

**SETTLEMENT AGREEMENT BETWEEN MISSOURI STATE  
BOARD OF COSMETOLOGY AND BARBER EXAMINERS  
AND TORIN L. HENDERSON, ESTABLISHMENT LICENSE NO.2009005808**  
Case Number 11-0547CB

Comes now TORIN L. HENDERSON (Licensee) and the Missouri State Board of Cosmetology and Barber Examiners (Board) and enter into this Settlement Agreement for the purpose of resolving the question of whether Licensee's Establishment license for ANOTHER ZONE will be subject to discipline.

Pursuant to the terms of § 536.060 RSMo, Licensee waives the right to a hearing by the Administrative Hearing Commission of the State of Missouri.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing before the Administrative Hearing Commission of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the Administrative Hearing Commission hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him; and the right to seek to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or regulations the Board believes were violated. For the purpose of settling this

dispute, Licensee stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Licensee's Establishment license for ANOTHER ZONE, License No. 2009005808, is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 335, RSMo

The parties stipulate and agree that the disciplinary order to be issued by the Board is based only on the agreement set out in the Joint Stipulation of Facts and Joint Conclusions of Law herein. Licensee understands that the Board may take further disciplinary action against his license based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

#### Joint Stipulation of Facts

1. The Board is an agency of the State of Missouri created and existing pursuant to § 328.015, RSMo, for the purpose of executing and enforcing the provisions of §§ 328.010 through 328.160, RSMo, relating to Barbers.
2. Respondent, Torin K. Henderson (Licensee), owns and operates Another Zone, located at 2710 North Highway 67, Florissant, MO 63033.
3. Licensee holds an establishment license for Another Zone issued by the Board, number 2009005808.
4. The establishment license for Another Zone was at all relevant times, current and active.
5. Licensee is responsible for ensuring that Another Zone is properly licensed and is in compliance with all applicable statutes and regulations.
6. On or about November 10, 2009, the Board's inspector conducted an inspection of

Another Zone. The inspector discovered that Torin K. Henderson's barber license was expired as of February 28, 1996. Torin K. Henderson was not present during the inspection but a work station for Torin K. Henderson was set up for operation.

7. Licensee, as the owner of a barber shop, is responsible for ensuring that anyone offering barber services at his shop is properly licensed and that their individual licenses are properly posted.

8. On or about January 21, 2010, the Board's inspector conducted a follow-up inspection of Another Zone and discovered that Licensee and Samuel Brooks were performing barber services at Another Zone, without holding current Missouri barber licenses.

9. On or about March 16, 2010, the Board's inspector conducted another inspection of Another Zone and discovered that Licensee and Samuel Brooks were still portraying themselves as barbers without holding Missouri barber licenses.

10. On or about November 3, 2010, an attorney for the Board of Cosmetology and Barber Examiners sent a letter to Licensee stating that Licensee and Samuel Brooks, were working at Licensee's shop without a current license. The notice also cited the specific rules and regulations of which his shop was in violation as provided in Chapter 328, RSMo, and directed Licensee to cease and desist from allowing unlicensed individuals (Licensee and Samuel Brooks) to offer or provide any barber services unless and until the required barber license(s) are issued by the Board.

11. On or about December 7, 2010, the Board's inspector conducted a follow up inspection of Another Zone and discovered that Licensee and Samuel Brooks were still portraying themselves as barbers without holding Missouri barber licenses.

12. Licensee failed to correct the violations found during the November 10, 2009, January 21, 2010, March 16, 2010, and December 7, 2010, inspections.

13. Licensee demonstrated incompetence, misconduct, and gross negligence in the performance of barbering by allowing unlicensed workers to provide barber services for compensation from Another Zone, and failing to correct the violations found during inspections, providing cause for discipline pursuant to § 328.150.2(5), RSMo.

14. Because Licensee allowed persons to practice barbering without a current license, cause exists to discipline the license of Another Zone under § 328.150.2(6), RSMo, for assisting and/or enabling the individuals violates §§ 328.020, RSMo and 328.160, RSMo.

15. By failing to correct the violations cited in the November 10, 2009, January 21, 2010, March 16, 2010, and December 7, 2010, inspections, and allowing unlicensed persons to hold themselves out as licensed barbers, Licensee violated § 328.150.2(7), RSMo, and there is cause for discipline pursuant to this section.

16. Licensee's violation of §§ 328.020, RSMo, 328.115.1, RSMo, 328.160, RSMo, and rules 20 CSR 2085-10:010, is grounds for this Commission to issue an order disciplining Another Zone's establishment license and the barber license that Licensee holds under Chapter 328.150.2(5)(6)(7) RSMo.

#### Joint Conclusions of Law

1. Cause exists for Petitioner to take disciplinary action against Licensee's license under Section 328.150.2, RSMo, which states, in part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for anyone or any combination of the following causes:

- (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter.
- (6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;
- (12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

#### **LAW PERTAINING TO BARBER'S AND BARBER ESTABLISHMENTS**

2. Section 328.010(1), RSMo, defines the practice of barbering as follows, in pertinent part:

- (1) "Barber", any person who is engaged in the capacity so as to shave the beard or cut and dress the hair for the general public shall be construed as practicing the occupation of "barber"...

3. Section 328.010(2), RSMo, defines a barber establishment as follows, in pertinent part:

- (2) "Barber establishment", that part of any building wherein or whereupon any occupation of barbering is being practiced including any space or barber chair rented within a licensed establishment by a person licensed under this chapter...

4. Section 328.020, RSMo, provides that: "It is unlawful for any person to practice the occupation of a barber in this state, unless he or she shall have first obtained a license, as provided in

this chapter.”

5. Section 328.115.1, RSMo, prohibits any establishment to be opened or to offer barbering services without a license, and provides that: “The owner of every shop or establishment in which the occupation of barbering is practiced shall obtain a license for such shop or establishment issued by the board before barbering is practiced therein.”

6. Section 328.160, RSMo, provides that in pertinent part: “Any person willfully employing a barber who does not hold a valid license issued by the board..., or failing to keep any license required by this chapter properly displayed...shall be deemed guilty of a class C misdemeanor.”

7. Board regulation 20 CSR 2085-10.010(3) state the following:

(3) Display of License. Establishment licenses shall be posted within the establishment in plain view at all times so that it may be easily seen by the public. Establishment licenses issued to a station or booth rental establishment shall be posted in plain view at the respective work station.

8. Board regulation 20 CSR 2085-10.010(1)(A); (2)(E) and (G) state the following:

(1) Physical facilities shall consist of the following:

(A) Except as provided herein, any person desiring to open a barber or cosmetology establishment in Missouri, whether a beauty shop, nail salon, or other cosmetology establishment, shall submit an application to the board at least thirty (30) days prior to the anticipated opening of the establishment. The establishment license application shall be

submitted on a form provided by the board, accompanied by the biennial establishment fee.

(E) Display of License. The current establishment license for the rental space/chair shall be posted in a conspicuous place at all times. The licensee's barber or cosmetology license shall also be posted at each respective work station.

(G) Except as provided herein, no person shall provide or offer to provide barber or cosmetology services at a rented space, booth or chair before an establishment license has been obtained as required by this rule. If barber or cosmetology services are performed or offered at the rented space or chair before an establishment license is issued as required by this section, a delinquent fee shall be assessed in addition to all other required licensure fees, and the board may take legal action pursuant to Chapters 328 and/or 329, RSMo.

**Joint Agreed Disciplinary Order**

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of §621.045.3 RSMo.

1. Licensee's Establishment license for ANOTHER ZONE in the State of Missouri, license number 2009005808, is hereby SUSPENDED for a period of two days. <sup>January 6<sup>th</sup> and 7, 2012.</sup> ~~September 7 and 8, 2011.~~ ERC

2. Additionally, Licensee's Establishment license for ANOTHER ZONE in the State of Missouri, license number 2009005808, is hereby PROBATED for a period of five years.

### GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its professional staff at such times and places as required by the Board.
- B. Licensee shall report to the the Board office at: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102, in writing by January 1 and July 1 of each year of probation. any changes in Licensee's address and compliance with this agreement. If Licensee fails to contact the Board office by January 1 and July 1 of each year of probation, the Board will consider Licensee to have violated the terms of this probation. The first report shall be due January 1, 2012.
- C. Licensee shall inform the Board within ten (10) days of any change of home address or home telephone number.
- D. Licensee shall not violate the Chapter 328 RSMo, shall renew his Establishment license immediately and shall not allow his establishment license to lapse. Licensee may place his establishment license on inactive. The conditions of discipline will continue to apply if the license is inactive.
- E. Licensee shall keep the Board informed of his current place of employment and of any changes in his place of employment by notifying the Board within ten working days of such a change.
- F. Licensee shall immediately advise any employer or potential employer of licensee's probationary status and shall provide a copy of this entire agreement to any employer or potential employer.
- G. If Licensee is not employed at any time during the period of discipline, Licensee shall instead submit an affidavit stating the period(s) of unemployment.
- H. Licensee shall execute any release or provide any other authorization necessary for the Board to obtain records of Licensee's employment during the period covered by this agreement.

K. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practices of cosmetology and barbering in this state.

L. Licensee shall bear all costs of complying with this Settlement Agreement.

3. The Board will maintain this Settlement Agreement as an open and public record of the Board as required by law. The Board will report this Settlement Agreement to data banks, other appropriate entities and in its newsletter. This is a disciplinary action against licensee's license. The original of this document shall be kept in the Board's file and its contents shall be disclosed to the public upon proper request.

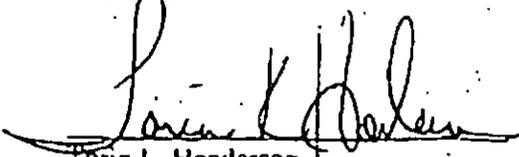
4. Licensee, together with his heirs and assigns and his attorney(s), do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents or attorneys, including any former Board members, employees, agents and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement or from the negotiation or execution of its settlement. Licensee acknowledges that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof void or unenforceable.

5. Licensee understands that he may, either at the time the Settlement Agreement is signed by all parties or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties

constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit his request to: Administrative Hearing Commission, Truman State Office Building, P.O. Box 1557, Jefferson City, Missouri 65102.

6. If Licensee requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes in to effect 15 days after the document is signed by the Executive Director of the Board.

LICENSEE

  
Torin L. Henderson

Date:

8/20/11

BOARD OF COSMETOLOGY AND  
BARBER EXAMINERS

  
Emily Carroll  
Executive Director  
Missouri State Board of Cosmetology and  
Barber Examiners

Date:

12/15/2011