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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	FINAL DECISION AND ORDER
	:	
MICHELLE F. ERLICH	:	Case # LS0809082BAC
RESPONDENT.	:	

Division of Enforcement Case # 04 BAC 078

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

Michelle F. Erlich
9818 North Rangeline Road
Mequon, WI 53092

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Barbering and Cosmetology Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 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 Barbering and Cosmetology Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Michelle F. Erlich (DOB 12/24/1964) is duly licensed as a barbering and cosmetology manager in the state of Wisconsin (license # 24866-81). This license was first granted on June 29, 1992, and will expire on March 31, 2009. From July 1, 1999, through August 10, 2005 Ms. Erlich's barbering and cosmetology manager license was expired.
2. Respondent's most recent address on file with the Department of Regulation and Licensing (Department) is 9818 North Rangeline Road, Mequon, WI 53092.
3. Respondent was also licensed as a barbering and cosmetology practitioner in the state of Wisconsin (license #59865-82). That license was first granted on May 8, 1989, and expired on July 1, 2003.
4. At all times relevant to this action, Respondent was working as the manager of record at About Face, 11014 North Port Washington Road, Mequon, Wisconsin, 53092, a duly licensed barbering and cosmetology establishment in the state of Wisconsin (license #20510-80). As manager of a licensed barbering and cosmetology establishment, Ms. Erlich was responsible for compliance with Wis. Stats. chapter 454 and Wisconsin Administrative Code chapters BC 3 and 4.
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 on expired on July 1, 2005, and had not been renewed.
6. During the July 20, 2005, inspection Investigator Austin found that combs were dirty and some of the establishment's areas were not clean.

7. Investigator Austin determined during the inspection that Respondent, Trisha L. Rude, Carolyn Gilley, Merry C. Mieloch, Irina Prodayko and Tamara Bishop were employed by About Face.
8. During the inspection, Investigator Austin asked Mindy Paley, a co-owner of the establishment who was acting as receptionist, whether she ever performed waxing or aesthetics services for customers at About Face.
9. Ms. Paley told Investigator Austin that she never did waxing but she sometimes applied makeup to customers as part of a sale of makeup.
10. The establishment license for About Face was renewed on July 21, 2005.
11. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Respondent's manager license had been in expired status since July 1, 1999, and that her barbering or cosmetology practitioner license had expired on July 1, 2003. On August 10, 2005, Respondent renewed her barbering or cosmetology manager license.
12. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Irina Prodayko's aesthetician licensed had been in expired status since July 1, 2005. On July 28, 2005, Ms. Prodayko renewed her aesthetician license.
13. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Tamara Bishop's barbering and cosmetology practitioner license had been in expired status since July 1, 2005. On July 28, 2005, Ms. Bishop renewed her barbering or cosmetology practitioner license.
14. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Trisha L. Rude's manicurist license had expired on July 1, 2003, and was not renewed until May 13, 2004. Ms. Rude's manicurist license also expired on July 1, 2005, and was not renewed until July 28, 2005.
15. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Carolyn Gilley had not been granted a license to practice as a manicurist in the state of Wisconsin at the time of the inspection. Ms. Gilley received her manicurist license on October 27, 2005.
16. Shortly after the inspection, Investigator Austin determined through examining records kept at the Department that Merry C. Meiloch's manicurist license had expired on July 1, 1995, and had not been renewed. On July 22, 2005, Ms. Mieloch attempted to renew her manicurist license but was informed that she could not because the license had been expired for more than five years.
17. On August 9, 2005, Investigator Austin informed Respondent in a letter that Ms. Mieloch could not work at the establishment until she obtained a new license. Elayne Bergman, co-owner of the establishment, informed Investigator Austin in a telephone call on August 12 that Ms. Mieloch would not work at the establishment until Ms. Mieloch was properly licensed.
18. Investigator Austin reinspected the establishment on August 5, 2005. He found that neither the new establishment license nor any practitioner licenses were posted. Ms. Paley posted the practitioners' licenses while Investigator Austin was present.
19. During the August 5, 2005, reinspection, Investigator Austin again asked Ms. Paley if she ever performed waxing for customers at the establishment. She replied that she had done some waxings, but that there were not many. Ms. Paley has never held any barber or cosmetology practitioner or aesthetician license in Wisconsin.
20. In resolution of this matter, Michelle F. Erlich 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. § 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44 (5).
3. By practicing barbering and cosmetology without a current license during the period from July 1, 2003, to August 10, 2005, Respondent violated Wis. Stat. § 454.04 (1) (a), which prohibits the practice of barbering or cosmetology unless a person holds a current barber or cosmetology practitioner or manager license.
4. By permitting the operation of About Face from July 1, 2005, through July 21, 2005, when the establishment did not hold a current license, Respondent violated Wis. Stat. § 454.08 (1) (b) and Wisconsin Administrative Code § BC 3.01 (1), which provide that barbering, cosmetology, aesthetics or manicuring shall not be practiced outside the confines of a licensed establishment.
5. By permitting the operation of About Face from July 1, 1999, through August 10, 2005, when neither she nor any other staff member at the establishment held a manager's license, even though she was manager of record, Respondent violated Wis. Stat. § 454.08 (6) and Wisconsin Administrative Code § BC 3.02, which require a licensed manager for each establishment.
6. By permitting Trisha Rude and Merry C. Meiloch to practice manicuring at About Face when their manicurist licenses were expired, Respondent violated Wisconsin Administrative Code BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
7. By permitting Carolyn Gilley to practice manicuring at About Face without a manicurist's license, Respondent violated Wisconsin Administrative Code BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
8. By permitting Tamara Bishop to practice barbering or cosmetology at About Face when her practitioner's license was expired, Respondent violated Wisconsin Administrative Code BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
9. By permitting Irina Prodayko to practice aesthetics at About Face when her aesthetician's license was expired, Respondent violated Wisconsin Administrative Code BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
10. By permitting Mindy Paley to provide waxing services at About Face without a license, Respondent violated Wisconsin Administrative Code BC 2.04 (1), which provides that licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.
11. Because Investigator Austin found dirty combs and unclean areas at About Face during the July 20, 2005, inspection, the establishment violated Wisconsin Administrative Code §§ BC 3.01 (1) and BC 4.01 (1).
12. Because the conditions at the establishment violated Wisconsin Administrative Code §§ BC 3.01 (1) and BC 4.01 (1), Respondent violated Wisconsin Administrative Code BC 2.07 (1), which states that the licensed manager of a barbering and cosmetology establishment shall be responsible for the daily operations of an establishment and ensure that the establishment is in compliance with chapter 454 of the statutes and chapters BC 2, 3 and 4 of the Wisconsin Administrative Code.
13. By failing to post establishment and practitioners' licenses Respondent violated Wis. Administrative Code § BC 2.06 (2), which states that the manager shall post all required licenses, permits and notices.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Michelle F. Erlich (#24866-81) to practice as a barbering and cosmetology manager in the state of Wisconsin is hereby suspended from October 1 through October 14, 2008.
2. Respondent shall pay one thousand dollars (\$1,000) toward the costs of this matter within 120 days of the date of this order. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement

Department of Regulation and Licensing
P. O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
FAX (608) 266-2264

3. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered, Respondent's license (#24866-81) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
4. This Order is effective on the date of its signing.

By: Jeannie M. Bush
A Member of the Board

9/8/08
Date