

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 :
 :
ROSS R. HETFELD, : FINAL DECISION AND ORDER
RESPONDENT. : LS# 0708071BAC
 :

Division of Enforcement Case File Number 06 BAC 033

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

Ross R. Hetfeld
J.C. Penney Salon
101 Washington Avenue
Wausau, Wisconsin 54401

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

A formal Complaint was filed on August 7, 2007. A hearing was held on July 25, 2008.

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. Ross R. Hetfeld (Date of Birth is March 16, 1954, is duly licensed as a barbering or cosmetology manager in the state of Wisconsin (license #81-24042). This license was first granted on October 11, 1990, and is current through March 31, 2009. The last address Mr.

Hetfeld reported to the Department of Regulation and Licensing (Department) is 221 Scott Street, Apartment 746, Wausau, Wisconsin 54403. The Department has been informed by Mr. Hetfeld that he can be contacted at J.C. Penney Salon, 101 Washington Street, Wausau, Wisconsin, 54401.

2. Michael Priebe, Colonial Property 5, L.L.C., Post Office Box 928, Wausau, Wisconsin 54402, owns a building located at 326 Washington Street, Wausau, Wisconsin. The 326 Washington Street address is known as Divine Designs Salon, and is not a licensed barbering or cosmetology establishment in the state of Wisconsin. Mr. Priebe only rents out booth space at Divine Designs Salon and is not involved in the day to day running of the salon. Mr. Priebe does not perform barbering or cosmetology services at Divine Designs Salon.

3. From October 1, 2005, through December 5, 2005, Mr. Hetfeld had a written lease agreement for a booth rental with Mr. Priebe at Divine Designs Salon. During that time period, the booth was not licensed as barbering or cosmetology establishment, which is contrary to Wisconsin Administrative Code § 3.02(2)(b).

4. In resolution of this matter, Ross R. Hetfeld 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. Stat. Sec. 454.15.

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

3. By conduct referred to in Paragraph 3 of the Findings of Fact, Ross R. Hetfeld has violated:

1. Wis. Stat. sec. 454.08(1)(b). Except as permitted by rule promulgated under par. (a), no person may practice barbering or cosmetology, aesthetics, electrolysis or manicuring in an establishment unless the establishment is licensed to provide that practice under sub.(2).
2. Wis. Stat. sec. 454.15(2)(i). Violated this chapter or any rule promulgated under this chapter.
3. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrolysis or manicuring.
4. Wis. Admin. Code § BC 2.045(1). 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.
5. Wis. Admin. Code § BC 2.08(1)(b). Licensees holding current licenses or permits granted under ch. 454, Stats., shall:
 - (b) Be responsible for their own professional practice, conduct and compliance with ch. BC 2.
6. Wis. Admin. Code § BC 3.01(1). Barbering and cosmetology, aesthetics, electrolysis and manicuring shall not be practiced outside the confines of a licensed establishment except as provided in s. BC 2.045.
7. Wis. Admin. Code § BC 3.02(2)(b). The lessee of a chair or booth shall be responsible for ensuring that the leased chair or booth operates in compliance with ch. 454, Stats., and the rules of the board, and the lessee shall hold a manager's and an establishment license.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the barbering or cosmetology manager license of Ross R. Hetfeld (license number 81-24042) shall be REPRIMANDED.

NOW, THEREFORE, IT IS ALSO ORDERED that Ross R. Hetfeld shall pay to the Department of Regulation and Licensing costs in the amount of EIGHT HUNDRED dollars (\$800.00) in this matter.

The first payment of TWO HUNDRED dollars (\$200.00) shall be due ninety (90) days from the effective date of this Order. Three further payments of TWO HUNDRED dollars (\$200.00) shall be due every ninety (90) days from the date of the

previous payment until the full EIGHT HUNDRED dollars (\$800.00) in costs are paid.

The full remaining amount may be paid at any time prior to each due date for payment.

IT IS FURTHER ORDERED that in the event Ross R. Hetfeld fails to timely submit any payment of the costs as set forth above, the barbering or cosmetology manger license of Ross R. Hetfeld (license number 81-24042) **SHALL BE SUSPENDED**, without further notice or hearing until Ross R. Hetfeld 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 11/3/08

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 :
ROSS R. HETFELD, :
RESPONDENT. :

STIPULATION
LS# 0708071BAC

Division of Enforcement Case File Number 06 BAC 033

It is hereby stipulated between Ross R. Hetfeld 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 formal complaint filed against Mr. Hetfeld by Division of Enforcement. Mr. Hetfeld consents to the resolution of this matter by stipulation.
2. Mr. Hetfeld understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.
3. Mr. Hetfeld is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.
4. Mr. Hetfeld agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (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. Mr. Hetfeld 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 Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Mr. Hetfeld or his 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. Mr. Hetfeld 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 Ross R. Hetfeld in recommending the Barbering and Cosmetology Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Ross R. Hetfeld
Respondent
J.C. Penney Salon
101 Washington Street
Wausau, Wisconsin 54401
License Number 81-24042

Date

Claudia Berry Miran
Attorney
Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935

Date