

## 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 APPLICATION FOR :  
RENEWAL OF COSMETOLOGIST :  
LICENSE : **ORDER 0006681**  
 : ORDER GRANTING  
NICOLE L. ZIOMEK, : LIMITED LICENSE  
APPLICANT. :

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

Nicole L. Ziomek  
Watertown, WI 53094

Cosmetology Examining Board  
4822 Madison Yards Way  
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 resolution of this renewal application, subject to the approval of the 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. Nicole L. Ziomek (Applicant) filed an application for renewal of her Wisconsin Cosmetologist license (no. 99003-82). Such license, first issued to Applicant on September 11, 2015, was scheduled for renewal by March 31, 2019. Applicant's request to renew was timely.
2. Information received in the renewal application process reflects that on December 5, 2018, Applicant was convicted of one count of Theft-Business Setting >\$10,000, a class G Felony and a violation of Wis. Stats. § 943.20(1)(b), in Waukesha County Case Number 2018CF000840.
3. Information received in the renewal application process reflects the following additional facts:
  - a. Applicant was first licensed in Wisconsin as a cosmetologist in 2015.

- b. In 2017 Applicant was working at Sports Clips as a store manager and cosmetologist. Part of her duties included paying business-related expenses, recording receipts, and preparing and making business banking deposits.
  - c. The business had received an overdraft notice so the owner and the area manager reviewed the financial documents and determined that Applicant failed to make deposits over the course of eight months. The amounts totaled \$15,051.46. The records had been adjusted to make it appear that the deposits were made. Applicant was the only person with the responsibility to make the deposits.
  - d. According to the criminal complaint, when confronted with the losses, Applicant admitted to taking the bank deposits although she thought she had taken less money. She claimed she used to money to pay rent.
  - e. Applicant pled no contest to a felony. She was sentenced to one year in jail, which was stayed. She was placed on three years of probation and ordered to pay restitution, a fine, costs and fees. She was ordered to perform community service, follow through with any treatment or counseling recommended by her probation agent and to have no contact with the victims or business listed in the complaint. Her probation agent stated that she is currently compliant.
4. In a statement provided by Applicant to the Department when disclosing the conviction, Applicant admitted wrongdoing and fully admitted to her actions leading up to the conviction.
5. Applicant's criminal conviction was a felony that was committed while she was engaged in the practice of cosmetology. She took money from her employer, which was a cosmetology establishment. This conviction is recent and she has only been on probation for five months. While she is in good standing with her probation agent, adequate time has not passed to establish rehabilitation. Accordingly, it is too early to determine whether Applicant is adequately rehabilitated.
6. For all of the above reasons, renewing Applicant' Cosmetologist license without limitations would create the opportunity for Applicant to engage in similar conduct and put cosmetology consumers and licensees at the risk of harm.
7. In resolution of this matter, Applicant consents to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Cosmetology Examining Board has jurisdiction over 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, Applicant's renewal application is subject to denial pursuant to Wis. Stat. § 454.15(2)(d) for being convicted of a felony committed while engaged in the practice of cosmetology.

3. As a result of the conclusions stated above, Applicant's cosmetologist renewal application is subject to denial, pursuant to Wis. Stat. §§ 440.08(4), and 454.15(2)(d).

### ORDER

1. The attached Stipulation is accepted.

2. Applicant's renewal of her Cosmetologist license is granted and is LIMITED for a minimum of two (2) years as follows:

#### Practice Limitations

3. Applicant shall, at all times, practice as a Cosmetologist under the direct supervision of a Wisconsin licensed Cosmetologist approved by the Board. Approval shall be obtained through correspondence with the Department of Safety and Professional Services Monitor (Department Monitor). Such direct supervision shall include the following terms:

a. Applicant shall not be allowed to handle any money or handle any financial transactions for clients.

4. Applicant shall notify her Cosmetologist supervisor(s)/employer(s) of her history of arrests and convictions prior to employment. Applicant shall show a copy of this Order to her current and any future employer. Applicant shall provide the Department Monitor with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitoring within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

5. Applicant shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge or conviction, including DWI/OWI and municipal/ordinance violations, to the Department Monitor within 48 hours of any such event, including any convictions resulting from pending charges.

#### Reporting Requirements

6. Applicant shall file quarterly reports with the Board at the direction of the Department Monitor commencing ninety (90) days after Applicant commences employment. Each report shall include the following:

- a. The name, address and telephone number of Applicant, and name, address and telephone number of her employer;
- b. A statement from the Applicant as to whether she has had any law enforcement contacts leading to arrest, charge or conviction (including DWI/OWI and municipal/ordinance violations) during the term of the Order.
- c. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

7. Applicant shall arrange for written reports from her Cosmetologist-supervisor(s)/ employer(s) to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance and describe the circumstances of her employment, including the nature and extent of the Applicant's activities and whether she has practiced in compliance with all laws governing the practice of cosmetology.

8. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify Department Monitor of any suspected violations of any of the terms and conditions of this Order.

9. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports or other information required by this Order shall be mailed, faxed or delivered to:

Department Monitor  
Department of Safety and Professional Services  
Division of Legal Services & Compliance  
4822 Madison Yards Way  
P.O. Box 7190  
Madison, WI 53707-7190  
Fax: (608) 266-2264  
Telephone: (608) 267-3817  
[dspsmonitoring@wi.gov](mailto:dspsmonitoring@wi.gov)

You may also submit this information online via DSPS' Monitoring Case Management System, here:  
<https://dspsmonitoring.wi.gov>.

#### Petitions for Modification

10. Applicant may petition the Department Monitor for modification of the terms of this Order after completion of one (1) year of practice in compliance with all terms and conditions of this Order. "Practice in compliance" includes the submission of work reports, the content of which are satisfactory to the Board. Applicant's petition must include her history of employment from the effective date of this Order that states the dates and names of any employer, such employment in total equaling one (1) year of practice. Any such petition shall be accompanied by a written recommendation from Applicant's current employer that includes, among other things, the dates of employment and scope of responsibility during such employment. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3), or 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal.

11. Applicant may petition for full, unrestricted licensure upon demonstration of continuous, successful practice in compliance with the terms of the Order for at least two (2) years. "Practice in compliance" includes the submission of work reports and/or Treater(s) reports, the content of which are satisfactory to the Board, Department Monitor, or their designee(s).

Costs

12. Applicant shall be responsible for all costs and expenses associated with compliance with the terms of this Order.

Suspension

13. In the event that the Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has provided proof, which is determined by the Board or its designee to be sufficient, that Applicant is in compliance with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

Dated at Madison, Wisconsin this 7 day of February, 2020.

By: Wicki Monally /c-a  
A Member of the Cosmetology Examining Board

STATE OF WISCONSIN  
BEFORE THE COSMETOLOGY EXAMINING BOARD

DIV LEGAL SERVICES & COMPLIANCE  
DEPT SAFETY & PROFESSIONAL SERVICES

IN THE MATTER OF APPLICATION FOR  
RENEWAL OF A COSMETOLOGIST  
LICENSE

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STIPULATION

NICOLE L. ZIOMEK,  
APPLICANT.

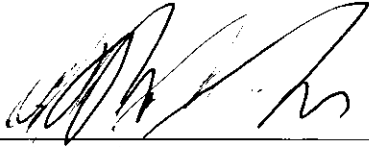
**ORDER 000668 1**

It is hereby stipulated between the above-referenced Applicant and the Cosmetology Examining Board (Board) as follows:

1. The Applicant has filed an application to renew a Cosmetologist license.
2. Information received by the Board reflects a basis for denial of the renewal of the licensure.
3. Based upon the information of record herein, the Board agrees to issue, and the Applicant agrees to accept, an Order granting a renewal of license as a Cosmetologist, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
  - the right to request a hearing related to the denial of the application;
  - the right to confront and cross-examine the witnesses against Applicant;
  - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
  - the right to testify on Applicant'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 the Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.

7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.



Nicole L. Ziomek, Applicant  
Watertown, WI 53094  
License no. 99003-82

2.3.20

Date



A Member of the Cosmetology Examining Board  
Department of Safety and Professional Services  
4822 Madison Yards Way  
P.O. Box 7190  
Madison, WI 53707-7190

2/7/20

Date