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STATE OF WISCONSIN

BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST

ELDON PAGE,

FINAL DECISION AND ORDER

d/b/a ALL NATIONS BARBER SHOP,

LS9902182BAC

RESPONDENT.

The State of Wisconsin, Barbering and Cosmetology Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Barbering and Cosmetology Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 8th day of June, 1999.

Barbara Flaherty

Member of the Board

STATE OF WISCONSIN

BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :

PROCEEDINGS AGAINST

ELDON PAGE

PROPOSED DECISION AND ORDER

d/b/a ALL NATIONS BARBER SHOP,

Case No. LS9902182BAC

RESPONDENT

PARTIES

The parties to this action for purposes of §227.53, Wis. Stats., are:

*Mr. Eldon Page
c/o All Nations Barber Shop
409 High Street
Racine, WI 53402*

Mr. Steven M. Gloe
Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on April 12, 1999. Eldon Page, the respondent, did not appear. The complainant appeared by Attorney Steven M. Gloe.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Barbering and Cosmetology Examining Board adopt as its final decision in this matter the following Findings Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. All Nations Barber Shop is located at 409 High Street in Racine, Wisconsin. It is a duly licensed barber and cosmetology establishment within the State of Wisconsin (License #27710). The license was granted on August 14, 1998. Eldon Page is listed with the Department of Regulation and Licensing as the owner of All Nations Barber Shop.
2. Beginning in January of 1998, and continuing through August 13, 1998, All Nations Barber Shop was open and operating as a barbering and cosmetology establishment without a Wisconsin barbering and cosmetology establishment license.
3. Christopher Allen provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
4. Kavin R. Grays provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
5. Ericka J. Hubbard provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
6. Nicktavius Wainwright provided barbering and cosmetology services at All Nations Barber Shop from January 1998, through May 1998, without a barbering and cosmetology license or apprentice permit.

CONCLUSIONS OF LAW

1. By failing to file an answer and by failing to appear at his hearing, Eldon Page is in default pursuant to sec. RL 3.13, Wis. Admin. Code.
2. Eldon Page operated a barbering and cosmetology establishment in Wisconsin without the required credential contrary to secs. 454.08 (1) (b), 454.15 (2) (i), Wis. Stats., and secs. BC 2.06 (1) and 3.01, Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Eldon Page pay a forfeiture of \$900.00 and the costs of this proceeding, payable to the Department of Regulation and Licensing within 90 days after the date on which the final order is signed.

OPINION

Beginning in January of 1998, and continuing through August 13, 1998, All Nations Barber Shop located in Racine, Wisconsin, was open and operating as a barbering and cosmetology establishment without the required credential. In addition, at least four individuals who worked there did so without the necessary credentials. On August 14, 1998, a license was issued to All Nations Barber Shop. Eldon Page was listed as the owner of the shop.

By not having answered the complaint and by not having appeared at the scheduled hearing in this matter, Mr. Page is in default and has thereby admitted all the allegations contained within the complaint. It is undisputed that Mr. Page operated a barbering and cosmetology establishment without the required statutory credential and without licensed personnel. In light of those violations, the remaining issue is what, if any, discipline should be imposed against Mr. Page. To reach that determination, it should be noted that the purposes for imposing discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and

(3) to deter other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

The state has recommended that a \$900.00 forfeiture be imposed against Mr. Page. Given that the establishment became properly licensed within a day of being notified of its noncompliance, I am satisfied that the recommended forfeiture is sufficient to ensure Mr. Page's future compliance. It will further serve to protect the public and to deter other licensees from engaging in similar misconduct. Accordingly, the forfeiture amount is appropriate.

Dated at Madison, Wisconsin, this 13th day of April, 1999.

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Jacquelynn B. Rothstein
Administrative Law Judge