

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR  
AN ADMINISTRATIVE INJUNCTION  
INVOLVING

FINAL DECISION AND ORDER

VERLINA "PENNIE" HENDERSON,  
d/b/a PENNIE'S CUT & DYE,  
RESPONDENT.

LS9811061RAL

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 15<sup>th</sup> day of December 1998.

Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

**STATE OF WISCONSIN**

BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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:IN THE MATTER OF A PETITION  
FOR AN ADMINISTRATIVE INJUNCTION  
INVOLVING

**PROPOSED DECISION  
AND ORDER**

**VERLINA "PENNIE" HENDERSON,**  
d/b/a PENNIE'S CUT & DYE,  
RESPONDENT :

Case No. LS-9811061-RAL

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Based on the authority in section 440.21(2) of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and the Findings of Fact and Conclusions of Law below,

**THE DEPARTMENT OF REGULATION AND LICENSING HEREBY  
ISSUES THE FOLLOWING SPECIAL ORDER:**

Effective on the date on which this order is signed by the departmental secretary or her designee,

- the respondent, Verlina "Pennie" Henderson, is **enjoined and prohibited** from continuing to operate a barbering or cosmetology establishment, unless and until she obtains a barbering or cosmetology establishment license under chapter 454, Stats.

**ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A**

# **FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.**

## **PARTIES**

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats., are:

Complainant: Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Ave.  
Madison, WI 53703

Respondent: Pennie Henderson also serve at:

802 North 35th Street 951A North 35th Street  
Milwaukee, WI 53208 Milwaukee, WI 53208

Regulatory Authority: Department of Regulation and Licensing  
1400 East Washington Ave.  
Madison, WI 53703

## **PROCEDURAL HISTORY**

A. On November 6, 1998, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a petition for an administrative injunction. A hearing on the petition was scheduled for November 30, 1998. On November 5, 1998, a copy of the petition and a notice of hearing were left at her place of business, Pennie's Cut & Dye at 802 North 35th Street in Milwaukee, Wisconsin. A copy of the petition and notice of hearing were also mailed on November 6, 1998, to the respondent at the address appearing on her occupancy permit in Pennie's Cut & Dye, 951A North 35th Street, Milwaukee, Wisconsin 53208.

B. The notice of hearing informed Ms. Henderson that she was to file a written answer to the petition within 20 days after service. Ms. Henderson did not file an answer to the petition within the specified time limit.

C. The hearing was held as scheduled. The respondent did not appear. The department was represented by Attorney Steven Gloe of the Department's Division of Enforcement. Upon the respondent's non-appearance, attorney Gloe moved for a finding of default under sec. RL 3.13, Wis. Admin. Code, and the motion was granted. The hearing was recorded. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

## **FINDINGS OF FACT**

1. The petition in this action was served upon the respondent, Verlina "Pennie" Henderson, by leaving a copy at her place of business and also by mailing a copy to an address appearing for her on an occupancy permit issued by the City of Milwaukee, and she failed to comply with the requirement to file an answer.
2. The respondent, Pennie Henderson, does not hold a license to operate a barbering or cosmetology establishment in the State of Wisconsin.
3. On November 5, 1998, an investigator for the Department of Regulation and Licensing observed barbering and/or cosmetology services being rendered at Pennie's Cut & Dye, 802 North 35th Street, Milwaukee, Wisconsin. An occupancy permit issued to Verlina Henderson was visible in the establishment, and the employees identified the owner as Pennie Henderson.

## **CONCLUSIONS OF LAW**

I. Under section 440.21, Stats., and chapter RL 3, Wis. Admin. Code, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person operated a barbering or cosmetology establishment without a credential required under chapters 440 through 459.

II. The respondent, Verlina "Pennie" Henderson, was served by mail at her last-known address in Wisconsin under section RL 3.13, Wis. Admin Code. The Department of Regulation and Licensing has personal jurisdiction over the respondent under section 801.04(2), Stats., and section RL 3.07, Wis. Admin. Code.

III. The respondent, Verlina "Pennie" Henderson, is in default under section RL 3.13, Wis. Admin. Code. The department may make findings of fact and enter an order on the basis of the petition and the evidence presented at the hearing.

IV. The respondent, Verlina "Pennie" Henderson, has operated a barbering or cosmetology establishment without an establishment license, in violation of sections BC 3.01(1) and BC 3.03 (5) of the Wisconsin Administrative Code. A special order enjoining Ms. Henderson from continuing to operate an unlicensed establishment is therefore appropriate under section 440.21(2), Stats.

### **OPINION**

This case is an action for an administrative injunction against Verlina "Pennie" Henderson, under the authority of sec. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that Ms. Henderson engaged in activities which are reserved by statute and administrative rule to those holding a valid barbering or cosmetology establishment license, under secs. BC 3.01(1) and BC 3.03 (5), Wis. Admin. Code.

Ms. Henderson is in default, not having answered the petition as required by administrative rule, and not having appeared at the scheduled hearing. By her default, Ms. Henderson has effectively admitted all the allegations of the petition. There is no need in this opinion to weigh or discuss evidence, and no issues of fact remain.

The undisputed allegations in the complaint establish that Ms. Henderson operated a barbering or cosmetology establishment without an establishment license. An administrative injunction is authorized by section 440.21(2), Stats., and chapter RL 3, Wis. Admin. Code, and it is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense. It should be noted that the issuance of a special order in an administrative injunction does not preclude other remedies for the respondent's violations of statutes, such as a misdemeanor prosecution by the district attorney under section 457.17, Stats.

Dated and signed: November 30, 1998

John N. Schweitzer

Administrative Law Judge  
Department of Regulation and Licensing

