

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

MADONNA L. MILLER and
CLASSIC BEAUTY COLLEGE,

RESPONDENTS.

FINAL DECISION AND ORDER
LS0706144BAC

Division of Enforcement Case File Number: 05 RBC 007

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

Madonna L. Miller
1414 Geele Avenue
Sheboygan, Wisconsin 53083

Classic Beauty College
14 West Main Street
Chilton, Wisconsin 53014

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 Department. The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Madonna L. Miller (Date of Birth of December 20, 1962) is duly certified in the state of Wisconsin as a barbering or cosmetology instructor (certificate number 83-1105). That certificate was first granted on January 3, 1992, and is current through June 30, 2007. The certificate was in expired status from July 1, 2003, through July 15, 2003, and from July 1, 2005, through August 11, 2005. The last address reported to the Department of Regulation and Licensing (hereinafter Department) by Ms. Miller is 2659 North 81st Street, Milwaukee, Wisconsin 53213. The Department has learned that Ms. Miller currently resides at 1414 Geele Avenue, Sheboygan, Wisconsin 53083.
2. Madonna L. Miller is also duly licensed in the state of Wisconsin as a barbering or cosmetology manager (license number 81-31020). That license was first granted on March 21, 2006, and is current through June 30, 2007.
3. Madonna L. Miller was also duly licensed in the past in the state of Wisconsin as a barbering or cosmetology manager (license number 81-18132). That license was first granted on October 5, 1987, and expired on July 1, 1995.

4. Classic Beauty College was licensed in the state of Wisconsin as a school of barbering or cosmetology (license number 87-88). The license was first granted on March 18, 1999, and expired on July 1, 2005. The license was placed in non-working status by the Department on August 26, 2004, when the Department was notified by Madonna L. Miller that Classic Beauty College was no longer holding classes. The last address reported to the Department for Classic Beauty College was 14 West Main Street, Chilton, Wisconsin 53014. Madonna L. Miller was identified in Department records as the owner and operator of Classic Beauty College. Classic Beauty College has the right under Wis. Stat. sec. 440.08(3), Wis. Stat. secs. 440.60 through 440.64 and Wis. Admin. Code Ch. RL 61 to renew the school of barbering or cosmetology license. On or about November 17, 2004, the surety bond of Classic Beauty College was cancelled by the surety company.

5. Prior to November 1, 2005, a person who had graduated from a school of barbering or cosmetology outside of Wisconsin and who was not licensed in the state where the school was located was required to have his or her skills evaluated and certified by a school licensed in the state of Wisconsin prior to taking the barbering or cosmetology, aesthetics or manicuring examination.

6. From August 26, 2004, to May 31, 2005, Madonna L. Miller evaluated the skills of approximately twenty-one (21) individuals who had graduated from schools outside of Wisconsin and who were not licensed in the state in which the schools were located. Certifications for those individuals whose skills were evaluated by Ms. Miller were attributed to Classic Beauty College.

7. Ms. Miller did not check the identification of, nor did she verify the school transcript or graduation status, of the twenty-one (21) individuals she evaluated and certified. Ms. Miller was paid approximately \$100.00 for each evaluation and certification.

8. Classic Beauty College was in non-working status with the Department during the time that the twenty-one (21) individuals were evaluated and the certifications attributed to Classic Beauty College were issued.

9. When contacted by the Department, Ms. Miller admitted to eight (8) evaluations and certifications after Classic Beauty College had closed and was in non-working status with the Department.

10. Ms. Miller has informed Department personnel that she did not mean to imply to the Department that she was closing Classic Beauty College when she informed the Department that she was no longer holding classes. Ms. Miller informed Department personnel that she kept Classic Beauty College open after informing the Department that she was not holding classes on August 26, 2004. Ms. Miller said that she taught one student at Classic Beauty College from approximately the summer to the fall of 2004. Ms. Miller told Departmental personnel that perhaps 4 or 5 individuals came to Classic Beauty College between August 26, 2004, and May 31, 2005, to practice for the Wisconsin Barbering and Cosmetology examinations.

12. In resolution of this matter, Madonna L. Miller and Classic Beauty College consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 454.15.

2. The Wisconsin Department of Regulation and Licensing 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, Madonna L. Miller and Classic Beauty College has violated:

1. Wis. Stat. sec. 440.62(1)(a). No person may operate a school unless the school holds a current license as a school of barbering or cosmetology, aesthetics,

electrology or manicuring issued by the department.

2. Wis. Stat. sec. 440.64(3)(b)3. Subject to the rules promulgated under s. 440.03(1), the department may reprimand a license or certified instructor or deny, limit, suspend or revoke a license or certificate under this subchapter if it finds that the applicant, licensee or certified instructor has done any of the following:
 3. Violated this subchapter or any rule promulgated under this subchapter.
3. Wis. Admin. Code § RL 61.06(4). A surety on a bond may be released from the bond on 90 days written notice to the secretary of the department. The secretary shall forthwith notify the school or specialty school named on that bond that the school's or specialty school's license shall be suspended if satisfactory evidence of a replacement bond has not been presented within 15 business days of the date of the secretary's notice to the school or specialty school. A school or specialty school which has its license suspended under this subsection shall provide written notice of the suspension and the reason therefor together with identifying information from the bond from which the surety has sought release to its students and enrollees within 5 days of the suspension, and shall thereupon cease all operations as a school or specialty school under subch. V of ch. 440, Stats.
4. Wis. Admin. Code § RL 62.11(1)(a). No owner, director, officer, shareholder or managing employee of any school or specialty school may permit or engage in any of the following:
 - (a) Holding class without a current license for the school or specialty school.
5. Wis. Admin. Code § RL 62.11(1)(g). No owner, director, officer, shareholder or managing employee of any school or specialty school may permit or engage in any of the following:
 - (g) Violating subch. V of ch. 440, Stats., or ch. 454, Stats., or this chapter in the operation of a school or specialty school or establishment associated with a school or specialty school.
6. Wis. Admin. Code § RL 65.12(1)(i)1. The Department may take disciplinary action against any person holding an instructor's certificate who has:
 - (i) Engaged in unprofessional conduct. "Unprofessional conduct" includes but is not limited to:
 1. Engaging in any practice which constitutes a danger to the health, welfare, or safety of a student or the public.
7. Wis. Admin. Code § RL 65.12(1)(i)5. The Department may take disciplinary action against any person holding an instructor's certificate who has:
 - (i) Engaged in unprofessional conduct. "Unprofessional conduct" includes but is not limited to:
 5. Practicing or attempting to practice beyond the scope of the instructor's certificate.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the barbering or cosmetology instructor certificate of Madonna L. Miller (certificate number 83-1105) is hereby **SUSPENDED** for one (1) year from the effective date of this Order.

IT IS FURTHER ORDERED that the school of barbering or cosmetology license of Classic Beauty College (license number 87-88) is hereby **REVOKED** and that the school of barbering or cosmetology license of Classic Beauty College shall never be renewed.

IT IS FURTHER ORDERED that Madonna L. Miller and Classic Beauty College shall severally and jointly pay full costs in the amount of ONE THOUSAND SIX HUNDRED dollars (\$1,600.00) in this matter. Payment shall be submitted on the following payment schedule:

Date	Amount
October 15, 2007	\$200.00
January 15, 2008	\$200.00
April 15, 2008	\$200.00
July 15, 2008	\$200.00
October 15, 2008	\$200.00
January 15, 2009	\$200.00
April 15, 2009	\$200.00
July 15, 2009	\$200.00

The full remaining amount of the costs may be paid at any time prior to each due date for payment.

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
608-261-7904

Following the effective date of this order, Ms. Miller shall surrender all indicia of barbering and cosmetology instructor licensure to the Department Monitor.

Violation of any of the terms of this Order, including practicing as barbering or cosmetology instructor while under suspension, may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Ms. Miller's license. The Department of Regulation and Licensing, in its discretion, may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

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

DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson, Secretary

6/14/07

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF
REGULATION AND LICENSING

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

MADONNA L. MILLER and
CLASSIC BEAUTY COLLEGE,

RESPONDENTS.

STIPULATION
LS#07 _____ BAC

Division of Enforcement Case File Number: 05 RBC 007

It is hereby stipulated between Madonna L. Miller and Classic Beauty College 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 (05 RBC 007). 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 Department of Regulation and Licensing (hereafter "Department"). 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 Department, 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 Department, the parties agree not to contend that the Department 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 may appear before the Department, without the presence of Respondents and their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Department may have in connection with the Department's deliberations on the Stipulation.
7. Respondents are informed that should the Department adopt this stipulation, the Department'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 Madonna L. Miller and Classic Beauty College in recommending the Department adopt this Stipulation and issue the attached Final Decision and Order.

Madonna L. Miller

Respondent

1414 Geele Avenue

Sheboygan, Wisconsin 53083

License Number: 81-31020

Certificate Number : 83-1105

Date

Classic Beauty College

Respondent

14 West Main Street

Chilton, Wisconsin 53014

License Number: 87-88

Date

Claudia Berry Miran

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date