

MINUTES

FLORIDA BARBERS' BOARD
FLORIDAYS RESORT
12562 INTERNATIONAL DRIVE
ORLANDO, FLORIDA 32821

Monday, November 3, 2014

The Florida Barbers' Board meeting was called to order at approximately 9:00 a.m., by Mr. Herman White, Chair.

Board Members Present

Herman White, Chair
Thomas Vaughn, Vice Chair
Edwin Stewart
Julie Rivera
Monica Smith

Board Members Absent

Bill Gilbert

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Marlene Stern, Assistant Attorney General, Office of the Attorney General (OAG)
Joe Helton, Chief Attorney, Office of the General Counsel (OGC), DBPR
Julie Rowland, Government Analyst, DBPR
Larissa Vaughn, Division of Regulation, DBPR
Diana Garcia, Court Reporter
Leslie Roste, RN and National Director of Education & New Markets, BlueCo Brands
Robin Bugallo
Jorge Mendez
Quincy Sorrell
Evonnie Frazier
Bashkim Kelmendi
Arben Jakubi

The meeting was opened with a roll call and a quorum was established. Chair White excused the absence of Mr. Bill Gilbert from the meeting.

APPROVAL OF MINUTES

Mr. Edwin Stewart moved to approve the minutes from the September 16, 2014, Board meeting. Vice Chair Tommy Vaughn seconded the motion and the motion passed unanimously.

DISCIPLINARY MATTERS

Informal Hearing

Mr. Joe Helton, Chief Attorney, presented the following cases for consideration by the Board. The Board found that the Respondents were properly served with the Administrative Complaint, that there was competent and substantial evidence to support the allegations as set forth in the Administrative Complaint and adopts them as the findings of fact and conclusions of the law of the Board and imposed the penalties shown below:

Quincy Sorrell; Lehigh Acres; Case No. 2013003093

Mr. Sorrell was present for the meeting and was sworn in by Ms. Diana Garcia, Court Reporter. The Board tabled this case for a future meeting.

John Frazier; St. Petersburg; Case No. 2013046483

Ms. Evonne Frazier was present for the meeting and was sworn in by the Court Reporter. Mr. Stewart moved that the Board impose a fine of \$500 and costs of 44.77, to be paid over a period of six months, plus probation on license BB8895260 to run concurrent with his criminal probation. Vice Chair Vaughn seconded the motion and the motion passed unanimously.

- Lemuel Green; Gotha
Case No. 2012008199
\$500 fine and \$170.13 costs
Revocation of license BB8894909
- Hareton L. Tejesa; Orlando
Case No. 2013003128
\$500 fine and \$195.78 costs
Revocation of license BB8893406, the three year time period to reapply for licensure was waived
- Celebrity Cuts; Miami
Case No. 2014015278
\$500 fine and \$44.24 costs
- Phil Unisex; Ft. Lauderdale
Case No. 2013043036
Mr. Helton requested that this case be pulled from the agenda
- James Nieva, Jr.; Clearwater
Case No. 2012047169
Mr. Helton requested that this case be pulled from the agenda

Voluntary Relinquishment

- Melvin A. Alvarez; Vero Beach
Case No. 2012037022
\$500 fine and \$114.79 costs to be paid within three months
Voluntary relinquishment of license BB8892765, the three year time period to reapply for licensure was waived
- Andy Charran; Orlando
Case No. 2013003656
\$181.73 costs only
Voluntary relinquishment of license BB8894271, no right to reapply for licensure in Florida
- Victor Colon; Oviedo
Case No. 2013003692
\$500 fine and \$198.66 costs to be paid within three months
Voluntary relinquishment of license BB8894418, the three year time period to reapply for licensure was waived
- Jaslier Cruz; Davenport
Case No. 2013003716
\$500 fine and \$156.53 costs to be paid within three months

Voluntary relinquishment of license BB8893631, the three year time period to reapply for licensure was waived

Motion for Waiver of Rights and Final Order

Mr. Helton presented the following cases for consideration by the Board. The Board found that the Respondents were properly served with the Administrative Complaint, the Respondents failed to respond within 21 days thereby waiving their right to elect a hearing in this matter, that the Board accept the allegations as stated in the Administrative Complaint and adopt them as the findings of fact and conclusions of law of the Board and imposed the penalties shown below:

- Joel Vazquez Rivera; Kissimmee
Case No. 2012049195
\$500 fine and \$173.95 costs
Revocation of license BB8892944
- Armando Sanchez; Saint Cloud
Case No. 2012149848
\$500 fine and \$255.58 costs
Revocation of license BB8893314
- Jorge Cabrera
Case No. 2013003095
\$500 fine and \$181.34 costs
Revocation of license BB8894201
- Vanessa Tena; Kissimmee
Case No. 2013003137
\$500 fine and \$195.78 costs
Revocation of license BB8892833
- Fernando A. Colon; Kissimmee
Case No. 2013003678
\$500 fine and \$181.73 costs
Revocation of license BB8894120
- Roberto Colon Dume; Kissimmee
Case No. 2013003689
\$500 fine and \$181.73 costs
Revocation of license BB8894119
- Jose Hernandez; Cape Coral
Case No. 2014003838
\$500 fine and \$210.43 costs
- Just Blaze Barbershop; Apopka
Case No. 2014003266
\$500 fine and \$336.14 costs
Revocation of license BS1079237
- 44th Street Barber Shop; Ft. Lauderdale
Case No. 2014018191
\$500 fine and \$166.89 costs

- Five Star Cuts; Opa-Locka
Case No. 2014020173
Mr. Helton requested that this case be pulled from the agenda
- Leruntes Barber; Lake Park
Case No. 2014012439
Mr. Helton requested that this case be pulled from the agenda
- Jose Dionicio Cruz; Miami Beach
Case No. 2014024931
Mr. Helton requested that this case be pulled from the agenda

Settlement Stipulation

Mr. Helton presented the following cases for consideration by the Board. The Board moved to adopt the Stipulation of the parties as the Board's final action in this matter and incorporate it and all of its terms into a final order and imposed the penalties shown below:

- VIP Salon and Spa; Daytona Beach
Case No. 2013010172
\$500 fine and \$184.53 costs to be paid within six months
- Celebrity Cuts & Styles
Case No. 2014022085
\$500 fine and \$140.23 costs to be paid within six months

TNT Barber Shop; Naranja; Case No. 2013015811

The Respondent was not present for the meeting. Mr. Stewart moved that the Board reject the Stipulation of the parties. Vice Chair Vaughn seconded the motion and the motion passed unanimously. The Board proposed a counter offer of a fine of \$500 and \$204.97 costs.

Brooklyn Cutz; Hollywood; Case No. 2013034507

The Respondent was not present for the meeting. Mr. Stewart moved that the Board reject the Stipulation of the parties. Vice Chair Vaughn seconded the motion and the motion passed unanimously. The Board proposed a counter offer of a fine of \$900 and \$94.34 costs, plus revocation of license BS1077438.

Cut Above the Rest; Miramar; Case No. 2014025026

The Respondent was not present for the meeting. Mr. Stewart moved that the Board reject the Stipulation of the parties. Vice Chair Vaughn seconded the motion and the motion passed unanimously. The Board proposed a counter offer of a fine of \$600 and \$192.91 costs, plus revocation of license BS12197.

Department Attorney Report

Mr. Helton informed the Board that as of October 3, 2014, there were 119 open barber cases in the legal section.

APPLICATIONS

Licensure Applications

Informal Hearing

Niv Katzav / Israel

Mr. Katzav was not present for the meeting. Ms. Robyn Barineau, Executive Director, informed the Board that the application was denied at the August 4, 2014, Board meeting, because the application failed to demonstrate that the applicant had failed to meet the requirements of Section 476.144(6), Florida Statutes, and Rule 61G3-16.006, Florida Administrative Code, by holding a current active license in another state or country, and for failure to disclose a previous denial on the application. After review, Mr. Stewart moved to uphold the denial based on no additional information having been provided. Vice Chair Vaughn seconded the motion and the motion passed unanimously.

Initial Review

Reynaldo Miguel Bossio Gil

Mr. Gil was not present for the meeting. After review, Mr. Stewart moved to deny the application based on unsatisfied previous discipline. Ms. Julie Rivera seconded the motion and the motion passed unanimously.

Bashkim Kelmendi / Kosovo

Mr. Kelmendi and Mr. Arben Jakubi, translator, were present for the meeting and were sworn in by the Court Reporter. After review, Ms. Rivera moved to approve the application. Mr. Stewart seconded the motion and the motion passed unanimously.

Jorge Mendez

Mr. Mendez was present for the meeting and was sworn in by the Court Reporter. After review, Mr. Stewart moved to approve the application. Ms. Rivera seconded the motion and the motion passed unanimously.

Robin Bugallo

Mr. Bugallo was present for the meeting and was sworn in by the Court Reporter. After review, Ms. Rivera moved to approve the application. The Board also imposed probation on the license to run concurrent with his criminal probation. Chair White seconded the motion and the motion passed with Mr. Stewart and Ms. Monica Smith voting against the motion.

NEW BUSINESS

Special Speaker – Leslie Roste

Ms. Leslie Roste, BlueCo Brands, addressed the Board regarding their rule relating to infection control. She mentioned that the Board does a good job of reminding licensees to clean their tools and implements before disinfecting them. She indicated that HIV/AIDS is no longer as big a threat in the barber industry as MRSA and other viruses and she provided some helpful tips on how the Board could amend their rules to conform with more current infection control procedures.

OTHER BUSINESS

Board Attorney Report

Rule 61G3-21.009, Florida Administrative Code – Citations

The Board approved the following language and agreed that there would be no negative impact on small business nor would there likely be any increase in regulatory costs in excess of \$200,000 in the aggregate within one year after implementation.

(1) Definitions. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in Section 455.224, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;

(b) "Subject" means the licensee, applicant, person, partnership, corporation, or other entity alleged to have committed a violation designated in this rule.

(2) In lieu of the disciplinary procedures contained in Section 455.225, F.S., the Department is hereby Authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is basis for the citation.

(3) The Board hereby designates the following first violations as citation violations:

(a) Holding oneself out as a barber while not licensed, in violation of Section 476.194(1)(a), F.S., shall result in a fine of \$500;

(b) Operating a barber shop with ~~an inactive a~~ license that has been expired for up to one year, in violation of Section ~~476.194(1)(e)-1~~ 476.194(1)(d).1, F.S., shall result in a fine of \$50 per month to the maximum fine allowed by law;

(c) Operating with the establishment license of a previously licensed shop in a new or moved location, in violation of Section 476.194(1)(e), F.S., and Rule 61G3-19.0135, F.A.C., shall result in a fine of \$250 within the first six months, after which the maximum fine allowed by law shall be imposed;

(d) Permitting an unlicensed employee to practice barbering for a period of less than six months, in violation of Section 476.194(1)(e), F.S., shall result in a fine of \$250; for a period of six months to 1 year, a fine of \$400 shall be imposed;

(e) Presenting as one's own the license of another, in violation of Section 476.204(1)(d), F.S., shall result in a fine of \$500;

(f) Impersonating any other license holder, in violation of Section 476.204(1)(f), F.S. shall result in a fine of \$500;

(g) Using or attempting to use a suspended or revoked license, in violation of Section 476.194(1)(f), F.S., shall result in a fine of \$500; and

(h) Three violations of the safety, sanitary, or other barbershop requirements specified in Rule 61G3-19.011, F.A.C., violations of the requirements to display documents specified in Rule 61G3-19.012, F.A.C., or any combination of three violations of these requirements, shall result in a fine of \$200;

(i) Engaging in the practice of barbering with an inactive license, in violation of Section 476.194(1)(a), F.S., shall result in a fine of \$50 per month or part of a month, up to a maximum of \$500 after which a disciplinary case shall be initiated and brought before the Board;

(j) Failure to laminate and display current license or picture on license, in violation of Rule 61G3-19.009, F.A.C., shall result in a fine of \$50 for the first offense, and a fine of \$100 for each subsequent offense;

(k) Opening a barbershop without a license for that shop, but already having had a license, in violation of paragraph 61G3-19.013(1)(d), F.A.C., shall result in a fine of \$50 per month or part of a month, up to a maximum of \$500 after which a disciplinary case shall be initiated and brought before the Board;

(l) Operating a barbershop without a shop license and never having had a barbershop license, in violation of Rule 61G3-19.011, F.A.C., shall result in a fine of \$500.

(m) Attempting to renew a license when not in compliance with continuing education requirements, in violation of Rule 61G3-16.0091, F.A.C., shall result in a fine of \$100.00.

(4) A second violation of the same safety, sanitary, or other barbershop requirements specified in Rule 61G3-19.011, F.A.C., or a second violation of the requirements to display documents specified in Rule 61G3-19.012, F.A.C., shall result in a fine of \$50.

(5) The Department shall report to the Board the names, numbers, and violations of the licensees issued citations.

(6) A citation shall not be issued for the second violation of the same offense within a three year period.

(7) A citation shall not be issued where more than three violations are charged in any one inspection.

Rule 61G3-19.011, Florida Administrative Code – Barbershop Requirements

The Board approved the following language and agreed that there would be no negative impact on small business nor would there likely be any increase in regulatory costs in excess of \$200,000 in the aggregate within one year after implementation.

(1) Prior to opening a barbershop, the owner shall:

- (a) Submit an application on forms prescribed by the Department of Business and Professional Regulation;
 - (b) Pay the required registration fee as outlined in the fee schedule in Rule 61G3-10.005, F.A.C.;
 - (c) Meet the safety and sanitary requirements as listed in the subsequent portions of this section, with said requirements to continue in full force and effect for the life of the barbershop.
- (2) Each barbershop and each barber shall take reasonable steps to insure that the shop and individual service area, respectively is maintained and operated in a safe and sanitary manner. Such steps shall include the following:
- (a) Compliance with all local code requirements and to eliminate all fire hazards and dangerous structural defects;
 - (b) Provisions for safe and unobstructed human passage in the premises; removal of garbage and refuse; removal of excessive hair from floor; and safe storage or removal of flammable materials. All garbage must be kept in a closed container or receptacle;
 - (c) Maintenance of at least one portable and operational fire extinguishers, ~~type, placement and number required needed to protect the public and property, shall be in compliance with the State Fire Marshal's Rules and Regulations, Chapter 4A-21, F.A.C.~~ in each shop. The fire extinguisher shall be located so that it is visible to the public and barbers. Access to the fire extinguisher shall be unimpeded. Inspections of the fire extinguisher shall be kept current.
 - (d) Extermination of all vermin, insects, termites, and rodents on the premises;
 - (e) Maintenance of all equipment used to perform barbering services on the premises in a safe and sanitary condition, including the regular application of cleaners and bacterial agents;
 - (f) Assurance that materials furnished for the personal use of the customer, such as towels, are cleansed before reuse.
- (3) Every person practicing barbering in any capacity shall wash his or her hands thoroughly with an anti-bacterial liquid or powdered soap and water before serving each patron.
- (4) After the handling of a customer affected with an eruption, or whose skin is broken out, or is inflamed or contains pus, the hands of the attendant shall be disinfected immediately; this shall be done by thorough washing with soap and water, followed by rinsing in rubbing alcohol (70 to 80 percent) or the use of some equally efficient disinfectant.
- (5) All towels and linens used in the practice of barbering therein are to be kept in a closed container or compartment.
- (6) The barber shop must have one or more shampoo bowls equipped with hot and cold running water. The shampoo bowls shall be located in the area where barbering services are performed.
- (7) Each headrest on each chair in every barbershop must be equipped with a relaunders towel or a sheet of clean paper for each patron.
- (8) Each patron shall have a clean strip of cotton, towel or neckband on the neck so that the haircloth does not come in contact with the neck or skin of the patron's body.
- (9) The use of a brush, comb, or other barbering tool on more than one patron without being sanitized is prohibited.
- (10) All barbershops shall be equipped with and shall utilize wet sanitizers, sufficient to allow for sanitizing practices. A wet sanitizer is any clear plastic or glass receptacle with a lid containing a disinfectant solution as specified below, and large enough to allow for immersion of the barbering tools, or those surfaces of said tools which come in contact with the patrons.
- (11) All barbering tools used in barbershops such as razors, scissors, tweezers, combs, rubber discs, or parts of vibrators shall be free from hair, cleansed and:
- (a) Immersed in a disinfectant registered with the Environmental Protection Agency (EPA) as a bacterial, virucidal and fungicidal disinfectant, and approved by that agency for use in hospitals, for one to five minutes; or

(b) All combs, brushes, metallic instruments with a cutting edge, or implements which have come into contact with blood, or body fluids, shall be immersed in a disinfectant that indicates on its label that it has been registered with the Environmental Protection Agency (EPA) as a tuberculocidal disinfectant, in accordance with C.F.R. 1910.

1030; or

(c) Cleansed and sanitized for use by any other method that shall be the equivalent in germicidal or organism destructive effect, as provided in paragraph (11)(a) or (b) above. The use of an ultraviolet ray sanitizing cabinet, by itself, is not sufficient to meet the requirements of paragraph (11)(a) or (b) above.

(d) After complying with any of the above requirements, the razor, scissors, tweezers, combs, rubber discs or parts of vibrators shall then be placed and kept in a clean, closed cabinet or container until next ready for use. Storage in an ultraviolet ray sanitizing cabinet is preferred.

(12) The use of styptic pencils or any other astringent that will come in contact with more than one patron is prohibited. If a slight cut or scratch drawing blood has occurred, the use of sterile cotton, styptic powder, or any suitable solution first applied to a sterile cotton ball or swab is approved.

(13) All owners or managers or barbershops must provide at least two receptacles, one for the deposit of used towels, and one for the deposit of used shaving paper. All used towels and used shaving papers are to be deposited in the proper receptacle immediately after use.

(14) All barbershops are to be equipped with adequate toilet and sink facilities on the premises or in the same building as, and within 200 feet of the barbershop. To be adequate, such facilities shall have at least one toilet and one sink with running water. Such facilities shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning material, sanitary towels or other hand-drying device such as a wall-mounted electric blow dryer, and waste receptacle. Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted and adequately ventilated to remove objectionable odors and shall comply with the provisions of Rule 10D-10.044, Florida Administrative Code (F.A.C.).

(15) Styling stations, styling bars, back bars, dresserettes, or working stations must be kept clean at all times to the sight and touch. All drawers and shelves of the above being used for the storage of rollers, brushes, combs, pins, nets, and equipment must have proper sanitation, and shall not be used for storage of nonrelated barbering equipment or supplies. One drawer or cabinet may be designated for storage of personal items.

(16) Each barbershop shall be kept well ventilated. The walls, ceilings, furniture and equipment shall be kept clean and free from dust. Hair must not be allowed to accumulate on the floor of the barbershop. Hair must be deposited in a closed container.

(17) No animals or pets shall be permitted inside a barbershop, with the exception, of closed aquariums or trained animals to assist the hearing or visually impaired, or the physically disabled.

(18) A barbershop may be located at a place of residence. Barbershop facilities must be separated from the living quarters by a permanent wall construction. A separate entrance shall be provided to allow entry to the barbershop other than from the living quarters. Toilet and lavatory facilities shall comply with subsection (14) above, shall have an entrance from the barbershop other than the living quarters, and shall not be the same toilet and lavatory facilities as are used by the occupants of the residence.

(19) No barbershop shall be operated in the same licensed space allocation with any other business which adversely affects the sanitation of the barbershop. In order to control the required space and maintain proper sanitation, where a barbershop adjoins such other business, there must be permanent walls separating the barbershop from other business and there must be separate and distinctly marked entrances for each.

(20) For purposes of this rule, "permanent wall" means a vertical continuous structure of wood, plaster, masonry, or other similar building material, which is physically connected to a barbershop's floor and ceiling, and which serves to delineate and protect the barbershop.

(21) A barbershop must contain a minimum of 100 square feet of floor space, excluding the toilet and lavatory facilities. No more than one (1) barber at any one time may perform barbering services in a barbershop which has only the minimum floor space. In addition, a barbershop in which more than one (1) barber performs barbering services at any one time must contain an additional forty (40) square feet for each such additional barber.

(22) A barbershop may contain less than 100 square feet of floor space if it complies with all the requirements set out above, except the square footage requirements, and:

(a) Only one barber and one customer shall be in the barbershop at any one time;

(b) No person shall wait at the barbershop for barbering services;

- (c) There shall be no waiting room or waiting area at the barbershop;
 - (d) The barbershop shall not advertise;
 - (e) There shall be no telephone listing for the barbershop;
 - (f) A barbershop under this subsection shall contain a minimum of 75 square feet of floor space.
- Rulemaking Authority 476.064(4) FS. Law Implemented 476.184 FS. History—New 4-27-86, Amended 9-24-86, 12-28-86, 5-10-88, 7-15-91, Formerly 21C-19.011, Amended 1-12-94, 10-4-94, 5-21-95, 2-14-96, 5-1-96, 3-21-00, 11-6-00, 8-17-06.*

Executive Director Report

Financial Report ending June 2014

Ms. Barineau reported that the balance in the Board’s operating account as of June 30, 2014, was over \$1.2 million, and the balance in their unlicensed activity account was over \$270,000 for the same period.

Correspondence

Complaints and Investigative Statistics – July 2014 – August 2014

Ms. Barineau informed the Board that the Complaints and Investigative Statistics Report was included in the agenda for informational purposes.

Barber Examination Summary – January 2014 – August 2014

Ms. Barineau informed the Board that the Barber Examination Summary was included in the agenda for informational purposes.

Dates and Locations of Future Meetings

- February 9, 2015 – Altamonte Springs
- May 11, 2015 – Fernandina Beach
- August 10, 2015 – Atlantic Beach
- November 2, 2015 – Destin

ADJOURNMENT

There being no further business, the meeting was adjourned at approximately 1:00 p.m.