

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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Before The
State Of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING

In the **MATTER OF THE UNLICENSED
PRACTICE BY TONY BUCHANAN AND
TONY'S BARBER SHOP**, Respondent

FINAL DECISION AND ORDER
ORDER 0000129

Division of Enforcement Case No. 08 UNL 097

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make 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, Department of Regulation and Licensing.

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 at Madison, Wisconsin on the 2nd day of April, 2010.

Celia M. Jackson, Secretary
Department of Regulation and Licensing



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the **MATTER OF THE UNLICENSED
PRACTICE BY TONY BUCHANAN AND
TONY'S BARBER SHOP**, Respondent

PROPOSED DECISION AND ORDER

DHA Case No. DRL-09-0088

Division of Enforcement Case No. 08 UNL 097

The parties to this proceeding for purposes of Wis. Stat § 227.53 are:

Tony Buchanan
Jackson's Barber Shop
313 West Center Street
Milwaukee, WI 53212

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The *Complaint* in this matter was filed on August 19, 2009. On August 21, 2009, the *Complaint* and *Notice of Hearing* were sent to the respondent at his two addresses of record with the Wisconsin Department of Regulation and Licensing (DRL). The Notice of Hearing stated that Respondent was required to file an Answer to the Complaint within 20 days, failing which “you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence and the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing.”

DRL served the Respondent with the *Complaint* and *Notice of Hearing* by both certified U.S. Mail and regular first class U.S. Mail using Respondent's addresses of record with DRL. DRL was notified that the copy that had been mailed by Certified Mail, Return Receipt Requested had been delivered to and signed for at one or both of the addresses.

Respondent never filed an Answer or otherwise responded to DRL's *Complaint* and *Notice of Hearing*. This matter was noticed for prehearing conference by this Division on October 8, 2009. The respondent did not respond to the notice and did not make himself available for the prehearing conference.

On October 19, 2009, DRL mailed to Respondent by regular U.S. Mail at his DRL addresses of record a *Motion for Default Judgment*. Respondent has not responded to the motion.

Findings of Fact

1. Respondent Tony Buchanan was licensed in the state of Wisconsin as a Barbering and Cosmetology Apprentice, license # 600-6980. This license was first granted to him on 05/18/1995 and expired 05/18/1997.

2. The most recent address on file with the Department of Regulation and Licensing for Mr. Buchanan is Jackson's Barber Shop, 313 West Center Street, Milwaukee, Wisconsin, 53212.

3. Respondent Tony's Barber Shop was licensed in the state of Wisconsin as a Barbering and Cosmetology Establishment, license # 80-36448. This license was first granted to Tony's Barber Shop on 01/05/2009 and expired on 04/01/2009.

4. The most recent address on file with the Department of Regulation and Licensing for Tony's Barber Shop is 1814 West Atkinson, Milwaukee, Wisconsin, 53206.

5. Tony Buchanan is listed as the owner of record for Tony's Barber Shop. As listed owner, Mr. Buchanan was and is at all times relevant to this action, responsible for compliance with Wisconsin Statutes, Chapter 454 and the Wisconsin Administrative Code for Barbering and Cosmetology Chapter 2.

6. On July 23, 2008, a Department Investigator performed an unannounced inspection at Tony's Barber Shop. The inspection and subsequent investigation revealed that Tony Buchanan was providing barbering and cosmetology services without a valid license, Tony's Barber Shop did not have a barbering and cosmetology establishment license, and there was no licensed barbering and cosmetology manager employed at the establishment.

7. On January 5, 2009, Tony's Barber Shop was granted a barbering and cosmetology establishment license. That license was current through March 31, 2009 and expired on April 1, 2009.

8. On March 12, 2009, a Department Investigator performed an unannounced inspection at Tony's Barber Shop. The inspection and subsequent investigation revealed that Tony Buchanan was providing barbering and cosmetology services without a valid license.

Conclusions of Law

1. Respondents Tony Buchanan and Tony's Barber Shop have violated Wis. Stat. §§ 454.08(1)(b) and 454.08(6) by operating a barbering and cosmetology establishment without first having obtained both a barbering and cosmetology establishment license and by failing to employ a licensed barbering and cosmetology manager. As a result, Mr. Buchanan and Tony's Barber Shop are subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

2. Respondent Tony Buchanan has violated Wis. Stat. § 454.04(1)(a) and Wis. Admin Code § 2.04(1) by practicing barbering and cosmetology without a valid license. As a result, Mr. Buchanan is subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

3. Respondent Tony Buchanan is in Default with regard to this matter and an Order may be entered without further hearing or proceeding.

Order

For the reasons set forth above, IT IS ORDERED Tony Buchanan and Tony's Barber Shop are ENJOINED and PROHIBITED as follows:

1. Tony Buchanan shall not operate or offer to operate a barbering and cosmetology establishment until he obtains a barbering and cosmetology establishment license for such establishment.
2. Tony Buchanan shall not practice or endorse others to practice barbering and cosmetology until they have obtained a current barbering and cosmetology credential.
3. Violation of the above may result in a forfeiture to be determined by the Board.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter, in an amount to be established pursuant to law. After the amount is established payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing ["DRL"] and sent to:

**Department Monitor
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
Telephone: (608) 267-3817
Fax: (608) 266-2264**

IT IS FURTHER ORDERED that this file be and hereby is closed as to Respondent.

Dated at Madison, Wisconsin on February 5, 2010.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

BY: _____



Patrick T. Currie
Administrative Law Judge