

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

DAVID J. LEMKE, RAYMOND H.
SCHNEIDER and KINGS HEAD,

RESPONDENTS,

FINAL DECISION AND ORDER
LS0806024BAC

Division of Enforcement Case File Number: 06 BAC 076

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

David J. Lemke
1246 North Van Buren Street
Milwaukee, Wisconsin 53202

Raymond H. Schneider
1246 North Van Buren Street
Milwaukee, Wisconsin 53202

Kings Head
1246 North Van Buren Street
Milwaukee, Wisconsin 53202

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 Barbering and Cosmetology Examining Board (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. David J. Lemke (Date of Birth is April 2, 1945) is duly licensed as a barbering and cosmetology manager in the state of Wisconsin (license #81-22436). That license was first granted on February 20, 1968, and is current through March 31, 2009. The last address Mr. Lemke reported to the Department of Regulation and Licensing is 1246 North Van Buren Street, Milwaukee, Wisconsin 53202.

2. Raymond H. Schneider (Date of Birth is July 4, 1945) is duly licensed as a barbering and cosmetology manager in the state of Wisconsin (license #81-22433). That license was first granted on February 14, 1968, and is current through

March 31, 2009. The last address Mr. Schneider reported to the Department of Regulation and Licensing is 1246 North Van Buren Street, Milwaukee, Wisconsin 53202.

3. Kings Head, 1246 North Van Buren Street, Milwaukee, Wisconsin 53202, is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license #80-15943). This license was first granted on September 19, 1985, and is current through March 31, 2009. David J. Lemke and Raymond H. Schneider are listed with the Department as the owners of Kings Head. As owners of a licensed barbering and cosmetology establishment, Mr. Lemke and Mr. Schneider are responsible for compliance with Wis. Stats. Ch. 454 and Wisconsin Administrative Code Chs. BC 2, 3 and 4.

4. Mr. Lemke is listed with the Department as the manager of Kings Head. As the manager of a licensed barbering and cosmetology establishment, Mr. Lemke is responsible for compliance with Wis. Stats. Ch. 454 and Wisconsin Administrative Code Chs. BC 3 and 4.

5. Jennifer Stoll was indentured through Cost Cutters #6565 in Franklin, Wisconsin. She left that indenture on July 14, 2006. Mr. Lemke has informed the Department that Ms. Stoll started working as an apprentice at Kings Head on July 15, 2006. Ms. Stoll has also informed the Department that she started at Kings Head on July 15, 2006.

6. The indentureship contract between Ms. Stoll and Kings Head shows a start date of October 24, 2006.

7. In resolution of this matter, David J. Lemke, Raymond H. Schneider and Kings Head 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 Findings of Fact 5. and 6., David J. Lemke, Raymond H. Schneider and Kings Head have violated Wis. Stats. sec. 454.15(2)(c). Engaged in the practice of barbering or cosmetology, aesthetics, electrolysis or manicuring which evidences a lack of knowledge or ability to apply professional principles or skills.

4. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke, Raymond H. Schneider and Kings Head have violated Wis. Stats. sec. 454.15(2)(i), which provides that any violation of Chapter 454 or of the Administrative Code promulgated under Chapter 454 is cause for discipline.

5. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke, Raymond H. Schneider and Kings Head have violated Wis. Admin. Code § BC 2.04(1). Licensees may not assist or participate in the unauthorized or unlicensed practice of barbering and cosmetology, aesthetics, electrolysis or manicuring.

6. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke and Raymond H. Schneider have violated Wis. Admin. Code § BC 2.06(3). The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2, 3 and 4. The owner shall:

- (3) Ensure the provision of supervision and training of apprentices, temporary permit holders and training permit holders.

7. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke and Raymond H. Schneider have violated Wis. Admin. Code § BC 2.06(5). The owner of any licensed establishment shall be responsible for compliance with ch. 454, Stats., and chs. BC 2, 3 and 4.

8. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke has violated Wis. Admin. Code § BC 2.07(1g). The manager shall train and supervise an apprentice in accordance with s. BC 6.04(1), and shall supervise temporary permit holders and training permit holders.

9. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke, Raymond H. Schneider and Kings Head have violated Wis. Admin. Code § BC 2.08(1)(b). Licensees holding current licenses or permits granted under ch. 454, Stats., shall:

(b) Be responsible for their own professional practice, conduct and compliance with ch. BC 2.

10. By the conduct referred to in Findings of Fact 5. and 6., David J. Lemke and Raymond H. Schneider have violated Wis. Admin. Code BC 6.04(1). The establishment owner to whom an apprentice is indentured shall employ a licensed manager to be responsible to supervise the training of the apprentice.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that David J. Lemke (license number 81-22436), Raymond H. Schneider (license number 81-22433) and Kings Head (license number 80-15943) are **REPRIMANDED**.

NOW, THEREFORE, IT IS HEREBY ORDERED that David J. Lemke, Raymond H. Schneider and Kings Head shall jointly and severally pay a forfeiture of **ONE THOUSAND** dollars (\$1,000.00).

IT IS FURTHER ORDERED that David J. Lemke, Raymond H. Schneider and Kings Head shall jointly and severally pay costs in the amount of **THREE HUNDRED** dollars (\$300.00) in this matter.

All payments shall be submitted within 120 days from the date of this order. 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

IT IS FURTHER ORDERED that in the event David J. Lemke, Raymond H. Schneider and Kings Head fails to timely submit any payment of the forfeiture and costs as set forth above, the barbering and cosmetology manager license of David J. Lemke (license number 81-22436), the barbering and cosmetology manager license of Raymond H. Schneider (license number 81-22433) and the establishment license of Kings Head (license number 80-15943) **SHALL BE SUSPENDED**, without further notice or hearing, until David J. Lemke, Raymond H. Schneider and Kings Head have complied with the terms of this Order.

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

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M. Bush
A member of the Board

6/8/08
Date

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DAVID J. LEMKE, RAYMOND H.
SCHNEIDER and KINGS HEAD,

RESPONDENTS,

STIPULATION
LS #08 _____ BAC

Division of Enforcement Case File Number: 06 BAC 076

It is hereby stipulated between David J. Lemke, Raymond H. Schneider and Kings Head (herein after "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 (06 BAC 076). 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. 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 David J. Lemke, Raymond H. Schneider and Kings Head in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

David J. Lemke

Respondent

1246 North Van Buren Street

Milwaukee, Wisconsin 53202

License Number 81-22436

Date

Raymond H. Schneider

Respondent

1246 North Van Buren Street

Milwaukee, Wisconsin 53202

License Number 81-15943

Date

Kings Head

Respondent

1246 North Van Buren Street

Milwaukee, Wisconsin 53202

License Number 81-22436

Date

Claudia Berry Miran

Attorney

Division of Enforcement

Wisconsin Department of Regulation and Licensing

Post Office Box 8935

Madison, Wisconsin 53708-8935

Date