

BEFORE THE WEST VIRGINIA STATE BOARD OF
BARBERS AND COSMETOLOGISTS

STATE OF WEST VIRGINIA
BOARD OF BARBERS and
COSMETOLOGISTS,

Complainant

FORMAL COMPLAINT NO. 2018-84

v.

CAROLYN MEAD,
MANE EVENT,

Respondent

CONSENT DECREE

Now comes Carolyn Mead and/or Richard Mead (hereinafter "Respondent"), and the West Virginia State Board of Barbers and Cosmetologists (hereinafter "Board"), by Danielle J. Cordle, its Executive Director, for resolving a complaint filed against Respondent. Pursuant to W. Va. Code § 30-27-20(d) the Board may enter into a Consent Decree. As reflected in this Consent Decree, the parties have reached an agreement in which Respondent agrees and stipulates to the Findings of Fact and Conclusions of Law and the proper disposition of this matter. The Board, having approved such agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. The Board is a state entity and is charged with the responsibility to protect the health, safety and welfare of the public through its regulation of the practice of barbering and cosmetology.

See W. Va. Code § 30-27-1 et seq.

2. Respondent is the owner/operator of the Mane Event located at 113 West Main Street, Paden City, West Virginia

3. This matter arose after the Board determined that Respondent's salon license (016237) was issued a 4th offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean."

4. Respondent's salon license (license no. 008935) was issued a 1st offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean" on or about 6/15/2011. Respondent was issued a warning per Series 7 of the Rules and Regulations of the Board.

5. Respondent's salon license (license no. 008935) was issued a 2nd offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean" on or about 7/3/2012. Respondent was issued a \$100.00 fine per Series 7 of the Rules and Regulations of the Board.

6. Respondent's salon license (license no. 008935) was issued a 3rd offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean" on or about 2/19/2016. Respondent was issued a \$300.00 fine per Series 7 of the Rules and Regulations of the Board.

7. Respondent's salon license (license no. 008935) was issued a 4th offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean" on or about 5/11/2017. Respondent was not issued a fine at that time.

8. On or about 6/15/2017, Respondent received a Notice from the Board via certified mail at her address of record notifying the Respondent that the Board would convene on 10/15/2017, beginning at 10:00 a.m., at the Board's office located at 1201 Dunbar Avenue, Dunbar, West Virginia for the purpose of conducting a Board meeting regarding potential disciplinary against the Respondent's cosmetologist license and salon license.

9. Respondent was further noticed that failure to appear at the hearing would result in immediate legal action and/or disciplinary action by the Board.

10. Respondent failed to appear at the Board meeting on 10/15/2017.

11. The Board voted unanimously to dismiss the 4th offense for citation 2.47; "Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such

equipment clean” against the Respondent at the Board meeting on 10/15/2017.

12. Respondent’s salon license (license no. 008935) was issued a 5th offense for citation 2.47; “Failing to keep storage cabinets, work stations, vanities and the inside of microwave ovens or other such equipment clean” on or about 4/12/2018. Respondent was not issued a fine at that time.

13. On or about 5/4/2018, Respondent received a Notice from the Board via certified mail at her address of record notifying the Respondent that the Board would convene on 6/11/2018, beginning at 10:00 a.m., at Holiday Inn and Suites, 400 Second Avenue, South Charleston, WV for the purpose of conducting a public hearing regarding potential disciplinary against the Respondent’s cosmetologist license and salon license.

14. Respondent was further noticed that failure to appear at the hearing would result in immediate legal action and/or disciplinary action by the Board.

15. Respondent failed to appear at the hearing on 6/11/2018.

16. Testimony adduced by the Board at the hearing of this matter establishes that Respondent had actual notice of the hearing. Respondent was properly noticed in advance of the hearing on 6/11/2018 by United States Certified Mail on or about 5/4/2018 but chose not to appear in person or by counsel.

17. On or about 8/26/2018, the Board voted unanimously to suspend the cosmetologist

license and salon license of the Respondent.

18. Respondent has been fined a total of \$400.00 in connection to the citations mentioned within this Consent Decree.

19. Respondent has paid \$400.00 of the \$400.00 for administrative fines issued in connection to the citations mentioned within this Consent Decree.

CONCLUSIONS OF LAW

1. The Board has the authority and responsibility to regulate the profession of barbering and cosmetology in the State of West Virginia. *See* W. Va. Code § 30-27-1 *et seq.*

2. The Board has jurisdiction to conduct investigations into complaints to determine if probable cause existed that the licensee was in violation West Virginia Code § 30-27-20(c) or any rule in West Virginia Code R. § 3-1-1 *et seq.*

3. The Board's authority to discipline licensees is found at West Virginia Code § 30-27-20.

4. The Board has jurisdiction to conduct disciplinary hearings and issue orders. *See* W. Va. Code § 30-27-5(13).

5. Disciplinary action can include reprimand, probation, administrative fine not to exceed

\$1,000.00 per day per violation, mandatory attendance at continuing education seminars or other training, practicing under supervision or other restriction, requiring licensee to report to the board for periodic interviews for a specified period of time, or other corrective action considered by the board to be necessary to protect the public. *See W. Va. Code § 30-27-20(h).*

6. The Board is authorized to enter into a Consent Decree to resolve a complaint without further adjudication. *See W. Va. Code § 30-27-20(d) and W. Va. Code R. §3-9-2.11.*

7. The Board has the authority to assess administrative costs incurred. *See W. Va. Code § 30-1-8(a).*

CONSENT

1. By signing below Respondent agrees that he or she has had the opportunity to consult with counsel and executes this Consent Decree voluntarily, freely, without compulsion or duress and is mindful that it has legal consequences. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to make this settlement other than as set forth herein.

2. Respondent acknowledges that he or she may pursue this matter through appropriate administrative and/or court proceedings and is aware of his or her legal rights regarding this matter,

but intelligently and voluntarily waives such rights.

3. Respondent accepts the findings set forth above.

4. Respondent acknowledges that the Board may reject this proposal and may hold a hearing to impose such sanctions of a disciplinary nature as it deems appropriate. Should the Board not approve this Consent Decree, Respondent waives any objections to the Board or any of its members participating in the adjudication of this matter.

5. Respondent understands that this Consent Decree and the underlying complaint are public records and agrees that the sum and substance of the complaint and this agreement in part or in their entirety may be set forth in Board publications and placements deemed appropriate by the Board.

6. Respondent acknowledges that proof of any misstatement or misrepresentation made in connection with this matter will result in the rescission of this Consent Decree, the reinstatement of the complaint, and the addition of any other charges which may arise or ensue from providing false information to the Board in violation of West Virginia law as it pertains to the practice.

ORDER

1. On the basis of the forgoing, and upon entry of this Consent Decree by this tribunal, the Board hereby **ORDERS** that this Consent Decree shall serve as an informal settlement of this

complaint pursuant to W. Va. Code § 30-1-8(a).

2. This Consent Decree is executed by Respondent for the purpose of avoiding further administrative action with respect to this case. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning the Respondent prior to or in conjunction with consideration of this Consent Decree. Furthermore, should this Consent Decree not be accepted by the Board, it is agreed that it shall not preclude the Board or any of its members from further participation, consideration, or resolution of these proceedings.

3. The Board **ORDERS** Respondent to pay administrative fines in the amount of \$300.00.

4. The administrative fines imposed herein in the amount of \$150.00 must be paid within thirty (30) days of the date Respondent receives Notice of Entry of this agreement by the Board, with such amount made payable to WVBBBC (Administrative Fines). The remaining balance of \$150.00 can be paid in 3 monthly installments of \$50.00 per month. Failure to remit the payment of these administrative fines will result in further disciplinary action by the Board.

5. The Board **ORDERS** Respondent to pay administrative costs in the amount of \$500.00.

6. The administrative costs imposed herein in the amount of \$250.00 must be paid within thirty (30) days of the date Respondent receives Notice of Entry of this agreement by the Board,

with such amount made payable to WVBBBC (Administrative Costs). The remaining balance of \$250.00 can be paid in 5 monthly installments of \$50.00 per month. Failure to remit the payment of these administrative costs will result in further disciplinary action by the Board.

7. The Board **ORDERS** that the Respondent's salon be inspected by a Board Inspector/Investigator once per week for a period of thirty (30) days. All licensees that are working at the time of inspection must participate in sanitation/infection control training that will be administered by a Board Inspector/Investigator.

8. Any violation of any of the terms of this Consent Decree will result in further disciplinary action by the Board.

9. The Consent Decree constitutes a full and final settlement of this matter, and nothing in this Consent Decree or the circumstances giving rise to the same may be the subject of any appeal or other civil or administrative action by this Board except for an action to enforce the terms of this complaint.

10. If the administrative fines and administrative costs imposed herein totaling \$800.00 are not timely paid, this Consent Decree may be summarily enforced in the Circuit Court of Mercer County without further notice to Respondent upon application by the Board for the entry of a Judgment Order for the total amount of payment agreed to herein, together with pre-judgment interest from the

date of the Executive Director's signature hereon, post-judgment interest from the date of entry, and all costs of any enforcement action(s), which judgment shall be fully executable in accordance with applicable law.

11. This matter shall be closed upon the execution of this Consent Decree by both parties, satisfactory completion of the terms contained with this Consent Decree and the full payment of the administrative costs agreed to herein.

12. This Consent Decree relates solely to matters within the jurisdiction of the West Virginia State Board of Barbers and Cosmetologists and does not evidence compliance with any other laws of the State of West Virginia or its political subdivisions, nor should any such compliance be implied.

AGREED TO BY:

Richard Mead

Carolyn Mead or Richard Mead
Respondent

11-13-18

Date

NOTARY SIGNATURE

The above information and signature are true to the best of my knowledge.

Notary's Name: Diann S. Wright

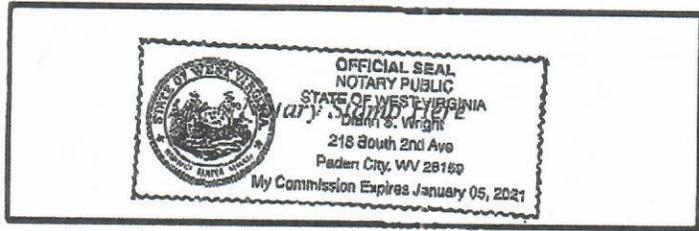
Notary's Signature: Diann S. Wright

County Of: Wetzel

State Of: West Virginia

Sworn and subscribed to me on:

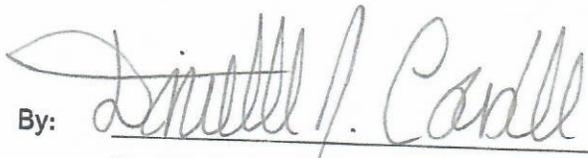
Date: November 13-2018



My commission expires on January 05-2021

ENTERED into the records of the West Virginia State Board of Barbers and Cosmetologists

this 13th day of November, 2018.

By: 

Danielle J. Cordle, Executive Director

West Virginia State Board of Barbers and Cosmetologists

1201 Dunbar Avenue, Dunbar, WV 25064

Telephone: (304) 558-2924

Facsimile: (304) 558-3450