

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MARY A. SMITH,  
RESPONDENT.

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FINAL DECISION AND ORDER

**0003262**

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Division of Legal Services and Compliance Case No. 13 BAC 031

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

Mary A. Smith  
W3581 Cty Rd P  
Merrill, WI 54452

Wisconsin Cosmetology Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

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 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 Mary A. Smith (dob December 29, 1957) is licensed in the State of Wisconsin as a Cosmetology Manager, having license number 28034-81, first issued on October 12, 1999 and current through March 31, 2015. Respondent Smith's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W3581 Cty Rd P, Merrill, WI 54452.

2. On October 31, 2002, Respondent Smith entered into a lease agreement for a booth at Waves Full Service Hair Salon and Spa LLC (Waves Salon and Spa), a cosmetology establishment.

3. Since commencing the booth rental agreement on October 31, 2002 and continuing through May 16, 2013, Respondent Smith provided cosmetology services from her booth at Waves Salon and Spa without a cosmetology establishment license.

4. In resolution of this matter, Respondent Smith consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin 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, Respondent Smith violated Wis. Stat. § 454.08(1)(b) and Wis. Admin. Code §§ Cos 2.045(1), 3.01(1), and 3.02(2)(b) by providing cosmetology services outside of a licensed establishment.

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

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent Smith is REPRIMANDED.

3. Within 90 days from the date of this Order, Respondent Smith shall pay a FORFEITURE in the amount of \$1,000.00 and COSTS of this matter in the amount of \$220.00.

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

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

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 and costs as ordered, Respondent's license (no. 28034-81) 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 and costs.

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

WISCONSIN COSMETOLOGY EXAMINING BOARD

by:

Gerri Reuter  
A Member of the Board

6-10-2014  
Date

STATE OF WISCONSIN  
BEFORE THE COSMETOLOGY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

MARY A. SMITH,  
RESPONDENT.

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STIPULATION

**00032 6 2**

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Division of Legal Services and Compliance Case No. 13 BAC 031

Respondent Mary A. Smith and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Cosmetology Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

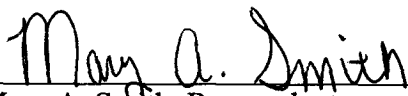
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

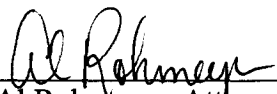
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
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Mary A. Smith, Respondent  
W3581 Cty Rd P  
Merrill, WI 54452  
License no. 28034-81

4-8-14  
Date

  
\_\_\_\_\_  
Al Rohmeyer, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

4-14-14  
Date