STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

July 18, 2000

John Kersey
Chief Investigator
Bureau of Occupational Licenses
Statehouse Mail

Re: Board of Barber Examiners/Michaile Coggeshall
Case No. BAR-B1-02A-99-002

Dear John:

Enclosed please find the original Stipulation and Consent Order signed by Ms. Coggeshall, Mr. Leroy, and me. You will note that on page 4, Mr. Leroy has added some interlinations. Mr. Leroy and I discussed the amount of attorney's fees on Friday and agreed to reduce the payments to one-half of the total amount of attorney's fees. However, Mr. Leroy may have created some confusion in paragraph 4, line 4 when he said that the equal monthly installments would total $198 per month beginning July 2000. The total amount of payments, including the administrative penalty of $600, the $455 in investigative costs, and attorney fees of $1,324 would come to $198 per month if payments began in July 2000.

We may want to arrange a conference call with the Board of Barber Examiners regarding this matter within the next two weeks. That way, Ms. Coggeshall can begin her monthly payments this month and this matter can be resolved. If a conference call is set up, please let me know. I am available in the next two weeks at any time between the hours of 9:30 and 11:30, and 1:30 and 4:00. The original Stipulation and Consent Order would need to be forwarded to the Board Chair and copies sent to the other Board members prior to the conference call.

If you have any questions, please give me a call.

Sincerely,

Kirsten Wallace

KIRSTEN L. WALLACE
Deputy Attorney General

KLW:cjf
Enclosure
Barbers\Coggeshall\L0200lwa

**Civil Litigation Division**
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 334-2830
Located at 650 W. State Street
Len B. Jordan Building, Lower Level

**BEFORE THE BOARD OF BARBER EXAMINERS**

**STATE OF IDAHO**

ORIGINAL

| | | |
|---|---|---|
| In the Matter of the License of: | ) | |
| | ) | |
| MICHAILE COGGESHALL, | ) | Case No. BAR-B1-02A-99-002 |
| License Nos. B-2556 and BS-1512, | ) | |
| | ) | **STIPULATION AND** |
| Respondent. | ) | **CONSENT ORDER** |
| | ) | |

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WHEREAS, information having been received by the Idaho State Board of Barber Examiners (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Michaile Coggeshall (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A.**

1. The Board may regulate the practice of barbering in the State of Idaho in accordance with title 54, chapter 5, Idaho Code.

2. Respondent Michaile Coggeshall is a licensee of the Idaho State Board of Barber Examiners and holds License No. B-2556 to practice barbering in the State of Idaho and License No. BS-1512 to operate a barber shop in the State of Idaho. Respondent's licenses are subject to the provisions of title 54, chapter 5, Idaho Code.

3. Pursuant to Idaho Code §§ 54-515 and 67-2614, Respondent is required to annually renew her licenses with the Bureau of Occupational Licenses by July first of each year. When enacted in 1974, Idaho Code § 67-2614 provided that the Bureau shall cancel a license on October 1 if a license was not renewed by July 1. In 1994, the Idaho

Legislature revised Idaho Code § 67-2614 to provide that a license was immediately canceled if it was not renewed by July 1 of each year.

4. Respondent failed to renew her licenses for 1996-1997. On July 1, 1996, Respondent's licenses were canceled due to failure to renew.

5. On May 27, 1997, an unannounced inspection of Respondent's salon revealed that she was practicing without a license and operating an establishment without a license.

6. Respondent's licenses were reinstated on May 28, 1997.

7. Respondent failed to renew her licenses for 1997-1998. On July 1, 1997, Respondent's licenses were canceled due to failure to renew.

8. An unannounced inspection of Respondent's salon on December 19, 1997, revealed that she was operating the establishment without a license.

9. Respondent's licenses were reinstated on December 19, 1997.

10. Respondent failed to renew her licenses for 1998-1999. On July 1, 1998, Respondent's licenses were canceled due to failure to renew.

11. An unannounced inspection of Respondent's salon on August 5, 1998, again revealed that she was practicing without a license and operating an establishment without a license. Respondent gave the investigators fees to reinstate her licenses while they were in her salon, and her licenses were reinstated on August 5, 1998.

12. Respondent failed to renew her licenses for 1999-2000. On July 1, 1999, Respondent's licenses were canceled due to failure to renew.

13. An unannounced inspection was conducted by an investigator from the Bureau of Occupational Licenses at Respondent's salon on October 5, 1999, at which time Respondent was found to be practicing barbering without a valid license and operating a barbering establishment without a valid license. The investigator notified the Boise City Police, and Respondent was issued Citation Nos. 817222 and 817224 for operating without valid licenses. Respondent reinstated her licenses on October 6, 1999,

and on November 12, 1999, Respondent pled guilty to violations of Idaho Code § 54-515 in Ada County District Court Case No. M9912105.

14. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of barbering, specifically Idaho Code §§ 54-515, 54-516(7) and 54-519(1) and IDAPA 24.02.01.575. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice barbering and to operate a barbering establishment in the State of Idaho.

15. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against her license as set forth in Section C below.

**B.**

I, Michaile Coggeshall, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice barbering and to operate a barbering establishment in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of barbering in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License Nos. B-2556 and BS-1512 issued to Respondent Michaile Coggeshall are hereby suspended for a period of six (6) months with the term of the suspension withheld contingent upon compliance with the terms of this Stipulation.

2. Respondent shall pay to the Board an administrative penalty in the amount of Six Hundred and No/100 Dollars ($600.00) payable in equal monthly installments. The sum of $600.00 shall be paid by June 30, 2001. The monthly installments shall be due and payable to the Board by the 30th day of each calendar month. Respondent shall make all checks payable to the Board of Barber Examiners and mail all payments to the Bureau of Occupational Licenses at 1109 Main St., Owyhee Plaza, Suite 220, Boise, ID 83702-5642. Should any check be returned due to insufficient funds or should any payment be late, that will be considered a failure to make a payment and will constitute a default of this Stipulation and Consent Order.

4. Respondent shall pay investigative costs in the amount of Four Hundred Fifty-five and No/100 Dollars ($455.00) and one half of the total attorney fees in the amount of Two Thousand Six Hundred Forty-eight Dollars and No/100 ($2,648.00) → or $1324 to be paid by Respondent in equal monthly installments, totalling one hundred ninety-eight ($198) per month beginning July, 2000. The sum shall be paid by June 30, 2001. The monthly installments shall be due and payable to the Board by the 30th day of each calendar month. Respondent shall make all checks payable to the Board of Barber Examiners and mail all payments to the Bureau of Occupational Licenses at 1109 Main St., Owyhee Plaza, Suite 220, Boise, ID 83702-5642. Should any check be returned due to insufficient funds or should any payment be late, that will be considered a failure to make a payment and will constitute a default of this Stipulation and Consent Order.

5. Respondent's License Nos. B-2556 and BS-1512 shall be placed on probation for a period of three (3) years. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of barbering in the State of Idaho, including all provisions of the Barber Act, title 54, chapter 5, Idaho Code. The failure to timely renew any license held by Respondent, or any evidence of unlicensed practice by Respondent or anyone employed by, supervised by, or under the control of Respondent or evidence of unlicensed operation of a barbershop establishment during the period of probation shall result in the immediate imposition of the term of suspension and may result in further discipline including revocation of licensure, imposition of costs and attorney's fees, and civil fines in accordance with the terms of this Consent Order.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

c. In the event Respondent should leave Idaho to reside or to practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of residency or practice outside of Idaho will not apply to the reduction of the probationary period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information excluding financial documents within a reasonable time after a request is made for such documents or information.

6. Upon the timely payment of all civil penalties, costs and fees, and the successful completion of the three-year probationary period, Respondent's licenses, License Nos. B-2556 and BS-1512, shall be reinstated without any restrictions.

7. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

8. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

**D.**

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-516. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and

charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary sanctions. However, should evidence of failure to renew a license, unlicensed practice, or unlicensed operation of a barbershop establishment be submitted, the minimum disciplinary sanctions that may be imposed shall be a mandatory one year suspension of any license held by respondent, imposition of a civil penalty of One Thousand Dollars and No/100 ($1,000.00), and recovery of any additional investigative costs and attorney fees. The Board reserves the right to impose additional conditions or limitations upon Respondent's practice or suspend or revoke Respondent's license(s).

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be

waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 13th day of July, 2000.

Michaile Coggeshall

Michaile Coggeshall
Respondent

Reviewed and approved as to form.

DATED this 13th day of July, 2000.

David H. Leroy
Attorney for Respondent

I concur in this stipulation and order.

DATED this 17 day of July, 2000.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Kirsten Wallace
Kirsten L. Wallace
Deputy Attorney General

## ORDER

Pursuant to Idaho Code § 54-521, the foregoing is adopted as the decision of the Board of Barber Examiners in this matter and shall be effective on the 21 day of July, 2000. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF BARBER EXAMINERS

By Cher A. Stone
Cher A. Stone, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26 day of ~~March,~~ July 2000, I caused to be served a true and correct copy of the foregoing by placing a copy thereof in the United States Mail, postage prepaid, addressed to:

Michaile Coggeshall
Hair Force
18 N. Orchard
Boise, ID 83706

David H. Leroy
Attorney at Law
P.O. Box 193
Boise, ID 83701

Kirsten L. Wallace
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

Thomas Limbaugh
Thomas Limbaugh, Chief
~~Bureau~~ of Occupational Licenses

**STATE OF IDAHO**

**OFFICE OF THE ATTORNEY GENERAL**

**Statement of Attorneys' Fees and Costs**

Matter: Board of Barber Examiners/Coggeshall
A.G. No.: 20000048

| Date | Initials | Description | Time | Amt. |
|---|---|---|---|---|
| 1/20/00 | LAP | Review file; prepare memorandum to Board; prepare consent order and letter to Respondent | 1.4 | 56.00 |
| 2/11/00 | KLW | Finalize consent order and accompanying letter | .5 | 50.00 |
| 3/1/00 | KLW | Review and analyze letter from Respondent | .3 | 30.00 |
| 3/3/00 | KLW | Phone conf w/Respondent concerning options for resolution of complaint (.3); prepare letter to Respondent granting one-week extension to consider consent order and explaining options open to her (.3) | .6 | 60.00 |
| 3/15/00 | KLW | Prepare letter to Respondent granting second extension of deadline to respond to consent order until discusses with attorney | .2 | 20.00 |
| 3/23/00 | KLW | Phone conf w/opposing counsel to discuss willingness to negotiate term of suspension (.2); phone conf w/John Kersey and Budd Hetrick to discuss revision of settlement offer (.2) | .4 | 40.00 |
| 3/27/00 | LAP | Prepare revised consent order; prepare letter to Respondent's attorney concerning same | 2.3 | 92.00 |
| 3/27/00 | KLW | Phone conf w/Budd Hetrick to review license renewal history for inclusion in consent order | .4 | 40.00 |
| 3/24/00 | KLW | Revise and finalize consent order | .9 | 90.00 |
| 4/21/00 | KLW | Review and analyze letter rejecting consent order offer from opposing counsel (.2); prepare letter to John Kersey concerning same (.2) | .4 | 40.00 |
| 4/25/00 | KLW | Phone conf w/John Kersey regarding authority to proceed with hearing | .2 | 20.00 |
| 4/26/00 | KLW | Phone conf w/Wes Scrivner about hearing officer appointment | .2 | 20.00 |
| 4/26/00 | KLW | Prepare Complaint, Notice of Hearing, and Hearing Officer Appointment documents | 1.5 | 150.00 |
| 4/27/00 | KLW | Continue to prepare Complaint; review file and analyze documents for exhibits in support of Complaint | 2.0 | 200.00 |

| Date | Initials | Description | Time | Amt. |
|---|---|---|---|---|
| 6/7/00 | LAP | Prepare requests for admission | 1.5 | 60.00 |
| 6/7/00 | KLW | Prepare amended Notice of Hearing and Appointment of Hearing Officer; e:mail same to John Kersey (.3); review and finalize requests for admission (.5) | 1.0 | 100.00 |
| 6/30/00 | KLW | Phone conf w/opposing counsel to discuss witnesses and exhibits | .2 | 20.00 |
| 7/5/00 | KLW | Review and analyze motion to dismiss complaint; begin researching case law to respond to same | 4.0 | 400.00 |
| 7/6/00 | KLW | Continue to research case law to respond to motion to dismiss complaint; begin preparation of memorandum and affidavit in response to same | 5.0 | 500.00 |
| 7/7/00 | KLW | Continue to prepare and finalize memorandum in response to motion to dismiss (1.0); meeting with clients to discuss hearing and testimony, if needed (1.0); continue to prepare exhibits for hearing and prepare demonstrative exhibit (2.5) | 4.5 | 450.00 |
| 7/10/00 | KLW | Meeting with client and meeting opposing counsel prior to scheduled hearing; discuss with hearing officer postponing hearing until after meeting with Board (.8); appear before Board to discuss settlement options with opposing counsel (1.2) | 2.0 | 200.00 |
| 7/11/00 | KLW | Phone conf w/opposing counsel concerning preparation of final documents for agreement | .1 | 10.00 |
| | | **Total Fees** | | **$2,648.00** |

**RECAPITULATION**

| Initials | Name | Hours | Rate | Total |
|---|---|---|---|---|
| KLW | Kirsten L. Wallace, Deputy Attorney General | 24.4 | 100.00 | 2,440.00 |
| LAP | Lori A. Peel, Paralegal | 5.2 | 40.00 | 208.00 |