BEFORE THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS,	)	
Petitioner,	)	
v.	)	Case No. 12-1209 CB
DAVID BENTON	)	
Respondent.	)	

ORDER OF THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS
DISCIPLINING THE BARBER OPERATOR AND BARBER ESTABLISHMENT
LICENSES OF DAVID BENTON

On or about October 24, 2012, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Board of Cosmetology and Barber Examiners v David Benton,* Case No. 12-1209 CB. In that Default Decision, the Administrative Hearing Commission found that Respondent David Benton's barber operator license (license # 2002003821) and barber establishment license (license # 2008031390) are subject to disciplinary action by the Board pursuant to § 328.150.2(5), (6), (7), (12), (13) and (15), RSMo.[1]

The Board has received and reviewed the record of the proceedings before the Administrative Hearing Commission, including the properly pled complaint filed before the Administrative Hearing Commission on May July 2, 2012 and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission, including the properly pled complaint and Default Decision, is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 328.150.3, RSMo, the Board held a hearing on March 18, 2013, at approximately 11:28 a.m., at the Division of Professional Registration, 3605 Missouri

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

Boulevard, Jefferson City, Missouri 65102, for the purpose of determining the appropriate disciplinary action against Respondent's licenses. The Board was represented by Legal Counsel Tina Crow Halcomb. Respondent received proper notice and opportunity to appear but did not appear in person or by legal counsel. After being present and considering all of the evidence presented during the hearing, the Board issues the following Findings of Facts, Conclusions of Law and Order.

I.

Based upon the foregoing the Board hereby states:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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. The Board hereby adopts and incorporates by reference the properly pled complaint and Default Decision of the Administrative Hearing Commission in *Missouri Board of Cosmetology and Barber Examiners v. David Benton,* Case No. 12-1209 CB, in its entirety. In that Default Decision the Administrative Hearing Commission determined that the Board filed a properly pled complaint before the Administrative Hearing Commission on or about July 2, 2012, that Benton was personally served with the complaint and that Benton never filed an answer or otherwise responded to the complaint.

3. In its Default Decision, the Administrative Hearing Commission determined there was cause to discipline Benton's licenses pursuant to § 328.150.2(5), (6), (7), (12), (13) and (15), RSMo, as established in the properly pled complaint, as a result of Benton's operating a barber establishment known as Cherry Street Barbershop without a current operator and establishment license and operating an establishment with numerous sanitation violations.

4. The Board set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.

II.

CONCLUSIONS OF LAW

5. This Board has jurisdiction over this proceeding pursuant to §§ 621.110 and 328.150.3, RSMo.

6. The Board expressly adopts and incorporates by reference the Conclusions of Law contained in the Default Decision issued by the Administrative Hearing Commission on October 24, 2012, in *Missouri Board of Cosmetology and Barber Examiners v. David Benton,* Case No. 12-1209 *CB,* and hereby enters its Conclusions of Law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision on October 24, 2012, Respondent's barber operator and barber establishment licenses are subject to disciplinary action by the Board pursuant to § 328.150.2(5), (6), (7), (12), (13) and (15), RSMo.

8. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Having fully considered all the evidence before the Board, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Board that the barber establishment license (license no. 2010008743) and barber operator license (license no 2002003821) of David Benton shall be **SUSPENDED** for a period not to exceed three (3) years, or until such time as Licensee submits proof to the Board that Licensee has reinstated Licensee's barber operator and barber establishment licenses and the Board has notified Licensee in writing

of his compliance. The period of **SUSPENSION** shall begin fifteen (15) days from the date this Order is signed by the Board's Executive Director. Licensee shall not perform or offer barber services during the period of **SUSPENSION**. Following the period of **SUSPENSION**, Respondent's barber establishment and barber operator licenses shall immediately be placed on **PROBATION** for a period of five (5) years ("probationary period"), subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, David Benton shall be entitled to offer and perform barber services subject to the following terms and conditions:

A. During the probationary period Licensee shall comply with all provisions of Chapters 328 and 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 probationary period, Licensee shall keep the Board informed of Licensee's current telephone number and address. Licensee shall notify the Board in writing within ten days (10) of any change in this information.

C. During the probationary period, Licensee shall timely renew Licensee's license(s) granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license(s) in a current and active state.

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

E. During the probationary period, Licensee shall appear in person for interviews with the Board or its designee upon request.

F. During the probationary period, Licensee 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, 2013.

G. If, at any time during the probationary period, Licensee changes Licensee's address from the state of Missouri, or ceases to maintain Licensee's licenses current or active under the provisions of Chapter 329, RSMo (as amended), 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.

H. Upon expiration of the probationary period, Licensee's licenses shall be fully restored if all requirements of the law have been satisfied; provided, however, that in the event the Board determines that Licensee has violated any term or condition of this Order, the Board may, in its discretion, pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions or remedies concerning the allegations identified herein.

I. 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 (as amended).

J. 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 1335, Jefferson City, Missouri 65102.

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

The Board will maintain this Order as an open and public record of the Board as provided in Chapters 328, 610, and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 5th DAY OF APRIL, 2013.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Emily Carroll

Emily Carroll, Executive Director