

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

EARL BENION,	FINAL DECISION
d/b/a EARL’S BARBER SHOP& CAR WAS	AND ORDER
APPLICANT.	LS9905192RAL

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 15th day of July, 1999.
Marlene A. Cummings, Secretary

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

EARL BENION,	PROPOSED DECISION
D/B/A EARL’S BARBER SHOP & CAR WASH	AND ORDER
RESPONDENT	Case No. LS-9905192-RAL

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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 §227.53, Wis. Stats., are:

Complainant:

*Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53703*

Respondent:

*Earl Benion
Earl's Barber Shop and Car Wash
1422 N. 27th Street
Milwaukee, WI 53212*

PROCEDURAL HISTORY

On May 19, 1999, the Division of Enforcement, by its attorney Steven M. Gloe, filed a petition for an administrative injunction. A hearing on the petition was scheduled for June 28, 1999. A copy of the petition and a notice of hearing were served on Mr. Benion on May 19, 1999, by first-class and certified mail.

Mr. Benion failed to file an answer to the petition. The hearing on the petition was held as scheduled. Mr. Benion did not appear. Mr. Gloe appeared on behalf of the Department of Regulation and Licensing.

Based on the entire record of this case, this is the proposed decision and order of the undersigned administrative law judge.

FINDINGS OF FACT

1. Earl Benion does not hold a license to operate a barbering and cosmetology establishment in the State of Wisconsin.
2. On March 19, 1999, Mr. Benion operated Earl's Barber Shop and Car Wash, a barbering and cosmetology establishment, located at 1422 N. 27th Street, Milwaukee, Wisconsin.
3. On May 19, 1999, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by first-class and registered mail to Mr. Benion. Mr. Benion did not file an answer to the Petition.

CONCLUSIONS OF LAW

1. Earl Benion operated a barbering and cosmetology establishment in Wisconsin without the required credential contrary to §454.08 (2) (a), Wis. Stats.

ORDER

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

Effective on the date on which this order is signed by the Department Secretary or her designee,

- the respondent, Earl Benion, is **enjoined and prohibited** from operating, directly or indirectly, a barbering and cosmetology establishment, which is conduct requiring a credential under Chapter 454, Wis. Stats., unless and until he obtains the appropriate credential under Chapter 454, Wis. Stats.; and

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.

OPINION

On March 19, 1999, Cynthia Thomas, an investigator with the Wisconsin Department of Regulation and Licensing, went to Earl's Barber Shop and Car Wash located at 1422 N. 27th Street in Milwaukee, Wisconsin. While she was there, Ms. Thomas noticed a sign indicating that the establishment was a barber shop. She also observed customers having their hair done and spoke to the manager of the shop. Adjacent to the barber shop, is Earl's Car Wash. The City of Milwaukee operating permit lists Earl Benion as the owner of that car wash. According to the manager, Mr. Benion also owns Earl's Barber Shop. However, Mr. Benion is not licensed to own or operate a barbering or cosmetology establishment.

The Department served a Petition For Injunction on Mr. Benion on May 19, 1999. Mr. Benion failed to appear at his scheduled hearing and did not file an answer with the Department. He is therefore in default and has effectively admitted all the allegations contained in the Petition.

It is undisputed that Mr. Benion operated a barbering and cosmetology establishment without the professional credential required by statute. Section 440.21, Wis. Stats., authorizes the Department to seek a special order enjoining anyone from practicing without a professional credential. Such an order 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.

Dated at Madison, Wisconsin, this 28th day of June , 1999.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

Madison, Wisconsin 53703

Jacquelynn B. Rothstein

Administrative Law Judge