

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

MERRY C. MIELOCH,
RESPONDENT.

FINAL DECISION AND ORDER
LS0709107BAC

Division of Enforcement Case File Number: 04 BAC 078

The parties to this action for the purposes of Section 227.53 of the Wisconsin statutes are:

Merry C. Mieloch
1043 9th Avenue
Grafton, Wisconsin 53024

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Merry C. Mieloch is (Date of Birth: December 24, 1967) is duly licensed in the state of Wisconsin as a manicurist (license number 85-6575). That license was first granted on October 12, 2006, and is current until June 30, 2007. The last address Ms. Mieloch reported to the Department of Regulation and Licensing (hereinafter Department) is 1043 9th Avenue, Grafton, Wisconsin 53024.

2. Merry C. Mieloch was also duly licensed in the state of Wisconsin as a barbering/cosmetology apprentice (license number 600-79637). That license was first granted on January 16, 2006 and since January 16, 2007, has been in inactive status with the Department.

3. Ms. Mieloch was also licensed as a manicurist in the state of Wisconsin (license number 85-719). The license was first granted on April 19, 1990, and expired on July 1, 1995.

4. Ms. Mieloch started employment as a manicurist at About Face, 11014 North Port Washington Road, Mequon, Wisconsin 53092, a duly licensed barbering and cosmetology establishment in the state of Wisconsin (license number 80-20510), beginning in November 2002.

5. On July 20, 2005, Investigator Douglas Austin from the Department inspected About Face. Investigator

Austin found during the inspection that the establishment license for About Face had expired on July 1, 2005, and had not been renewed. The establishment license for About Face was renewed on July 21, 2005.

6. Shortly after the inspection, Investigator Austin, through records kept at the Department, determined that Ms. Mieloch's manicurist license had expired on July 1, 1995, and had not been renewed.

7. On July 22, 2005, Ms. Mieloch attempted to renew her manicurist license. Because the license had been expired for more than five years, the license could not be renewed. In order to become relicensed as a manicurist in the state of Wisconsin, Ms. Mieloch would need to reapply for licensure and take the manicurist examination.

8. On August 9, 2005, Investigator Austin wrote to the manager of record at About Face, Michelle Erlich, informing her that Ms. Mieloch could not work at About Face until Ms. Mieloch obtained licensure. On August 12, 2005, Ms. Erlich telephoned Investigator Austin and told him that Ms. Mieloch was no longer working at About Face and would not work there until she was licensed. It is unknown when Ms. Mieloch stopped working as a manicurist at About Face.

9. On January 16, 2006, Ms. Mieloch was licensed as a barbering/cosmetology apprentice in the state of Wisconsin. Ms. Mieloch entered into an Apprentice Contract with About Face in early 2006, with the effective date of the contract being January 16, 2006. Since January 16, 2007, that license has been in inactive status.

10. In late 2005, Ms. Mieloch took the Wisconsin manicurist examination. On October 12, 2006, Ms. Mieloch was granted a manicurist license.

11. In resolution of this matter, Merry C. Mieloch consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. By the conduct referred to in the above Findings of Fact, Merry C. Mieloch has violated:

1. Wis. Stats. sec. 454.04(1)(b). No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, barber or cosmetology license, manager license, temporary permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or barbering or cosmetology course of instruction.
2. Wis. Stats. sec. 454.15(2)(i). Any violation of Chapter 454 or of the Administrative Code promulgated under Chapter 454 is cause for discipline.
3. Wis. Admin. Code § BC 2.03(2). Licensees may provide only those services which they are competent to perform by training or experience and are licensed to provide.
4. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
5. Wis. Admin. Code § BC 2.045. Licensees shall not provide personal care services outside of a licensed

establishment, except for persons who are unable to leave their homes because of illness or disability or for person who are in hospitals, nursing homes, correctional institutions or other institutions.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Merry C. Mieloch shall pay to the Department of Regulation and Licensing a forfeiture of ONE THOUSAND SIX HUNDRED dollars (\$1,600.00).

IT IS FURTHER ORDERED that Merry C. Mieloch shall pay costs in the amount of ONE HUNDRED TWENTY FIVE dollars (\$125.00) in this matter.

Payment of the forfeiture and costs shall be submitted in eight (8) installments. The installments shall be submitted on the following payment schedule:

Payment Number	Due Date	Payment Amount
1	June 15, 2007	\$215.62
2	July 15, 2007	\$215.62
3	August 15, 2007	\$215.62
4	September 15, 2007	\$215.62
5	October 15, 2007	\$215.62
6	November 15, 2007	\$215.62
7	December 15, 2007	\$215.62
8	January 15, 2008	\$215.66

Ms. Mieloch may pay the full amount of the forfeiture and costs at any time prior to each monthly due date for payment.

Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-261-7904

IT IS FURTHER ORDERED that in the event Merry C. Mieloch fails to timely submit any payment of the forfeiture and costs as set forth above, the manicurist license of Merry C. Mieloch (license number 85-6575) **SHALL BE SUSPENDED**, without further notice or hearing until Merry C. Mieloch has complied with the terms of this Order.

This Order shall become effective upon the date of its signing.

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

9/10/07
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

MERRY C. MIELOCH,

RESPONDENT.

STIPULATION
LS#07 _____ BAC

Division of Enforcement Case File Number: 04 BAC 078

It is hereby stipulated between Merry C. Mieloch and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (04 BAC 078). Ms. Mieloch consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Ms. Mieloch understand that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. Ms. Mieloch has been provided an opportunity to obtain legal counsel prior to signing this Stipulation.
4. Ms. Mieloch agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (hereafter "Board"). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Ms. Mieloch waives all rights to any appeal of the attached order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Ms. Mieloch or her attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
7. Ms. Mieloch is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department policy.
8. The Division of Enforcement joins Merry C. Mieloch in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Merry C. Mieloch

Respondent

1043 9th Avenue

Grafton, Wisconsin 53024

License Number: 85-6575

Date

Claudia Berry Miran

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date