

**STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES**

IN THE MATTER OF:)	
)	
Donald Swearingen)	
License 44076)	CONSENT AGREEMENT
)	AND ORDER
Reactivation Applicant)	
)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Donald Swearingen enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code sections 17A.10(1) 147.3, 157.3, 272C.3, and 645 Iowa Administrative Code rule 60.2.

1. On March 19, 2007, Swearingen applied for reactivation of his Iowa cosmetology license. Swearingen held license number 44076 to practice cosmetology in the State of Iowa; but allowed his license to lapse on March 31, 2002.

2. On his application for licensure, Swearingen indicates he had been convicted of a felony or misdemeanor.

3. Swearingen was convicted of OWI, third offense on or about April 29, 2004 and was committed to corrections. He completed substance abuse treatment and was discharged from parole on July 26, 2006.

4. Swearingen was previously convicted for Operating While Under the Influence of Alcohol or a Drug on or about May 3, 1990, a Second Offense on or about October 29, 1992, and a Third Offense on or about October 10, 1994. He also was found guilty of Possession of a Controlled Substance, to wit: Marijuana in 1999.

5. Upon approval of this Agreement by the Board, Swearingen's cosmetology license shall be reactivated subject to a one (1) year period of probation. The probationary period shall commence on the execution date of this Agreement, which accompanies the Board chairperson's or designee's signature. During the probationary period, Swearingen shall comply with the following terms:

a. Swearingen shall fully comply with all relevant statutes and administrative rules in the course of his practice as a licensed cosmetologist;

b. Within 15 (fifteen) days of the execution of this Agreement and on a quarterly basis thereafter, Swearingen shall notify the Board in writing as to the status of

his employment as a cosmetologist in the state of Iowa. All written notifications required by this provision shall include:

1. The period of time covered by the report;
2. The name and address of Swearingen's places of employment as a cosmetologist;
3. Notification from the worksite supervisor(s) of Swearingen's date of hire as a cosmetologist, and, if applicable, the date his employment terminated; and

c. Swearingen shall notify the Board in writing within fifteen (15) days of termination, either voluntarily or involuntarily, of his employment as a cosmetologist in the State of Iowa. Failure by Swearingen to timely and truthfully notify the Board of his current employment status shall constitute a violation of this Agreement.

d. Upon request of the Board, Swearingen shall appear before the Board to report on the status of his practice as a cosmetologist and to answer any questions or concerns the Board may have regarding his probation. The Board shall provide Swearingen with reasonable notice of the date, time, and place for any requested appearance. Swearingen agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that he waives any and all objections to the members of the Board both participating in the appearance and later participating as decision makers in a contested case proceeding.

6. Any failure by Swearingen to comply with the terms and conditions of this Agreement shall subject him to license disciplinary action which could be initiated by the Board through the filing of a statement of charges with a hearing to be held on the merits.

7. Upon full compliance with all terms and conditions of the probation prescribed by this Agreement, Swearingen's license to practice as a cosmetologist in the state of Iowa shall be restored to its full privilege free and clear of all probationary restrictions.

8. This Agreement is subject to approval by the Board. If the Board fails to approve this Agreement, it shall be of no force or effect on either party.

9. This Agreement is voluntarily submitted by Swearingen to the Board for its

consideration.

10. This Agreement is a public record available for inspection and copying in accordance with Iowa Code section 272C.3(4).

11. This Agreement shall be part of the permanent record of Swearingen and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of future violations.

12. This Agreement shall not be binding as to any existing or new complaints received by the Board.

WHEREFORE, the terms of this Consent Agreement and Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Swearingen.

This Consent Agreement and Order was approved by the Cosmetology Board on December 17, 2007.