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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
	:	
MARICELA MORALES and,	:	Case # LS09020210BAC
FUSHION HAIR SALON,	:	
RESPONDENTS.	:	

Division of Enforcement Case # 07 BAC 240

The parties to this action for the purposes of Wis. Stats. § 227.53 are:

Maricela Morales
2040 South Thirty-Fourth Street
Milwaukee, Wisconsin 53215

Fushion Hair Salon
290 West Broadway
Waukesha, Wisconsin 53186

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Barbering and Cosmetology Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 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 Board (Board). The Board has reviewed the attached Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Maricela Morales (DOB 02/05/1986) is duly licensed as a barbering and cosmetology practitioner in the state of Wisconsin (license # 87437-82). This license was first granted on July 20, 1999, and is current through March 31, 2009.
2. Ms. Morales’ most recent address on file with the Department of Regulation and Licensing (Department) is 2040 South Thirty-fourth Street, Milwaukee, Wisconsin 53215.
3. Fushion Hair Salon (Fushion) is duly licensed as a barbering and cosmetology establishment in the state of Wisconsin (license # 35348-80). That license was first granted on July 20, 2007, and is current through March 31, 2009.
4. Maricela Morales is listed in Department records as the owner of Fushion.
5. As owner, Ms. Morales is responsible for ensuring that Fushion operates in compliance with Wis. Stats. Chapter 454 and the rules of the Board.
6. As of March 4, 2008, Department records listed Maria Flores as the manager of record for Fushion.
7. Investigator Kelley Sankbeil of the Division of Enforcement conducted an inspection of Fushion on March 4, 2008.

8. Investigator Sankbeil observed that no manager's license was posted at Fushion, although the establishment license and Ms. Morales' practitioner license were displayed.
9. Ms. Morales told Investigator Sankbeil that Ms. Flores was no longer manager. She named Rita Morales as the manager since approximately two months earlier.
10. Ms. Flores informed Investigator Sankbeil in a letter dated March 19, 2008, that she had ceased managing Fushion as of January 1, 2008, and provided a copy of a letter dated December 5, 2007, in which she informed the Department that she would cease being manager of Fushion as of January 1, 2008.
11. Rita Morales stated in a letter dated March 14, 2008, to Investigator Sankbeil that she was not starting as manager of Fushion until April 2008.
12. Maricela Morales did not inform the Board that Ms. Flores had left her employ.
13. There was not a barbering and cosmetology manager actually present at Fushion between January 1, 2008, and April 1, 2008.
14. During the inspection on March 4, 2008, Investigator Sankbeil also observed that poisonous substances were stored in an unlocked cabinet in the public bathroom.

CONCLUSIONS OF LAW

1. The Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stats. § 227.44 (5).
2. Wis. Stat. § 454.08 (6) requires the owner of a barbering and cosmetology establishment to employ at least one person as a manager who holds a manager license and works full time in the establishment.
3. Wis. Administrative Code § BC 2.06 (5) requires the owner of an establishment to employ a manager who shall have direct authority over the operation of the establishment.
4. Wis. Administrative Code § BC 2.06 (5) requires the owner of an establishment to notify the Board that the manager is no longer employed within ten days following the manager's last day of employment.
5. The conduct set forth in paragraphs 12 and 13 of the Findings of Fact are violations of Wis. Stat. § 454.08 (6) and Wis. Administrative Code § BC 2.06 (5).
6. Wis. Administrative Code § BC 3.01 (6) requires poisonous substances stored in public areas to be locked in a cabinet or closet.
7. The conduct set forth in paragraph 14 of the Findings of Facts violates Wis. Administrative Code § BC 3.01 (6).
8. Wis. Stat. 454.15 (2) (i) provides that a violation of chapter 454 or of any rule promulgated under chapter 454 is cause for discipline.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license (#87436-82) of Maricela Morales to practice barbering and cosmetology in the State of Wisconsin is hereby REPRIMANDED.
2. The establishment license (#35348-80) of Fushion Hair Salon is hereby REPRIMANDED.
3. Respondents Maricela Morales and Fushion Hair Salon shall pay a forfeiture of TWO HUNDRED dollars (\$200.00) and costs of SIX HUNDRED dollars (\$600.00), for a total of EIGHT HUNDRED dollars (\$800.00).
4. Payment shall be submitted on the following payment schedule:

Date	Amount
April 1, 2009	\$100.00
July 1, 2009	\$100.00
September 1, 2009	\$100.00
January 1, 2010	\$100.00
April 1, 2010	\$100.00
July 1, 2010	\$100.00
September 1, 2010	\$100.00
January 1, 2011	\$100.00

The full amount of the forfeiture and 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
Department of Regulation and Licensing
Post Office Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
FAX (608) 266-2264

5. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board 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. In the event Respondents fail to submit timely any payment of the forfeiture as set forth above, or fails to pay costs as ordered, the license of Maricela Morales (#87436-82) and the license of Fushion Hair Salon (license #35348-80) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
6. This Order is effective on the date of its signing.

By: Jeannie M. Bush
A Member of the Board

2/2/09
Date