

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

IN THE MATTER OF:)	Case No. 04-066 (Ultimate Reflections)
)	
Ultimate Reflections)	COMBINED STATEMENT OF
License No. 002-010669)	CHARGES, INFORMAL
License No. 002-010261 (former))	SETTLEMENT AGREEMENT,
)	AND CONSENT ORDER
RESPONDENT)	

The Iowa Board of Cosmetology Arts and Sciences Examiners (Board) and Ultimate Reflections, through its owner Douglas Fuller (Respondent), enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order (Agreement) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

1. Respondent presently possesses license number 002-010669 to operate a salon in the state of Iowa. At the time of the incident the license number was 002-010261. Board records indicate that Respondent salon was then owned, and is now co-owned, by Douglas Fuller and is located at 1551 Valley West Drive, Suite 224, West Des Moines, Iowa 50266.

2. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C. Licenses issued by the Board are subject to the laws of the State of Iowa and the administrative rules promulgated by the Board.

STATEMENT OF CHARGES

COUNT I

3. Respondent is charged with employing an individual to practice cosmetology arts and sciences without a license in violation of Iowa Code sections 147.2 and 157.13(1) and 645 IAC rule 65.2(28) and in failing to report to the department

the name of an unlicensed person practicing without a license in violation of Iowa Code section 147.89 and 645 IAC rule 65.0(23).

CIRCUMSTANCES

4. During an Investigation of Respondent salon in the fall of 2004, it was determined that Douglas Fuller, on August 6, 2003 and September 18, 2003, performed the services of an esthetician without being licensed. The licensee failed to report this unlicensed practice.

5. The services involved the use of an electrical device on a salon customer for the care of her skin.

SETTLEMENT AGREEMENT

6. Respondent agrees not to contest the above stated charge before the Board.

7. Respondent has a right to receive notice of the charge and to request a hearing before the Board on the merits of the charge, but waives its right to notice and a hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's actions, by freely and voluntarily entering into this Agreement. This Agreement shall constitute the final order of the Board in this case.

8. Respondent agrees that the State's counsel may present this Agreement to the Board and may have ex parte communications with the Board while presenting it.

9. This Agreement shall be part of the permanent record of Respondent 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.

10. Any failure by Respondent to comply with the terms and conditions of this

Agreement shall subject Respondent to further licensee 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.

11. This Agreement is subject to approval by the Board:
 - (a) If the Board does not approve this Agreement, it shall be of no force or effect on either party and it shall not be admissible for any purpose in further proceedings in this matter.
 - (b) If the Board approves this Agreement, it shall fully dispose of all issues in this case.

12. This Agreement is a public record pursuant to Iowa Code sections 272C.3(4) and 272C.6(4)(2005).

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

CONSENT ORDER

IT IS THEREFORE ORDERED:

14. Respondent's salon license shall be placed on probation for a period of one (1) year.

15. This Agreement shall not restrict or otherwise limit Respondent's operation of a salon in the state of Iowa except as expressly stated by the terms of this Agreement. During the probationary period, Respondent shall comply with the following terms.

- (a) Respondent shall comply with all relevant statutes and administrative rules in the course of its operations as a salon where cosmetology arts and services are performed.
- (b) Respondent shall not allow any non-licensed personnel to perform cosmetology arts and services nor allow any person to provide any services to customers except by those properly licensed to provide

the services.

- (c) Respondent shall not in any manner represent to the public that it offers any cosmetology or medical service unless it has properly trained and appropriately licensed persons and properly certified equipment for each service it offers.

- (d) Respondent shall file quarterly reports with the Board listing the salon's employees and any other persons allowed to provide personal services to customers on the salon premises, whether licensed by the State of Iowa to provide cosmetology arts and science services or not, and type of services performed by each employee or person on the salon premises. The quarterly employee reports shall be typewritten and shall attest to the following information, at a minimum, for each and every person who performed services within the Respondent salon during the three months immediately preceding the report.
 - i) the name of the person who performed services;
 - ii) the license number, expiration date and license type for each person providing services;
 - iii) the type of services performed by each person;
 - iv) each person's date of hire or first performance of services;
 - v) each person's date of termination, if applicable, or last date of performance of services.

The failure of Respondent salon to provide complete and truthful information in the quarterly employee reports shall constitute a violation of this Agreement. The Board or its designee may verify the information provided in the quarterly reports through an examination of Board records by interviewing persons listed as salon employees, or by conducting unannounced inspections of the Respondent salon.

- (e) Upon request of the Board, the owner of Respondent salon shall appear before the Board to report on the status of Respondent's salon operations and to

answer any questions or concerns the Board may have regarding Respondent's compliance with this Agreement. The Board shall provide Respondent with reasonable notice of the date, time, and place of any requested appearance. Respondent agrees that any such appearance would be governed by 645 Iowa Administrative Code rule 9.7 and that it 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.

16. Respondent agrees to pay to the Board a civil monetary penalty of \$1000.

Respondent shall remit full payment of the civil monetary penalty to the Board within 30 days of the date this Agreement is executed by the Board.

17. Upon full compliance with the above terms and conditions, Respondent's license to operate a salon in the state of Iowa shall be restored to its full privileges free and clear of all probationary restrictions.

WHEREFORE, the terms of this Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Board of Cosmetology Arts and Sciences and Respondent.

This Combined Statement of Charges, Informal Settlement Agreement, and Consent Order is approved by the board on May 4, 2005.