

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

---

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
D'PELOS BARBER SHOP AND :  
GERARDO HERNANDEZ, :  
RESPONDENTS. : **ORDER 0000918**

---

Division of Enforcement Case No. 09 BAC 121

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

D'Pelos Barber Shop  
3462 S. 13<sup>th</sup> Street  
Milwaukee, WI 53215

Gerardo Hernandez  
3479 S. 12<sup>th</sup> Street  
Milwaukee, WI 53215

Wisconsin Barbering and Cosmetology Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

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

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Barbering and Cosmetology Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent D'Pelos Barber Shop (D'Pelos) is licensed in the State of Wisconsin as a Barbering and Cosmetology Establishment, having license number 80-36745, first issued on 04/13/09 and current through 03/31/11. D'Pelos' most recent address on file with the Wisconsin

Department of Regulation and Licensing (Department) is 3462 S. 13<sup>th</sup> Street, Milwaukee, Wisconsin 53215.

2. Respondent Gerardo Hernandez is licensed in the State of Wisconsin as a Barbering and Cosmetology Practitioner, having license number 82-87237, first issued on 05/14/07 and current through 03/31/13. Hernandez's most recent address on file with the Department is 3479 S. 12th Street, Milwaukee, Wisconsin 53215.

3. Respondent Hernandez is the owner of Respondent D'Pelos. Pursuant to Wis. Admin. Code § BC 2.06, as owner, Hernandez was at all times relevant to this matter responsible for compliance with Wis. Stat. Ch. 454 and Wis. Admin. Code §§ BC 2, 3 and 4.

4. On December 7, 2009, the Department received a complaint against Respondents alleging failure to employ a full time manager and participation in the unauthorized or unlicensed practice of barbering and cosmetology.

5. On March 25, 2010, a Division of Enforcement investigator inspected D'Pelos and observed the following:

- a. There was no full time licensed manager having direct authority over the operations of the establishment;
- b. There were copious amounts of loose hair on the salon floor;
- c. There was loose hair in workstation drawers used for storing clean implements;
- d. There were hair clippings on the outside of the wax pot utilized for waxing services;
- e. There were hair clippings on stored razor attachments;
- f. Clean implements were stored in uncovered containers; and
- g. Disinfectant was not changed on a daily basis.

6. In resolution of this matter, Respondents consent to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. 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).

2. By the conduct described in the Findings of Fact, Respondents violated:

- a. Wis. Stat. § 454.08(6) and Wis. Admin. Code §§ BC 2.06(5) and 3.02(1) by operating Respondent D’Pelos without a full time licensed manager having direct authority over the operations of the establishment;
- b. Wis. Admin. Code § BC 3.01(4) by failing to keep all floor coverings in an establishment in a clean, orderly and safe condition;
- c. Wis. Admin. Code § BC 4.01(1) by failing to maintain all areas of an establishment and the equipment, tools and implements used by licensees for services in an establishment in a clean, sanitary and safe condition;
- d. Wis. Admin. Code § BC 4.02(4) by failing to place clean and disinfected contact equipment in covered containers; and
- e. Wis. Admin. Code § BC 4.02(5) by failing to change disinfectant on a daily basis.

3. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. §§ 454.15(2)(c) and (i) and 454.15(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Respondents D’Pelos and Hernandez are hereby REPRIMANDED.
3. Respondent D’Pelos shall, within thirty (30) days of the date of this Order, pay a FORFEITURE in the amount of TWO HUNDRED DOLLARS (\$200.00) and COSTS of this matter in the amount of ONE HUNDRED SEVENTY TWO DOLLARS AND FIFTY CENTS (\$172.50).
4. Respondent Hernandez shall pay a FORFEITURE in the amount of ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00) and COSTS of this matter in the amount of ONE HUNDRED SEVENTY TWO DOLLARS AND FIFTY CENTS (\$172.50).
5. Respondent Hernandez shall submit a down payment of SIXTY THREE DOLLARS AND SEVENTY FIVE CENTS (\$63.75) within thirty (30) days of the date of this Order. Three (3) payments of FOUR HUNDRED THIRTY SIX DOLLARS AND TWENTY FIVE CENTS (\$436.25) will be due every thirty (30) days from the date of the previous payment until the full ONE THOUSAND THREE HUNDRED SEVENTY TWO DOLLARS AND FIFTY CENTS (\$1,372.50) is paid in full.
6. Payment of forfeiture and costs (made payable to the Wisconsin Department of Regulation and Licensing) shall be mailed, faxed or delivered by Respondent to the Department Monitor at the address below:

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

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in summary suspensions 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 timely submit payment of the forfeiture and costs as ordered, Respondents' licenses (80-36745 and 82-87237) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the forfeiture and costs.

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

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

by: Jane M. Boech  
A Member of the Board

6-27-11  
Date