

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

In the Matter of the Application of)
MARLON A. WILLIAMS,)
Applicant.)

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A PROBATIONARY
BARBER RENTAL ESTABLISHMENT LICENSE TO
MARLON A. WILLIAMS**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its ORDER granting a PROBATIONARY BARBER RENTAL ESTABLISHMENT LICENSE, License No. 2009012508, to Marlon A. Williams (hereafter "Williams"), pursuant to the provisions of § 324.038, RSMo. As set forth in § 324.038.2, RSMo, Williams 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 Williams file a written request for review of this Order, the terms and conditions of this Order shall remain in force and effect unless or until such time as the Administrative Hearing Commission issues an Order to the contrary.

Board Exhibit
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I.

Based upon the foregoing, the Board hereby states:

FINDINGS OF FACT

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo Cum. Supp. 2008, 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. Marlon A. Williams currently seeks a barber rental establishment license to operate as a barber at Sportsman House of Coiffures, a business located at 5837 Swope Parkway, Kansas City, Missouri 64130. Williams is not an employee of Sportsman House of Coiffures.

3. Williams' social security number is 487-98-6116. Williams holds a barber license, license number 200827861.

4. The Board conducted a routine inspection of Sportsman House of Coiffures, Marlon Williams, at 5837 Swope Parkway on September 3, 2008. The shop was open prior to applying for a shop license. Williams was not present at the time of the inspection.

5. Based on the inspection, the Board sent a violation notice on October 7, 2008 to Williams.

6. The Board re-inspected the same location on November 7, 2008. The shop was open prior to applying for a shop license. Williams was present at the time of inspection but was not providing services.

7. Based on the re-inspection, the Board sent a violation notice on December 16, 2008 to Williams.

8. On January 8, 2009, the Board conducted a third inspection of the location. The shop was again open prior to applying for a shop license but Williams was not present at the time of the inspection.

9. On or about January 15, 2009, the Board received Williams' rental establishment license application and application fee.

10. On or about January 22, 2009, the Board rejected Williams' application for failure to include a current business license, fictitious name statement and Missouri tax form.

11. On May 2, 2009, the Board conducted an inspection at the location. The shop was open prior to applying for a shop license. Williams was present and was providing services.

12. On or about May 7, 2009, the Board received a penalty fee and additional application documents from Williams. The Board sent the documents to its inspector for an initial new inspection.

II.

CONCLUSIONS OF LAW

13. The Board has authority to deny or refuse a license application pursuant to § 328.150.1, RSMo 2000, 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 the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

14. The Board has cause to deny or refuse Williams' application for a barber rental establishment license pursuant to § 328.150.2, RSMo 2000, 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:

...

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any professional 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;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

...

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

...

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

15. As a result of Williams operating a barber shop at 5837 Swope Parkway, Kansas City, Missouri prior to applying for a shop license, the Board has cause to deny or refuse Williams's application for a barber rental establishment license pursuant to § 328.150.1, RSMo. and § 328.150.2(6), (12) and (13), RSMo.

16. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038.1, 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.

17. The Board issues this Order in lieu of denial of Williams' application for a barber rental establishment license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Based on the foregoing, Marlon A. Williams is granted a barber rental establishment license, which is hereby placed on PROBATION for a period of three (3) years from the effective date of this Order, subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, Marlon A. Williams shall be entitled to a barber rental establishment license for the location at 5837 Swope Parkway, Kansas City, Missouri subject to the following terms and conditions:

- A. During the disciplinary period, Williams shall comply with all provisions of Chapter 328; RSMo (as amended), 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, Williams shall keep the Board informed of his current work and home telephone numbers. Williams shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Williams shall timely renew his 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, Williams 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, Williams shall appear in person for interviews with the Board or its designee upon request.

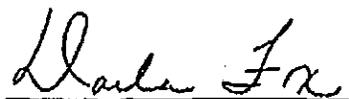
- F. Williams shall submit written reports to the Board on or before January 1 and July 1 during each year of the probationary period stating truthfully whether there has been compliance with all terms and conditions of this Order. The first such report shall be received by the Board on or before July 1, 2009.
- G. If, at any time during the probationary period, Williams changes his address from the state of Missouri, or ceases to maintain his cosmetology license current or active under the provisions of Chapter 328, 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. 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).
- 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 1335, Jefferson City, Missouri 65102.
- J. Any failure by Williams 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 Respondent of the terms and conditions of this Order, Chapters 324 and 328, RSMo (as amended), or the regulations promulgated thereunder.

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

SO ORDERED, EFFECTIVE THIS 9TH DAY OF JUNE, 2009.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Darla Fox, Executive Director

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

STATE BOARD OF COSMETOLOGY)
AND BARBER EXAMINERS,)
)
Petitioner,)
)
v.)
)
MARLON WILLIAMS, OWNER,)
MARLON WILLIAMS,)
)
Respondent.)

Case number: 12-0006 CB
License number: 2009012508

Certified Article Number

7160 3901 9848 5809 1063

SENDERS RECORD

**ORDER OF THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS
DISCIPLINING THE BARBER ESTABLISHMENT LICENSE OF
MARLON WILLIAMS, OWNER OF MARLON WILLIAMS**

On or about June 9, 2009, the Board of Cosmetology and Barber Examiners ("Board"), issued its Order of the Missouri State Board of Cosmetology and Barber Examiners Issuing A Probationary Barber Rental Establishment License To Marlon A. Williams ("Probation Order") issuing Marlon Williams a barber establishment license subject to three years probation terms and conditions.

On July 30, 2012, at approximately 9:20 a.m., the Board held a hearing pursuant to notice and § 621.110 and § 324.042, RSMo,¹ at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri 65102, for the purpose of determining whether there had been violation(s) of the probationary terms set forth in the Probation Order. The Board was represented by Legal Counsel Tina Crow Halcomb. Respondent received proper notice and opportunity to appear and appeared in person without legal counsel. After being present and

¹ Unless otherwise specified, all statutory references are to the Revised Statutes of Missouri (RSMo) 2000, as amended.

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. 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. Respondent, Marlon Williams, is a natural person and is the owner of Marlon Williams, a barber establishment located at 5837 Swope Pkwy., Kansas City, Missouri, 64130.

3. Respondent holds a probationary barber establishment license issued by the Board, license number 2009012508.

4. On or about June 9, 2009, the Board issued a probationary barber establishment license (license number 2009012508), placing the license on probation for three years. Respondent received a probationary barber establishment license because his barber establishment was open and accepting business without holding a proper establishment license.

5. During the probationary period, Respondent was entitled to a barber rental establishment license for the location of 5837 Swope Pkwy, Kansas City, MO, under chapter 328, RSMo, provided Respondent adhered to all of the terms and conditions of the Probation Order.

6. Paragraph A of the Probation Order states, in pertinent part, that Respondent "shall comply with all provisions of Chapter 328, RSMo (as amended), all applicable board

regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws.”

7. Paragraph F of the Probation Order states:

Williams 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, 2009.

8. Paragraph H of the Probation Order states:

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 his paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo (as amended).

9. On or about August 10, 2009, the Board sent Respondent a Probation Violation Notice advising him of his failure to timely submit a written compliance letter to the Board, which was due July 1, 2009. Respondent failed to timely submit such compliance letter.

10. On or about July 9, 2010, the Board sent Respondent a Probation Violation Notice advising him of his failure to timely submit written compliance letters to the Board beginning July 1, 2009. Respondent failed to timely submit such compliance letter.

11. On or about July 5, 2011, the Board sent Respondent a Probation Violation Notice advising him of his failure to timely submit a written compliance letter to the Board, which was due July 1, 2010. Respondent failed to timely submit such compliance letter.

12. On December 2, 2011, the Board's investigator conducted an inspection of Marlon Williams, finding the establishment open and operating without a current, valid establishment license because Respondent failed to timely renew his barber rental establishment license.

13. The December 2, 2011 inspection also identified the following sanitation violations: no bottle of barbercide on site, hair in the clipper guard, first aid kit did not have styptic liquid, and clean towels needed to be stored in a closed container.

14. On or about January 18, 2012, the Board sent Respondent a Probation Violation Notice advising him of his failure to timely submit a written compliance letter to the Board, which was due January 1, 2012.

15. On or about January 22, 2012, the Board received a compliance letter from Respondent.

16. Respondent testified that he had failed to submit the compliance letters in a timely manner. He testified that he submitted them late. Respondent testified that he failed to renew his barber establishment license in a timely manner.

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

II.

CONCLUSIONS OF LAW

18. This Board has jurisdiction over this proceeding pursuant to §§ 621.110 and 324.042, RSMo, and pursuant to the terms of the Discipline Order.

19. Pursuant to § 324.042, RSMo,

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

20. Section 328.115, provides:

1. The owner of every establishment in which the occupation of barbering is practiced shall obtain a license for such establishment issued by the board before barbering is practiced therein. A new license shall be obtained for a barber establishment within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure, established under subsection 2 of this section, for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.

2. The board shall issue a license for a establishment upon receipt of the license fee from the applicant if the board finds that the establishment complies with the sanitary regulations adopted pursuant to section 329.025. All barber establishments shall continue to comply with the sanitary regulations. Failure of a barber establishment to comply with the sanitary regulations shall be grounds for the board to file a complaint with the administrative hearing commission to revoke, suspend, or censure the establishment's license or place the establishment's license on probation.

3. The license for a barber establishment shall be renewable. The applicant for renewal of the license shall on or before the renewal date submit the completed renewal application accompanied by the required renewal fee. If the renewal application and fee are not submitted within thirty days following the renewal date, a penalty fee plus the renewal fee shall be paid to renew the license. If a new establishment opens any time during the licensing period and does not register a license before opening, there shall be a delinquent fee in addition to the regular fee. The license shall be kept posted in plain view within the barber establishment at all times.

21. State regulation 20 CSR 2085-10.010(1)(C) provides:

No establishment shall open in Missouri until the board receives a completed application, on a form supplied by the board, the biennial establishment fee is paid, the establishment passes a board inspection, and the application is approved by the board. If an establishment opens for business before the board issues the original establishment license, a delinquent fee shall be assessed in addition to all other required licensure fees, and the board may take legal action pursuant to Chapter 328 and/or 329, RSMo.

22. State regulation 20 CSR 2085-11.010(2)(C) provides:

(2) All barber establishments and schools shall comply with:

(C) Disinfecting and Storing Implements. All implements used in barbering shall be disinfected before use on each patron with an

Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions. Every barber establishment or school shall have a sufficient supply of disinfectant and disinfectant that shall immediately be replaced if it becomes contaminated. All supplies that cannot be disinfected shall be disposed of in a covered waste receptacle immediately after use. Implements not in use shall be stored in a disinfectant solution or in a clean, dust-tight cabinet or drawer. The following disinfectant procedures shall be followed:

1. For non-electrical:

- A. Wash in soapy water;
- B. Rinse in clean water;
- C. Totally immerse in an EPA-registered disinfectant used according to manufacturer's instructions;
- D. Dry with clean cloth or air dry; and E. Store in clean, dust-tight cabinet or drawer; and

2. For electrical:

- A. Remove all foreign matter;
- B. Disinfect with EPA-registered disinfectant according to manufacturer's instructions; and
- C. Store in clean, dust-tight cabinet or drawer[.]

23. State regulation 20 CSR 2085-11.010(2)(H) provides:

(2) All barber establishments and schools shall comply with:

(H) Injury/Blood Spill Procedure: If a cut is sustained and/or blood should spill, the following steps must be followed:

1. Licensee, apprentice, student or salesperson cut/blood spill procedure:

- A. Licensee, apprentice, student or salesperson must stop service immediately;
- B. Clean cut area with soap (liquid or powder) and water and apply antiseptic. If necessary, liquid, spray or powder styptic may be applied to stop bleeding. Note: Do not allow containers, brushes or nozzles to touch or contact the wound—use an applicator as appropriate;
- C. Cover injury with adhesive bandage;
- D. If work area and/or equipment are soiled with blood, the licensee, student, apprentice or salesperson shall place disposable gloves or a finger guard on their hands and clean/disinfect the area and soiled objects;

E. Dispose of all contaminated objects and disposable gloves in a covered waste receptacle and clean hands with an antimicrobial cleanser; and

F. Place a clean disposable glove on if cut is sustained on the hand.

2. Patron cut/blood spill procedure:

A. Licensee or student barber must stop service immediately;

B. Licensee or student barber must place disposable gloves on hands;

C. Cleanse cut area of patron, apply antiseptic and/or liquid styptic or spray styptic, as necessary. Note: Do not allow container or nozzles to touch or contact the wound— use an applicator as appropriate;

D. Cover cut area with adhesive bandage as indicated;

E. If work area and/or equipment are soiled with blood, licensee or student barber shall disinfect work area and/or blood spill area and dispose of or disinfect all contaminated objects;

F. Remove and dispose of disposable gloves, and clean hands with soap (liquid or powder) and water; and

G. Return to service[.]

24. State regulation 20 CSR 2085-11.010(2)(A)2 provides:

(2) All barber establishments and schools shall comply with:

(A) Patron Protection:

2. Clean towels shall be used for each patron. A closed container or drawer shall be provided for clean towels [.]

25. Respondent, by offering or providing barber services without a barber establishment license, violated § 328.115 and 20 CSR 2085-10.010(1)(C) and thereby violated paragraph A of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

26. Respondent, by failing to have a bottle of barbercide on site, violated 20 CSR 2085-11.010(2)(C) and thus violated paragraph A of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

27. Respondent, by failing to remove hair from the clipper guard, violated 20 CSR 2085-11.010(2)(C)2.A and thus violated paragraph A of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

28. Respondent, by failing to have styptic liquid in his first aid kit, violated 20 CSR 2085-11.010(2)(H) and thus violated paragraph A of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

29. Respondent, by failing to store clean towels in a closed container, violated 20 CSR 2085-11.010(2)(A)2 and thus violated paragraph A of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

30. Respondent, by failing to timely submit written compliance statements to the Board violated paragraph F of the terms of the Probation Order. Accordingly, Respondent's barber license is subject to further discipline by the Board.

31. As a result of the foregoing, Respondent's barber establishment license is subject to further disciplinary action by the Board pursuant to § 324.042, RSMo, and the terms of the Probation Order.

32. 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, it is the **ORDER** of the Board that the barber establishment license of Marlon Williams, owner of Marlon Williams (barber establishment license number 2009012508) is hereby placed on **PROBATION** for an additional two (2) years beyond the three (3) years ordered in the 2009 Probation Order. Accordingly, the

barber establishment license shall be subject to probation for a total of five (5) years (beginning June 9, 2009). The probation period shall be subject to the terms and conditions set forth below.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, Marlon Williams, Owner of Marlon Williams, shall be entitled to a barber establishment license subject to the following terms and conditions:

- A. Respondent 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. Respondent shall keep the Board informed of its current work telephone number and Respondent shall keep the Board informed of Respondent's current home telephone number. Respondent shall notify the Board in writing within ten (10) days of any change in this information.
- C. Respondent shall timely renew Respondent's establishment license 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. Respondent shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- E. Respondent shall appear in person for interviews with the Board or its designee upon request.
- F. Respondent 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.
- G. If, at any time during the probationary period, Respondent changes Respondent's address from the state of Missouri, or ceases to maintain Respondent's establishment license current or active under the provisions of Chapters 328 and 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,

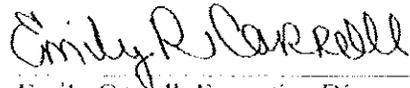
may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without the required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo

- 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 65102-1062.
- J. Any failure by Respondent 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 Respondent of the terms and conditions of this Order, chapters 324, 328 and 329, RSMo, or the regulations promulgated thereunder.

SO ORDERED, EFFECTIVE THIS 4th DAY OF September, 2012.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily Carroll, Executive Director