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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
LAQUISHA L. ADAMS,	:	LS0901061BAC
RESPONDENT.	:	

Division of Enforcement Case No. 08 BAC 263

The State of Wisconsin, Barbering and Cosmetology Examining Board, 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, Barbering and Cosmetology Examining Board.

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 1st day of June, 2009.

Jeannie M. Bush
Member
Barbering and Cosmetology Examining Board

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST
LAQUISHA L. ADAMS,
RESPONDENT.

**PROPOSED DECISION
AND ORDER**
Case No. LS-0901061-BAC

SUMMARY OF THE EVIDENCE

On October 9, 2008, Department Investigator Michele Krisher conducted an inspection at 3142 North Mayfair Road in Wauwatosa, Wisconsin, and on December 15, 2008, a citation was issued to LaQuisha Adams for practicing outside of a licer establishment, specifically, for practicing in an establishment that had not yet been licensed.

Ms. Adams requested a hearing, which was held on February 10, 2009, at which Ms. Adams and Investigator Krisher testified, as well as Judy Mender of the Department's credentialing office.

At the hearing, Ms. Adams' first comment was "I don't understand why I have the fine and not the establishment or the of the salon." Investigator Krisher explained in her testimony that none of the other practitioners in the salon at the time had a v license, which means that no citation could be issued to them [transcript, pp. 80-82]. The prosecutor, Attorney Angela Arrington further explained that the owner of the salon, Izylah Collins, had agreed to the issuance of an administrative injunction against hir and the salon.

Ms. Adams' second comment was "When I came here, me and the owner came here, Ms. Angela said that she would l it, to see if she could get it lowered to an administrative warning, because this was my first time being in that predicament, or whatever." Ms. Arrington explained that an administrative warning is only available to a person who has not had a previous vio and, although no citation was issued to Ms. Adams at the time, a previous incident in July of 2008 made her ineligible for an Administrative Warning.

Ms. Adams holds a manager's license as well as a practitioner's license, and she testified that she was asked by Izylah C in July of 2008 to manage a salon he was opening called Better Dayz on Burleigh Street in Milwaukee. She said she was not working there but she agreed to manage the salon in order to allow him to get an establishment license. Investigator Krisher conducted an inspection of Better Dayz on July 23, 2008 and she identified a number of violations, includir fact that the salon was not licensed and that unlicensed individuals were providing services. Ms. Adams was not present at the of the inspection but her manager's license was posted. No citation was issued to Ms. Adams as a result of this inspection, but Attorney Arrington decided that this incident prevented the issuance of an Administrative Warning in this case.

Some months later Izylah Collins decided to transfer the Better Dayz salon to Mayfair Road in Milwaukee. Ms. Adams testified that Mr. Collins thought he could just transfer the paperwork without obtaining a new establishment license, but that she told him that moving a salon from one location to another required a new establishment license, though she thought that the owner had 90 days in which to obtain a manager [transcript, pp. 17, 25]. This shows that Ms. Adams has a fairly good understanding of the rules, and it is worth noting that Ms. Adams was not cited for failing to have a manager at the salon, or for any other violation that she might have been responsible for as a manager. The only citation issued to her was as a practitioner working in an establishment prior to its obtaining a license.

Investigator Krisher testified that when she visited the Better Dayz salon on Mayfair Road on October 9, 2008 it appeared to be open for business although it did not have an establishment license. Ms. Adams disputed this and testified that Better Dayz on Mayfair Road was not open for business when Investigator Krisher visited. The most important issue to be decided in this case is whether the salon was open for business and providing services on that date. Ms. Adams testified as follows:

Shortly after that, he wanted to move salons. So he moved to Highway 100, Mayfair Road where Michele Krisher saw the sign in the window that we were moving, and she came up there. And when she came up there, he hadn't had the establishment license yet for the salon. ... He had just -- we just -- we really weren't open for business. He didn't have a number. He didn't have an establishment license yet. He was under the impression he could just transfer the paperwork. ... And when Michele came in there, I was there, but I wasn't working. And I don't even think they had a phone number there yet. It really was not open for business. He was just getting in there, and I don't know if people had clients and they could do whoever or just -- but it wasn't open yet. That's it.

[transcript, pp. 16-18]

In response to a follow-up question, “Were there other people at Better Dayz providing services on October 9th, 2008?”, Ms. Adams said

I don't recall. We -- I remember being in there, and I remember see -- his salon is kind of carefree. So you could sit in the barber chair or styling chair, and you're not getting any services. You can sit there. ... There were people there. It was stylists from the other salon from Better Dayz that were in there. We were all in there, but it wasn't open for work. I don't know if the next person was or how they were doing it. They had just got there that week.

[transcript, pp. 20-21] The explanation given by Ms. Adams is that at the time when the owner moved the salon from Burleigh Street to Mayfair Road, all the stylists were at the Mayfair Road location, and people were sitting around in the barber or styling chairs, but that the location wasn't open for business and no services were being provided. This explanation -- especially the fact that all the stylists were there but not working -- is very unlikely and difficult to believe.

When asked if she found the Better Dayz salon on Mayfair Road open for business, Investigator Krisher testified as follows:

Yes, they were. ... When I came in, Mr. Collins was just finishing up a service. The client was walking away, and he was sweeping up his area. In addition, another gentleman was leaving from having services performed by an individual by the name of Gregory. I think his last name, last name is Flood. It was between Mr. Flood or Collins and one of the clients. I saw the money exchanged among those four. I can't remember which client gave it to the practitioner. And then Darshell Harris was there, and she was providing services. Ms. Adams was also there providing services.

[transcript, p. 67] In answer to a followup question, “What type of service do you remember Ms. Adams providing?”, Investigator Krisher answered as follows:

I don't remember specifically. I don't know what it was. I just know that she had maybe a flattening iron or curling iron or some sort of iron in her hand working on a client's hair.

[transcript, p. 69] Investigator Krisher stated that she talked to both Ms. Adams and Mr. Collins in the salon, and she testified that neither of them told her the salon was not open for business. In fact, she said “... I asked the question of how long they had been open, and they said about a month.” [transcript, p. 70] On cross-examination by Ms. Adams, she later clarified this by saying “I think this is the question, the one that Angela asked me, if I talked to anybody else at the second location, and I talked to Mr. Collins there, and he told me that second location had been open for a month.” [transcript, p. 77] Also on cross-examination, Investigator Krisher admitted that she did not see anyone exchange money or fees with Ms. Adams in the salon [transcript, p. 96].

Although Investigator Krisher was not sure what service Ms. Adams was providing, and she did not witness an exchange of money, it is clear from her testimony that the shop was open for business, that barbering and cosmetology services were being provided, that money was being paid for the services, and that Ms. Adams was providing services. This evidence might not be strong enough to find Ms. Adams in violation if the legal standard were “beyond a reasonable doubt”, but the standard in a disciplinary hearing like this is “a preponderance of the evidence”, meaning anything more than 50%. With that lower standard, Investigator Krisher's testimony, based on her experience of having conducted many inspections, outweighed Ms. Adams' testimony, which was not always consistent, and I find that Ms. Adams was providing barbering and cosmetology services when Investigator Krisher observed her.

Based on that, the allegation in the Complaint is deemed proven. Ms. Adams is found to have practiced in an establishment before it was licensed, thereby violating section BC 2.045 (1) of the Wisconsin Administrative Code.

Investigator Krisher testified that, based upon the Board's written policy as embodied in what is referred to as the “forfeiture grid”, the standard penalty for a first violation of section BC 2.045 (1) is a forfeiture of \$1,000 [transcript, pp. 89-90]. Attorney Arrington requested that a forfeiture of only \$500 be imposed. This may have been a reflection of the fact that despite this violation, Ms. Adams has tried to be conscientious about her responsibilities as a manager, to the point where she contacted Investigator Krisher after her July 23rd visit, requesting that she return to conduct a second inspection of the salon so she could be sure that she was in compliance with the rules [transcript, pp. 97, 119-122].

Under sec. 440.22, Stats., when discipline is imposed on a credential-holder, the Department has the authority to impose all or part of the costs of a proceeding on the credential-holder. In this case, the Department's full costs of investigating and prosecuting this matter have probably run into the hundreds of dollars. Attorney Arrington requested only the administrative

cost of the forfeiture, \$30.

PARTIES

The parties in this matter under section 227.44 of the Statutes and section RL 2.037 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats. are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Ave.
Madison, WI 53708-8935

Respondent:

LaQuisha Adams
2451 North 59th Street
Milwaukee, WI 53210

Disciplinary Authority:

Barbering and Cosmetology Examining Board
1400 East Washington Ave.
Madison, WI 53703

FINDINGS OF FACT

1. The Respondent, LaQuisha L. Adams, holds license number 82-84167 to practice as a Barber and Cosmetologist in Wisconsin and license number 81-31862 to practice as a Barber and Cosmetologist Manager in Wisconsin.
2. Ms. Adams resides at 2451 North 59th Street, Milwaukee, WI 53210.
4. In July of 2008, Ms. Adams agreed to work as manager for the Better Dayz salon on Burleigh Street in Milwaukee owned by Izylah Collins.
5. When Departmental Investigator Michele Krisher inspected the Better Dayz salon on Burleigh Street on July 23, 2008, Ms. Adams' manager's license was posted.
6. Around the first of October of 2008, Izylah Collins moved the Better Dayz salon to Mayfair Road in Milwaukee. As of October 9, 2008, the salon had not been issued an establishment license.
7. When Departmental Investigator Michele Krisher inspected the Better Dayz salon on Mayfair Road on October 9, 2008, it was open for business and Ms. Adams was providing barbering and cosmetology services.

CONCLUSIONS OF LAW

- I. The Barbering and Cosmetology Examining Board is the legal authority responsible for issuing and controlling licenses for Barber and Cosmetologists in Wisconsin, under chapter 454 of the Wisconsin Statutes, and it has jurisdiction over alleged violations of statutes and rules related to the practice of barbering and cosmetology, under section 454.15, Wis. Stats.
- II. The Barbering and Cosmetology Examining Board has personal jurisdiction over the Respondent, Laquisha L. Adams, based on her holding a Barbering and Cosmetology license issued by the Board, and based on notice under sec. 801.04 (2), Stats.
- III. By providing Barbering and Cosmetology services in an establishment that was not licensed at the time, Ms. Adams violated section BC 2.045 (1) of the Wisconsin Administrative Code.

ORDER

THEREFORE, IT IS ORDERED that the Respondent, LaQuisha L. Adams, pay a forfeiture of \$500 and costs of \$30, within 90 days of the date on which this order is signed. Payment shall be made by certified check or money order, payable to the Department of Regulation and Licensing and sent to

Department Monitor
Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Tel. (608) 267-3817
Fax (608) 266-2264.

If Ms. Adams fails to make the payment within 90 days, her Barbering and Cosmetology practitioner license and her Barbering and Cosmetology manager's license SHALL BE SUSPENDED, without further hearing and without further Order of the Board, and said suspensions shall continue until the full amount of the forfeiture and costs has been paid to the Department of Regulation and Licensing.

Dated and signed: April, 2009

Nick Schweitzer
Administrative Law Judge
Department of Regulation and Licensing