

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando, Florida 32809**

Monday, November 3, 2008 - 9:00 a.m.

General Business Meeting

The General Business Meeting of the Florida Barbers' Board was called to order at approximately 9:00 a.m., by Mr. Herman White, Chair.

Board Members Present

Herman White, Chair
Carl Troup, Vice Chair
Jeri Scott
Robert Collins
Edwin Stewart
Thomas Vaughn

Board Members Absent

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation
Carrol Cherry, Assistant Attorney General, Attorney General's Office
Elizabeth Duffy, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation
Dana Ewaldt, Government Analyst, Department of Business and Professional Regulation
Dianna Garcia, Court Reporter

Interested Parties Present

Ross Nichelson, Barber Examiner
Elizabeth Mowery, Endorsement Applicant
Jeffrey Rivers, Endorsement Applicant
Charysse Covington, Westside Tech
Tonya Theurin, Barber Examiner

The meeting was opened with a roll call and a quorum was established. Chair White thanked the audience members for attending the meeting.

Chair White introduced Secretary Charles W. Drago and welcomed him to the

board meeting. Secretary Drago thanked the board for the opportunity to introduce himself and thanked the board members for their service and dedication to the citizens of Florida and to the barbering profession. Secretary Drago gave a brief overview of his professional career. He mentioned some of the initiatives the Department is currently pursuing including streamlining various processes in accordance with Governor Crist's Accelerate Florida initiative. Secretary Drago encouraged the members to read the Department's weekly publication, *The Bottom Line*, to keep abreast of all that goes on in the Department.

Approval of Minutes: Meeting of May 19, 2008

Ms. Jeri Scott moved to accept the minutes from the meeting of May 19, 2008. Mr. Carl Troup, Vice Chair, seconded the motion. The motion passed unanimously.

Approval of Minutes: Conference Call Meeting of September 23, 2008

Ms. Scott moved to accept the minutes from the conference call meeting of September 23, 2008. Vice Chair Troup seconded the motion. The motion passed unanimously.

Disciplinary Matters

Ms. Elizabeth Duffy, Assistant General Counsel, introduced Mr. Phillip Monte who will now be serving as the board's prosecutor. Ms. Duffy thanked the board for the opportunity to work with them.

Motions for Waiver of Rights and Final Order

Alexander Morato, d/b/a Hall of Fame Barbershop; Orlando; 2006-065693

Regarding Case No. 2006-065693 against Alexander Morato, d/b/a Hall of Fame Barbershop of Orlando, Ms. Duffy presented the Department's case in this matter and suggested assessing a fine of \$1,500 and costs of \$133.31. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,500 fine and \$133.31 costs. In addition, the Respondent shall be re-inspected, with the local law enforcement accompanying, to ensure compliance. Vice Chair Troup seconded the motion. The motion passed unanimously.

Alvin E. Williams; Tampa; 2007-064245

Regarding Case No. 2007-064245 against Alvin E. Williams of Tampa, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,000 and costs of \$75.39. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,000 fine and \$75.39 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-038431 against Around Way Kutz, Inc. of Margate, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,500 and costs of \$156.20. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,500 fine and \$156.20 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-028687 against Guerling Borgard of Miami, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,000 and costs of \$49.08. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,000 fine and \$49.08 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case Nos. 2008-007875 and 2008-007908 against JC Barber Shop, Inc. and Jose L. Cintron of Auburndale, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,500 and costs of \$85.84. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,500 fine and \$85.84 costs. In addition, the Respondent is required to pay Citation numbers 2007-056344, 2007-052033 and 2007-052032 totaling \$641. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-024000 against Joel Zayas of Kissimmee, Ms. Duffy presented the Department's case and suggested assessing a fine of \$500 and costs of \$22.29. The Respondent was not present for the meeting. Ms. Scott moved that the

board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$500 fine and \$22.29 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-068019 against Lanose Derastel of Delray Beach, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,000 and costs of \$104.12. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,000 fine and \$104.12 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-028579 against Leslie Anita Anderson of St. Petersburg, Ms. Duffy presented the Department's case and suggested assessing a fine of \$500 and costs of \$45. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$500 fine and \$45 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-029155 against Marion D. Kitt of Tampa, Ms. Duffy presented the Department's case and suggested assessing a fine of \$500 and costs of \$179.08. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$500 fine and \$179.08 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-046585 against Richard Carlos Kural of Tampa, Ms. Duffy presented the Department's case and suggested assessing a fine of \$1,000 and costs of \$111.52. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$1,000 fine and \$111.52 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2007-031332 against Terry Hicks of Riviera Beach, Ms. Duffy presented the Department's case and suggested assessing a fine of \$500 and costs of \$87.21. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$500 fine and \$87.21 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Regarding Case No. 2006-059614 against Tom Crane of Cape Coral, Ms. Duffy presented the Department's case and suggested assessing a fine of \$500 and costs of \$295.82. The Respondent was not present for the meeting. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, the Respondent failed to respond within 21 days thereby waiving their right to elect a hearing in the 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 impose a penalty on the Respondent of a \$500 fine and \$295.82 costs. Vice Chair Troup seconded the motion. The motion passed unanimously.

Settlement Stipulations

Unless otherwise stated, by appropriate motion the board found the Respondent to have committed the offenses as alleged in the Administrative Complaint and adopted the Stipulation of the parties as the board's final action regarding a penalty to be imposed on the Respondent as follows:

- Clippers and Scissors Services; Miami
Case No. 2006-040437
\$1,500 fine and \$140.01 costs
- Ryan Williams, d/b/a The Fade Station; Largo
Case Nos. 2008-004005 and 2008-004011
\$1,500 fine and \$65.63 costs
- Town & Country Barbershop; Tampa
Case No. 2006-061490
\$1,500 fine and \$241.12 costs
- All Pro Cuts & Styles; Orlando
Case No. 2006-059294
\$500 fine and \$284.24 costs
- Diamond Cuts Barber Shop; West Palm Beach
Case No. 2007-027188
\$1,000 fine and \$210.87 costs

- Dwayne Bennett; North Lauderdale
Case No. 2007-028641
\$750 fine and \$140 costs
- Hot Spot Barber Shop; Kissimmee
Case No. 2007-024721
\$1,500 fine and \$166.55 costs
- Original Barber Shop; North Miami
Case No. 2008-003027
\$1,000 fine and \$37.62 costs

Prosecuting Attorney's Report

Status Report

Ms. Duffy reported that as of October 14, 2008, there were 100 barber cases in the legal section.

Applications

Licensure Application – Revoked License

Wisner Cineus

Mr. Wisner Cineus submitted a written request to the board seeking approval for licensure since his barber's license was previously revoked in 2002 due to a history of non-compliance of the Florida barber laws and rules. In accordance with Rule 61G3-21.010, Florida Administrative Code, the person whose license was revoked may not reapply for licensure until after an appearance before the board. Mr. Cineus was not present for the meeting. Mr. Edwin Stewart moved that the board deny Mr. Cineus' request for licensure based on his failure to appear before the board as required by rule. Mr. Thomas Vaughn seconded the motion. The motion passed unanimously.

Out-of-Country Endorsement Applications

Elizabeth M. Mowery / Indiana

Ms. Elizabeth M. Mowery was present for the meeting and was sworn in by the Court Reporter. After review, Mr. Stewart moved that the board approve the application based on the documentation provided. Mr. Vaughn seconded the motion. The motion passed unanimously.

Eduardo Soto / Colombia

Mr. Eduardo Soto was not present for the meeting. After review, Ms. Scott

moved that the board deny the application since the credentialing evaluation report failed to demonstrate the barbering curriculum required and completed in Colombia. Vice Chair Troup seconded the motion. The motion passed unanimously.

Jeffrey G. Rivers, II / South Carolina

Mr. Jeffrey G. Rivers was present for the meeting and was sworn in by the Court Reporter. After review, Ms. Scott moved that the board approve the application based on the documentation provided. Vice Chair Troup seconded the motion and the motion passed unanimously.

Jermaine W. James / Jamaica

Mr. Jermaine W. James was not present for the meeting. After review, Ms. Scott moved that the board deny the application since the documentation failed to demonstrate proof of licensure or completion of barbering course work as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

Merline Cadet / Haiti

Ms. Merline Cadet was not present for the meeting. After review, Mr. Stewart moved that the board deny the application since the documentation failed to demonstrate completion of course work in hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Ms. Scott seconded the motion. Chair White opposed the motion. By majority vote, the application was denied.

Angel Soles / Cuba

Mr. Angel Soles was not present for the meeting. After review, Mr. Stewart moved that the board deny the application since the documentation failed to demonstrate completion of course work in hair structure and chemistry and completion of a written and practical examination as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

Donovan P. Sinclair / Jamaica

Mr. Donovan Sinclair was not present for the meeting. After review, Vice Chair Troup moved that the board deny the application since the documentation failed to demonstrate completion of course work in hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Stewart seconded the motion. The motion passed unanimously.

Maurice M. Hibbert / Jamaica

Mr. Maurice Hibbert was not present for the meeting. After review, Ms. Scott moved that the board deny the application since the documentation failed to

demonstrate completion of course work in hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Vaughn seconded the motion. The motion passed unanimously.

Milagros Mejia / Dominican Republic

Ms. Milagros Mejia was not present for the meeting. After review, Vice Chair Troup moved that the board deny the application since the documentation failed to demonstrate completion of course work in hair structure and chemistry and completion of a written and practical examination as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Stewart seconded the motion, and the motion passed unanimously.

Timothy James / Maine

Mr. Timothy James was not present for the meeting. After review, Mr. Vaughn moved that the board approve the application based on the documentation provided. Vice Chair Troup seconded the motion and the motion passed unanimously.

Continuing Education Applications

Blue Star Education, LLC

Understanding HIV/AIDS – 2 Hours Home Study

After review of the course materials, Vice Chair Troup moved that the board approve the course and provider application from Blue Star Education, LLC. Ms. Scott seconded the motion. The motion passed unanimously.

Old Business

Florida Barber Month

Vice Chair Troup noted that he was able to work with Governor Crist in proclaiming September 2008 as Florida Barber Month and that he hopes to be able to work with the Governor's Office on this initiative for the future.

Other Business

Executive Director's Report

Financial Report, June 30, 2008 – Operating Account

Financial Report June 30, 2008 – Unlicensed Activity Account

Ms. Robyn Barineau, Executive Director, informed the board that as of June 30, 2008, the board's operating account balance was \$988,233 and the unlicensed activity account balance was \$237,978.

DBPR Florida Barbers' Board Newsletter

The Barbers' Board Newsletter was included in the agenda for informational purposes only.

Board Attorney's Report

Rule 61G3-16.010, Florida Administrative Code – Supervised Practice Exception

Ms. Carrol Cherry, Assistant Attorney General, noted that the supervised practice exception rule amendment was re-noticed for development since the original rule development notice had expired. The proposed language is as follows:

(1) Following the completion of both the written and practical portions of the first licensing examination by an applicant for licensure as a barber by examination who has completed the barber training required by Chapter 476, F.S. and Rule 61G3-16.001, F.A.C, the applicant is eligible to practice as a barber and perform barbering services temporarily in a current, actively licensed barbershop under the following conditions:

(a) In the event an applicant obtains passing scores on the first attempt of both the written and practical portions of the examination, the applicant shall be eligible, prior to having the application acted on by the Board, to practice in a licensed barbershop, provided that the applicant post the examination results for both portions of the examination at the work station with a recent photograph affixed thereto.

(b) In the event that the applicant fails to obtain a passing score on either or both of the written or practical portion of the examination on the first attempt, the applicant shall not be eligible to practice under this rule until the applicant:

1. Applies to the Department for authorization to retake the failed portion(s) of the examination; and

2. Presents the holder of the license for the barbershop a copy of both the reexamination application and the examination scheduling authorization letter from the department or the testing vendor.

3. Upon completion of these conditions, the applicant is eligible to practice in a licensed barbershop subject to the provisions of paragraph (c) referenced below, provided that the applicant posts the examination results for both portions of the examination at the work station with a recent photograph affixed thereto. The applicant must discontinue practicing when 180 days have passed from the date the written or practical portion of the first examination was taken, whichever portion was taken earlier, if reexamination has not yet been completed. Under no circumstances shall the applicant be eligible to practice prior to having applied for reexamination and having obtained the examination scheduling authorization letter from the department or testing vendor.

(c) All barbering services performed by the applicant under this exception shall be performed under the supervision of a licensed barber. "Under the supervision of a licensed barber" shall mean that an individual who then holds a current, active Florida license as a barber shall be physically present at all times when the applicant is performing barbering services.

(2) In the event an applicant, who previously failed either or both portions of the examination on the first attempt, fails to obtain a passing score on either or both portions of the second licensure examination, the applicant is no longer eligible to

practice as a barber under this exception and must immediately discontinue practicing barbering services until the applicant has been issued a license to practice by the Department.

Ms. Scott moved that the board approve the proposed language as presented by Ms. Cherry and that she re-notice the rule for development. Mr. Stewart seconded the motion. The motion passed unanimously.

Rule 61G3-21.012, Florida Administrative Code – Notice of Non-Compliance

Ms. Barineau informed the board that rule language was necessary to impose sanctions on licensees who did not laminate their licenses in accordance with Rule 61G3-19.009, Florida Administrative Code. Ms. Barineau spoke with the Division of Regulation and together they suggested that a Notice of Non-compliance be issued for first-time violators, and that a case would be opened after the first non-compliance situation.

Vice Chair Troup moved that the board accept the language as suggested and that Ms. Cherry proceed with the rule publication procedures. Mr. Vaughn seconded the motion. The motion passed unanimously.

Regulation Report

Complaints and Investigative Statistics Report July – September 2008

Ms. Barineau noted that the Complaints and Investigative Statistics Report for July through September 2008 was included in the agenda for informational purposes.

Bureau of Education and Testing

There was nothing further to report at this time.

Board Member Comments

Vice Chair Troup indicated that he is working with the Governor's Office to have September 2008 declared Florida Barber month.

Mr. Stewart expressed concerns with the practical examination site in South Florida. It appears that too many examination candidates are being scheduled per administration and Mr. Stewart is also concerned that the lead examiner is being rotated too frequently. A lead examiner is required to be an examiner for 5 years prior to being assigned as the lead. The practice of rotating personnel too frequently could result in the lead examiner not being utilized as intended; that the lead examiner is at times utilized as the examination supervisor.

Ms. Barineau noted that this item will be added to the February 2009 board meeting agenda for further discussion. Ms. Barineau also indicated that she would request Ms. Kelly Torres, from the Bureau of Education, attend the meeting so that the

board's concerns are properly addressed.

Chairperson Comments

Chair White mentioned the practical examination standardization conducted on Sunday, November 2, 2008, and thanked Mr. Stewart for his role in the presentation as well as the board members for their attendance.

Public Comments

There were no further comments at this time.

Dates and Locations of Future Meetings

The board will conduct future meetings as follows:

- Monday, February 23, 2009 – Tallahassee
- Monday, May 18, 2009 – Jacksonville
- Monday, August 3, 2009 – Ft. Lauderdale
- Monday, November 9, 2009 - Orlando

Elections

Mr. Stewart moved to re-elect Mr. Herman White as Chair and Mr. Carl Troup as Vice Chair. Mr. Vaughn seconded the motion. The motion passed unanimously.

Adjournment

There being no further business, the meeting was adjourned at 12:20 p.m.