**BEFORE THE BOARD OF BARBER EXAMINERS**

**STATE OF IDAHO**

ORIGINAL

| | | |
|---|---|---|
| In the Matter of the License of: | ) | |
| | ) | |
| PAMELA J. LEE aka<br>PAMELA J. KINCAID,<br>License No. BR-2825, | )<br>)<br>) | Case No. BAR-L6A-02B-02-001 |
| | ) | **STIPULATION AND CONSENT ORDER** |
| Respondent. | ) | |
| | ) | |

Barbers\P2072lwa

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 Pamela J. Lee aka Pamela J. Kincaid (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 Pamela J. Lee is a licensee of the Idaho State Board of Barber Examiners and holds License No. BR-2825 to practice barbering in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 5, Idaho Code.

3. On or about May 25, 2000, Respondent entered a guilty plea to the charge of possession of a controlled substance, a felony, in violation of Idaho Code § 37-2732(c), in State v. Kincaid, Valley County Case No. CR-00-0138*C.

4. On or about July 28, 2000, as a result of her entry of a guilty plea in Case No. CR-00-0138*C, Respondent was sentenced to, among other things, 90 days in jail and three years' probation. A copy of the Judgment of Conviction and Order Suspending Sentence and Order of Probation is attached hereto as Exhibit A, and a copy of the Order Amending Judgment is attached hereto as Exhibit B.

5. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of barbering, specifically Idaho Code § 54-516(1), conviction of a felony. Violations of this law would further constitute grounds for disciplinary action against Respondent's license to practice barbering in the State of Idaho.

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

**B.**

I, Pamela J. Kincaid, by affixing my signature hereto, acknowledge that:

1. I have read the allegations pending before the Board, as stated above in section A. I further understand that these allegations, if proven, may constitute cause for disciplinary action upon my license to practice ~~social work~~ BARBERING C.S. 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 No. BR-2825 issued to Respondent Pamela J. Lee aka Pamela J. Kincaid is hereby placed upon probation for two (2) years, pursuant to the following terms and conditions:

a. Respondent shall pay to the Board an administrative fine in the amount of Two Hundred Fifty and No/100 Dollars ($250.00) within ninety (90) days of the entry of the Board's Order.

b. Respondent shall pay investigative costs and attorney fees in the amount of Two Hundred and No/100 Dollars ($200.00) within thirty (30) days of the entry of the Board's Order.

c. Respondent shall comply with all conditions of her probation in Valley County Case No. CR-00-0138*C, and upon release from probation she must submit certification from her probation officer and/or other appropriate court officer that Respondent has successfully completed her probation. Any violation of the probationary terms in Valley County Case No. CR-00-0138*C shall be considered a violation of this Consent Order and will result in the immediate suspension of Respondent's license for two (2) years.

d. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of barbering in the State of Idaho;

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

f. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or 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 time spent

outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation;

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

h. Respondent shall make all files, records, correspondence or other documents within her control available immediately upon the demand of any member of the Board's staff or its agents.

2. At the conclusion of the probationary period, the Board shall terminate Respondent's probation provided all of the terms of this Stipulation have been met.

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

4. 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 action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

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 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 5 day of April, 2002.

Pamela J. Lee (aka Pamela J. Kincaid)
Respondent

I concur in this stipulation and order.

DATED this 5th day of April, 2002.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By _____
Roger L. Gabel
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 22 day of April, 2002. **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 24th day of April, 2002, I caused to be served a true and correct copy of the foregoing by the following method to:

| | |
|---|---|
| Pamela J. Lee<br>6511 Strawberry Glen<br>Boise, ID 83703 | ☒ U.S. Mail<br>☐ Hand Delivery<br>☒ Certified Mail, Return Receipt Requested<br>☐ Overnight Mail<br>☐ Facsimile: _____<br>☐ Statehouse Mail |
| Roger L. Gabel<br>Deputy Attorney General<br>P.O. Box 83720<br>Boise, ID 83720-0010 | ☐ U.S. Mail<br>☐ Hand Delivery<br>☐ Certified Mail, Return Receipt Requested<br>☐ Overnight Mail<br>☐ Facsimile: _____<br>☒ Statehouse Mail |

Rayola Jacobsen

Rayola Jacobsen, Chief
Bureau of Occupational Licenses

CERTIFIED COPY

LELAND G. HEINRICH, CLERK
Deputy

AUG 01 2000

Case No. _____ Inst. No. _____
Filed 8:41 A.M. _____ P.M.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

| | |
|---|---|
| THE STATE OF IDAHO,<br>Plaintiff,<br><br>vs.<br><br>**PAMELA J. KINCAID,**<br>F.K.A. PAMELA J. LEE<br>SSN 518/74/8169<br>DOB 8/5/1963<br>Defendant. | Case No. CR-00-0138*C<br><br>**JUDGMENT OF CONVICTION**<br>**AND**<br>**ORDER SUSPENDING SENTENCE**<br>**AND**<br>**ORDER OF PROBATION** |

The Prosecuting Attorney, the defendant, **PAMELA J. KINCAID,** with counsel, ELLISON MATTHEWS, came into court this 28TH day of JULY, 2000.

This being the time fixed by the court to pronounce sentence upon the said defendant; said defendant was duly informed by the court of the nature of the Information filed against her for the crime of POSSESSION OF A CONTROLLED SUBSTANCE WITH THE INTENT TO DELIVER, FELONY, I.C. §37-2732(a), committed on or about February 24, 2000; of her arraignment on May 25, 2000; and having entered a plea of "Guilty" on May 25, 2000 of **POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c)** as charged in the Information; and of the receipt of a



Exhibit A
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report on the presentence investigation which had been ordered by the court.

The defendant was asked if she had any legal cause to show why judgment should not be pronounced against her to which she replied that she had none.

Both parties were given an opportunity to offer evidence and statements regarding the sentence, and the defendant was given an opportunity to make a statement or present any additional information in mitigation of punishment.

And no sufficient cause being shown or appearing to the court why the court should not render its judgment, thereupon the court renders its judgment: That whereas the said defendant, **PAMELA J. KINCAID**, having been duly convicted in this court for the crime of **POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c)**; and requested probation from the District Court;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED That the said defendant, **PAMELA J. KINCAID**, is guilty of the crime of **POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c)**, and that she be sentenced to the custody of the State Board of Correction of the State of Idaho for the term of not to exceed 3 years: with the first 1 year of said term to be FIXED, and with

the remaining 2 years of said term to be INDETERMINATE; with the defendant receiving credit for 4 days served in pre-judgment incarceration toward the FIXED portion of the term as provided by Idaho Code 18-309. All but 90 days of the above judgment and sentence is hereby suspended and it is ordered that the defendant, **PAMELA J. KINCAID**, shall be placed on probation for a period of 3 years, under the following conditions, to-wit:

1. That the probation is granted to and accepted by the probationer, subject to all its terms and conditions, and with the understanding that the Court may, at any time, in case of the violation of the terms of the probation, cause the probationer to be returned to the Court for the imposition of sentence as prescribed by law, or any other punishment as the Court may see fit to hand down.

2. That the probationer shall be under the legal custody and control of the Director of Probation and Parole of the State of Idaho and the District Court and subject to the rules of probation as prescribed by the Board of Correction and the District Court, and further the said Probationer does hereby agree and consent to the search and seizure of his/her person, automobile, real property, and any other property at any time

and at any place by any probation officer or any person assisting a probation officer and does waive his/her constitutional right to be free from such searches and seizures.

3. The probationer shall refrain from consorting with persons he/she knows to be criminals and therefore will not participate in the commission of any crimes as an undercover agent for the police or anyone acting under the supervision or control of the police. However, if probationer should obtain knowledge that a crime has been or will be committed in the future, the probationer is under an obligation to report this knowledge to his/her probation officer with the understanding that such information will be turned over to the police and the probationer may be questioned by the police concerning such knowledge.

4. Special Conditions, to-wit:

RK A. Defendant shall not violate any laws.

RK B. Defendant shall enter into and comply with all conditions of his/her Agreement of Supervision with the Department of Probation and Parole. Defendant shall also be evaluated for intense supervision and will follow any

recommendations deemed appropriate by his/her probation officer.

R.K. C. Defendant shall waive his/her Fourth Amendment Rights.

R.K. D. Defendant shall waive his/her Sixth Amendment rights of confrontation in so far as that the State may use reliable hearsay evidence at any probation violation hearing.

R.K. E. Defendant shall waive his/her fifth amendment rights to the extent that he/she must answer truthfully all questions of a probation officer reasonably related to compliance or no-compliance with the conditions of probation.

R.K. F. Defendant shall submit samples of his/her blood, breath or urine at the request of his/her probation officer.

R.K. G. Defendant shall submit to chemical testing for the presence of controlled substances in his/her system at the request of his/her probation officer or someone acting on behalf of the probation officer.

R.K. H. Defendant shall enter into and complete any rehabilitation programs recommended by his/her probation officer.

R.K. I. Defendant shall serve 90 days in the Jail with credit for 4 days served. This time in custody shall be served as scheduled by the probation officer. The Court has no objection

to work release. The Court has no objection to this time in custody being served in Ada County with no expense to Valley County.

RK J. Defendant immediately shall attend 45 A.A./N.A. meetings in the next 60 days thereafter at least 3 A.A./N.A. meetings per week and maintain a green card verifying attendance at said meetings.

RK K. Defendant may serve 180 days discretionary time as ordered by her probation officer.

RK L. Defendant shall not consume alcohol. The defendant shall not enter into an establishment that serves alcohol for on premises consumption.

5. THAT THE PROBATIONER, IF PLACED ON PROBATION TO A DESTINATION OUTSIDE THE STATE OF IDAHO, OR LEAVES THE CONFINES OF THE STATE OF IDAHO, WITH OR WITHOUT PERMISSION OF THE DIRECTOR OF PROBATION AND PAROLE, DOES HEREBY WAIVE EXTRADITION TO THE STATE OF IDAHO, AND ALSO AGREES THAT THE PROBATIONER WILL NOT CONTEST ANY EFFORT BY ANY STATE TO RETURN THE PROBATIONER TO THE STATE OF IDAHO.

Costs in the amount of $32.50, P.O.S.T. fees in the amount of $6.00, Victim's Compensation Fund fees in the amount of $50.00 are assessed.

IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment of Conviction and Order Suspending Sentence and Order of Probation to the said Sheriff, which shall serve as the commitment of the defendant.

Dated this 28th day of July, 2000.

GEORGE D. CAREY
District Judge

State of Idaho )
County of Valley ) ss
I hereby certify that the foregoing is a true and correct copy of the original on file in this office.
Date 11-23-2001
LELAND G. HEINRICH
CLERK
By Jayne Thomson
Deputy



Exhibit A
Page 7 of 7

CERTIFIED COPY

Ellison M. Matthews
MATTHEWS LAW OFFICES
413 West Jefferson, Suite 4
Post Office Box 1988
Boise, Idaho 83701
Telephone: (208) 336-1433
Facsimile: (208) 336-9133
ISB No. 1044
Attorney for Defendant

LELAND G. HEINRICH, CLERK
By [illegible] Deputy

NOV 1 2000

Case No. _____ Inst. No. _____
Filed 11:45 A.M. _____ P.M.

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY**

| | |
|---|---|
| THE STATE OF IDAHO,<br><br>Plaintiff,<br><br>vs.<br><br>PAMELA J. KINCAID,<br><br>Defendant. | **Case No. CR-00-0138*C**<br><br>**ORDER AMENDING JUDGMENT** |

Pursuant to the stipulation of the parties, and good cause being shown;

IT IS HEREBY ORDERED That Special Condition 4A of the Judgment of Conviction and Order Suspending Sentence and Order of Probation heretofore rendered on the 1st day of August, 2000 is hereby amended pursuant to Rule 35 of the Idaho Criminal Rules, to provide that Defendant's sentence in jail for a period of 90 days with credit for 4 days served shall be reduced to a sentence in jail for a period of 85 days with credit for 4 days served.



Exhibit 6
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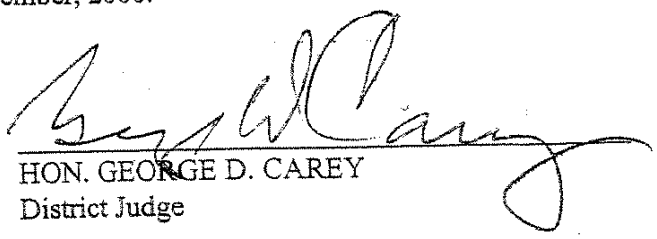
DATED this 1st day of November, 2000.



HON. GEORGE D. CAREY
District Judge

State of Idaho } ss
County of Valley }
I hereby certify that the foregoing is a true and correct copy of the original on file in this office.
Date 11-23-2001
LELAND G. HEINRICH
Clerk
By Jayne Thompson
Deputy



Exhibit 6
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