

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	:	
	:	FINAL DECISION AND ORDER
ELEMENTS SALON, MELISSA G. TUCEK,	:	(AS TO ELEMENTS SALON,
DAVID C. KARAS, HANNA L. BRANDNER,	:	MELISSA G. TUCEK, AND
ELEMENTS II, AND KRISTIN D. EGGE,	:	DAVID C. KARAS)
RESPONDENTS	:	ORDER 0000249

Division of Enforcement Case File # 07 BAC 279

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Elements Salon
Melissa Tucek and David Karas
10476 Peterson Road
Hayward, WI 54843

Melissa G. Tucek
P.O. Box 84
Cable, WI 54821

David C. Karas
10476 Peterson Road
Hayward, WI 54843

Wisconsin Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53707-8935

Department of Regulation and Licensing
Division of Enforcement
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 disposition of this matter, subject to the approval of the Wisconsin Barbering and Cosmetology Examining (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. Respondent Elements Salon is licensed in the state of Wisconsin as a Barbering and Cosmetology Establishment, license # 80-34682. This license was first granted to Elements Salon on 02/13/2007 and is current through 03/31/2011.
2. The most recent address on file with the Wisconsin Department of Regulation and Licensing (Department) for Respondent Elements Salon is Attn: Melissa Tucek and David Karas, 10476 Peterson Road, Hayward, WI 54843.
3. Respondent Melissa G. Tucek is licensed in the state of Wisconsin as a Barbering and Cosmetology Manager, license # 81-30090. This license was first granted to her on 08/26/2004 and is current through 03/31/2011. Respondent Tucek is co-owner of Respondent Elements Salon.
4. The most recent address on file with the Department for Respondent Tucek is P.O. Box 84, Cable, WI 54821.
5. Respondent David C. Karas is licensed in the state of Wisconsin as a Barbering and Cosmetology Practitioner, license # 82-80223. This license was first granted to Respondent Karas on 07/23/2001 and is current through 03/31/2011. Respondent Karas is co-owner of Respondent Elements Salon.
6. The most recent address on file with the Department for Respondent Karas is 10476 Peterson Road, Hayward, WI 54843.
7. On or about December 12, 2007, the Department received a complaint alleging that Melissa Tucek was renting space to individual practitioners who did not have separate establishment and manager's licenses. A case was subsequently opened for investigation.
8. Pursuant to Wis. Admin. Code § BC 3.02(2), the owner of a barbering and cosmetology establishment may lease a chair to a licensed individual as long as there is a written lease agreement and the lessee holds a manager's license and an establishment license.
9. Wis. Admin. Code § BC 3.02(2) requires, in part, that "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."
10. The Department's investigation revealed that Hanna Brandner was a chair rental at Elements Salon for approximately four months without having the required separate establishment and manager's licenses.
11. Wis. Admin. Code § BC 3.01(6) requires, in part, that "Poisonous substances stored in public areas shall be locked in a cabinet or closet."
12. On March 26, 2008, during the course of the Department's investigation, a Department investigator performed an unannounced inspection at Elements Salon. The inspection revealed poisonous substances located in an unlocked cabinet in the public restroom.

13. Wis. Admin. Code § BC 4.01(1) requires, that “All areas of an establishment and the equipment, tools and implements used by licensees for services in an establishment shall be maintained in a clean, sanitary and safe condition.

14. The March 26, 2008 inspection revealed hair in Respondent Karas’ workstation drawers which contained clean contact equipment.

15. In resolution of this matter, Respondents Elements Salon, Melissa G. Tucek and David C. Karas consent 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, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in paragraphs 10 and 12 of the Findings of Fact, Elements Salon and owners, Melissa G. Tucek and David C. Karas have violated Wis. Admin. Code §§ BC 2.04(1), BC 3.02(2), and BC 3.01(6) by leasing a chair to someone without the required separate establishment and manager’s license and by keeping poisonous substances in an unlocked cabinet in a public area.

3. By the conduct described in paragraph 14 of the Findings of Fact, David C. Karas has violated Wis. Admin. Code § BC 4.01(1) by having hair in his workstation drawers which contained clean contact equipment.

4. As a result of the violations noted in paragraphs 2 and 3 of the Conclusions of Law, Elements Salon, Melissa G. Tucek, and David C. Karas are subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondents Elements Salon, Melissa G. Tucek, and David C. Karas be, and hereby are, REPRIMANDED.

2. Respondents Elements Salon, Melissa G. Tucek, and David C. Karas shall pay COSTS in the amount of FIVE HUNDRED TWENTY-FIVE DOLLARS (\$525.00) and a FORFIETURE in the amount of SIX HUNDRED DOLLARS (\$600.00) within 90 days of the date of this Order.

IT IS FURTHER ORDERED that:

3. Respondent David C. Karas shall also pay a FORFIETURE in the amount of ONE HUNDRED DOLLARS (\$100.00) within 90 days of the date of this Order.

4. Payment of the costs and forfeitures 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
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

5. 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 Respondents' licenses. 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 Respondents fail to timely submit payment of the costs and forfeitures as ordered and as set forth above, the Respondents' licenses (# 80-34682, # 81-30090, and # 82-80223) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the costs and forfeitures.

IT IS FURTHER ORDERED, that file, 07 BAC 279 be, and hereby is, closed as to Respondents Elements Salon, Melissa G. Tucek, and David C. Karas.

6. This Order is effective on the date of its signing.

Dated this 7 day of June, 2010.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush