

STATE OF IOWA  
BEFORE THE BOARD OF BARBERING

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IN THE MATTER OF:	)	NO. BA 08-013
	)	DIA NO. 09DPHBE002
Platinum Kuts,	)	
License No. 02748	)	FINDINGS OF FACT,
and	)	CONCLUSIONS OF LAW,
Anthony Presswood,	)	DECISION AND ORDER
License No. 14458	)	

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On August 6, 2009, the Iowa Board of Barbering (Board) issued a Notice of Hearing and Statement of Charges against Platinum Kuts, a licensed barbershop, and Anthony Presswood, a licensed barber. Respondents were charged with the following four counts:

- Count I: Failing to post a copy of the most current sanitation rules and the inspection report in a conspicuous place in the barber shop, in violation of 645 IAC 25.2(12) and 22.2.
- Count II: Failing to have a hazardous waste container available, in violation of 645 IAC 25.2(12) and 22.16(3).
- Count III: Using neck dusters, in violation of 645 IAC 25.2(12) and 22.15(5).
- Count IV: Permitting an unlicensed person under Respondents' control to perform activities requiring a license, in violation of 645 IAC 25.2(29).

The hearing was held on October 27, 2009 at 3:45 p.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondents Platinum Kuts and Anthony Presswood did not appear for the hearing but had been served with the Notice of Hearing and Statement of Charges by certified mail on August 12, 2009. (State Exhibit 3). The state was represented by Assistant Attorney General Jordan Esbrook. The following Board members were present for the hearing: Clark (Sam) Kauffman; Chairperson; Charles Wubbena; Robert VanVooren, Tammy Ortiz, and Rhonda D. Rife. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the

hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2009), and was recorded by a certified court reporter. After hearing all the evidence and examining the exhibits, the Board convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(2009), to deliberate its decision. The administrative law judge was instructed to prepare the Board's written decision, in accordance with its deliberations.

### THE RECORD

The record includes the testimony of the witnesses and State Exhibits 1-7.

### FINDINGS OF FACT

1. Respondent Platinum Kuts is located at 2301 University Avenue in Des Moines, Iowa. Platinum Kuts was issued Barbershop License #02748 on July 18, 2001. The barbershop license is now current and will next expire on June 30, 2010. Respondent Anthony Presswood is listed as the primary owner of Platinum Kuts in the Board's licensing records. Anthony Presswood was issued Iowa barber license #14458 on August 10, 2000. License #14458 is current and will next expire on June 30, 2010. (Testimony of Kimberly Groves; State Exhibits 1, 2, 4)

2. On April 29, 2009, Department of Inspections and Appeals (DIA) Investigators Kimberly Groves and Tamara Adams made a field visit to Platinum Kuts in response to a complaint. Platinum Kuts has five work stations. Two barbers, Derrick West and Martavious Clayton, were present and working when the investigators arrived. Mr. West and Mr. Clayton both rent chairs at the salon. Only Mr. Clayton produced photo identification. Ms. Groves observed the following professional licenses posted at the barber shop:

- a. Platinum Kuts, barber shop license #02748, **expired** 06-30-2008.
- b. Martavious Clayton, barber license #014867, expires 06-30-2010.
- c. Derek West, Texas barber license #243410, expires 05-10-2010. Mr. West did not have an Iowa license.
- d. Anthony Presswood, barber license #14458, expires 6-30-2010.

No licenses were posted for Robert Presswood, or KatrayRochon, who rents a barber chair at Platinum Kuts. Mr. Clayton and Mr. West confirmed that Katray Rochon, Robert Presswood, and Anthony Presswood were all currently providing barbering services at the barbershop. They reported that Robert Presswood had been cutting hair that morning but left for an appointment. (Testimony of Kimberly Groves; State Exhibit 4)

3. At the time of her April 29, 2009 visit to Platinum Kuts, Kimberly Groves observed a number of sanitation and posting violations, including:

- There was no biohazard bags or containers.
- All tabletops were full of non-related barbershop materials and were untidy.
- The 10-30-2008 inspection report was not posted.
- The sanitation rules were outdated, were in a frame, and were not displayed for public inspection. Only the front cover was visible to the public.
- There were hair clippings in every closed drawer and hair clippings and debris on the chairs and at the base of the chairs.
- Four stations contained Barbicide liquid that was cloudy and contained debris. The Barbicide did not cover the materials being sanitized in the container. One station did not have a Barbicide container.
- There were several electric shavers (5-6) per station. The shavers were unclean and had hair clippings on the shaver heads.
- There were approximately four neck dusters at the stations.

(Testimony of Kimberly Groves; State Exhibit 4, p.3)

4. Kimberly Groves spoke to Robert Presswood on April 30, 2009. Robert Presswood told Ms. Groves that he was part owner of Platinum Kuts, although his ownership is not reflected on the licensing records at the Board office. Robert Presswood reported that the barbershop was deep cleaned following her visit. He acknowledged that his own barber license and the licenses of the barbershop and Katray Rochon had expired. He told Ms. Groves that he would be renewing his barber license and the barbershop's license that day. (Testimony of Kimberly Groves; State Exhibit 4)

5. Platinum Kuts had previously been inspected on October 30, 2008, and some of the same violations were noted at that time. The current sanitation rules and the current inspection report were not posted. The licensed employees did not have their current license renewal posted and were unable to present photo identification and wallet cards. There were no red hazardous waste containers on the premises. (State Exhibit 6)

6. Kimberly Groves spoke to Anthony Presswood briefly on May 7, 2009. Anthony Presswood told Ms. Groves that the electric shavers were unclean on April 29<sup>th</sup> because they had just been used. However, there were no customers in the barbershop when the investigators arrived on April 29, 2009. (Testimony of Kimberly Groves; State Exhibit 4)

#### CONCLUSIONS OF LAW

Iowa Code section 158.12 authorizes the Board to suspend, revoke, or deny the renewal of any license issued under the provisions of chapter 158 for any violation of chapter 158 or any violation of the rules of the Board. 645 IAC 25.2(12) provides that the Board may impose any of the disciplinary sanctions provided in rule 645 IAC 25.3 when the Board determines a licensee has violated any regulation, rule, or law of this state, another state, or the United States, which relates to the practice of barbering

Count I: *Failing To Post Most Current Sanitation Rules and Inspection Report*

645 IAC 22.2 requires a copy of the most current sanitation rules and the most recent inspection report to be posted in a conspicuous place in the barbershop for the information and guidance of all persons employed therein and the general public. The preponderance of the evidence established that the most current sanitation rules and the most current inspection report were not properly posted at Platinum Kuts. As an owner of Platinum Kuts, Respondent Anthony Presswood was responsible for ensuring that the sanitation rules and the inspection report were properly posted.

Count II: *Failure To Have Hazardous Waste Containers Available*

645 IAC 22.16(3) provides that hazardous waste containers and bags shall be available for use at all times when services are being performed, and the absence of containers shall be prima facie evidence of noncompliance. The preponderance of the evidence

established that there were no hazardous waste containers at Platinum Kuts at the time of the April 29, 2009 inspection. This same deficiency was noted at the previous inspection in October 2008. As an owner of Platinum Kuts, Respondent Anthony Presswood was responsible for ensuring that there were hazardous waste containers on the premises.

Count III: Using Neck Dusters

645 IAC 22.15(5) provides that neck dusters shall not be used in any barbershop. The preponderance of the evidence established that there were neck dusters at Platinum Kuts at the time of the April 29, 2009 inspection. As an owner of Platinum Kuts, Respondent Anthony Presswood was responsible for ensuring that neck dusters were not present on the premises.

Count IV: Permitting An Unlicensed Person To Perform Activities That Require A License

645 IAC 25.2(29) provides that licensees may be disciplined for permitting an unlicensed employee or person under the licensee's or entity's control to perform activities that require a license. The preponderance of the evidence established that at the time of the April 29, 2009 inspection and for some time prior to that, Katray Rochon, Derrick West, and Robert Presswood were all working on the premises of Platinum Kuts and providing services at that required a barbering license. Mr. Rochon and Robert Presswood both had Iowa barber licenses that were expired, and Mr. West did not have an Iowa license. As an owner of Platinum Kuts, Respondent Anthony Presswood was responsible for ensuring that the individuals who rented chairs in the barbershop had current barber licenses.

DECISION AND ORDER

IT IS THEREFORE ORDERED that License Number 02748, issued to Platinum Kuts, and License Number 14458, issued to Respondent Anthony Presswood, are hereby placed on probation for a period of two (2) years, subject to the following terms and conditions:

- A. Respondents shall pay a civil penalty of \$250, within thirty (30) days of issuance of this Decision and Order.

B. Within thirty (30) days of the issuance of this Decision and Order, Respondent Anthony Presswood shall make application to the Board to correct the barbershop license issued for Platinum Kuts to accurately reflect the ownership interest of Robert Presswood in the barbershop. If this results in a new license number being assigned to the barbershop located at 2301 University Avenue in Des Moines, Iowa, then the new license shall be subject to the probationary terms outlined in this Decision and Order. Respondents shall ensure that the barbershop license remains current.

C. Respondents must file quarterly typewritten reports with the Board during the period of probation. The written reports shall include the names of all persons providing barbering services (whether the persons are employees or independent contractors who rent chairs) in Platinum Kuts or any other barbershop at this same location owned by Respondent Anthony Presswood. The reports shall also include the persons' license numbers and license expiration dates.

D. Platinum Kuts, or any other barbershop at this same location owned by Respondent Anthony Presswood, will be subject to random unannounced inspections at the discretion of the Board throughout the period of probation.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Platinum Kuts and Anthony Presswood shall pay \$75.00 for fees associated with the disciplinary hearing and \$29.02 for the court reporter fees. The total fees of \$104.02 shall be paid within thirty (30) days of receipt of this decision.

FINALLY, IT IS ORDERED that if Respondents fail to comply with any of the terms of this Order, the Board may hold a hearing, pursuant to Iowa Code section 272C.3(2)"a"(2009), and may impose further sanctions, up to and including license revocations.

**This findings of fact, conclusions of law, decision and order is approved by the board on December 14, 2009.**

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action, unless, within 15 days after the date of notification or mailing of this decision, a motion to vacate is filed and served on all parties or an appeal of the decision on the merits is timely

initiated. A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact attached to the motion. 645 IAC 11.21(3). The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 645 IAC 11.21(4).

Pursuant to Iowa Code section 17A.19(2009) and 645 IAC 11.29, any appeal to the district court from a decision in a contested case shall be taken within 30 days from the issuance of the decision by the board. The appealing party shall pay the full costs for the transcript of the hearing. 645 IAC 11.23.