

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BOARD OF COSMETOLOGY**

In the matter of:

PREMIER SALONS, INC.	Docket No. 2003-468
AT SEARS #22654	Complaint No. 31638
PREMIER SALONS, INC., OWNER	Former Complaint No. 27-02-3200-00
Cosmetology Establishment	
License No. 27-06-117856	

FINAL ORDER

WHEREAS, this matter having come before the Michigan Board of Cosmetology, hereafter the "Board", on September 8, 2003; and

WHEREAS, the Board having considered the Findings of Fact and Conclusions of Law in the Hearing Report of Stephen B. Goldstein, Administrative Law Judge, dated August 5, 2003;

WHEREAS, the Board having received the Hearing Report under MCL 339.514, and Premier Salons, Inc., At Sears #22654, Premier Salons, Inc., Owner, License Cosmetology Establishment, License No. 27-06-117856, hereafter "Respondent", having been found in violation of Sections 604(c); 604(h) of the Michigan Occupational Code, 1980 P.A. 299, *as amended*, hereafter the "Code", MCL 339.604(c); MCL 339.604(h) and Rules 71(1)(e); 71(1)(f); and 79a(4) of the State Board of Cosmetology General Rules, *promulgated hereunder*, being 1999 MR 11, R 338.2171(1)(e);1999 MR 11, R 338.2171(1)(f); 1999 MR 11, R 338.2179a(4) and

WHEREAS, the hearing report being hereby incorporated by reference; now, therefore,

IT IS HEREBY ORDERED, that the following penalties authorized by Section 602 of the Code are hereby imposed:

- 1.** Respondent shall pay a FINE in the amount of Five Thousand Dollars and 00/100 Cents (\$5,000.00), a higher fine than recommended by the Administrative Law Judge, in accordance with the grievous nature and number of violations committed, said fine to be paid to the Department of Consumer & Industry Services within sixty (60) days from the date of mailing of this Final Order. Said fine shall be paid by cashier's check or money order, with Complaint No. 31638 clearly indicated on the check or money order, made payable to the State of Michigan, and sent to the Department of Labor & Economic Growth,

Bureau of Commercial Services, Enforcement Division, P.O. Box 30185, Lansing, Michigan 48909.

- 2. Respondent Premier Salons, Inc. At Sears # 22654, Premier Salons, Inc., Owner, Licensed Cosmetology Establishment, License No. 27-06-117856 shall be SUSPENDED and any current or future applications for licensure, relicensure or registration renewal shall be DENIED if Respondent fails to fully comply with each and every condition imposed by this Final Order.**

This Final Order shall not be construed as limiting the Department of Consumer & Industry Services, any other agency of the State of Michigan, or any individual as to the use of a lawful method of collection of the payment imposed by this Final Order.

Failure to comply with the provisions of this Final order is itself a violation of the Code pursuant to Section 604(k) and may result in further disciplinary action.

This Final Order is effective immediately upon its mailing.

Given under my hand at Okemos, Michigan, this 8th day of September 2003.

**BY: _____
Cynthia A. Stramecky, Chairperson**

Date mailed: _____

Proof of Compliance shall be filed with:

**Department of Labor & Economic Growth
Bureau of Commercial Services
Enforcement Division
Audit Unit
P.O. Box 30018
Lansing, MI 48909**

This is the last and final page of a Final Order in the matter of Premier Salons, Inc., At Sears # 22654, Premier Salons, Inc., Owner, Complaint No. 31638, before the Michigan State Board of Cosmetology, consisting of three (2) pages, this page included.

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF HEARINGS**

In the matter of

**Bureau of Commercial Services,
Petitioner**

v

**Premier Salons, Inc. at Sears #22654
Premier Salons, Inc., Owner,
Respondent**

Docket No. 2003-468

Agency No. 31638

Agency: Bureau of Commercial Services

Case Type: Sanction

**Issued and entered
this 5th day of August, 2003
by Stephen B. Goldstein
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

This matter was properly noticed for a hearing to commence at 10:00 A.M. on June 13, 2003 in the hearing rooms of the Michigan Department of Labor & Economic Growth, Bureau of Hearings, 2501 Woodlake Circle, 1st Floor, Okemos, Michigan.

Stephen B. Goldstein presided as Administrative Law Judge. Tracey Yarborough, Attorney at Law, appeared on behalf of the Bureau of Commercial Services (Petitioner). Christine Hubert, Director of Operations for Premier Salons (Respondent) appeared at the hearing.

This matter commenced with the filing by the Petitioner of a Formal Complaint dated October 20, 2002 (Complaint) alleging violations by Respondent of Michigan's Occupational Code, 1980 PA 299, as amended (Code).

On March 26, 2003, a Notice of Hearing was issued scheduling the case for hearing to be held on June 13, 2003 at 10:00 A.M. That hearing commenced as scheduled.

ISSUES AND APPLICABLE LAW

The general issue in this matter is whether Respondent violated the Code.

The specific issues are whether Respondent violated MCL 339.604(c) and (h); MSA 18.425(604)(c), and MCL 339.1204(6) and 1999 MR11 R 338.2171(1)(e) and (f), and 1999 MR11 R 338.2179a(4). Those Sections of the Code and Rules provide as follows:

“Sec. 604. A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:”

“ * * * ”

“(c) Violates a rule of conduct of an occupation.”

“* * *”

“(h) Violates any other provision of this act or a rule promulgated under.”

“ * * * ”

_____ “Rule 71. (1) An owner of an establishment or school shall ensure that the establishment or school have all of the following:

“ * * * ”

“(e) A source of drinking water in an area other than that used to mix chemicals.

_____ (f) Covered waste containers that are large enough to contain 1 day’s accumulation of waste materials.”

“ * * * ”

“Rule 79a (1). * * * ”

“ * * * ”

“(4) The licensee or owner of an establishment or school shall ensure that, after sanitization, the equipment, tools, implements, and supplies are put in a dry sanitizer, closed cabinet or drawer, or covered container.”

SUMMARY OF EXHIBITS

NO EXHIBITS OFFERED

FINDINGS OF FACT

Respondent appeared at the hearing and acknowledged, under oath, that all of the allegations contained in the Petitioner’s complaint were true and accurate.

Based upon the Respondent’s admissions, the following facts are found:

1. That, on or about August 2, 2002, an inspection was conducted of Premier Salons, Inc. at Sears #22654 by an inspector from the Department of Consumer and Industry Services. At the

inspection, violations of the Code were observed as identified below:

- The license of an individual working in the establishment was not displayed in a prominent place visible to the public, contrary to MCL 339.1204(6).

- Respondent failed to ensure that the establishment had a source of drinking water in an area other than that used to mix chemicals, contrary to 1999 MR 11 R 338.2171(1)(e).
- Respondent failed to ensure that the establishment had covered waste containers, contrary to 1999 MR 11 R 338.2171(1)(f).
- Respondent failed to ensure that, after sanitization, the equipment, tools, implements and supplies were put in a dry sanitizer, closed cabinet or drawer or covered container, contrary to 1999 MR 11 R 338.2179a(4).
- Respondent has violated a rule of conduct in practicing an occupation, contrary to MCL 339.604(c).
- Respondent has violated a provision or rule for which a penalty is not otherwise prescribed, contrary to MCL 339.604(h).

CONCLUSIONS OF LAW

The principles that govern judicial proceedings apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice, 2nd Ed, Section 60.48, p. 280. The burden of proof is upon the Petitioner to prove, by a preponderance of the evidence, that Respondent violated the Code. American

Way Service Corporation v Commissioner of Insurance, 113 Mich App 423 (1982).

By virtue of the Respondent's admissions, it is concluded the above acts establish that Respondent has violated MCL 339.604(c) and (h), and 1999 MR 11 R 338.2171(1)(e) and (f), and 1999 MR 11 R 338.2179a(4). Accordingly, Petitioner has established, by a preponderance of the evidence, that Respondent has violated the above Sections of the Code and Rules as alleged in its complaint.

RECOMMENDED SANCTIONS

Based upon Respondent's violations of the Code and Rules, it is recommended that Respondent be assessed the following sanctions:

1. Imposition of a Civil Fine in the amount of \$500.00.
2. Suspension of any and all licenses held by Respondent in either an individual or corporate capacity until all fines have been paid in full.

Stephen B. Goldstein
Administrative Law Judge