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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ORQUINCY HAMILTON,
RESPONDENT.

FINAL DECISION AND ORDER
LS9902181BAC

The State of Wisconsin, Barbering and Cosmetology Examining Board, 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, Barbering and Cosmetology Examining Board.

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 8th day of June, 1999.

Barbara Flaherty

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST

ORQUINCY HAMILTON,
RESPONDENT

PROPOSED DECISION AND ORDER
Case No. LS9902181BAC

PARTIES

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

*Mr. Orquincy Hamilton
2016 Mead Street
Racine, WI 53403*

*Mr. Steven M. Gloe
Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on March 18, 1999. Orquincy Hamilton, the respondent, did not appear. The complainant appeared by Attorney Steven M. Gloe. A post-hearing conference call was held on March 25, 1999, in which both Messrs. Hamilton and Gloe participated.

Based upon the entire record in this case, the undersigned administrative law judge recommends that the Barbering and Cosmetology Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Orquincy Hamilton (dob 6/15/60) resides at 2016 Mead Street in Racine, Wisconsin. He is duly licensed as a barber and cosmetology manager in the State of Wisconsin (License #21287). His license was granted on March 28, 1988.
2. All Nations Barber Shop is located at 409 High Street in Racine, Wisconsin. It is a duly licensed barber and cosmetology establishment within the State of Wisconsin (License #27710). The license was granted on August 14, 1998. Orquincy Hamilton is listed with the Department of Regulation and Licensing as the manager of All Nations Barber Shop.
3. Beginning in January of 1998, and continuing through August 13, 1998, All Nations Barber Shop was open and operating as a barbering and cosmetology establishment without a Wisconsin barbering and cosmetology establishment license.
4. Christopher Allen provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
5. Kevin R. Gray provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
6. Ericka J. Hubbard provided barbering and cosmetology services at All Nations Barber Shop on August 13, 1998, without a barbering and cosmetology license or apprentice permit.
7. Nicktavius Wainwright provided barbering and cosmetology services at All Nations Barber Shop from January 1998, through May 1998, without a barbering and cosmetology license or apprentice permit.

CONCLUSIONS OF LAW

1. By failing to ensure that All Nations Barber Shop and its employees were properly licensed in the State of Wisconsin, Orquincy Hamilton violated section 454.15 (2) (i), Wis. Stats., and sections BC 2.04 and 2.07 (2) (b), Wis. Admin. Code.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that Orquincy Hamilton pay a forfeiture of \$200.00 payable to the Department of Regulation and Licensing within 90 days after the date on which the final order is signed.

OPINION

On August 13, 1998, Dawn Kalies, an investigator with the Division of Enforcement, conducted an inspection of All Nations Barber Shop located in Racine, Wisconsin. While there, Orquincy Hamilton informed her that he was the manager of the establishment. During the course of her inspection, Ms. Kalies discovered that the barber shop was not licensed as required by law. She also discovered that four of the shop's employees were not licensed to practice barbering or cosmetology. Ms. Kalies reported these violations to Mr. Hamilton. Mr. Hamilton subsequently closed All Nations Barber Shop and made arrangements to obtain the necessary establishment license the very next day. Within one month of Ms. Kalies' inspection, two of the employees had also obtained their required credentials.

According to Ms. Kalies, Mr. Hamilton was very cooperative throughout the inspection. Indeed, she commented during her testimony that it "was a pleasure to inspect this place." Upon learning of the necessity of an establishment license, Mr. Hamilton immediately closed the barber shop and on the following day obtained the required credential. In a post-hearing discussion with Mr. Hamilton, he indicated that he was now fully aware of his responsibility to ensure that both the establishment and its employees are properly licensed. Mr. Hamilton regretted that he had allowed the shop to operate without the appropriate credential, with employees who lacked the required licenses.

In light of these violations, the remaining issue is what, if any, discipline should be imposed against Mr. Hamilton. To reach that determination, it should be noted that the purposes for imposing discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from

engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre* 41 Wis. 2d 481, 485 (1969).

The state has recommended that a \$500.00 forfeiture be imposed against Mr. Hamilton. Given Mr. Hamilton’s level of cooperation and the expedient manner in which he corrected the noncompliance at All Nations Barber Shop, the suggested forfeiture seems excessive. Mr. Hamilton does not have any prior disciplinary actions. In addition, a reduced forfeiture is sufficient to secure Mr. Hamilton’s future compliance and will also serve to protect the public and to deter other licensees from engaging in similar misconduct. Mr. Hamilton has readily demonstrated his willingness to comply with the regulatory requirements for barbering and cosmetology establishments and for those individuals who provide services within them. Accordingly, a \$200.00 forfeiture is appropriate to prevent further violations and to safeguard the public.

Dated at Madison, Wisconsin, this 1ST day of April, 1999.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

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Jacquelynn B. Rothstein

Administrative Law Judge