

MINUTES

**FLORIDA BARBERS' BOARD
Department of Business and Professional Regulation
Hilton – Ocala
3600 S.W. 36th Avenue
Ocala, Florida 34474**

Monday, February 25, 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

Board Members Absent

Other Persons Present

Robyn Barineau, Executive Director, Department of Business and Professional Regulation
William Oglo, Assistant Attorney General, Department of Legal Affairs
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
Carol Day, Court Reporter

Interested Parties Present

William Sanders, Endorsement Applicant
Saintilien Tony, Endorsement Applicant
Jean Makeensonn Noelsaint, Endorsement Applicant
Myrtha Tarius, Endorsement Applicant
Manfred Sinclair, Endorsement Applicant
Roberto Perez, Endorsement Applicant
Rene Valley, Translator for Roberto Perez
Alain Cao, Endorsement Applicant
Esther Sardinas, Translator for Alain Cao
Karline, Avril, Endorsement Applicant
Nathalie F. Isaac, Endorsement Applicant
Cazeau Hosny, Endorsement Applicant
Amsterly Pierre, Translator

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

Approval of Minutes: Meeting of November 5, 2007

Ms. Jeri Scott moved to accept the minutes from the November 5, 2007, board meeting. Mr. Carl Troup, Vice Chair, seconded the motion. The motion passed unanimously.

Disciplinary Matters

Mr. William Oglo, Assistant Attorney General, inquired if all the board members had received their board meeting materials and if the members had reviewed all the materials. All members responded in the affirmative to these questions.

Informal Hearing

Helen Salter; Crestview; 2007-022854

Regarding Case No. 2007-022854 against Helen Salter of Crestview, Ms. Elizabeth Duffy, Assistant General Counsel, stated that the Respondent elected an informal hearing, however, the Respondent was not present for the meeting. Ms. Duffy presented the department's case in this matter and suggested assessing a fine of \$1,000 and costs of \$180.63. Ms. Scott moved that the board find the Respondent was properly served with the Administrative Complaint, that there was competent and substantial evidence to support the allegations as set forth in the Administrative Complaint, that the Respondent committed the offenses as outlined in the Administrative Complaint, and impose a fine of \$1,000 and costs of \$180.63. Vice Chair Troup seconded the motion. The motion passed unanimously.

Motions for Waiver of Rights and Final Order

Derrick Connor, d/b/a Hot Spot Barbershop; Kissimmee; 2006-035027 and 2006-026867

Regarding Case Nos. 2006-035027 and 2006-026867 against Derrick Connor, d/b/a Hot Spot Barbershop of Kissimmee, Ms. Duffy requested that these cases be pulled from the agenda to be considered at a later date.

Miguel Angel Felix; Kissimmee; 2007-025423

Regarding Case No. 2007-025423 against Miguel Angel Felix of Kissimmee, Ms. Duffy requested that this case be pulled from the agenda to be considered at a later date.

Regarding Case No. 2005-061330 against G. Stylz of Orlando, Ms. Duffy presented the department's case in this matter and suggested imposing the penalty of revocation of the Respondent's barbershop license BS1077315 due to the Respondent's history of non-compliance. 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 the penalty of license revocation. Vice Chair Troup seconded the motion and the motion passed unanimously.

Regarding Case No. 2007-014046 against Nelson Sanchez of Palm Springs, Ms. Duffy presented the department's case in this matter and suggested assessing a fine of \$500 and costs of \$131.69 plus revocation of the Respondent's Restricted Barbers' license BR603 due to the Respondent's history of non-compliance. 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 \$500 fine and \$131.69 costs and revocation of the Respondent's license. Vice Chair Troup seconded the motion and the motion passed unanimously.

Unless otherwise stated, by appropriate motion the board found that 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 this matter, the board accepted the allegations as stated in the Administrative Complaint and adopted them as the findings of fact and conclusions of law of the board, and imposed the penalties shown below:

- Christopher H. Fernandez; Port St. Lucie
Case Nos. 2006-016868 and 2006-032779
\$3,000 fine and \$293.96 costs
- Edward F. McNamara; Winter Park
Case No. 2007-022781
\$1,000 fine and \$66.00 costs
- Finotte Foreste; West Palm Beach
Case No. 2006-048966
\$500 fine and \$129.18 costs
- Jean Wood Julien; North Miami Beach
Case No. 2007-029154
\$750 fine
- The Hip Hop Barbershop; Kissimmee
Case No. 2007-026442
\$1,000 fine and \$110.56 costs

- Pablo Rivera-Bonilla; Hollywood
Case No. 2007-026952
\$500 fine and \$75.22 costs
- Platinum Styles Barbershop; Deltona
Case No. 2007-031600
\$1,000 fine and \$220.51 costs

Prosecuting Attorney's Report

Status Report

Ms. Duffy reported that as of February 6, 2008, there were 60 barber cases in the legal section.

Applications

Out-of-Country Endorsement Applications

Motion for Reconsideration

Roberto Perez / Cuba

Ms. Robyn Barineau, Executive Director, reminded the board that Roberto Perez's out-of-country endorsement application was denied at their September 15, 2007, conference call board meeting since the documentation failed to demonstrate completion of course work covering the subjects of chemical services and permanent waving as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Perez requested an informal hearing in the application denial matter. Mr. Perez was present for the meeting along with Mr. Rene Valley translating. Mr. Perez and Mr. Valley were sworn in by the Court Reporter. After review of the additional documentation submitted by Mr. Perez, Ms. Scott moved that the board approve the application. Vice Chair Troup seconded the motion. The motion passed unanimously.

Informal Hearing Requests

Karline Avril / Haiti

Karline Avril's out-of-country endorsement application was denied at the September 16, 2007, board meeting since the documentation failed to demonstrate completion of course work covering the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Ms. Avril requested an informal hearing in the application denial matter. Ms. Avril was present for the meeting along with Mr. Amsterly Pierre translating. Ms. Avril and Mr. Pierre were sworn in by the Court Reporter. A review of the additional documentation submitted did not demonstrate completion of the required course work in hair structure and chemistry. Ms. Scott asked Ms. Avril several questions regarding hair structure and chemistry. Based on the oral testimony provided, Ms. Scott moved that the board approve Ms. Avril

for licensure by endorsement. Vice Chair Troup seconded the motion. The motion passed unanimously.

Alain Cao / Cuba

Alain Cao's out-of-country endorsement application was denied at the November 5, 2007, board meeting since the documentation failed to demonstrate completion of course work covering the subjects of hair structure and chemistry and shaving services as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Cao requested an informal hearing in the application denial matter. Mr. Cao was present for the meeting along with Ms. Esther Sardinias translating. Mr. Cao and Ms. Sardinias were sworn in by the Court Reporter. No additional documentation was submitted by Mr. Cao. Ms. Scott moved that the board uphold the denial since there was no evidence of completion of the required course work covering the subjects of hair structure and chemistry and shaving services. Vice Chair Troup seconded the motion. The motion passed unanimously.

Cazeau Hosny / Haiti

Cazeau Hosny's out-of-country endorsement application was denied at the September 16, 2007, board meeting since the documentation failed to provide evidence of having completed course work in hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Hosny requested an informal hearing in the application denial matter. Mr. Hosny was present for the meeting along with Mr. Amsterly Pierre translating. Mr. Hosny and Mr. Pierre were sworn in by the Court Reporter. A review of the additional documentation submitted by Mr. Hosny did not demonstrate completion of the required course work in hair structure and chemistry. Ms. Scott asked Mr. Hosny several questions regarding hair structure and chemistry. Based on the oral testimony provided, Ms. Scott moved that the board approve Mr. Hosny for licensure by endorsement. Vice Chair Troup seconded the motion. The motion passed unanimously.

Nathalie Francois Isaac / Haiti

Nathalie Isaac's out-of-country endorsement application was denied at the September 16, 2007, board meeting since the documentation failed to provide evidence of having completed course work in hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Ms. Isaac requested an informal hearing in the application denial matter. Ms. Isaac was present for the meeting along with Mr. Amsterly Pierre translating. A review of the additional documentation submitted by Ms. Isaac did not demonstrate completion of the required course work in hair structure and chemistry. Ms. Scott asked Ms. Isaac several questions regarding hair structure and chemistry. Based on the oral testimony provided, Ms. Scott moved that the board uphold the denial of the application. Vice Chair Troup seconded the motion. The motion passed unanimously.

Bryan M. Jusino / Dominican Republic

Bryan Jusino's out-of-country endorsement application was denied at the November 5, 2007, board meeting since the documentation failed to demonstrate

completion of a written and practical examination as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Jusino requested an informal hearing in the denial matter. Mr. Jusino was not present for the meeting. After review of the additional documentation submitted by Mr. Jusino Ms. Scott moved that the board approve Mr. Jusino for licensure by endorsement. Vice Chair Troup seconded the motion. The motion passed unanimously.

Jean Mackennsonn Noelsaint / Haiti

Jean Noelsaint's out-of-country endorsement application was denied at the September 16, 2007, board meeting 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. Noelsaint requested an informal hearing in the application denial matter. Mr. Noelsaint was present for the meeting along with Mr. Amsterly Pierre translating. Mr. Noelsaint and Mr. Pierre were sworn in by the Court Reporter. A review of the additional documentation submitted by Mr. Noelsaint did not demonstrate completion of the required course work in hair structure and chemistry. Ms. Scott asked Mr. Noelsaint several questions regarding hair structure and chemistry. Based on the oral testimony provided, Ms. Scott moved that the board uphold the denial of the application. Vice Chair Troup seconded the motion. The motion passed unanimously

Manfred Sinclair / Costa Rica

Mr. Manfred Sinclair's out-of-country endorsement application was denied at the November 5, 2007, board meeting since the documentation failed to demonstrate completion of course work in safety, sanitation and sterilization, hair structure and chemistry and shaving services as required by Rule 61G3-16.005, Florida Administrative Code. Mr. Sinclair requested an informal hearing of the application denial matter. Mr. Sinclair was present for the meeting and was sworn in by the Court Reporter. Mr. Sinclair provided oral testimony of the safety, sanitation and sterilization practices taught in conjunction with other subjects, and Mr. Sinclair submitted additional documentation demonstrating completion of shaving services and completion of a written and practical examination. Based on the additional documentation and the oral testimony provided, Ms. Scott moved that the board approve Mr. Sinclair for licensure by endorsement. Vice Chair Troup seconded the motion. The motion passed unanimously.

Myrtha Tarius / Haiti

Ms. Myrtha Tarius' out-of-country endorsement application was denied at the September 16, 2007, board meeting 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. Tarius requested an informal hearing in the application denial matter. Ms. Tarius was present for the meeting along with Mr. Amsterly Pierre translating. Ms. Tarius and Mr. Pierre were sworn in by the Court Reporter. A review of the additional documentation submitted by Ms. Tarius did not demonstrate completion of the required course work in hair structure and chemistry. Ms. Scott asked Ms. Tarius several questions regarding hair structure and chemistry. Based on the oral testimony provided, Ms. Scott moved that the board uphold the denial

of the application. Vice Chair Troup seconded the motion. The motion passed unanimously.

Initial Review

Nelson R. Duran / Chile

Nelson R. Duran was not present for the meeting. After review, Ms. Scott moved that the board deny the application since the documentation provided did not demonstrate completion of course work in the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code, and based on a discrepancy in the attendance dates and hours of the course curriculum documentation. Vice Chair Troup seconded the motion and the motion passed unanimously.

Jorge Orozco-Franco / Colombia

Jorge Orozco-Franco 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 the subjects of safety, sanitation and sterilization, hair structure and chemistry, hair cutting, permanent waving, and there was no proof 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.

Rene Quinones / Dominican Republic

Rene Quinones 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 the subjects of hair structure and chemistry and chemical services as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

William Sanders / Panama

William Sanders 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.

Gary Colas / Haiti

Gary Colas 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 the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

Armand Satune / Haiti

Armand Satune 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 the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion and the motion passed unanimously.

Saleh F. Soboh / Jordan

Saleh F. Soboh 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 the subjects of hair structure and chemistry, safety, sanitation and sterilization and there was no proof 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.

Saintilien Tony / Haiti

Saintilien Tony was present for the meeting along with Pastor Dore translating. Mr. Saintilien and Pastor Dore were sworn in by the Court Reporter. The documentation provided failed to demonstrate completion of course work in the subject of hair structure and chemistry as required by Rule 61G3-16.005, Florida Administrative Code. Ms. Scott asked Mr. Saintilien several questions regarding hair structure and chemistry. Based on the documentation and oral testimony provided, Ms. Scott moved that the board deny the application. Vice Chair Troup seconded the motion. The motion passed unanimously.

Jose R. Morejon / Dominican Republic

Jose Morejon was not present for the meeting. The endorsement application was reviewed by the Application Review Committee prior to the February 25, 2008, board meeting. By appropriate motion, the application was approved for licensure by endorsement.

Juan A. Airado / Cuba

Juan Airado 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 the subjects of hair structure and chemistry, chemical services, shaving services, and there was no proof of a written and practical examination as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion. The motion passed unanimously.

Enan Leon / Cuba

Enan Leon 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 the subjects of hair structure and chemistry, chemical services, shaving services, and there was no proof of a written and practical examination as required by Rule 61G3-16.005, Florida Administrative Code. Vice Chair Troup seconded the motion. The motion passed unanimously.

New Business

Barber Kiosk from Barberz Zone, Inc.

Mr. Dwayne Thompson, Barberz Zone, Inc., addressed the board regarding the usage of a barbershop kiosk in Florida. The kiosks are designed to extend the availability of barbershops and to add growth to the barbering industry in the United States. Mr. Thompson noted that the kiosks are designed to be placed in host businesses such as Home Depot, Sears, and Men's Wearhouse in the states where they are approved. The kiosk is currently approved as a barbershop in 37 states. Barberz Zone, Inc., hopes to have 200 kiosks open by the end of 2008. The current available model is 64 square foot, and a 144 square foot kiosk will be available in the future. Mr. Thompson added that the kiosks have hot and cold running water, that the dome of the kiosk is removable, and that the kiosk is not designed to have a waiting area. The board expressed concern regarding the kiosk meeting the current criteria of the barbershop requirements established in Rule 61G3-19.011, Florida Administrative Code. A major area of concern was the environment of the host business and how the environment would affect the sanitation of the barbershop. After Mr. Thompson's presentation, the board agreed that all members should compare this concept against the current barbershop rules and be prepared to discuss this further at the May board meeting.

Other Business

Executive Director's Report

Financial Report Period Ending December 31, 2007 – Operating Account

Ms. Barineau informed the board that the operating account balance as of December 31, 2007, was \$1,450,612.

Financial Report Period Ending December 31, 2007 – Unlicensed Activity Account

Ms. Barineau informed the board that the unlicensed activity account balance as of December 31, 2007, was \$216,486.

Ms. Barineau reviewed the five-year projections for the operating and unlicensed activity accounts and noted that the projection provided by the Budget Office indicates that the board will remain in a positive cash position at least through June 30, 2011.

Ms. Barineau reminded the board of the upcoming fee holiday and that all individual license renewal fees will be waived for the 2008 license renewal period with the exception of the \$5 unlicensed activity fee.

Board Attorney's Report

Mr. Oglo informed the board that the amendment to Rule 61G3-16.009(1),

Florida Administrative Code, Display of License, requiring licensees to laminate a picture on their license for posting at their workstations is progressing through the rulemaking process and should become effective soon.

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

Mr. Oglo mentioned that Vice Chair Troup had previously spoken with several employees in the Tampa Bureau of Investigative Services Regional Office who suggested that the supervised practice exception rule be more narrowly defined. Currently, there are no specific time parameters set forth in the rule to define how long a student can work under the supervision of a licensed barber after the completion of an examination. Mr. Oglo provided the board with the following draft language:

(1) Following the completion 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 examinations, the applicant shall be eligible, prior to having their application acted on by the Board, to practice in a licensed barbershop, provided that they post their examination results for both examinations at their work station with a recent photograph affixed thereto.

(b) In the event that the applicant fails to obtain a passing score on either the written or practical 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 examinations; 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 examinations at their work station with a recent photograph affixed thereto, which practice may extend for a period of no more than 60 days from the date of the reexamination application for the written test or 120 dates from the date of the reexamination application for the practical test. The applicant must discontinue practicing when 180 days have passed from the date the original examinations were taken 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 even an applicant, who previously failed either or both of the examinations on the first attempt, fails to obtain a passing score on either or both of the second licensure examination(s), 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.

After discussion of the draft, Mr. Oglo agreed to retool the language and provide the revision for discussion at the next meeting.

Regulation Report

Complaints and Investigative Statistics Report July 2007 – January 2008

Ms. Barineau noted that the Complaints and Investigative Statistics Report for July 2007 through January 2008 was included in the agenda for informational purposes.

Bureau of Education and Testing

There was no report at this time.

Board Member Comments

Vice Chair Troup expressed his thought that all out-of-country endorsement applicants should be required to take a Florida laws and rules examination so that they are more aware of the Florida barbering laws and rules. Mr. Oglo stated that he will research whether or not the board has the authority to require an examination for these applicants.

Chairperson Comments

Chair White reminded the board that the next National Association of Barber Boards of America (NABBA) annual meeting is being conducted in Washington, D.C. in September 2008. Chair White expressed his desire to attend along with Vice Chair Troup, Ms. Scott and Ms. Barineau.

Ms. Barineau indicated that she would report at the next meeting of the number of individuals which would be authorized to attend the September 2008 NABBA conference.

Public Comments

Maura Scali-Sheahan, Central Florida Community College, addressed the board with concerns regarding the discrepancies in the curriculum and examination information contained in Chapter 61G3-16, Florida Administrative Code, compared with the Department of Education's curriculum framework for the barbering program and that the rule's requirement for examination is not inline with the current curriculum that is being taught in the schools. Ms. Scali-Sheahan provided the board with a comparison of the current framework versus the requirements of Chapter 476, Florida Statutes, and Rule Chapter 61G3-16, Florida Administrative Code. Ms. Scali-Sheahan's examples included items such as hair structure and chemistry required by rule, but the rule does not include a section on skin care in conjunction with shaving as is in the current curriculum framework and that skin care and facials are not included in the written or practical examinations. Ms. Scali-Sheahan stated that she was concerned that the

barbering students are not receiving a thorough education due to the loopholes.

Dates and Locations of Future Meetings

The board will conduct future meetings as follows:

- Monday, May 19, 2008, 9:00 a.m. in Orlando
- Monday, August 18, 2008, 9:00 a.m. in Ft. Lauderdale
- Monday, November 3, 2008, 9:00 a.m. in Orlando

Adjournment

There being no further business, the meeting was adjourned at 12:40 p.m.