

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	OF DEFAULT
JERRY BROWN,	:	
RESPONDENT.	:	ORDER 0000 411

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Division of Enforcement Case File Number 08 BAC 123

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

Jerry Brown  
2247 Mead Street  
Racine, WI 53403

Wisconsin Barbering and Cosmetology Examining Board  
P.O. Box 8935  
Madison, WI 53707-8935

Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

This matter comes before the Wisconsin Barbering and Cosmetology Examining Board (Board) as citations Respondent failed to pay. Based on the record in this case, the Board adopts as its Final Decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Respondent Jerry Brown was licensed in the state of Wisconsin as a Barbering or Cosmetology Manager, license number 81-22900. This license was first granted to Mr. Brown on 04/20/1978 and expired on 03/31/2009.
2. The most recent address on file with the Wisconsin Department of Regulation and Licensing (Department) for Mr. Brown is 2247 Mead St, Racine, WI 53403.

3. On May 16, 2008, an investigator from the Department performed an inspection of Mr. Brown's establishment, Jerrys Barber Shop. The barbering and cosmetology establishment license for Jerrys Barber Shop expired on 07/01/1989.

4. As a result of the May 16, 2008 inspection, Mr. Brown was issued a \$1000 citation for practicing outside a licensed establishment by an owner or manager in violation of Wis. Admin. Code § BC 2.045(1). A true and correct copy of this citation is attached as **Exhibit A** and is incorporated herein by reference.

5. As a result of the May 16, 2008 inspection, Mr. Brown was also issued a \$130.00 citation for failure to change contact disinfectant daily in violation of Wis. Admin. Code § BC 4.02(5). A true and correct copy of this citation is attached as **Exhibit B** and is incorporated herein by reference.

6. Both citations were mailed to Mr. Brown by the Department investigator with a cover letter on May 19, 2008.

7. On June 5, 2008, the Department received a letter from Mr. Brown, in which he wrote, in part, "As for the 1,000.00 citation, I must request a hearing to contest the violation. I do currently have a written lease agreement; however at the time of inspection I could not produce it due to misplacement of the documents."

8. The Department did not respond to the request for a hearing.

9. On August 4, 2010, a Department attorney sent a letter to Mr. Brown enclosing copies of the citations and warning that if the citations were not paid by August 19, 2010, the attorney would request that the Barbering and Cosmetology Examining Board issue a default order ordering payment of the citations. In response to Mr. Brown's request for a hearing, the attorney wrote, "The citation was for practicing outside a licensed establishment, not for failure to have a written lease agreement. Because you have not suggested that your barbershop was in fact licensed, I do not believe that there is a dispute of material fact that would entitle you to a hearing pursuant to Wis. Stat. § 227.42(1). In any event, the request for hearing has been deemed denied pursuant to Wis. Stat. § 227.42(2)." The attorney also noted that the second citation had not been contested and the time to contest the citation had passed.

10. Mr. Brown has not paid the citations that were issued to him on May 19, 2008.

#### CONCLUSIONS OF LAW

1. The Wisconsin Barbering and Cosmetology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 454.15.

2. Respondent Jerry Brown violated Wis. Admin. Code § BC 2.045(1) by practicing barbering outside a licensed establishment, as described in paragraph 4 of the Findings of Fact. As a result, Jerry Brown is subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

3. Respondent Jerry Brown violated Wis. Admin. Code § BC 4.02(5) by failing to change contact disinfectant daily, as described in paragraph 5 of the Findings of Fact. As a result, Jerry Brown is subject to discipline pursuant to Wis. Stat. § 454.15(2)(i).

4. Mr. Brown's request for a hearing on the \$1000 citation was deemed denied pursuant to Wis. Stat. § 227.42(2) when the Department did not enter an order disposing of the request for hearing within 20 days from the date of filing. Because there was no dispute as to material fact, Mr. Brown was not entitled to a hearing under Wis. Stat. § 227.42(1).

5. Respondent Jerry Brown is in default pursuant to Wis. Admin. Code § BC 10.07(1) for failing to make a deposit.

6. Pursuant to Wis. Admin. Code § BC 10.07(1), the Board has the authority to issue an order of default against Respondent Jerry Brown for the amounts identified in the citations without further proceedings.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Jerry Brown is in DEFAULT and shall pay to the Wisconsin Department of Regulation and Licensing a total forfeiture in the amount of ONE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$1,130.00) within thirty (30) days from the date of this Order.

2. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing and sent to:

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

3. 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 refusal to renew credentialing or additional disciplinary action.

IT IS FURTHER ORDERED that file 08 BAC 123 be, and hereby is, closed.

4. This Order is effective on the date of its signing.

Dated this 13 day of September, 2010.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Jeannie M Bush

# Wisconsin Department of Regulation & Licensing

Mail To: P.O. Box 8935  
Madison, WI 53708-8935

FAX #: (608) 266-2264  
Phone #: (608) 266-2112

1400 E. Washington Avenue  
Madison, WI 53703  
E-Mail: web@drl.state.wi.us  
Website: http://drl.wi.gov

## BARBERING AND COSMETOLOGY EXAMINING BOARD

### CITATION FOR ADMINISTRATIVE FORFEITURE

<input type="checkbox"/> CITATION DOE CASE FILE # _____	<input type="checkbox"/> FINAL DECISION AND ORDER LS # _____
<input checked="" type="checkbox"/> Individual Credential Holder Name License # <u>22900</u>	OR <input type="checkbox"/> Establishment Name License # _____

2245 MEAD ST RACINE 53405  
Street City Zip  
MONDAY May 19, 2008 10:10 am  
Day of Week Date Time

On the above stated time, date and location, an investigation/inspection has disclosed the following violation.

PRACTICE OUTSIDE AN ~~THE~~ LICENSED ESTABLISHMENT  
BY OWNER OR MANAGER

In violation of Section 12.045(1) of ☐ Wis. Stats. OR ☒ Wis. Adm. Code  
Louise (L. Gordon) Consumer Protection Investigator III 5/19/08  
Signature of Investigative Staff Title Date

Signature of ☐ Licensee OR ☐ Establishment Owner Date

Pursuant to Wis. Stat. § 454.15(3), the licensing authority is authorized to impose a forfeiture in lieu of or in addition to other disciplinary action against your license.

PLEASE TAKE NOTICE THAT THE CREDENTIAL HOLDER MAY DEPOSIT A FORFEITURE AND COSTS IN THE AMOUNT OF \$ 1000.00 BY MAILING A CHECK OR MONEY ORDER NO LATER THAN TWENTY (20) DAYS FROM THE DATE OF THIS CITATION, TOGETHER WITH THE SIGNED COPY OF THIS FORM TO: DEPARTMENT OF REGULATION AND LICENSING, DIVISION OF ENFORCEMENT, 1400 EAST WASHINGTON AVENUE, P.O. BOX 8935, MADISON, WI 53708. PAYMENT SHALL BE TREATED AS A PLEA OF NO CONTEST TO THE VIOLATION CITED ABOVE AND CONSENT TO AN ORDER OF FORFEITURE PLUS COSTS, NOT TO EXCEED THE AMOUNT OF THE DEPOSIT.

Please reference "NOTICE OF RIGHT TO CONTEST" on backside of pink copy.

# Wisconsin Department of Regulation & Licensing

Mail To: P.O. Box 8935  
Madison, WI 53708-8935

FAX #: (608) 266-2264  
Phone #: (608) 266-2112

1400 E. Washington Avenue  
Madison, WI 53703

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Website: http://drl.wi.gov

## BARBERING AND COSMETOLOGY EXAMINING BOARD

### CITATION FOR ADMINISTRATIVE FORFEITURE

<input type="checkbox"/> CITATION DOE CASE FILE # _____	<input type="checkbox"/> FINAL DECISION AND ORDER LS # _____
<input checked="" type="checkbox"/> Individual Credential Holder Name License # <u>22900</u>	OR <input type="checkbox"/> Establishment Name License # _____

2245 MEAD ST RACINE 53405  
Street City Zip  
MONDAY May 19, 2008 10:20am  
Day of Week Date Time

On the above stated time, date and location, an investigation/inspection has disclosed the following violation.

FAILURE TO CHANGE CONTACT DISINFECTANT DAILY.  
CONTACT DISINFECTANT MUST BE TUBERCULOCIDAL  
FOR NON METAL CONTACT EQUIPMENT

In violation of Section 4.02(5) of ☐ Wis. Stats. OR ☒ Wis. Adm. Code  
Candace (B) Gordon Consumer Protection Investigator III 5/19/08  
Signature of Investigative Staff Title Date

Signature of ☐ Licensee OR ☐ Establishment Owner Date

Pursuant to Wis. Stat. § 454.15(3), the licensing authority is authorized to impose a forfeiture in lieu of or in addition to other disciplinary action against your license.

PLEASE TAKE NOTICE THAT THE CREDENTIAL HOLDER MAY DEPOSIT A FORFEITURE AND COSTS IN THE AMOUNT OF \$ 130.00 BY MAILING A CHECK OR MONEY ORDER NO LATER THAN TWENTY (20) DAYS FROM THE DATE OF THIS CITATION, TOGETHER WITH THE SIGNED COPY OF THIS FORM TO: DEPARTMENT OF REGULATION AND LICENSING, DIVISION OF ENFORCEMENT, 1400 EAST WASHINGTON AVENUE, P.O. BOX 8935, MADISON, WI 53708. PAYMENT SHALL BE TREATED AS A PLEA OF NO CONTEST TO THE VIOLATION CITED ABOVE AND CONSENT TO AN ORDER OF FORFEITURE PLUS COSTS, NOT TO EXCEED THE AMOUNT OF THE DEPOSIT.

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