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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :

DAVID J. BARNES, :
K-TOWN HAIR CARE, L.L.C., CC OF :
WISCONSIN, INC., COST CUTTERS :
FAMILY HAIR CARE (LICENSE # :
15777-80), COST CUTTERS FAMILY HAIR :
CARE (LICENSE # 16349-80), COST :
CUTTERS FAMILY HAIR SALON :
(LICENSE # 34206-80), COST CUTTERS :
FAMILY HAIR CARE (LICENSE :
21611-80), COST CUTTERS :
(LICENSE # 31055-80), SUPERCUTS :
(LICENSE #30655-80), SUPERCUTS :
(LICENSE # 30258-80), COST CUTTERS :
FAMILY HAIR CARE (LICENSE :
27834-80), COST CUTTERS FAMILY :
HAIR CARE (LICENSE # 31714-80) :
and COST CUTTERS FAMILY HAIR CARE :
(LICENSE #34723-80), :
RESPONDENTS. :

FINAL DECISION AND ORDER

Order : 00001666

Division of Enforcement Case File 06 BAC 91

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

David J. Barnes
9410 42nd Avenue
Kenosha, Wisconsin 53158

K-Town Hair Care, L.L.C.
6058 40th Avenue
Kenosha, Wisconsin 53142

Cost Cutters Family Hair Care
4124 52nd Street
Kenosha, Wisconsin 53144
License Number 15777-80

Cost Cutters Family Hair Salon
6430 Green Bay Road, Number 106
Kenosha, Wisconsin 53144
License Number 34206-80

CC of Wisconsin, Inc.
6058 40th Avenue
Kenosha, Wisconsin 53142

Cost Cutters Family Hair Care
8038 22nd Avenue
Kenosha, Wisconsin 53143
License Number 16349-80

Cost Cutters Family Hair Care
5131 Douglas Avenue
Racine, Wisconsin 53402
License Number 21611-80

Cost Cutters
5630 Washington Avenue
Racine, Wisconsin 53406
License Number 31055-80

Supercuts
6935 75th Street
Kenosha, Wisconsin 53142
License Number 30655-80

Supercuts
7410 118th Avenue, Suite D
Kenosha, Wisconsin 53142
License Number 30258-80

Cost Cutters Family Hair Care
3049 South Oaks Road
Sturtevant, Wisconsin 53177
License Number 27834-80

Cost Cutters Family Hair Care
1901 Milwaukee Avenue
Burlington, Wisconsin 53105
License Number 31714-80

Cost Cutters Family Hair Care
6104 Regency West Drive
Racine, Wisconsin 53406
License Number 34723-80

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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Board on 8/13/09. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the 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. Barnes (date of birth of July 13, 1960) is licensed as a barbering or cosmetology practitioner in the state of Wisconsin (license number 59464-82). That license was first granted on March 25, 1985.
2. David J. Barnes is the owner of:

Cost Cutters Family Hair Care, 5131 Douglas Avenue, Racine, Wisconsin 53402
Cost Cutters, 5630 Washington Avenue, Racine, Wisconsin 53406
Supercuts, 6935 75th Street, Kenosha, Wisconsin 53142

Cost Cutters Family Hair Care, 3049 South Oaks Road, Sturtevant, Wisconsin 53177
Cost Cutters Family Hair Care, 1901 Milwaukee Avenue, Burlington, Wisconsin, 53105

3. CC of Wisconsin, Inc. (hereafter CC), 6058 40th Avenue, Kenosha, Wisconsin 53158, is listed with the Department as the owners of:

Cost Cutters Family Hair Care, 4124 52nd Street, Kenosha, Wisconsin 53144
Cost Cutters Family Hair Care, 8038 22nd Avenue, Kenosha, Wisconsin 53143
Cost Cutters Family Hair Salon, 6430 Green Bay Road, Number 106, Kenosha, Wisconsin 53142
Cost Cutters Family Hair Care, 6104 Regency West Drive, Racine, Wisconsin, 53406

4. David J. Barnes is listed as the President, Vice-President, Secretary and Treasurer of CC in Annual Reports filed with the Wisconsin Department of Financial Institutions.

5. K-Town Hair Care, L.L.C. (hereafter K-Town), 6058 40th Avenue, Kenosha, Wisconsin 53158, is listed with the Department as the owners of Supercuts, 7410 118th Avenue, Suite D, Kenosha, Wisconsin 53142.

6. David J. Barnes is listed as a member of K-Town and as the Registered Agent for K-Town in Annual Reports filed with Wisconsin Department of Financial Institutions.

7. Carolyn J. Sutter is duly licensed as a barbering or cosmetology manager in the state of Wisconsin (license number #17639-81). This license was first granted on November 3, 1986, and is current until March 31, 2011. Ms. Sutter is a full-time employee of Respondent Barnes.

8. Cost Cutters Family Hair Care (hereafter Cost Cutters 52nd Street), 4214 52nd Street, Kenosha, Wisconsin 53144, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (15777-80). This license first granted on April 30, 1985.

9. On June 7, 2007, an investigator for the Board inspected Cost Cutters 52nd Street. The investigator found eight work stations with hair clippings in contact with clean contact equipment. One work station did not have tuberculocidal disinfectant for non-metal contact equipment. One employee did not have a legible license posted, while another employee had no license posted at all. There was no manager license posted in the establishment. The investigator found hair on the floor of the establishment and hair in a shampoo sink. Departmental records show that Ms. Sutter was the manager of record at the establishment from June 18, 1991, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

10. Cost Cutters Family Hair Care (hereafter Cost Cutters 22nd Avenue), 8038 22nd Avenue, Kenosha, Wisconsin 53143, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (license number 16349-80). This license was first granted on April 29, 1986.

11. On June 14, 2007, an investigator for the Board inspected Cost Cutters 22nd Avenue. The investigator found six work stations with hair clippings and/or personal items in contact with

clean contact equipment. The establishment did not have tuberculocidal disinfectant for non-metal contact equipment. Departmental records show that Ms. Sutter was the manager of record at the establishment from June 18, 1991, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

12. Cost Cutters Family Hair Care Salon (hereafter Cost Cutters Green Bay Road), 6430 Green Bay Road, Number 106, Kenosha, Wisconsin 53142, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (license number 34206-80). This license was first granted on July 26, 2006.

13. On June 7, 2007, an investigator for the Board inspected Cost Cutters Green Bay Road. The investigator found seven work stations with hair clippings in contact with clean contact equipment. The establishment had poisonous substances in an unlocked cabinet in a public area. The investigator observed that two employees did not wash their hands between clients. Departmental records show that Ms. Sutter was the manager of record at the establishment from June 18, 1991, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

14. Cost Cutters Family Hair Care (hereafter Cost Cutters Douglas Avenue), 5131 Douglas Avenue, Racine, Wisconsin 53402, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (number 21611-80). This license first granted on August 9, 1991.

15. On July 5, 2007, an investigator for the Board inspected Cost Cutters Douglas Avenue. The investigator found seven work stations with hair clippings and/or personal items in contact with clean contact equipment. The investigator observed that employees did not wash their hands between customers. The investigator found hair left in a shampoo basin at one work station. Departmental records show that Ms. Sutter was the manager of record at the establishment from August 9, 1991, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site full-time and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

16. Cost Cutters (hereafter Cost Cutters Washington Avenue), 5630 Washington Avenue, Racine, Wisconsin 53406, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (number 31055-80). This license first granted on May 1, 2003.

17. On July 5, 2007, an investigator for the Board inspected Cost Cutters Washington Avenue. The investigator found eight work stations with hair clippings in contact with clean contact equipment. Departmental records show that Ms. Sutter was the manager of record at the establishment from October 7, 2002, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

18. Supercuts (hereafter Supercuts 75th Street), 6935 75th Street, Kenosha, Wisconsin 53142, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (number 30655-80). This license first granted on September 23, 2002.

19. On January 24, 2008, an investigator for the Board inspected Supercuts 75th Street. The investigator found six work stations with hair clippings in contact with clean contact equipment. The establishment had poisonous substances in an unlocked cabinet in a public area. One work station did not have clean contact equipment in a covered container. Departmental records show that Ms. Sutter was the manager of record at the establishment from September 23, 2002, through May 8, 2008. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

20. Supercuts (hereafter Supercuts 118th Avenue), 7410 118th Avenue, Suite D, Kenosha, Wisconsin 53142, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (number 30258-80). This license first granted on February 13, 2002.

21. On January 29, 2008, an investigator for the Board inspected Supercuts 118th Avenue. The investigator found five work stations with hair clippings in contact with clean contact equipment. Departmental records show that Ms. Sutter was the manager of record at the establishment from February 13, 2002, through May 8, 2008. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

22. Cost Cutters Family Hair Care (hereafter Cost Cutters Sturtevant), 3049 South Oaks Road, Sturtevant, Wisconsin 53177, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (number 27834-80). This license first granted on October 14, 1998.

23. On July 5, 2007, an investigator for the Board inspected Cost Cutters Sturtevant. The investigator found one work station with hair clippings in contact with clean contact equipment. Departmental records show that Ms. Sutter was the manager of record at the establishment from November 12, 2003, through May 8, 2008. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

24. Cost Cutters Family Hair Care (hereafter Cost Cutters Burlington), 1901 Milwaukee Avenue, Burlington, Wisconsin 53105, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (license number 31714-80). This license was first granted on January 15, 2004.

25. On June 14, 2007, an investigator for the Board inspected Cost Cutters Burlington. The investigator found four work stations with hair clippings in contact with clean contact equipment. One work station did not have clean contact equipment in a covered container. Two work stations in the establishment did not have tuberculocidal disinfectant for non-metal contact equipment. the investigator found hair in a shampoo sink. Departmental records show that Ms. Sutter was the manager of record at the establishment from November 12, 2003, through

September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

26. Cost Cutters Family Hair Care (hereafter Cost Cutters Regency), 6104 Regency West Drive, Racine, Wisconsin 53406, is duly licensed as a barbering or cosmetology establishment in the state of Wisconsin (license number 34723-80). This license was first granted on March 2, 2007.

27. On July 5, 2007, an investigator for the Board inspected Cost Cutters Regency. The investigator found three work stations with hair clippings in contact with clean contact equipment. One work station had under strength disinfectant. One work station did not have a disinfectant for non-metal contact equipment. One employee did not have a current practitioner license posted. Departmental records show that Ms. Sutter was the manager of record at the establishment from February 16, 2007, through September 13, 2007. The manager of record (Ms. Sutter) was not present on the site and did not exercise reasonable supervision and control to assure compliance with the Board's rules.

CONCLUSIONS OF LAW

A. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15 and is authorized to enter into the attached stipulation pursuant to Wis. Stat. § 227.44(5).

B. Wis. Adm. Code § BC 2.06(intro) provides that the owner of any licensed establishment shall be responsible for compliance with chapter 454, Stats., and Wis. Adm. Code chapters BC 2, 3 and 4.

C. Wis. Adm. Code § BC 2.07 (1) provides that the licensed manager of a barbering and cosmetology establishment shall be responsible for the daily operations of an establishment and ensure that the establishment is in compliance with chapter 454, Stats., and Wis. Adm. Code chapters BC 3 and 4.

D. Respondents, by the actions set forth in the Findings of Fact, above, violated Wis. Stat. §§ 454.04(7) and 454.15(2)(i), and Wis. Adm. Code §§ BC 2.07(2), 3.01(4), 3.01(6), 4.01(4), 4.01(2), 4.01(5), and 4.02(3).

ORDER

NOW, THEREFORE, **IT IS HEREBY ORDERED** that David J. Barnes is **REPRIMANDED**.

IT IS ALSO ORDERED that David J. Barnes, CC of Wisconsin, Inc., and K-Town Hair Care L.L.C., shall jointly and severally **FORFEIT** the sum of \$2,100.00. This forfeiture is also imposed jointly and severally upon Respondent's employee, the manager of record for the establishments listed above, Carolyn J. Sutter, by separate order.

IT IS ALSO ORDERED that David J. Barnes, CC of Wisconsin, Inc., and K-Town Hair Care L.L.C., shall jointly and severally, pay partial COSTS in the amount of in the amount of \$5,100, in this matter.

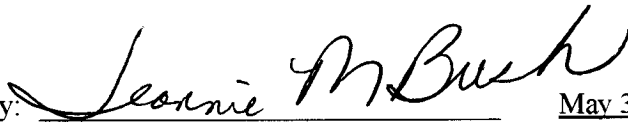
IT IS ALSO ORDERED that payment of both the Forfeiture and the Costs shall be submitted within 120 days from the date of this order. Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
Post Office Box 8935
Madison, Wisconsin 53708-8935
608-267-3817

IT IS ALSO ORDERED that in the event that either the Forfeiture or the Costs set forth above are not paid in full by the due date, then the licenses of all named Respondents, above, shall be **SUSPENDED** by staff without further action by the Board, until the Costs and Forfeitures are paid in full, together with any accrued interest.

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

BARBERING AND COSMETOLOGY EXAMINING BOARD

By: 

A member of the Board

May 3, 2010

Date

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