

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BARBERING AND  
COSMETOLOGY EXAMINING BOARD

FILE COPY

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IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

DANIEL MISTRIOTY,  
D/B/A NESO'S VILLAGE CUTS  
RESPONDENT

FINAL DECISION AND ORDER  
97 BAC 102

LS 9710068 BAC

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

Daniel Mistrioty  
d/b/a Neso's Village Cuts  
7212 W. State St.  
Wauwatosa, WI 53213

Barbering and Cosmetology Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

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

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. Daniel Mistrioty (DOB 02/03/34), 7212 W. State St., Wauwatosa, WI 53213, is duly licensed as a barbering and cosmetology manager in the state of Wisconsin (license #22769). This license expired July 1, 1995.

2. Neso's Village Cuts, 7212 W. State St., Wauwatosa, WI 53213, is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license #18936). This license expired July 1, 1995.

3. Mr. Mistrioty is listed with the Department as the owner and manager of Neso's Village Cuts. As owner and manager, Mr. Mistrioty was and is at all times relevant to this action responsible for compliance with ch. 454, Stats. and chs. 2, 3 and 4 of the Wisconsin Administrative code.

4. Mr. Mistrioty has filed the proper renewal forms for renewing his manager's license as well as Neso's Village Cuts establishment license with the Department on or about June 10, 1997.

5. On exact dates unknown, but at least from July 1995 and continuing until at least June 1997, Mr. Mistrioty provided barbering and cosmetology services to the public at Neso's Village Cuts. At no time relevant to this paragraph, did Mr. Mistrioty hold a current manager's license.

6. On exact dates unknown, but at least from July 1995 and continuing until at least June 1997, Mr. Mistrioty owned and operated Neso's Village Cuts. At no time relevant to this paragraph, did Mr. Mistrioty hold a current establishment license for Neso's Village Cuts.

7. In resolution of this matter, Mr. Mistrioty consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

Daniel Mistrioty, by the conduct referred to in ¶ 5-6, above, has violated secs. 454.04(1)(a), and 454.15(1)(i), Stats. and Wisconsin Administrative Code § BC 2.04(1).

#### ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that Daniel Mistrioty ( license #22769) is REPRIMANDED.

**IT IS FURTHER ORDERED** that Daniel Mistrioty shall pay to the Department of Regulation and Licensing a forfeiture of FIVE HUNDRED dollars (\$500.00). Payment shall be submitted as follows:

\$100.00 due on or before October 15, 1997;  
\$100.00 due on or before November 12, 1997;  
\$100.00 due on or before December 17, 1997;  
\$100.00 due on or before January 14, 1998; and  
\$100.00 due on or before February 11, 1998.

**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  
P.O. Box 8935  
Madison, WI 53708.

**IT IS FURTHER ORDERED** that in the event Daniel Mistrioty fails to timely submit payment of the forfeiture as set forth above, the manager license of respondent (#22769) SHALL BE SUSPENDED, without further notice or hearing, until Mr. Mistrioty has complied with the terms of this Order.

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

WISCONSIN BARBERING AND COSMETOLOGY BOARD

By: \_\_\_\_\_

A member of the Board

Date

10/6/97

56

STATE OF WISCONSIN  
BEFORE THE BARBERING AND  
COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST :

DANIEL MISTRIOTY,  
D/B/A NESO'S VILLAGE CUTS  
RESPONDENT.

:  
:  
STIPULATION  
97 BAC 102  
:  
:

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It is hereby stipulated between Daniel Mistrioty, and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (97 BAC 102). Mr. Mistrioty consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Mistrioty 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 against him; 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. Mistrioty 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. Mistrioty agrees to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining 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. Respondents waive 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 for the Division of Enforcement and the member of the Barbering and Cosmetology Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Mr. ~~Mistroy~~ in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Daniel Mistroty 8-8-97  
Daniel Mistroty Date  
d/b/a Neso's Village Cuts

Steven M. Gloe 8.12.97  
Steven M. Gloe, Attorney Date  
Division of Enforcement

# Department of Regulation & Licensing

State of Wisconsin

P O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech  
TRS# 1-800-947-3529 impaired only

## GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On October 6, 1997, the Barbering and Cosmetology Examining Board  
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a  
forfeiture.

The amount of the costs assessed is: \_\_\_\_\_ Case #: \_\_\_\_\_

The amount of the forfeiture is: \$500.00 Case # LS9710068BAC

Please submit a check or a money order in the amount of \$ 100.00 monthly payments (see below)

The costs and/or forfeitures are due: \$100.00 monthly - (10/15/97; 11/12/97; 12/17/97; 1/14/98; 2/11/98)

NAME: Daniel Mistrioty d/b/a Neso's Village Cuts LICENSE NUMBER: 22769

STREET ADDRESS: 7212 West State Street

CITY: Wauwatosa STATE: WI ZIP CODE: 53213

Check whether the payment is for costs or for a forfeiture or both:

       COSTS   X   FORFEITURE

Check whether the payment is for an individual license or an establishment license:

  X   INDIVIDUAL        ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:  
\$100.00

Make checks payable to:

**DEPARTMENT OF REGULATION AND LICENSING**  
**1400 E. WASHINGTON AVE., ROOM 141**  
**P.O. BOX 8935**  
**MADISON, WI 53708-8935**

#2145 (Rev. 9/96)  
Ch. 440.22, Stats.  
G:\BDLS\FM2145.DOC

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STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Daniel Mistrioty,  
d/b/a Neso's Village Cuts,

AFFIDAVIT OF MAILING


Respondent.

STATE OF WISCONSIN    )  
                                  )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:


1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On October 9, 1997, I served the Final Decision and Order dated October 6, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9710068BAC, upon the Respondent Daniel Mistrioty, d/b/a Neso's Village Cuts by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 230.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Daniel Mistrioty,  
d/b/a Neso's Village Cuts  
7212 W. State Street  
Wauwatosa WI 53213

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 9<sup>th</sup> day of October, 1997.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

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## NOTICE OF APPEAL INFORMATION

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Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

October 9, 1997

### 1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### 2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)