BEFORE THE IOWA BOARD OF BARBERING

NOTICE OF HEARING	
AND STATEMENT OF CHARGES	
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The Iowa Board of Barbering (hereinafter, "Board") files this Notice of Hearing and Statement of Charges pursuant to Iowa Code §§ 17A.12 (2), 17A.18 (3) and 158.12 (2011), and 645 Iowa Administrative Code (IAC) §§ 11.6, 13.1 and 25.2. The barbering licenses of Keith Luter, license #014882, and Shiri Culp, license #014972, and John Gillespie, 014902 and the barbershop license of Million Dollar Cuts, license #003110, are current and active through June 30, 2012. Million Dollar Cuts is located at 1506 1st Avenue, N.E., Cedar Rapids, Iowa. Keith Luter, John Gillespie, Shiri Culp and Million Dollar cuts are jointly referred to herein as "Respondents."

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on **January 24, 2012**, before the Board of Barbering. The hearing shall begin at 3:00 p.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Barbering, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

<u>Presiding Officer</u>. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC Chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

<u>Pre-hearing Conference</u>. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC § 11.17.

<u>Prosecution</u>. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: David Van Compernolle, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

<u>Communications</u>. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

<u>Jurisdiction</u>. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 158, and 272C (2011).

<u>Legal Authority</u>. If any of the allegations against you are found to be true, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 158, and 272C (2011), and 645 IAC Chapter 21.

<u>Default</u>. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in

accordance with Iowa Code § 17A.12(3) (2011), and 645 IAC § 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 22.2 and 25.2(12), with failing to post sanitation rules in a conspicuous place.

Count II

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12) and 22.15(5), with utilization of neck dusters and brushes.

Count III

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12), 22.10, 22.12 and 22.13, with failing to adequately disinfect electrical instruments and maintain clean barbering supplies.

Count IV

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12) and 22.16(3), with failing to have a hazardous waste container available for use at all times when services are being performed.

Count V

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12), and 22.11, with failing to possess and properly utilize minimum equipment, such as closed cabinets or drawers for clean supplies.

Count VI

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12) and 22.5, with failing to meet building standards, including having one wash basin for every two barber chairs.

Count VII

Respondents are charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12), and 25.2(2) (b), with professional incompetency, specifically, a failure to practice barbering in sanitary conditions.

Count VIII

Respondent Luter is charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(12), and 22.4, with failing to supervise the barbershop and assure that all employees are licensed and following applicable rules.

D. FACTUAL CIRCUMSTANCES

- 1. An inspection of Million Dollar Cuts was conducted on June 10, 2011.
- 2. The inspection revealed that sanitation rules were not posted in the barbershop.
- 3. One sink was provided for five barber stations. The area around the sink was dirty. Disinfectant, where in use, was filled with debris and did not cover the instruments being disinfected. One station did not have disinfectant.
- 4. Each barber station had hair on the surrounding floor. Clean barber

supplies were not in covered storage areas, separated from non-barbering materials. Neck dusters and neck brushes were present in the barbershop and in apparent use.

5. Two cosmetologists, Richard Burdine and Victoria Creighton, work in the barbershop, but have expired licenses. John Gillespie's barber license was expired.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact David Van Compernolle, Assistant Attorney General, at 515-281-7262.

F. PROBABLE CAUSE FINDING

On this 26th day of July, 2011 the Iowa Board of Barbering found probable cause to file this Notice of Hearing and Statement of Charges.