BEFORE THE BOARD OF COSMETOLOGY ARTS AND SCIENCES OF THE STATE OF IOWA

IN THE MATTER OF	)	**NO. 07-042**
	)	
SoBe Body LLC	)	
License # 102110	)	**NOTICE OF HEARING**
and	)	**AND STATEMENT OF CHARGES**
Angelo and Michelle Torre, Owners	)	
	)	
RESPONDENTS	)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. The above named Respondents were issued Iowa salon license no. 102110 on November 8, 2007. Respondents' salon license lapsed on December 31, 2008. The Respondent salon is located at 2483 53rd Ave., Bettendorf, IA 52722.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on July 13, 2009, before the Board of Cosmetology Arts and Sciences. The hearing shall begin at 11:30 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 517/518, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Cosmetology Arts and Sciences, 5th Floor, Lucas State Office

Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 157, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 157, and 272C and 645 IAC chapter 11.21.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

Respondents are charged with failure to comply with the terms of a board order pursuant to 645 IAC 65.2(21).

COUNT II

Respondents are charged with operating a cosmetology salon without a valid license in violation of Iowa Code section 157.11 and 645 IAC rules 61.4 and 65.2(26).

D. FACTUAL CIRCUMSTANCES

1. On January 5, 2009, the board entered its Findings of Facts, Conclusions of Law, Decision and Order against Respondents for violations including permitting an employee to perform activities beyond the scope of licensure, failure to properly display licenses, and failure to properly document whirlpool foot spa cleanings.

2. The Board's order required Respondents to pay a civil penalty of $750 within 60 days. Respondents were also ordered to pay $96.39 for hearing fees within 30 days. Respondent has not paid the civil penalty or hearing fees.

3. Both respondents were ordered to submit verification of completion of two hours of continuing education within three months. Respondents have not submitted the verifications.

4. Respondents were ordered to submit a typewritten corrective action report within 30 days. The Board has not received a corrective action report.

5. The salon was placed on probation for 1 year. Respondents were ordered to submit quarterly reports detailing employees engaged in services, a verification that all employees are working within their scope of practice, and copies of the whirlpool cleaning records. The Board has not received a quarterly report.

6. Respondent's salon license expired on December 31, 2008. On March 27, 2009, the salon was still open for business.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Julie Bussanmas, Assistant Attorney General, at 515-281-7175.

F. PROBABLE CAUSE FINDING

On this 6th day of April, 2009, the Iowa Board of Cosmetology Arts and Sciences found probable cause to file this Notice of Hearing and Statement of Charges.

This notice of hearing and statement of charges is approved by the board on May 12, 2009.