

MINUTES

FLORIDA BARBERS' BOARD
LAKE MARY MARRIOTT
1501 INTERNATIONAL PARKWAY
LAKE MARY, FL 32746

Sunday, July 15, 2018

The Florida Barbers' Board meeting was called to order at approximately 9:00 a.m., by Ms. Monica Smith, Chair.

Board Members Present

Monica Smith, Chair
Michelino Nibaldi, Vice Chair
Paul Whitfield
Veronica Wold
Antonett Munchalfen
Lionel Rodriguez

Board Members Absent

Bill Gilbert

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)
Larissa Vaughn, Division of Regulation, DBPR
Marlene Stern, Assistant Attorney General, Office of the Attorney General
Anthony Coniglio, Assistant General Counsel, Office of the General Counsel, DBPR
Heather Howard, Court Reporter
Leticia Gonzalez
Salvia Dominguez
Pedro Mercedes
Samuel Milton

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

APPROVAL OF MINUTES

The Board approved the minutes from the April 15, 2018, Board meeting.

DISCIPLINARY MATTERS

Informal Hearing

Mr. Anthony Coniglio, Assistant General Counsel, 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 law of the Board and imposed the penalties shown below:

- Dayron Arias; Miami; Case No. 2017039520
\$104.54 costs only; Revocation of license BR5361
- Ernesto Franco; Miami Gardens; Case No. 2017039717
\$57.44 costs only; Revocation of license BR4564
- BORN2FADE; Lake Worth; Case No. 2017024632

\$1,000 fine and \$117.01 costs to be paid within six months
Successful re-inspection with no violations or license will be suspended for 30 days

- Mankind; Ft. Lauderdale; Case No. 2018002652
\$550 fine and \$62.80 costs to be paid within six months

Motion for Waiver of Rights and Final Order

Mr. Coniglio 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:

- Adisleydi Cubas; Hialeah; Case No. 2017043594
\$40.65 costs only; Revocation of license BB8900502
- Ysmel Despaigne; Naples; Case No. 2017043600
\$40.65 costs only; Revocation of license BB8900110
- Gentlemans Cut Barbershop; Vero Beach; Case No. 2017055797
\$1,500 fine and \$168.05 costs to be paid within six months
All current and outstanding fines and costs must be paid in full within 30 days or the license will be suspended for 30 days
Successful re-inspection with no violations or license will be suspended for 90 days
- Jean Escolastico; Kissimmee; Case No. 2017058108
\$500 fine and \$85.34 costs to be paid within six months
- Lamont Walker; Daytona Beach; Case No. 2017036960
\$500 fine and \$317.79 costs to be paid within six months
- Joseph Chirillo; Daytona Beach; Case No. 2017019152
\$1,000 fine and \$869.01 costs to be paid within six months
- Elite Barbers; Orlando; Case No. 2017039777
\$1,000 fine and \$423.57 costs to be paid within six months
All current and outstanding fines and costs must be paid in full within 30 days or the license will be suspended for 90 days
Successful re-inspection with no violations or license will be suspended for 90 days
- Ground Zero; Orlando; Case No. 2017034983
\$1,000 fine and \$348.51 costs to be paid within six months
All current and outstanding fines and costs must be paid in full within 30 days or the license will be suspended for 30 days
Successful re-inspection with no violations or license will be suspended for 90 days
- Israel Pagan; Orlando; Case No. 2017028155
\$500 fine and \$303.14 costs to be paid within six months
- Orlando Villegas; Clermont; Case No. 2017030644
\$500 fine and \$277.45 costs to be paid within six months

Settlement Stipulation

Mr. Coniglio presented the following case 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 penalty shown below:

- Kingz Barber Shop; Hialeah; Case No. 2018015795
\$50 fine and \$57.15 costs to be paid within six months
- Magic Touch Barber Shop; Sunrise; Case No. 2018002532
\$650 fine and \$59.65 costs to be paid within six months
- Art of Fades; Orlando; Case No. 2017043311
\$500 fine and \$554.86 costs to be paid within six months
- Ivan Molina; Port St. Lucie; Case No. 2017042947
\$500 fine and \$135.88 costs to be paid within six months

Voluntary Relinquishment

- Lester Araujo; Cape Coral; Case No. 2017043485
\$40.65 costs only; Voluntary relinquishment of license BB8900127
- Selvin Dominguez; Apopka; Case No. 2017043687
\$40.65 costs only; Voluntary relinquishment of license BB8900544
- Anthony Azcuy; Miami; Case No. 2017043488
\$40.65 costs only; Voluntary relinquishment of license BB8900282
- Bryan Borrego; Tampa; Case No. 2017043504
\$61.03 costs only; Voluntary relinquishment of license BB8900160
- Carlos Banegas; Miami; Case No. 2017035645
\$132.78 costs only; Voluntary relinquishment of license BR5140
- Sandro Martinez; Cape Coral; Case No. 2017043682
\$40.65 costs only; Voluntary relinquishment of license BB8900309
- Alejandro Varona; Tampa; Case No. 2017043875
\$13.55 costs only; Voluntary relinquishment of license BB8900509
- Alejandro Barroso; Cape Coral; Case No. 2017043495
\$40.65 costs only; Voluntary relinquishment of license BB8900500
- Fernando Pagan; Jacksonville; Case No. 2017043733
\$61.03 costs only; Voluntary relinquishment of license BB8899751
- Adonis Bujan; Naples; Case No. 2017035861
\$63.42 costs only; Voluntary relinquishment of license BR4528

Department Attorney Report

Mr. Coniglio informed the Board that as of July 12, 2018, there were 179 open barber cases in the legal section.

APPLICATIONS

Licensure Applications

Initial Review

Pedro Prats Mercedes

Ms. Mercedes was present for the meeting and was sworn in by Ms. Heather Howard, Court Reporter. After review, the Board moved to approve the application.

Joel Bosque Del Toro

Mr. Barquet was not present for the meeting. After review, the Board moved to approve the application.

Samuel Milton

Mr. Milton was present for the meeting and was sworn in by the Court Reporter. After review, the Board moved to approve the application.

Michael Beel

Mr. Ramos was not present for the meeting. After review, the Board moved to deny the application based on the noted criminal history.

Eduardo Jimenez

Mr. Jimenez was not present for the meeting. After review, the Board moved to approve the application.

Christian Duran

Mr. Duran was not present for the meeting. After review, the Board moved to approve the application.

OTHER BUSINESS

Board Attorney Report

Rule 61G3-21.001, Florida Administrative Code – Normal Penalty Ranges

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. They also agreed that a violation of this rule, or any part of this rule, would not be designated as a minor violation.

The following guidelines shall be used in disciplinary cases, absent aggravating or mitigating circumstances and subject to the other provisions of this chapter. The disciplinary guidelines are based on a single count violation of each provision listed. ~~When multiple counts of a violation of the same provision in the same administrative complaint occur, one of the counts will be treated as a first violation and the remaining counts will be treated as second and subsequent violations.~~ All penalties at the upper range of the sanctions set forth in the guidelines, such as suspension and revocation, include lesser penalties such as fine, probation or reprimand. Penalties increase with the severity of the violation and number of repeat violations. For the purposes of this rule, the descriptions of the violations in the table below are abbreviated and the statute or rule cited should be consulted for a complete description of the prohibited conduct.

Rule 61G3-21.002, Florida Administrative Code – Aggravating and Mitigating Circumstances

The Board will review the amended proposed language at the October 2018 meeting.

Rule 61G3-21.003, Florida Administrative Code – Repeat Violations

The Board agreed that this rule should be repealed and that the repeal would have no negative impact on small business.

Rule 61G3-21.004, Florida Administrative Code – Penalties Cumulative and Consecutive

The Board agreed that this rule should be repealed and that the repeal would have no negative impact on small business.

Rule 61G3-21.006, Florida Administrative Code – Probation

The Board agreed that this rule should be repealed and that the repeal would have no negative impact on small business.

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. They also agreed that a violation of this rule, or any part of this rule, would not be designated as a minor violation.

(1) A citation and fine shall be issued for a violation of any of the provisions in this paragraph, except when a notice of non-compliance can be issued first, pursuant to Rule 61G3-21.012, F.A.C.

(a) Practicing barbering with a license that has been delinquent or inactive for no more than 3 months in violation of Sections 476.194(1)(a), 476.204(1)(a), and 455.271(1), F.S.: fine of \$200.00;

(b) Failure to post inspection report in violation of Rule 61G3-19.015(1), F.A.C.: fine of \$50.00.

(c) Failure to properly display barber's license in violation of Rule 61G3-19.009(1), F.A.C. : fine of \$50.00;

(d) Failure to properly display barbershop's license in violation of Rule 61G3-19.009(2), F.A.C.: fine of \$50.00;

(e) Failure to post the barbershop requirements listed in 61G3-19.011, F.A.C., in violation of Rule 61G3-19.012, F.A.C.: fine of \$50.00;

(f) Failure to transfer ownership of barbershop license for not more than 3 months, in violation of paragraph 61G3-19.013, F.A.C.: fine of \$200.00;

(g) Failure to maintain a portable fire extinguisher, in violation of Rule 61G3-19.011(2)(c), F.A.C., provided the inspection is not more than 60 days overdue: fine of \$100.00;

(h) Failure to immediately deposit towels in the proper receptacle, in violation of Rule 61G3-19.011(13), F.A.C.: fine of \$50.00.

(2) A citation and fine shall be issued for a first violation of any of the statutes and rules listed in this paragraph.

(a) Operating a barbershop with a license that has been expired for no more than 3 months in violation of Section 476.194(1)(d)1., F.S.: fine of \$200.00;

(b) Relocating a barbershop in violation of Sections 476.184(7) and 476.194(1)(d)1., F.S.: fine of \$200.00;

(c) Performing barber services outside a licensed shop in violation of Rule 61G3-19.010, F.A.C.: fine of \$200.00

(d) A citation shall be issued for violation of any of the following safety, code, and structural provisions: Rules 61G3-19.011(2)(a)-(c), (6), and (15) – (22)(a)-(f), F.A.C.: The fine for violation of any one of these provisions shall be \$50.00.

(3) A citation shall not be issued if more than three of the violations listed in (1) and (2) occur during the same investigation.

(4) At least three years must pass between the issuance of citations for violations of the same provision.

Rule 61G3-21.010, Florida Administrative Code – Revocation

The Board will review the amended proposed language at the October 2018 meeting.

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

(1) The department shall provide a licensee with a notice of non-compliance for an initial offense of the rules and statutes listed below.

(a) Sections 476.194(1)(a) and 455.271(1), F.S.: Engaging in the practice of barbering with a license that has been delinquent or inactive for 30 days or less.

~~(b) Section 455.271(1), F.S.:~~ Engaging in the practice of barbering with a license that has been inactive for 30 days or less.

(c) Rule 61G3-19.015(1), F.A.C. – failure to post inspection report.

(d) Rule 61G3-19.009(1), F.A.C. – failure to laminate and display license as long as license is

~~current~~ properly display barber's license.

~~(e)~~ Rule 61G3-19.009(2), F.A.C. – failure to properly display barbershop's license

~~(f)~~ Rule 61G3-19.012, F.A.C. – failure to post sanitation rules– the barbershop requirements listed in 61G3-19.011, F.A.C.

~~(f)~~ (g) Rule 61G3-19.013, F.A.C. – failure to transfer ownership of barbershop license, provided the transfer has not exceeded for no more than 30 days.

~~(g)~~ (h) Rule 61G3-19.011(2)(c), F.A.C. – failure to maintain a portable fire extinguisher, provided the expiration date does not exceed 30 days.

~~(h)~~ (i) Rule 61G3-19.011(13), F.A.C. – failure to immediately deposit towels in the proper receptacle.

(2) Failure to correct the above violations within 15 days of receipt of the notice of non-compliance shall result in the institution of regular disciplinary proceedings.

Executive Director Report

Financial Report for Period Ending March 2018

Ms. Barineau reported that the balance in the Board's operating account as of March 31, 2018, was over \$2.5 million, and the balance in their unlicensed activity account was over \$298,000 for the same period.

Correspondence

Complaints and Investigative Statistics – July 2017 – May 2018

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

Barber Examination Summary – January 2017 – May 2018

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

Dates and Locations of Future Meetings

October 7, 2018 – Daytona Beach

January 13, 2019 – Destin

April 7, 2019 – Fernandina Beach

July 22-23, 2019 – Celebration

Elections

The Board unanimously elected Ms. Monica Smith, Chair, and Mr. Michelio Nibaldi, Vice Chair, of the Florida Barbers' Board.

Board Member Training

Ms. Barineau, Ms. Stern and Mr. Coniglio conducted board member training.

ADJOURNMENT

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