IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

FILED
DEC 18 2015
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

MISSOURI STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS,	)	
Petitioner.	)	
v.	)	Case No. 15SL-CC03093
MARVIN DAVIS, Individually, and MARVIN DAVIS d/b/a Drop Shop	)	
Respondent.	)	

JUDGMENT

NOW on this 18th day of December, 2015, the court takes up the above-styled case for the purpose of entering its Judgment.

On this 18th day of December, 2015, the court takes up the above-styled case. Petitioner Missouri State Board of Cosmetology and Barber Examiners appears by and through counsel, Scott A. Hamblin, Brydon Swearengen & England P.C. Respondent Marvin Davis fails to appear in person or by counsel. Evidence is adduced. The Court finds as follows:

1. On October 2, 2015, Respondent Marvin Davis was served with the petition filed by the Petitioner Missouri State Board of Cosmetology and Barber Examiners.
2. Respondent has failed to file his answer or responsive pleading as required by Rule 55.25 of the Rules of Civil Procedure.
3. Respondent was provided notice of this court hearing and has failed to appear or otherwise defend against the allegations of the petition.
4. Respondent is in default pursuant to Rule 74.05 of the Rules of Civil Procedure.
5. The allegations of the petition are true.

6. Evidence was adduced that Marvin Davis, Individually, and Marvin Davis d/b/a Drop Shop Davis was engaged in the practice of cosmetology, hair dressing and manicuring at his place of business known as the Drop Shop located at 2809 N. Vandeventer, St. Louis, Missouri 63107.
7. Davis did not possess a valid cosmetology establishment license and did not possess a valid hairdressing and manicuring license. His license was revoked by the Board on December 16, 2014 following the Default Decision of the Administrative Hearing Commission on January 7, 2014, Case No. 13-1932 CB.
8. Davis has continued to hold himself out to the general public as a licensed cosmetology business providing cosmetology services including hairdressing, despite that his license is revoked.
9. Section 329.030 RSMo requires a license for Davis to engage in the occupation of cosmetology or to operate an establishment and Davis' license was revoked by the Board on December 16, 2014 following the Default Decision of the Administrative Hearing Commission on January 7, 2014, Case No. 13-1932 CB.
10. Section 329.045.1 RSMo requires a license for each establishment desiring to practice cosmetology and Davis' establishment license was revoked by the Board on December 16, 2014 following the Default Decision of the Administrative Hearing Commission on January 7, 2014, Case No. 13-1932 CB.
11. Davis is in violation the provisions of Sections 329.030, 329.045, and 329.140 RSMo., by engaging in the occupation of cosmetology and operating a cosmetology establishment with a revoked license.
12. Section 329.140.4 RSMo. provides that:

The board, acting upon its own knowledge or written or verified complaint filed by any person, may discipline a person as provided in subsections 1 to 3 of this section or the board may bring an action to enjoin any person, firm or corporation from engaging in an occupation regulated by the provisions of this chapter, if such person, firm or corporation without being licensed to do so by the board, engages in or practices an occupation licensed pursuant to this chapter. The action shall be brought in the county in which such person resides, or, in the case of a firm or corporation, where the firm or corporation maintains its principal office; and, unless it appears that such person, firm or corporation so engaging or practicing such occupation is licensed, the injunction shall be issued, and such person, firm or corporation shall be perpetually enjoined from engaging in such activities throughout the state.

13. Pursuant to Section 329.140.4, RSMo., an injunction shall properly be issued against Davis enjoining him from offering to engage or engaging in the performance of any acts or practices of cosmetology or occupation of cosmetology, including, but not limited to hairdressing and manicuring, and operating an establishment of cosmetology including but not limited to his business known as Drop Shop located at 2809 N. Vandeventer, St. Louis, St. Louis County, Missouri.

14. That the name Marvin David as it appears in the caption of this case is corrected to Marvin Davis and the court record shall reflect the same in the caption of the above-styled case and in the docket entries with the Circuit Clerk's Office.

IT IS HEREBY ORDERED ADJUDGED AND DECREED that:

1. Respondent Marvin Davis, Individually and Marvin Davis, d/b/a Drop Shop is enjoined from offering to engage or engaging in the performance of any acts or practices of cosmetology or the business of cosmetology, including but not limited to his business known as the Drop Shop located at 2809 N. Vandeventer, St. Louis, St. Louis County, Missouri until such time as Respondent has complied with the provisions of Sections 329.010 to 329.265 RSMo *et seq.*

2. The Circuit Clerk shall correct the docket entry and record to show that the name Marvin David shall appear as Marvin Davis.

3. Petitioner has paid the filing fee and costs, and that there are no further costs taxed to the Petitioner.

Judge

BEFORE THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS,	)	
Petitioner,	)	
v.	)	Case No. 13-1932CB
MARVIN DAVIS, d/b/a DROP SHOP,	)	
Respondent.	)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER

On or about January 7, 2014, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Board of Cosmetology and Barber Examiners v. Marvin Davis,* Case No. 13-1932 CB. In its Default Decision, the Administrative Hearing Commission found that Respondent Davis' "Class CA – hairdressing and manicuring" license (license number 061882) and his cosmetology establishment license (license number 039065) are subject to disciplinary action by the Missouri Board of Cosmetology and Barber Examiners ("Board") pursuant to § 329.140.2(5), (6) and (13), 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 November 5, 2013 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.

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

Pursuant to notice and § 621.110 and § 329.140.3, RSMo, the Board scheduled a hearing to be held on June 2, 2014, at approximately 9:00 a.m. at the Drury Plaza Chesterfield, 355 Chesterfield Center East, Chesterfield, Missouri 63017, for the purpose of determining the appropriate disciplinary action against Davis' licenses. The Board rescheduled the hearing at the Division of Professional Registration, 3605 Missouri Blvd., Jefferson City, Missouri 65109, for October 26, 2014, at approximately 1:00 p.m. The Board was represented by attorney Scott Evans. Despite proper and timely notice, Respondent was not present for the hearing and was not represented by 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..

Based upon the foregoing the Board hereby states:

I.

Findings of Fact

1. Davis holds a Class CA – hairdressing and manicuring license issued by the Board. Davis' "Class CA – hairdressing and manicuring" license, license number 061882 was not, at all relevant times herein, current and active. Respondent's "Class CA – hairdressing and manicuring" license was reinstated April 18, 2012 and was current through September 30, 2013.

2. Davis holds a cosmetology establishment license issued by the Board. Davis' cosmetology establishment license, license number 039065 was not, at all relevant times herein, current and active.

3. 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.3.

4. The Board hereby adopts and incorporates herein the properly pled complaint and Default Decision of the Administrative Hearing Commission in *Missouri Board of Cosmetology and Barber Examiners v. Marvin Davis,* Case No. 13-1932 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 November 5, 2013, that Davis was properly served with the complaint and that Davis never filed an answer or otherwise responded to the complaint.

5. In its January 7, 2014 Default Decision, the Administrative Hearing Commission determined there was cause to discipline Davis' licenses pursuant to § 329.140.2(5),(6) and (13), RSMo, as established in the properly pled complaint, as a result of Davis' violation of Chapter 329, RSMo, and the regulations promulgated thereunder.

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

II.

Conclusions of Law

7. The Board has jurisdiction over this proceeding pursuant to § 621.110 and § 329.140.3, RSMo.

8. The Board expressly adopts and incorporates by reference the properly pled complaint and the January 7, 2014 Default Decision of the Administrative Hearing Commission in *Missouri Board of Cosmetology and Barber Examiners v. Marvin Davis,* Case No. 13-1932 CB, finding cause to discipline Davis' license pursuant to § 329.140.2(5),(6) and (13), RSMo.

9. As a result of the foregoing, and as identified in the Default Decision of the Administrative Hearing Commission, Davis' license is subject to disciplinary action by the Board, pursuant to § 329.140.2(5),(6) and (13), RSMo.

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

III.

Order

11. 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 Davis' "Class CA – hairdressing and manicuring" license (license number 061882) and his cosmetology establishment license (license number 039065) are hereby **REVOKED** from the effective date of this Order. Upon receipt of this Order, Davis shall immediately return all evidence of licensure to the Board.

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

SO ORDERED, THIS 4th day of December, 2014.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Emily Carroll

Emily Carroll, Executive Director