



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE STATE BOARD OF BARBER EXAMINERS
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NASHVILLE, TN 37243-1148
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Minutes

**Tennessee State Board of Barber Examiners
Monday October 15, 2012 – 9:00 A.M. CST
Second Floor Conference Room
Andrew Johnson Building
Nashville, Tennessee**

The Tennessee State Board of Barber Examiners held a meeting October 15, 2012, 9:00 a.m. Nashville, Tennessee.

The following members were present: J.B. Loring, President, Joe Jones, Vice President, Larry High, and Ralph Payne.

Others present: Rachel L. Powers, Attorney, Laura Betty, Attorney, Hosam William, Paralegal and Hazel Buttrey, Licensing Technician.

J.B. Loring, President called the meeting to order.

J.B. Loring, President ask for roll call.

J.B. Loring, President asked all to join in prayer.

J.B. Loring, President called for “Pledge of Allegiance”.

J.B. Loring, President called for change or approval of the August 20, 2012 board meeting minutes.

MOTION made by Ralph Payne and seconded by Larry High for approval of the August 20, 2012, board meeting minutes. Motion carried unanimously.

APPEAR BEFORE THE BOARD

Assistant Commissioner Bill Giannini appeared before the board to officially inform them of the expiration of the executive service term of Director Beverly Waller effective 9/14/12. He also discussed the departments continuity plan for the day to day management of the boards administrative office and answered questions from members of the board.

Mr. Louis Germain requested to appear today before the Barber Board to reconsider his application for a master barber license from Louisiana by reciprocity. Mr. Germain submitted a transcript of 2400 apprenticeship hours from Louisiana. Mr. Germain stated that he passed the state of Louisiana written exam.

MOTION made by Ralph Payne and seconded by Joe Jones to approve Mr. Germain's application for a master barber license by reciprocity from Louisiana. Motion carried unanimously.

APPLICATIONS FOR EXAMINATION

Applications for master barber examination from Malcolm Edwards, Jeannine Fox, Michael Isaac, Curtis Palmer, Melvin McCook, Melvin Reed, Chris Pillion, Steven Ross, Richard Woodson and Antonio Bledsoe, who all have felonies, were received by the Board. All required information has been submitted including the disclosure from the student and letter of examination recommendation from the Barber School attended.

Motion made by Ralph Payne and seconded by Larry High to approve applicants for examination with a signed agreed order with a two (2) year probation period. Motion carried unanimously.

SEMINAR EXTENSION REQUESTS

Seminar Extension request made by Tina Miles Manuel to extend her instructor status through 2012 citing that she was in school getting her master's degree.

MOTION made by Larry High and seconded by Ralph Payne to approve the licensee's request and that she must attend the seminar in 2013. Motion carried unanimously.

APPLICATIONS FOR RECIPROCITY

Application for reciprocity of barber license from Alabama for Shahid Brittain was presented to the board for approval. The applicant received instruction in the barber curriculum in an apprenticeship program. A letter was submitted from the Madison County Barber Commission in Alabama providing Mr. Brittain's work history.

MOTION made by Ralph Payne and seconded by Larry High to approve Mr. Brittain's reciprocity application. Motion carried unanimously.

CONSENT ORDERS for October 2012 totaling \$2,000.00 were presented for the board's approval.

MOTION made by Ralph Payne and seconded by Larry High to approve the October 2012 Consent Orders. Motion carried unanimously.

LEGAL REPORT

Assistant General Counsel, Rachel Powers presented the October 15, 2012 legal report as follows:

RE-PRESENTED MATTERS:

- 1. 201102224-1**
First License Obtained: 10/07/1999
License Expiration: 10/31/2010

The above-cited case was previously presented at the March 19, 2012 meeting where the board authorized a formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty for operating the shop with an expired license. According to the area inspector, this shop is now closed for business.

Recommendation: Close and flag file.

- 2. 201100245-1**
First License Obtained: N/A
License Expiration: N/A

The board previously authorized a formal hearing with authority to settle by Consent Order and payment of a \$500.00 civil penalty for operating the shop without a license. A Consent Order was sent to the Respondent and later returned unclaimed. Board office records indicate that an application for a change of ownership was approved on 5/19/11 and another was approved again on 10/11/11. The board requested the shop's complaint history at the August 2012 board meeting. According to board office records, the shop has no prior complaints and the owner of the shop (who was issued the Notice of Violation) held no license issued by the board. Upon further review of the file and available evidence, both board and litigation counsel share the opinion that pursuing formal action in this case is not feasible.

Recommendation: Close and flag file.

3. 201201635-1

First License Obtained: 03/29/2011

License Expiration: 03/28/2013

This case was previously presented at the August 20, 2012 board meeting as follow: A June 15, 2012 consumer complaint filed by an enrolled student at a licensed barber school alleges the Complainant was promised to get her barber license upon finishing the school courses. Further, the Complainant states the principal of the barber school informed her it was the only school that enrolled students without social security numbers and that the State exam would be offered in Spanish. After ten (10) months of enrollment she discovered her school hours are invalid because she does not have a social security number and that further all the information she received was untrue. No answer to the complaint has been received from the Respondent school as of the date of this report.

BOARD DECISION: Authorize formal hearing with authority to settle by Consent Order and payment of a \$1,000.00 civil penalty.

A request for reconsideration was sent to legal counsel, along with a detailed response from the Respondent School. The response brings to the board's attention a complaint that was filed against a former employee (a licensed instructor) who allegedly broke into the school and took student files. This complaint has now been closed by the board. The Respondent school also provides documentation regarding that complaint, the instructor's dismissal letter, as well as communication regarding the complaint with the Executive Director of the board office. The response letter explains that the instructor asked all students to file a complaint with the board against the school in efforts to harm the schools program and states that this complaint is a result of the instructor's request to further her attempts. The Respondent School states that the student/complainant was never told she would be given an examination in Spanish and further provides a copy of their school catalog which states "no test is given in Spanish". The school also provided monthly hour reports of the student's hours and further explained that these hours were not released as directed by the board office until all matters were resolved because the monthly hour reports were submitted by the former employee/instructor who took the student files. The school explains their admissions information provided to each student and that a form W-7 must be completed in order to complete enrollment. The response requests reconsideration and that the board overturn its decision as the complaint sent was never received (date of receipt is provided as well) and in light of the new information provided in the response. The response provides details regarding each concern, as well as a statement that the complaint as presented against the school is unfounded.

Recommendation: Close and flag file.

Motion made by Ralph Payne and seconded by Larry High to close and flag file as recommended by counsel. Motion carried unanimously.

REGULAR REPORT:

4. 201201969-1

First License Obtained: 05/21/2007

License Expiration: 05/31/2013

An August 30, 2012 Notice of Violation alleges the area inspector observed an individual (who is a cosmetology student) braiding the shop owner's hair in a licensed barber shop. The area inspector also found dirty floors. The owner of the shop stated the individual is only a student and she was only working on him for free.

Recommendation: Issue a CEASE and DESIST advisory notice with a request for the inspector to follow up in thirty (30) days.

5. 201201966-1

First License Obtained: 09/14/2012

License Expiration: 08/31/2014

An August 24, 2012 Notice of Violation alleges the area inspector observed a shop open for business before passing the required opening inspection to operate such shop. The area inspector observed two (2) master barbers practicing on clients — one of the barbers posted a fake license at the work station. Board office records indicate the shop license has been now issued.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order with payment of a \$500.00 civil penalty with a CEASE and DESIST advisory notice.

6. 201201962-1

First License Obtained: 02/21/2008

License Expiration: 01/31/2014

An August 21, 2012 Notice of Violation alleges the area inspector found the shop open for business with a shop license which expired January 31, 2012 and a master barber license posted which expired March 31, 2011. No services were being provided at the inspection time. Board office records indicate that the shop license has been now renewed, but no application to renew the master barber license has been received as of this date.

Recommendation: Close with a letter of warning with a request to the area inspector to follow up in thirty (30) days.

7. 201202120-1

First License Obtained: 03/13/2006

License Expiration: 03/31/2014

An August 31, 2012 Notice of Violation alleges the area inspector observed unclean floors, mirrors and work stations in a licensed barber shop. The area inspector also observed uncovered trash cans and dust and dirt build up. Further, the inspector observed a master barber servicing a client with an expired license.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order with payment of a \$500.00 civil penalty.

8. 201202122-1

First License Obtained: 05/23/2012

License Expiration: 04/30/2014

A September 21, 2012 Notice of Violation reports the area inspector observed a work station set up with no license displayed in a licensed barber shop.

Recommendation: Close with a letter of warning.

9. 201202118-1

First License Obtained: 07/26/2012

License Expiration: 06/30/2014

An August 23, 2012 Notice of Violation alleges the area inspector observed a cosmetologist with full work station set up practicing in the shop. The area inspector also observed a work station with no license posted and an individual servicing a client without a valid board-issued license.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order with payment of a \$500.00 civil penalty with a CEASE and DESIST advisory notice.

10. 20120212-1

First License Obtained: 12/20/2011

License Expiration: 12/31/2013

An August 31, 2012 Notice of Violation alleges the area inspector observed the shop open for business before passing the inspection in order to complete a change of location application. Further, the inspector observed three (3) barbers cutting client's hair at the time of the inspection. Board office records indicate that the change of location application is still pending as of this date.

Recommendation: Issue a CEASE and DESIST advisory notice with a request for the inspector to follow up in thirty (30) days.

11. 201201709-1

201201850-1

First License Obtained: 12/19/2001

License Expiration: 04/28/2013

A July 25, 2012 and an August 6, 2012 consumer complaint both filed by a former student at the Respondent school allege the following: (July 25) - The student was harassed and threatened by the owner of the school to be withdrawn if he did not change his school schedule. The complaint states that the owner of the school used profanity during the conversation and that he contacted

the board office and found no hours had been released to the board. (August 6) - The owner of the school approached the student hollering at him in the schools parking lot telling him that the state board asked him to send his hours of instruction and he will send it, but that he needs to pay money due to the school. The student alleges during the conversation the owner disclosed all of his information in front of another student. The student further alleges the school has inadequate lights, broken and cracked trash can lids and that the school is not submitting hours as required by the board.

A response to both complaints was received from the Respondent school stating that both complaints are frivolous attempts to besmirch the reputation of the school due to these students involuntary dismissal. The school response states the students were advised that they were not making practical passing levels (cutting hair) and further both met with the school's assistant instructor to remedy the problems. However, during that conversation the student became belligerent and used inappropriate language. The school states that the student was promptly expelled in accordance with the student conduct policy for poor performance, sleeping in class and violating the dress code policy. The school further denies all the allegations providing its score of 100 at the last inspection. The response also included extensive documentation relating to the student's enrollment agreement, school rules and school regulations policies, both of which the student signed and acknowledged. Board office records indicate that the school submits its monthly hour reports and the student hours were accounted. The complaints fail to provide sufficient proof of a violation of the barber law.

Recommendation: Close with no further action.

12. 201202176-1

First License Obtained: 07/26/2007

License Expiration: 07/31/2013

A September 12, 2012 Notice of Violation alleges the area inspector observed a washer and dryer which were visible to the public in a licensed barber shop. The inspector also found dirty floors, uncovered trash and a dirty work station. Further, the inspector reports that the owner's master barber license (who is also the manager) was expired.

Recommendation: Authorize a formal hearing with authority to settle by Consent Order with payment of a \$500.00 civil penalty.

MOTION made by Larry High and seconded by Ralph Payne to approve the Legal Report. Motion carried unanimously.

OTHER BUSIENSS

Assistant General Counsel, Rachel Powers presented to the board the new barber shop inspection sheet, barber school inspection sheet and the new Notice of Violation form for the board's approval.

MOTION made by Ralph Payne and seconded by Larry High to approve the forms. Motion carried unanimously.

Mr. Nicholas Jones appeared before the Board and requested to retake the exam after breaching the master barber examination security. Mr. Jones apologized for the inappropriate conduct and explained the situation.

Motion made by Ralph Payne and seconded by Larry High to allow applicant to set for the exam. Motion carried unanimously.

MISCELLANEOUS REQUESTS

Mr. Wayne Goodwin submitted a written request to waive the \$80.00 late fee citing hardship. Board deferred the request until a Doctors' note is received from Mr. Goodwin.

ADJOURN

MOTION to adjourn made by Larry High and seconded by Ralph Payne. Motion carried unanimously.