

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
MICHELLE’S HAIR & NAIL SALON :
& MICHELLE D SMITH, : LS0310063BAC
RESPONDENTS. :

Division of Enforcement Case No. 02 BAC 114

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Michelle’s Hair & Nail Salon
Michelle D. Smith
1908 W Layton Suite 8
Milwaukee, WI 53172

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

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 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. **Michelle's Hair & Nail Salon**, is licensed in the State of Wisconsin as a Barbering & Cosmetology Establishment license # 80 30887. This license was first granted to it on 01/23/03. The most recent address on file with the Department of Regulation and Licensing for this establishment is 1908 W. Layton Ave. Suite 8, Milwaukee, WI 53172.
2. Prior to Michelle's Hair & Nail Salon receiving its Barbering & Cosmetology Establishment license on 01/23/03, it was licensed as a Manicuring Establishment (Michelle's Salon) since November 12, 1998.
3. **Michelle D. Smith** ("Smith"), date of birth 05/22/74, is licensed in the State of Wisconsin as a Barbering & Cosmetology Manger license # 81 29370. This license was first granted to her on 01/30/03. Smith is listed with the Department of Regulation and Licensing as the owner of Michelle's Hair & Nail Salon. As the owner, Smith was at all times relevant to this action responsible for compliance with Wis. Stats. chapter 454 and Wis. Admin. Code chapters BC 2, BC 3 and BC 4.
4. On or about February 1, 1999, in a previous department investigation (case numbers 98 BAC 064 and 98 BAC 099) it was determined that Smith, d/b/a Michelle's Salon, was operating as a manicuring establishment without a manicuring establishment license.
5. On or about September 13, 2002, a Department of Regulation and Licensing investigator performed an inspection of Michelle's Hair & Nail Salon. During the inspection Smith indicated that the Salon was providing hair styling services to clients for approximately one year. The Michelle's Hair & Nail Salon was not licensed as a Barbering and Cosmetology Establishment until January 23, 2003.
6. The Department investigator also found used and dirty disposable nail files that were left on top of Michelle's workstation.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to sec. 454.15, Wis. Stats.
2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
3. Respondent **Michelle D. Smith** has violated:
 - a. Wisconsin Statutes sections 454.04(1)(a), 454.08(1)(b), and 454.15(2)(i) and Wisconsin Administrative Code sections BC 2.04(1) and BC 2.06 by providing hair styling services to clients without a barbering and cosmetology establishment license.
 - b. Wisconsin Administrative Code sections BC 4.01(1) by not maintaining the salon in a clean, sanitary and safe condition.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Respondent **Michelle D. Smith's** license # 81 29370 is hereby **SUSPENDED** for a period of **TEN (10) days** commencing 10 days from the date of this Order.

IT IS FURTHER ORDERED, that Respondent **Michelle D. Smith** shall pay to the Department of Regulation and Licensing a forfeiture of ONE THOUSAND ONE HUNDRED dollars (\$1,100.00). A Payment of \$183.33 shall be submitted within thirty (30) days from the date of this Order and payments of \$183.33 will be due on the first of every consecutive month there after until the full \$1,100.00 is paid. 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, Department of Regulation and Licensing , PO Box 8935, Madison, WI 53708-8935.**

IT IS FURTHER ORDERED, that in the event **Michelle D. Smith** fails to timely submit payment of the forfeiture as set forth above, the licenses of **Michelle D. Smith**, and **Michelle's Hair & Nail Salon** SHALL BE SUSPENDED, without further notice or hearing, until respondents have complied with the terms of this Order.

IT IS FURTHER ORDERED, that file, 02 BAC 114 be, and hereby is, closed.

Dated this 6th day of October, 2003.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

Leon Lauer