

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION
FOR AN ADMINISTRATIVE INJUNCTION
INVOLVING:

DAVID VAZQUEZ,	FINAL DECISION AND ORDER
RESPONDENT	LS0203061UNL

The State of Wisconsin, Department of Regulation and Licensing, 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, Department of Regulation and Licensing.

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 3rd day of May, 2002.

Oscar Herrera, Secretary
Department of Regulation and Licensing

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION
FOR AN ADMINISTRATIVE INJUNCTION
INVOLVING:

DAVID VAZQUEZ	PROPOSED DECISION AND ORDER
RESPONDENT	LS0203061UNL

PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats., are:

Complainant:

Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Ave.

Madison, WI 53703

Respondent:

David Vazquez

4100 Pebble Beach Court

Franklin, WI 53132

David Vazquez

1816 S. 44th Street

Milwaukee, WI 53214

PROCEDURAL HISTORY

- A. On March 6, 2002, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a Petition for an administrative injunction. A hearing on the petition was scheduled for March 22, 2002. On March 6, 2002, a copy of the Petition and a Notice of Hearing were mailed to the respondent by certified mail return receipt requested to 4100 Pebble Beach Road, Franklin, WI. 53132.
- B. The notice of hearing informed the respondent that he was to file a written answer to the petition within 10 days of service. The respondent did not file an answer to the petition within the specified time limit.
- C. The hearing was held as scheduled. The respondent did appear. The department was represented by Attorney Colleen M. Baird, of the Department's Division of Enforcement. The hearing was recorded. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

FINDINGS OF FACT

1. The petition in this action was served upon the respondent by mailing to his last-known address under section RL 3.07, Wis. Admin Code. The respondent failed to comply with the requirement to file an answer but did appear at the hearing.
2. The respondent is not licensed as a barber and cosmetologist nor possesses any other credential permitting practice under Wis. Stats. § 454.04 (1) (a).
3. On November 14, 2001, the respondent was interviewed by Michelle Krisher of the department at the Supreme Clientele Hair Studio, located at 1114 W. Historic Mitchell Street, Milwaukee, Wisconsin, 53204, at which time the respondent admitted to Ms. Krisher that he had provided barbering or cosmetology services at that location.
4. The respondent previously held an apprentice contract, sponsored by Fashion Impressions, 2330 South 6th Street, Milwaukee, Wisconsin, 53215 and approved by the Division of Workforce Development on April 27, 1999. (Exh. 3)
5. The respondent was not permitted to work as an apprentice for Supreme Clientele Hair Studio.

CONCLUSIONS OF LAW

1. Under Wis. Stats. § 440.21, and Wis. Admn. Code chapter RL 3, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person engaged in a practice without a credential required under chapters 440 through 459.
2. The respondent, was served by mail at his last-known address in Wisconsin under section Wis. Admn. Code §

RL 3.07. The Department of Regulation and Licensing has personal jurisdiction over the respondent under Wis. Stats. § 801.04(2), and Wis. Admin. Code § RL 3.07.

3. The respondent, has engaged in the practice of barbering or cosmetology without a credential in violation of Wis. Stats. § 454.04(1)(a). A special order enjoining respondent from continuing in the unlicensed practice of barbering or cosmetology is therefore appropriate under Wis. Stats. § 440.21(2).

OPINION

This case is an action for an administrative injunction against the respondent under the authority of sec. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that the respondent engaged in activities which are reserved by statute to those holding a valid credential under Wis. Stats. § 454.04(1)(a).

A preponderance of the evidence establishes the respondent engaged in the practice of barbering or cosmetology without the professional credential required by statute. The investigator for the division of enforcement testified that on November 14, 2001, while performing an inspection of Supreme Clientele Hair Studio, upon questioning, the respondent admitted providing barbering or cosmetology services at that location. At the hearing of this matter the respondent also testified that he had provided barbering or cosmetology services at that location.

An administrative injunction is authorized by Wis. Stats. § 440.21(2), and Wis. Admn. Code chapter RL 3, and it is clearly appropriate here.

Any person who violates a special order issued under Wis. Stats. § 440.21(2), may be required to forfeit up to \$10,000 for each offense, under Wis. Stats. § 440.21(4), and each day of continued violation constitutes a separate offense

ORDER

Based on the authority in Wis. Stats. § 440.21(2) and Wis. Admn. Code chapter RL 3, and the Findings of Fact and Conclusions of Law below,

THE DEPARTMENT OF REGULATION AND LICENSING HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:

Effective on the date on which this order is signed by the departmental secretary or his designee,

- the respondent, David Vazquez, is **enjoined and prohibited** from continuing to engage, directly or indirectly, in barbering or cosmetology, which is conduct which requires a credential under chapter 454, Stats., unless and until he obtains the appropriate credential under chapter 454, Stats.; and

ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.

Dated and signed: April 10, 2002

William A. Black

Administrative Law Judge

Department of Regulation and Licensing