

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

SHAY L. BENITEZ,
RESPONDENT.

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:
:
:

FINAL DECISION AND ORDER

ORDER 0001512

Division of Enforcement Case No. 11 BAC 005

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

Shay L. Benitez
1472 20th Street
Turtle Lake, WI 54889

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

Division of Enforcement
Department of Safety and Professional Services
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 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 Shay L. Benitez (dob 4/19/1971) is licensed in the State of Wisconsin as a barbering or cosmetology manager, having license number 81-30667, first issued on 7/12/2005 and current through 3/31/2013. This license was suspended from 6/19/2008 to 4/4/2011. Shay L. Benitez's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1472 20th Street, Turtle Lake, WI 54889.

2. On February 5, 2007, the Board issued a Final Decision and Order (LS# 061021BAC) against Ms. Benitez and her salon, Making Waves (license no. 80-30794), for various violations, including practicing in an unlicensed establishment, operating without a licensed manager and sanitary violations.

3. On June 19, 2008, Ms. Benitez's barbering or cosmetology manager license and Making Waves' establishment license (no. 80-30794) were suspended for failure to pay costs and forfeitures in violation of the Final Decision and Order dated February 5, 2007. Ms. Benitez's barbering or cosmetology manager license and Making Waves' establishment license (no. 80-30794) remained suspended until April 4, 2011.

4. In early 2011, the Department received two complaints alleging that Ms. Benitez was operating her salon, Making Waves, and that neither Ms. Benitez nor the salon held current licenses.

5. On March 17, 2011, a Department investigator performed an unannounced inspection of Ms. Benitez's establishment. The investigator discovered that the establishment had moved from 205 Riverside Drive to 203 Riverside Drive. The investigator observed Ms. Benitez cutting a customer's hair and observed a small dog in the establishment.

6. Ms. Benitez was issued an occupancy permit for the 203 Riverside Drive location on January 2, 2008. Ms. Benitez did not obtain a barbering and cosmetology establishment license (no. 80-38575) for this new location until May 26, 2011.

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, Ms. Benitez violated Wis. Stat. § 454.04(1)(a) and Wis. Admin. Code § BC 2.04(1) by practicing barbering or cosmetology when she did not hold a current license.

3. By the conduct described in the Findings of Fact, Ms. Benitez violated Wis. Stat. § 454.08(1)(b) and Wis. Admin. Code § BC 2.045(1) by practicing barbering or cosmetology outside of a licensed establishment.

4. By the conduct described in the Findings of Fact, Ms. Benitez violated Wis. Admin. Code § BC 3.01(10) by keeping a pet in her establishment during business hours.

5. As a result of the above violations, Ms. Benitez is subject to discipline pursuant to Wis. Stat. §§ 454.15(2)(i) and 454.15(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.

2. Respondent Shay L. Benitez's barbering or cosmetology manager license (no. 81-30667) is SUSPENDED for ten working days, starting on July 2, 2012 and ending on July 13, 2012.

3. Shay L. Benitez shall pay a FORFEITURE in the amount of \$2100 pursuant to the following schedule:

<u>Payment Date</u>	<u>Amount</u>
June 15, 2012	\$300
September 15, 2012	\$300
December 15, 2012	\$300
March 15, 2013	\$300
June 15, 2013	\$300
September 15, 2013	\$300
December 15, 2013	\$300

4. Payment of forfeiture shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. 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 Respondent's license. 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 Respondent fails to timely submit payment of the forfeiture as ordered, Respondent's license (no. 81-30667) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the forfeiture.

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

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

by:


A Member of the Board

4/30/2012
Date