

STATE OF IOWA
BEFORE THE BOARD OF COSMETOLOGY ARTS & SCIENCES

IN THE MATTER OF:)	
)	CASE NO. 09-019
David L. Ward)	
License No. 40131)	
Styleworks Salon)	STATEMENT OF CHARGES,
License No. 009729)	SETTLEMENT AGREEMENT
)	AND FINAL ORDER
RESPONDENT.)	

COMES NOW the Iowa Board of Cosmetology Arts and Sciences (Board) and David L. Ward (Respondent), and hereby enters into this Combined Statement of Charges, Settlement Agreement, and Final Order (Agreement and Order) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and chapter 645 Iowa Administrative Code (IAC) rule 12.1.

NOTICE OF HEARING

1. A hearing on this matter will not be held as the Board and Respondent have entered into the following combined notice of hearing, settlement agreement and final order.
2. Respondent holds a current cosmetology license number 40131 that will next expire on March 31, 2011. Board records indicate that Respondent's address is 9718 Sunset Terrace, Clive, IA 50325.
3. Respondent holds inactive salon license number 009729.
4. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 157, and 272C.

SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

5. Respondent is charged with conviction of a felony related to the profession in violation of 645 Iowa Administrative Code 65.2(12).

FACTUAL CIRCUMSTANCES

6. On July 30, 2008, Respondent pled guilty to one count of theft or embezzlement from an employee benefit plan in violation of 18 U.S.C. 664.

7. Respondent was the owner for Styleworks Salon in Clive, Iowa.

8. On or about January 28, 1999, Ward established an employee benefit plan through Northwestern Mutual, known as the Styleworks SIMPLE Plan. As the sole owner of Styleworks Salon, Ward was responsible for withholding participants' deferrals from payroll and forwarding the deferrals to Northwestern Mutual, and for making mandatory matching contributions to the plan.

9. Between in or about April 2003 through and including in or about November, 2006, Ward withheld \$25,490.24 in employee deferrals which he failed to forward to the plan. During the same period, Ward failed to make matching contributions of \$11,532.99.

10. Ward knowingly and intentionally converted the monies due to the employee benefit plan for his own use or the use of another.

SETTLEMENT AGREEMENT AND FINAL ORDER

11. This combined Statement of Charges, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

12. By entering into this Agreement and Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Agreement and Order and voluntarily waives any objections to the terms of the Agreement and Order, including the right to appeal.

13. This combined Agreement and Order, is voluntarily submitted by Respondent to the Board for consideration.

14. Respondent acknowledges that he has a right to be represented by counsel in this matter.

15. Respondent agrees that counsel for the State may present this Agreement and Order to the Board.

16. This Agreement and Order is subject to approval of the Board. If the Board fails to approve this Agreement and Order it shall be of no force or effect to either party.

17. This Agreement and Order shall be part of the Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violation.

18. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

19. This Agreement, and Order is a public record available for inspection and copying upon execution of the Agreement and Order in accordance with the requirements of Iowa Code chapter 22 and 272C.

20. The Board's approval of this Agreement and Order shall constitute a FINAL ORDER of the Board.

IT IS THEREFORE ORDERED

21. Respondent agrees to surrender his inactive salon license, number 009729, and agrees that he will not henceforth own or manage a cosmetology salon.

22. Respondent agrees that his cosmetology license is placed on probation for a period of twelve (12) months. During the probationary period, Respondent agrees to comply with the

following terms:

a. Within 15 (fifteen) days of the issuance of this order and on a quarterly basis thereafter, Respondent 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 employer;

b. Applicant 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 Applicant to timely and truthfully notify the Board of his current employment status shall constitute a violation of this Agreement;

c. Respondent shall obey all federal, state, and local laws and all rules governing the practice of cosmetology in Iowa; and

d. Upon request of the Board, Respondent 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 Applicant with reasonable notice of the date, time, and place for any requested appearance. Respondent 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.

23. Upon full compliance with all terms and conditions of the probation prescribed by this Agreement, Respondent'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.

24. Respondent agrees to comply with all laws and rules regarding the practice of cosmetology.

This statement of charges, settlement agreement and final order is approved by the board on October 5, 2009.