

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :

ELIDIA TORRES and CLEAN CUTS : FINAL DECISION AND ORDER
HAIR SALON, : LS0702059BAC
RESPONDENTS. :

Division of Enforcement Case File Number: 05 BAC 085

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

Elidia Torres
6621 27th Street
Kenosha, Wisconsin 53143

Clean Cuts Hair Salon
6621 27th Street
Kenosha, Wisconsin 53143

Barbering and Cosmetology Examining Board
Post Office Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
Post Office Box 8935
Madison, Wisconsin 53708-8935

PROCEDURAL HISTORY

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. Elidia Torres (Date of Birth of April 18, 1968) is duly licensed in the state of Wisconsin as a barbering or cosmetology manager (license number 81-30712). That license was first granted on August 30, 2005, and is current through June 30, 2007. Ms. Torres is also duly licensed in the state of Wisconsin as a barbering or cosmetology practitioner (license number 82-82381). That license was first granted on September 19, 2003, and is current until June 30, 2007. The last address reported to the Department of Regulation and Licensing (hereinafter Department) by Ms. Torres is 6621 27th Avenue, Kenosha, Wisconsin 53143.

2. Clean Cuts Hair Salon is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license number 80-33045). The license was first granted on June 2, 2005, and is current until June 30, 2007. The last address reported to the Department for Clean Cuts Hair Salon is 6621 27th Avenue, Kenosha, Wisconsin 53143. Ms. Torres is identified in records of the Department as owner of Clean Cuts Hair Salon. As owner of a licensed barbering and cosmetology establishment, Ms. Torres is responsible for compliance with Wis. Stats. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4.

3. Investigator Douglas Austin of the Department inspected Clean Cuts Hair Salon on May 26, 2005. Investigator Austin found that Clean Cuts Hair Salon was providing barbering or cosmetology services without a current barbering and cosmetology establishment license. Investigator Austin found that Clean Cuts Hair Salon did not have a licensed manager. Investigator Austin informed Ms. Torres that Clean Cuts Hair Salon was to cease practice until a licensed manager and an establishment license were obtained.

4. Investigator Ralph Draeger of the Department spoke with Ms. Torres on the telephone on May 27, 2005. Ms. Torres told Investigator Draeger that she believed that having a current barbering or cosmetology practitioner's license and a City of Kenosha Certificate of Occupancy entitled her to open and operate Clean Cuts Hair Salon. Ms. Torres said that she had opened Clean Cuts Hair Salon in May 2004. Ms. Torres told Investigator Draeger that in the state of Illinois that there is no manager level license and that a licensed practitioner is able to run his or her own barbering or cosmetology business. Ms. Torres was also licensed as a barbering or cosmetology practitioner in the state of Illinois. Ms. Torres informed Investigator Draeger that she had closed Clean Cuts Hair Salon on May 26, 2005, when Investigator Austin informed her that she had to close.

5. On April 19, 2006, Investigator Michelle Krisher from the Department inspected Clean Cuts Hair Salon. Ms. Torres informed Investigator Krisher that she was able to find an acquaintance with a current barbering or cosmetology manager license and received a barbering and cosmetology establishment license on June 2, 2005. Ms. Torres was granted her own barbering or cosmetology manager license on August 30, 2005, and the acquaintance stopped as manager at that time.

6. In resolution of this matter, Clean Cuts Hair Salon and Elidia Torres consent to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 454.15.

2. The Wisconsin Barbering and Cosmetology Examining Board is authorized to enter into the attached stipulation pursuant to Wis. Stats. sec. 227.44(5).

3. By the conduct referred to in the above Findings of Fact, Elidia Torres and Clean Cuts Hair Salon have violated:

1. Wis. Stats. sec. 454.08(1)(b). Except as permitted by rule promulgated under par. (a), no person may practice barbering or cosmetology, aesthetics, electrology or manicuring in an establishment unless the establishment is licensed to provide that practice under sub. (2).
2. Wis. Stat. sec. 454.06(7). The examining board shall furnish a certificate to each licensee, certifying the holder is licensed to practice barbering or cosmetology, aesthetics, electrology or manicuring or is a licensed manager. The licensee shall post the certificate in a conspicuous place in the licensed establishment.
3. Wis. Stat. sec. 454.08(8). The examining board shall furnish a certificate to the owner of a licensed establishment, certifying that the establishment is licensed by the examining board. The owner shall post the certificate in a conspicuous place in the establishment.
4. Wis. Stats. Sec. 454.15(2)(i). That any violation of Chapter 454 or of the Administrative Code promulgated under Chapter 454 is cause for discipline.
5. Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrology or manicuring.

6. Wis. Admin. Code § BC 2.04(2). Licensees shall report to the board unauthorized or unlicensed practice or other violations of ch. 454, Stats., and chs. BC 1 to 9.
7. Wis. Admin. Code § BC 2.045(1). Licensees shall not provide personal care services outside of a licensed establishment except for person who are unable to leave their homes because of illness or disability or for persons who are in hospitals, nursing homes, correctional institutions or other institutions.
8. Wis. Admin. Code § BC 2.06. The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2, 3 and 4.
9. Wis. Admin. Code § BC 2.07(1). The licensed manager of a barbering and cosmetology establishment shall be responsible for the daily operations of an establishment and ensure that the establishment is in compliance with ch. 454, Stats., and chs. BC 3 and 4.
10. Wis. Admin. Code § BC 3.01(13). The establishment license shall be posted in the establishment.
11. Wis. Admin. Code § BC 3.02(1). The owner of a barbering and cosmetology establishment shall not operate the establishment unless a licensed manager has been employed for the establishment, subject to the exception for temporary unavailability of a manager in s. BC 2.06(5).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Elidia Torres and Clean Cuts Hair Salon shall severally and jointly pay to the Department of Regulation and Licensing a forfeiture of TWO HUNDRED FIFTY dollars (\$250.00) and full costs in the amount of SIX HUNDRED dollars (\$600.00) on the following schedule:

Payment	Payment Date	Amount
1	March 15, 2007	\$170.00
2	June 15, 2007	\$170.00
3	September 15, 2007	\$170.00
4	December 15, 2007	\$170.00
5	March 15, 2008	\$170.00

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
 Post Office Box 8935
 Madison, Wisconsin 53708-8935

IT IS FURTHER ORDERED that in the event that Elidia Torres and Clean Cuts Hair Salon fail to timely submit any payment of the forfeiture and costs as set forth above, the barbering or cosmetology manager license of Elidia Torres (license number 81-30712), the barbering or cosmetology practitioner license of Elidia Torres (license number 82-82381) and the barbering and cosmetology establishment license of Clean Cuts Hair Salon (license number 80-33045) **SHALL BE SUSPENDED**, without further notice or hearing until Elidia Torres and Clean Cuts Hair Salon have complied with the terms of this Order.

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

By: Jeannie M. Bush
A member of the Board

2/5/07
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

ELIDIA TORRES and CLEAN CUTS
HAIR SALON,
RESPONDENTS.

STIPULATION
LS#06 _____ BAC

Division of Enforcement Case File Number: 05 BAC 085

It is hereby stipulated between Elidia Torres and Clean Cuts Hair Salon (hereafter "Respondents"), and Claudia Berry Miran, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (05BAC 085). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, 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 them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

3. Respondents have been provided an opportunity to obtain legal counsel prior to signing this stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Barbering and Cosmetology Examining Board (hereafter "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 or other agent for the Division of Enforcement and any member of the Barbering and Cosmetology Examining Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department policy.

8. The Division of Enforcement joins Elidia Torres and Clean Cuts Hair Salon in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Elidia Torres

Respondent

6621 27th Avenue

Kenosha, Wisconsin 53143

License Numbers: 82-82381 and 81-30712

Date

Clean Cuts Hair Salon

Respondent

6621 27th Street

Kenosha, Wisconsin 53143

License Number 80-33045

Date

Claudia Berry Miran

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date