

STATE OF IOWA
BEFORE THE BOARD OF BARBERING

| | | |
|--------------------|---|---------------------|
| IN THE MATTER OF: |) | NO. BA 08-013 |
| |) | DIA NO. 10DPHBE007 |
| Platinum Kuts, |) | |
| License No. 02748 |) | FINDINGS OF FACT, |
| and |) | CONCLUSIONS OF LAW, |
| Anthony Presswood, |) | DECISION AND ORDER |
| License No. 14458 |) | |

On April 27, 2010, the Iowa Board of Barbering (Board) filed a Notice of Hearing and Statement of Charges against Platinum Kutz and Anthony Presswood (Respondents). Respondents were charged with failing to comply with the terms of a Board order, in violation of Iowa Code section 272C.3(2)(a)(2009) and 645 IAC 25.2(20). The hearing was held on July 27, 2010 at 11:50 a.m. in the Lucas State Office Building, fifth floor conference room, Des Moines, Iowa. Respondents Platinum Kuts and Anthony Presswood failed to appear for hearing. The state was represented by Assistant Attorney General Kristin Ensign. The following Board members were present for the hearing: Clark (Sam) Kauffman; Chairperson; Charles Wubbena; Robert VanVooren, Tammy Ortiz, and Rhonda D. Reif. 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 Beth Jorgenson and State Exhibits 1-6 (See Exhibit Index for description).

FINDINGS OF FACT

1. Respondent Anthony Presswood was issued Iowa barber license #14458 on August 10, 2000. License #14458 was due to expire on June 30, 2010. Respondent Platinum Kuts is located at 2301 University Avenue in Des Moines, Iowa. On July 18, 2001, Platinum Kuts was issued Barbershop License #02748, which was due to expire on June 30, 2010. (Exhibits 3, 6)

2. On December 14, 2009, the Board issued Findings of Fact, Conclusions of Law, Decision and Order to Respondents Anthony Presswood and Platinum Cuts, following a hearing. Pursuant to that Decision and Order, Respondents' licenses were placed on probation for a period of two years. Respondents were required to pay a civil penalty of \$250 within thirty days. Respondents were also required to file an application to correct the license issued for the barbershop at 2301 University Avenue (Platinum Kuts) to accurately reflect the ownership interest of Robert Presswood. Respondents were also required to file quarterly typewritten reports with the Board that included the names of all persons providing barbering services at Platinum Kuts along with their license numbers and license expiration dates. Finally, Respondents were required to pay hearing fees of \$104.02. (Exhibit 6)

3. As of July 27, 2010, Respondents had not paid the \$250 civil penalty and had not filed an application to correct the license for Platinum Kuts to reflect all ownership interests. Respondents had not filed the quarterly reports that were due in March and June 2010. Respondents had not paid the hearing fees of \$104.02. (Testimony of Beth Jorgenson)

4. Respondents were served with the Notice of Hearing and Statement of Charges on July 1, 2010 by restricted certified mail but did not appear for hearing and did not request a continuance. (Exhibit 4)

CONCLUSIONS OF LAW

Iowa Code section 272C.3(2)(a)(2009) and 645 IAC 25.2(20) provide that the Board may impose a wide range of disciplinary sanctions for failure to comply with a Board order. The preponderance of the evidence established that Respondents have failed to comply with any of the requirements of the Board's Decision and Order that was issued on

December 14, 2009. Respondents have left the Board with little choice but to suspend both licenses.

DECISION AND ORDER

IT IS THEREFORE ORDERED that License Number 14458, issued to Respondent Anthony Presswood, is hereby SUSPENDED, effective immediately upon service of this Decision and Order. IT IS FURTHER ORDERED that License Number 02748, issued to Respondent Platinum Kuts, is hereby SUSPENDED, effective immediately upon service of this Decision and Order. IT IS FURTHER ORDERED that the license suspensions will continue until Respondents fully comply with the requirements of the Board's December 14, 2009 Decision and Order. Before the suspensions will be lifted, Respondents must:

- pay the \$250 civil penalty;
- pay the \$104.02 in hearing fees;
- file a new barbershop application that reflects the ownership interest of Robert Presswood in Platinum Kuts;
- file all required quarterly reports.

IT IS FURTHER ORDERED that if Respondents have not fully complied with these requirements within sixty (60) days of receipt of this Decision and Order, then the Board will issue an Order Revoking License Numbers 14458 and 02748.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondents shall pay \$75.00 for fees associated with the disciplinary hearing and \$13.75 for the court reporter fees. The total fees of \$88.75 shall be paid within thirty (30) days of receipt of this decision.

This Findings of Fact, Conclusions of Law, Decision and Order is approved by the board August 30, 2010

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.