

NOV 15 2012

**SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND TURN-N-HEADZ BARBER SALON LLC., JAMES PRICE II, OWNER**

Come now Turn-N-Headz Barber Salon LLC., James Price II, Owner (collectively, "Licensee") and the Missouri Board of Cosmetology and Barber Examiners ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's barber operator license will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's licenses, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided her by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the inspection reports and other documents relied upon by the Board in determining there was cause to discipline her licenses, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's operator license, numbered BA2008008101 is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621, Cum. Supp. 2010 and Chapters 328 and 329, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Board of Cosmetology and Barber Examiners ("Board") is an agency of the State of Missouri created and established pursuant to § 329.016, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Licensee holds a current and valid barber master establishment license with the Board for Turn-N-Headz Barber Salon, license number SH2009037633. Turn-N-Headz Barber Salon is located at 782 E. US 40 Hwy, Blue Springs, Missouri 64015.

3. Licensee holds a barber operator license issued by the Board license no. BA2008008101. Licensee's Missouri barber license was at all times relevant herein, and is now, current and active.

4. On or about March 31, 2011, the Board conducted an inspection of Turn-N-Headz Barber Salon LLC. The inspection noted the following violation: unlicensed rental space establishment in operation in Licensee's barber shop in violation of § 328.115 and 20 CSR 2085-10.010.

5. On or about June 7, 2011, the Board conducted an inspection of Turn-N-Headz Barber Salon LLC. The inspection noted the following violation: unlicensed rental space establishment in operation in Licensee's barber shop in violation of § 328.115 and 20 CSR 2085-10.010

6. Section 328.115 RSMO states, in relevant part:

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 condition 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.

7. Regulation 20 CSR 2085-10.010 states, in relevant part:

(1) (C) 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.

(2) Rental Space/Chair Licensing. Any person licensed by the board who rents individual space or a booth/chair within a licensed establishment for the purposes of practicing as a barber or cosmetologist shall be required to obtain a separate establishment license for the rental space. Licensees that rent individual space or a booth/chair within a licensed barber or cosmetology establishment for the purposes of operating as a barber or cosmetologist must possess a current establishment license as well as an operator license. This section does not apply to licensees operating as establishment employees.

...  
(B) Applications for an establishment license under this subsection shall be submitted on a form provided by the board and shall comply with the requirements defined in 20 CSR 2085-10.010(1)(A)1.-4.

8. As a result of the violations, as described above in paragraphs 4 through 5, Licensee violated chapter 328, RSMo and lawful regulations adopted pursuant to chapter 328, RSMo as described above in paragraphs 6 through 7 for which the Board has cause to take disciplinary action against Licensee's license.

9. Cause exists for the Board to take disciplinary action against Licensee's operator license under § 328.150.2(6), (10) and (13) RSMo, which states in pertinent part:

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:

...  
(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;

...  
(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[.]

#### Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000:

1. The terms of discipline shall include that the Licensee's barber operator license, license number BA2008008101, be placed on **PROBATION** for a period of three (3) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided he adheres to all of the terms of his Settlement Agreement.

I. SPECIFIC REQUIREMENTS

- A. Licensee shall employ only individuals licensed by the Board pursuant to Chapter 328 or 329, RSMo. All licensees not currently holding a license shall obtain the required operator and rental establishment licenses from the Board within thirty (30) days of the execution of this Agreement.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall submit reports to the Missouri Board of Cosmetology and Barber Examiners, Post Office Box 1062, Jefferson City, Missouri 65102, stating truthfully whether he has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period. The first report shall be due January 1, 2012.
- C. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Licensee shall comply with all provisions of the Chapters 328 and 329, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew his license(s) and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's licenses in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapters 328 and 329, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 328.150.3, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapters 328 and 329, RSMo, by Licensee not specifically mentioned in this document.

2. The parties to this Agreement understand that the Missouri Board of Cosmetology and Barber Examiners will maintain this Agreement as an open record of the Board as provided in Chapters 328, 329, 610, and 324, RSMo.

3. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

4. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

5. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to:  
**Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

6. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the

agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE

BOARD

James B Price II  
Twin-N-Headz Barber Salon LLC.  
James Price II, Owner

Date 11/13/12

Emily R. Carroll  
Emily R. Carroll,  
Executive Director  
Missouri Board of Cosmetology and Barber Examiners

Date 11/28/2012

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

STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS,

Petitioner,

v.

JAMES PRICE II  
d/b/a TURN-N-HEADZ BARBER SALON, LLC,

Respondent.

Case No. 14-007 PV

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DISCIPLINARY ORDER**

At its regularly scheduled meeting on January 26, 2015 at approximately 9:00 a.m., and pursuant to notice described in the Findings of Fact, the Missouri State Board of Cosmetology and Barber Examiners ("Board") took up the probation violation complaint alleging that Turn-N-Headz Barber Salon, LLC, James Price, II, Owner (collectively, "Respondent"), has failed to comply with the terms of probation of Respondent's probationary barber operator license, license number 2008008101.

The Board appeared at the hearing through its attorney Jamie Cox. Respondent appeared pro se at the January 26, 2015 hearing. Division of Professional Registration Chief Legal Counsel Sarah Ledgerwood served as the Board's legal advisor at the hearing, during deliberations.

**Findings of Fact**

1. The Missouri State Board of Cosmetology and Barber Examiners ("Board") is an agency of the State of Missouri created and existing pursuant to § 329.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Respondent is a natural person whose address of record for the Board is 3200 SE. Lake Village Blvd, Blue Springs, Missouri 64014.

3. Respondent holds a probationary barber operator license issued by the Board, license number 2008008101. Respondent's probationary barber operator license was at all relevant times, current and valid.

4. Respondent owns and operates a barber establishment, Turn-N-Headz Barber Salon, LLC, located at 782 E. US 40 Hwy, Blue Springs, Missouri 64015. Respondent holds a barber establishment license issued by the Board, license number 2009037633.

5. Respondent's probationary barber operator license was placed on probation on or about December 13, 2012, pursuant to a November 28, 2012 Settlement Agreement entered into between the Board and Respondent, because of repeated instances of unlicensed rental space establishments in operation being found at Respondent's establishment. Respondent's probationary barber operator license was placed on probation for a period of three (3) years.

6. During the probationary period, Respondent was entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided that Respondent adhere to all of the terms and conditions of the November 28, 2012 Settlement Agreement.

7. The November 28, 2012 Settlement Agreement states, on page 4, paragraph D, that Respondent, identified as Licensee, during the disciplinary period, 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.

8. On or about January 2, 2014, the Board's inspector conducted an inspection of Turn-N-Headz Barber Salon, LLC, which revealed that establishment license number 2009037633 had expired; that an unlicensed individual was providing services and did not have an establishment license for his booth; and that the floor had not been swept and work stations, drawers and cabinets were dirty, in violation of 20 CSR 2085-10.010(4)(B) and 20 CSR 2085-11.010(1)(A).

9. On or about January 28, 2014, the Board sent Respondent a Violation Notice for the violations found during the January 2, 2014 inspection and stating that all violations must be corrected immediately.

10. On or about February 20, 2014, the Board's inspector conducted a follow-up inspection of Turn-N-Headz Barber Salon, LLC, which revealed that an unlicensed individual was providing services and did not have an establishment license for his booth, in violation of 20 CSR 2085-11.010(3).

11. On or about March 5, 2014, the Board sent Respondent a Violation Notice for the violations found during the February 20, 2014 inspection and stating that all violations must be corrected immediately.

12. On or about April 2, 2014, the Board's inspector conducted a follow-up inspection of Turn-N-Headz Barber Salon, LLC which revealed that an individual with an expired temporary student license was providing services and did not have an establishment license for his booth, in violation of 20 CSR 2085-10.060(1), 20 CSR 2085-10.060(3) and 20 CSR 2085-5.040(2)(A).

13. On or about May 7, 2014, the Board sent Respondent a Violation Notice for the violations found during the April 2, 2014 inspection and stating that all violations must be corrected immediately.

14. On or about June 4, 2014, the Board's inspector conducted a follow-up inspection of Turn-N-Headz Barber Salon, LLC which revealed that an individual with an expired temporary student license was providing services and did not have an establishment license for his booth, in violation of 20 CSR 2085-10.060(3) and 20 CSR 2085-10.010(3)(A).

#### Conclusions of Law

15. The Board has jurisdiction in this proceeding, pursuant to the November 28, 2012 Settlement Agreement and § 324.042, RSMo, to determine whether Respondent has violated the terms and conditions of the November 28, 2012 Settlement Agreement for Respondent's probationary barber operator's license.

16. Section 324.042, RSMo, provides:

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.

17. Respondent violated the terms of probation set forth in the January 8, 2013 Settlement Agreement, as described in the Findings of Fact of this Order.

18. The November 28, 2012 Settlement Agreement and § 324.042, RSMo, allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of November 28, 2012 Settlement Agreement as described in the Findings of Fact of this Order.

#### Decision and Order

19. It is the decision of the Missouri State Board of Cosmetology and Barber Examiners that Respondent has violated the terms of the November 28, 2012 Settlement Agreement and Respondent's probationary barber operator license, license number 2008008101, therefore, is subject to further disciplinary action.

20. The Missouri State Board of Cosmetology and Barber Examiners orders that Respondent's probationary barber operator license, license number 2008008101, which is currently on probation until December 13, 2015, be placed on **PROBATION** for a period of one (1) additional year. The additional year will conclude December 13, 2016. Respondent's entire period of probation is subject to the terms and conditions set forth below.

#### Terms and Conditions

During the aforementioned probation, Respondent shall be subject to the following terms and conditions:

- A. Respondent shall meet with the Board or its representatives at such time and places as required by the Board after notification of a required meeting.
- B. During the disciplinary period, 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.
- C. During the probation period, Respondent shall keep the Board informed of Respondent's current home and work telephone numbers. Respondent shall notify the Board in writing within ten days (10) of any change in this information.
- D. During the probationary period, Respondent shall timely renew Respondent's probationary barber establishment license and probationary barber operator 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.
- E. During the probationary period, Respondent shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- F. Respondent shall continue to 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 next such report shall be received by the Board on or before July 1, 2015.

- G. If, at any time during the probationary period, Respondent changes Respondent's address from the state of Missouri, or ceases to maintain his barber 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 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 Respondent to comply with any condition of discipline set forth herein constitutes a violation of this Order.

21. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 328, 329, 610, and 324, RSMo.

**SO ORDERED, EFFECTIVE THIS 25th DAY OF March, 2015.**

MISSOURI STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS

*Emily R. Carroll*

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Emily R. Carroll, Executive Director