

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo,¹ 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 (as amended).

2. Applicant is an individual currently residing at 4902 West 143rd Terrace, Leewood, Kansas, 66224.

3. On or about June 20, 2011, Applicant filed with the Board an Application for Reciprocity as a Registered Cosmetologist, Barber and/or Instructor (“Application”) seeking a Class MO – Manicurist license by reciprocity.

4. Applicant asserted in this Application that he holds a valid license in Kansas.

5. Applicant originally applied for licensure in Kansas in 1999. In 2007, the Kansas Board of Cosmetology revoked Applicant’s license after discovering that the high school diploma on which Applicant’s license was based was fraudulent. Applicant appealed this decision and subsequently entered into a consent agreement with the Kansas Board of Cosmetology in which Applicant agreed to obtain a high school diploma or GED and reapply for Kansas licensure. Applicant obtained a valid high school diploma and was issued a manicurist license from the Kansas Board of Cosmetology on or about December 19, 2007. Applicant is currently licensed in Kansas.

¹ All statutory references are to the Revised Statutes of Missouri, as amended, unless otherwise specified.

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 Applicant's reciprocity application for a Class MO – Manicurist 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:

...

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

...

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

...

(13) Violation of any professional trust or confidence[.]

8. As a result of Applicant's actions as set forth in the findings of fact above, the Board has cause to deny or refuse Applicant's application for a Class MO – Manicurist license pursuant to § 329.140.1, RSMo, and § 329.140.2 (5), (8) and (13), 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 Applicant's application for a Class MO – Manicurist license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Based on the foregoing, Jimmy Lo is granted a Class MO – Manicurist license, which is hereby placed on **PROBATION** for the period of three (3) years from the effective date of this Order. During the aforementioned probation, Lo shall be entitled to practice as a licensed Class MO – Manicurist subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, Applicant shall be entitled to practice as a licensed Class MO – Manicurist 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.

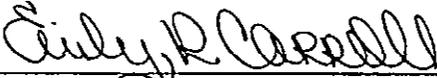
- B. During the disciplinary period, Applicant shall keep the Board informed of his current work and home address and telephone numbers. Applicant shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Applicant shall timely renew his Class MO – Manicurist license granted hereby and shall timely pay all fees required for licensure and comply with all other Board requirements necessary to maintain said license in a current and active state.
- D. 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.
- E. During the disciplinary period, Applicant shall appear in person for interviews with the Board or its designee upon request.
- F. 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 January 1, 2012.
- G. If, at any time during the probationary period, Applicant changes his address from the state of Missouri, or ceases to maintain his manicurist 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.
- H. 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.
- I. 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.
- J. Any failure by Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

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.

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 24 DAY OF OCTOBER, 2011.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily Carroll, Executive Director