**BEFORE THE MISSOURI STATE BOARD**
**OF COSMETOLOGY AND BARBER EXAMINERS**

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| In the Matter of the Application of | ) |
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| **JACK LLOYD BENTON,** | ) |
| | ) |
| Applicant. | ) |

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS ISSUING A PROBATIONARY COSMETOLOGY STUDENT LICENSE TO JACK LLOYD BENTON**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its **ORDER** granting a **PROBATIONARY COSMETOLOGY STUDENT LICENSE,** License No. 2016012380 to Jack Lloyd Benton ("Benton" or "Applicant"), pursuant to the provisions of § 324.038, RSMo.[1] As set forth in § 324.038.2, RSMo, Benton may submit a written request to the Administrative Hearing Commission seeking a hearing and review of the Board's decision to issue a probated student license. Such written request must be filed with the Administrative Hearing Commission within 30 days of delivery or mailing of this Order of the Board. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman State Office Building, Room 640, Jefferson City, MO 65102-1557. If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Board's decision shall be considered waived. Should Benton file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect unless and/or until such time as the Administrative Hearing Commission issues an Order to the contrary.

Based upon the foregoing, the Board hereby states:

[1] All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

I.

## FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo.

2. On or about April 7, 2016, Benton applied for a Missouri cosmetology student license to enroll at Salem College of Hairstyling, 1051 Kingshighway, Suite #1, Rolla, Missouri.

3. On his application Benton answered "yes" to the question "In the last ten (10) years have you been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, whether or not sentence was imposed?"

4. With his April 7, 2016 application, Benton provided an explanation of his criminal history. In his explanation, Benton acknowledged several criminal prosecutions but asserted his desire to "change and become a responsible person in [his] community."

5. A review of Benton's Missouri criminal history revealed that:

a. On or about April 14, 1998, Benton pled guilty to the class B misdemeanor of *Dwi - Alcohol*, in the Circuit Court of Phelps County, Missouri, case number 25R03980669M. The Court sentenced Benton to 10 days' jail incarceration, suspended execution of the sentence and placed Benton on supervised probation for 1 year.

b. On or about November 22, 1999, Benton pled guilty to the class A misdemeanor of *Assault 3rd Degree*, in the Circuit Court of Phelps County,

Missouri, case number 25R0398111OF-01. The Court sentenced Benton to 6 months' jail incarceration, suspended execution of the sentence and placed Benton on supervised probation for 2 years.

c. On or about May 4, 2001, Benton pled guilty to the class A misdemeanor of *Dwi – Alcohol – Prior Offender*, in the Circuit Court of Pulaski County, Missouri, case number 25R05010463M. The Court sentenced Benton to 60 days' jail incarceration, suspended execution of the sentence and placed Benton on supervised probation for 2 years.

d. On or about January 2, 2002, Benton pled guilty to the class A misdemeanor of *Assault 3rd Degree – Pursuant To Subdivisions (1), (2), (4), (6)*, in the Circuit Court of Phelps County, Missouri, case number 25R03011591M. The Court sentenced Benton to a fine.

e. On or about April 2, 2003, Benton pled guilty to the class A misdemeanor of *Assault 3rd Degree – 1st/2nd Offense*, in the Circuit Court of Phelps County, Missouri, case number 25R03021574M. The Court sentenced Benton to 60 days' jail incarceration.

f. On or about January 28, 2004, Benton pled guilty to the class A misdemeanor of *Tampering With Utility Meter – 2nd Degree*, in the Circuit Court of Phelps County, Missouri, case number 25R03031579F. The Court sentenced Benton to 60 days' jail incarceration.

g. On or about January 28, 2004, Benton pled guilty to the class A misdemeanor of *Delivery Or Possession Of Item At A County/Private Jail Which Prisoner Is Prohibited From Receiving*, in the Circuit Court of

Phelps County, Missouri, case number 25R03031433M. The Court sentenced Benton to 60 days' jail incarceration.

h. On or about June 7, 2004, Benton pled guilty to the class D felony of *Dwi – Alcohol – Persistent Offender*, in the Circuit Court of Phelps County, Missouri, case number 25R03040419F-01. The Court sentenced Benton to 4 years' incarceration with the Missouri Department of Corrections, suspended execution of sentence and placed Benton on 5 years' supervised probation.

i. On or about January 11, 2005, Benton pled guilty to the class A misdemeanor of *Operated Motor Vehicle On Highway While Driving License/Privilege Revoked (Revoked For Abuse And Lose Law)*, in the Circuit Court of Phelps County, Missouri, case number 25R020400180. The Court sentenced Benton to 10 days' jail incarceration.

j. On or about February 7, 2005, Benton pled guilty to the class B misdemeanor of *Unlawful Use Of A Weapon (Subsections 6, 7, & 8)*, in the Circuit Court of Phelps County, Missouri, case number 25R03040883F-01. The Court sentenced Benton to a fine.

k. On or about August 4, 2005, Benton pled guilty to the class D felony of *Dwi – Alcohol – Persistent Offender*, in the Circuit Court of Phelps County, Missouri, case number 25R03050795F-01. The Court sentenced Benton to 4 years' incarceration with the Missouri Department of Corrections.

l. On or about September 21, 2009, Benton pled guilty to the class A

misdemeanor of *Violation Of Order Of Protection For Adult*, in the Circuit Court of Phelps County, Missouri, case number 09PH-CR00896. The Court sentenced Benton to 12months' jail incarceration, suspended execution of Benton's sentence and placed Benton on 2 years' supervised probation. On or about May 18, 2010, Benton's probation was revoked and his 12 month sentence was ordered to be executed.

m. On or about June 18, 2010, Benton pled guilty to the class C felony of *Dwi – Alcohol – Aggravated Offender*, in the Circuit Court of Phelps County, Missouri, case number 10PH-CR00507-01. The Court sentenced Benton to 7 years' incarceration with the Missouri Department of Corrections, suspended execution of Benton's sentence and placed Benton on 5 years' supervised probation. On or about September 21, 2010, Benton's probation was revoked the sentence was executed.

n. On or about June 18, 2010, Benton pled guilty to the class C felony of *Passing Bad Check - $500 Or More – No Account/Insufficient Funds*, in the Circuit Court of Phelps County, Missouri, case number 10PH-CR00149-01. The Court sentenced Benton to 7 years' incarceration with the Missouri Department of Corrections. The Court suspended execution of Benton's sentence and placed Benton on 5 years' supervised probation. On or about February 21, 2012, Benton's probation was revoked and the sentence executed.

o. On or about May 18, 2010, Benton pled guilty to the class A misdemeanor of *Assault 3rd Degree – Pursuant To Subdivisions (1), (2), (4), (6)*, in the

Circuit Court of Phelps County, Missouri, case number 10PH-CR00116. The Court sentenced Benton to 60 days' jail incarceration.

p. On or about June 18, 2010, Benton pled guilty to the class C felony of *Dwi – Alcohol – Aggravated Offender*, in the Circuit Court of Phelps County, Missouri, case number 10PH-CR00507-01. The Court sentenced Benton to 7 years' incarceration with the Missouri Department of Corrections. The Court suspended execution of Benton's sentence and placed Benton on 5 years' supervised probation. On or about February 21, 2012, Benton's probation was revoked and the sentence was executed.

q. On or about August 20, 2010, Benton pled guilty to the class A misdemeanor of *Operate Motor Vehicle On Hwy While Driver License/ Privilege Revoked (Revoked For Points/Fail To Submit To Chemical Test)*, in the Circuit Court of Phelps County, Missouri, case number 10PH-CR00890. The Court sentenced Benton to 30 days' jail incarceration.

## II.

## CONCLUSIONS OF LAW

6. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo, which provides:

> The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

7. The Board has cause to deny or refuse Benton's application for a cosmetology student license pursuant to § 329.140.2, RSMo, which provides:

> 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 the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:
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> . . .
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> (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

8. As a result of Benton's pleas of guilty as detailed in paragraph 5 a-q above, the Board has cause to deny or refuse Benton's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

9. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038, RSMo, which provides:

> Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

10. The Board issues this Order in lieu of denial of Benton's application for a cosmetology student license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

## ORDER

11. Based on the foregoing, Jack Lloyd Benton is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which he is enrolled in barber school and receiving training hours, not to exceed five (5) years from the effective date of this Order. During the aforementioned probation, Jack Lloyd Benton shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

IV.

## TERMS AND CONDITIONS

12. During the aforementioned probation, Jack Lloyd Benton, shall be entitled to enroll as a cosmetology student subject to the following terms and conditions:

A. During the disciplinary period, Applicant shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

B. During the disciplinary period, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers. Applicant shall notify the Board in writing within ten days (10) of any change in this information.

C. During the probationary period, Applicant shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.

D. During the disciplinary period, Applicant shall appear in person for interviews with the Board or its designee upon request.

E. Applicant shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before July 1, 2016.

F. If, at any time during the probationary period, Applicant changes Applicant's address from the state of Missouri, or ceases to maintain Applicant's student license current or

active under the provisions of Chapter 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.

G. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.

H. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.

I. Any failure by Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

13. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Applicant of the terms and conditions of this Order, Chapter 329, RSMo, or the regulations promulgated thereunder.

14. The Board will maintain this Order as an open, public record of the Board as provided in Chapters 329, 610 and 324, RSMo.

**SO ORDERED, EFFECTIVE THIS 20 DAY OF April 2016.**

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Emily R. Carroll

Emily R. Carroll, Executive Director