

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

In the Matter of the Application of)
)
PROFESSIONAL HAIR ACADEMY,)
)
Applicant.)

**ORDER OF THE MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS ISSUING A PROBATIONARY
COSMETOLOGY SCHOOL LICENSE TO
PROFESSIONAL HAIR ACADEMY**

The Missouri State Board of Cosmetology and Barber Examiners (the "Board") hereby issues its ORDER granting a PROBATIONARY COSMETOLOGY SCHOOL LICENSE, License No. 2011003864, to Professional Hair Academy, pursuant to the provisions of § 324.038, RSMo. As set forth in § 324.038.2, RSMo, Professional Hair Academy 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 Professional Hair Academy 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.

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. 2009, 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. On or about July 9, 2010, the Board received an application to open a school of cosmetology based on a change in ownership for Professional Hair Academy located at 420 Ward Avenue, Caruthersville, Missouri 63830.

3. The application stated that the ownership of the school would be a partnership between Martha (Marty) Love and Artrille Coleman. The application stated that Ms. Love was licensed as a cosmetologist and instructor in the state of Arkansas. It also stated that Lucille Coleman, Missouri license number 2008030456 would be on staff of the school.

4. The application included a fee in the amount of \$300.

5. The application stated that it included the following documents: copy of proposed school contract and/or enrollment agreement; copy of proposed school rules; list of the proposed training supplies, by quantity and type; a detailed description of each course curriculum to be offered by the school to include the number of clock hours assigned to each subject; and a detailed description of the course curriculum, to include the number of clock hours assigned to each subject area to receive approval for instructor training.

6. On or about July 16, 2010, the Board sent a memorandum to Professional Hair Academy and Ms. Love and Mr. Coleman seeking additional information in order to process the

application. The memorandum sought: an additional \$200 for the application fee as the incorrect fee had been provided; a floor plan; reference letters on the Board's form; and a notarized letter of intent for instructor from Ms. Love.

7. On or about July 29, 2010, the Board sent Professional Hair Academy a letter stating that the Board was in receipt of the cosmetology school application and, pursuant to requirements in 20 CSR 2085-12.010(5)(B), would arrange an appointment to discuss the application for change of ownership with Ms. Love and Mr. Coleman.

8. On or about August 19, 2010, the Board conducted an inspection of Professional Hair Academy. At the time of the inspection, the school was open. One student, Dontay Wiley, was present and performing services on a customer when the inspector arrived. He stated he had been instructed by Lucille Coleman that he could provide services at the location. Mr. Wiley had not submitted an application for a student license to the Board at the time of the inspection.

9. The inspection revealed the following violations:
- a. The school license was not current and was not posted in plain view in violation of § 329.040, RSMo and 20 CSR 2085-12.010(3)(B)(2).
 - b. The accurate location and owner(s) name(s) were not registered in violation of § 329.040, RSMo and 20 CSR 2085-12.010(2)(A).
 - c. The equipment, dryers, were not in good repair in violation of 20 CSR 2085-11.020(1)(B).
 - d. The minimum equipment and training supplies were not on hand and were not in good working condition in violation of 20 CSR 2085-
 - e. The time clock for student hours was not in good working condition in violation of 20 CSR 2085-12.040(2)(R).

- f. Student licenses were not conspicuously displayed with a photo in violation of 20 CSR 2085-12.010(9)(B).
- g. Any students present were not clocked-in in violation of 20 CSR 2085-12.010(9)(B).
- h. Each enrolled student did not have an individual student kit in violation of 20 CSR 2085-12.040(2)(Y).

10. On or about September 13, 2010, the Board received the additional \$200 required for the fee and four character references on Board forms for Ms. Love.

11. On September 15, 2010, the Board issued a violation notice to Professional Hair Academy based on the August 19, 2010 inspection. The letter stated that as owners, Ms. Love and Mr. Coleman were responsible for ensuring compliance and advised that a follow-up inspection would take place. The letter identified the following violations:

- a. The school was not licensed in violation of 20 CSR 2085-12.010(3)(B)(2).
- b. The time clock was not in working order in violation of 20 CSR 2085-12.040(2)(R).
- c. The floors, walls, ceilings, equipment and contents, as well as backbars, workstations and/or rollabouts were not clean and in good repair and the shampoo bowls and/or sinks were not sanitary in violation of 20 CSR 2085-11.020(1)(B).
- d. The students were not properly enrolled or clocked in and licenses were not displayed with photos in violation of 20 CSR 2085-12.010(9)(B).
- e. Each student did not have an individual kit in violation of 20 CSR 2085-12.040(2)(Y).

12. On or about September 22, 2010, the Board sent Professional Hair Academy, Ms. Love and Mr. Coleman a letter setting their appointment pursuant to 20 CSR 2085-12.010(5)(B) for October 25, 2010 at 10:00 a.m. at the Division of Professional Registration.

13. Ms. Love met with the Board regarding the application for Professional Hair Academy on October 25, 2010.

14. On or about November 3, 2010, the Board sent Ms. Love a letter thanking her for appearing before the Board on October 25, 2010. The letter also informed her that the application for a school license could not be further considered until Mr. Coleman met with the Board.

15. On or about November 3, 2010, the Board sent Mr. Coleman a letter informing him he was required to meet with the Board pursuant to 20 CSR 2085-12.010(3).

16. On or about November 8, 2010, Senior Legal Counsel Earl Kraus sent Professional Hair Academy a letter directing the school to cease and desist from operating an unlicensed cosmetology school.

17. On or about November 19, 2010, the Board received correspondence from Ms. Love stating that Mr. Coleman's name be removed from the school application for Professional Hair Academy and stating that Lucille Coleman would no longer be involved in the business.

II.

CONCLUSIONS OF LAW

18. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, 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.

19. The Board has cause to deny or refuse Professional Hair Academy's application for a cosmetology school license pursuant to § 329.140.2, 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[.]

20. As a result of Professional Hair Academy operating prior to obtaining a cosmetology school license and committing the violations stated above in paragraphs 2-16, the Board has cause to deny or refuse Professional Hair Academy's application for a cosmetology

school license pursuant to § 329.140.1, RSMo, and § 329.140.2(4), (5), (6), (7), (10) and (13), RSMo.

21. 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.

22. The Board issues this Order in lieu of denial of Professional Hair Academy's application for a cosmetology school license. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Based on the foregoing, Professional Hair Academy is granted a cosmetology school 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, Professional Hair Academy shall be entitled to a cosmetology school license subject to the following terms and conditions:

- A. During the disciplinary period, Professional Hair Academy shall comply with all provisions of Chapter 329, 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, Professional Hair Academy shall keep the Board informed of its current work telephone number. Professional Hair Academy shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Professional Hair Academy shall timely renew its cosmetology school 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, Professional Hair Academy 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, Professional Hair Academy shall appear in person for interviews with the Board or its designee upon request.
- F. Professional Hair Academy 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, 2011.
- G. If, at any time during the probationary period, Professional Hair Academy changes its address from the state of Missouri, or ceases to maintain its cosmetology school license 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. 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 Professional Hair Academy 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 329, 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 329, 610, and 324, RSMo (as amended).

SO ORDERED, EFFECTIVE THIS 18th DAY OF FEBRUARY, 2011.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS



Emily R. Carroll, Executive Director