohio
My Commission Expires 02-04-2012

\$75.00

mm

Past 10 Years Re-Display Journal

Transaction Date	Deposit Date	Type	Amount	Use / Reference	BY	Entry Date	Batch
04/07/2009		Fee	\$75.00	New License	Byrne, D	04/07/2009	
04/07/2009		CR Summary	(\$75.00)	Check Receipt, [REDACTED]	Byrne, D	04/07/2009	2009110
09/11/2010		Fee	\$60.00	Renewal	Ewing, A	09/16/2010	
09/11/2010		CR Summary	(\$60.00)	CC Receipt, [REDACTED]	Ewing, A	09/16/2010	999
11/01/2012		Fee	\$60.00	Renewal	Brooks, L	11/02/2012	
11/01/2012		CR Summary	(\$60.00)	CC Receipt, [REDACTED]	Brooks, L	11/02/2012	999
		Balance Due	\$0.00				

<p>DAVEEN G ZBOROVSKY</p> <p><input type="radio"/> Public <input checked="" type="radio"/> Mail Change Mail Address</p> <p>DAVEEN G ZBOROVSKY</p> <p>GROVE CITY, OH 43123</p> <p>Email: [REDACTED]</p>	<p>ID [REDACTED]</p> <p>Status Active</p> <p>SSN / FEIN # [REDACTED]</p> <p>Birth Date [REDACTED]</p> <p>Public File YES</p> <p>Mailing List</p> <p>Business Type INDIVIDUAL</p>	<p>Credentials</p> <p>Contact</p> <p>Audit</p> <p>Issues</p> <p>Cont. Edu</p> <p>Documents</p> <p>Exams</p> <p>Experience</p> <p>History</p> <p>Renewal History</p> <p>Schools</p> <p>Supervises</p> <p>SupervisedBy</p> <p>Flags</p> <p>Legacy</p> <p>Librarian</p>
<p>Comments:</p>		

Independent Contractor [\[update\]](#) [\[form letter\]](#)

<p>Credential # IC. 757135</p> <p>Effective Date 02/01/2013</p> <p>Expiration Date 01/31/2015</p> <p>First Issuance Date 03/16/2009</p> <p>Waive CE Requirement NO</p>	<p>Credential Status ACTIVE (10/09/2012)</p> <p>Status Reason</p> <p>Amount Due \$0.00</p> <p>Date Last Activity 11/2/2012 2:59:50 PM</p> <p>Last Updated by Brooks, L</p> <p>Certificate Sent Date 11/09/2012</p>	<p>Audit</p> <p>Documents</p> <p>Fees</p> <p>History</p> <p>Supervises</p> <p>SupervisedBy</p> <p>Print Docs</p> <p>Comp. Audit</p>
<p>Comments:</p>		

User Definable Credential Data (Board Common / Credential Specific) [\[update\]](#)

Board Common	
Extra Telephone Numbers	
Web page address	
Credential Specific	
Employed	YES
Renewal Telephone Number	[REDACTED]

Credential Check List [\[update\]](#)

Pending	<p>Processed</p> <p>Accepted (03/16/2009:Tomlin, T) COS, County Name</p> <p>Accepted (03/16/2009:Tomlin, T) COS, Initial Licensure Fee</p> <p>Accepted (03/16/2009:Tomlin, T) COS, Manager's License Current & Active</p>
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