



**MINUTES FOR THE
ARIZONA BOARD OF BARBERS
January 30, 2017**

1. Call to Order – Meeting called to order at 9:30 am

Executive Session –Gary Roberts moved to go into Executive Session to discuss the two formal hearings scheduled for today. Ron Thomas seconded the motion; motion passed unanimously. The Board than went into Executive Session.

- 2. Roll Call** -- Roll was called with all members present. Also present were Michael Raine, Assistant Attorney General, acting as legal counsel for the Board during formal hearings; Frankie Eckberg, Assistant Attorney General; Sam J Barcelona, Executive Director; Joyce Voss, Assistant Director; Boaz Alvarado, Administrative Assistant III and Mary Jane Jones, Administrative Assistant II.

Present:	Gary Roberts	Ron Thomas
	Steve Sandler	Marshall Knox
	John Lewis	

3. Declaration of Conflicts of Interest Recusal -- A.R.S. § 38-503

None

4. Review, Discussion and Approval of Board Meeting Minutes

- a.** Discussion and approval of the Open Session Minutes from the November 14, 2016 Board Meeting.

Steve Sandler noted there was an error in the minutes wherein Mr Roberts was marked absent for the meeting. Mr Roberts moved to adopt the minutes with the correction. Marshall Knox seconded the motion; motion passed unanimously.

5. Call to the Public

None

6. Review, Discussion and Possible Action on Formal Hearings.

Case No:	2015-062	Inspection Report No.	26157 on 8/7/14
Licensee:	Gerardo Magdaleno	License No(s):	1489&1129- E
Possible Violation(s): By Sam Barcelona	For Barber License No. 1489--tools left out; For Establishment License No. 119-E--dirty sinks and overall condition of shop		

- a. Staff Report Consent Agreement signed 1-12-2016. \$200 civil penalty was due 3-17-2016. Complaint and Notice of Hearing Notice was delivered and accepted 9-16-2016 at the home address and on 9-17-2016 at the shop address. Ms Eckberg accepted a signed Consent Agreement on 10-17-2016 and the civil penalty was due 12-16-2016**

Gerardo Magdaleno was present and represented himself. Sam Barcelona and Gerardo Magdaleno were sworn in. Mr. Barcelona stated his position with the Board and his duties. Frankie Eckberg represented the State of Arizona and gave her opening statements. Mr Barcelona recited the history of Mr Magdaleno's history as an Arizona barber and shop owner. He then testified to his inspection Number 26157 and his recollection as to the inspection he conducted. Ms Eckberg asked Mr Barcelona about the Consent Agreements signed by Mr Magdaleno regarding this inspection. Ms Eckberg asked to have State's Exhibits admitted into evidence. There being no objection from Mr Magdaleno, State's Exhibits were admitted. Mr Magdaleno declined to cross-examine Mr Barcelona at this time. The State rests.

Mr Magdeno pointed out there was a long time period between the inspection and now. He explained that he had not really been aware of the inspection and the consent agreement for a long time. He has a lease with the Mall for his barber shop with a high monthly payment and the Mall has allowed seven other barber shops to open. There were two deaths in the family and he had to spend considerable time in Mexico. His wife had tried to make a partial payment while he was in Mexico but was not allowed to do so.

Mr Thomas asked how long he had been a barber and Mr Magdaleno replied "22 years". Mr Thomas said: "Then you know your responsibility to your license and profession". Mr Roberts asked if he had met with Ms Eckberg and signed a consent agreement to pay the \$200 civil penalty, as well as a \$410 civil penalty in the next case. He said yes.

Mr Magdaleno had no witnesses.

Ms Eckberg made the State's closing argument.

Mr Roberts moved to revoke Mr Magdaleno's personal barber license for two years, the business license will remain intact, but Mr Magdaleno will not cut hair for two years. Mr Roberts said he would like to put the shop on suspension and if the shop has violations the Board can readdress this issue and pursue revocation of the shop license and the employees are to be notified of these proceedings. The \$200 civil penalty is still due and he advised Mr Magdaleno to pay it soon.

Mr Magdaleno said he was shocked by not being able to cut hair for two years. He has been trying to get his instructor license so that he can work to improve the education barbering students need. He did not do any of this on purpose. He again said he was in financial hardship, his car was repossessed and he could submit proof.

Mr Raine told the Board they need to adopt the facts before you can make a motion.

Mr. Roberts rescinded his motion. Mr Roberts moved to adopt the Factual Allegations as set forth in the Complaint and Notice of Hearing as the Findings of Fact. Mr Thomas seconded the motion; motion passed unanimously. Mr. Roberts moved to adopt the Allegations of Unprofessional Conduct as set forth in the Complaint and Notice of Hearing as the Conclusions of Law. Mr Knox seconded the motion; motion passed unanimously.

Mr Roberts moved to revoke Barber License No. 1489 for a period of two years. Mr Thomas seconded the motion; motion passed unanimously with a roll call vote.

Mr Roberts moved to place Establishment License No. 1129-E on probation for a period of one year without multiple violations, the civil penalty to be paid within sixty days unless other payment arrangements are made and the employees must be notified of this probation. Mr Thomas seconded the motion; motion passed unanimously with a roll call vote.

b.

Case No:	2016-064	Inspection Report No.	27928 on 5/20/15
Licensee:	Gerardo Magdaleno	License No(s):	1489 & 1129-E
Possible Violation(s): By Sam Barcelona	For Barber License No. 1489 license not posted, inadequate dip sanitizer and dirty neck duster For Establishment License No. 1129-E dirty neck duster		
Staff Report	Consent Agreement signed 1-12-2016. \$410 civil penalty was due 3-17-2016. Complaint and Notice of Hearing was delivered and accepted 9-16-2016 at the home address and at the shop address. Ms Eckberg accepted a signed Consent Agreement on 10-17-2016 and the civil penalty was due 12-16-2016.		

Gerardo Magdaleno was present and represented himself. Sam Barcelona and Gerardo Magdaleno were considered sworn in from the previous case. Ms Eckberg gave the State’s opening statement. Mr Barcelona recited the history of Mr Magdaleno’s history as an Arizona barber and shop owner. He then testified to his inspection Number 27928 and his recollection as to the inspection he conducted. Ms Eckberg asked to have State’s Exhibits admitted into evidence. There being no objection from Mr Magdaleno, State’s Exhibits were admitted. Mr Magdaleno declined to cross-examine Mr Barcelona at this time. The State rests.

Mr Magdaleno said he had no witnesses and nothing to add to the testimony. Mr Roberts said this concludes the evidenciary portion of the hearing.

Ms Eckberg made her closing arguments for the State.

Mr Magdaleno made no closing arguments.

Mr Roberts moved to adopt the Factual Allegations as set forth in the Complaint and Notice of Hearing as the Findings of Fact. Mr Thomas seconded the motion; motion passed unanimously. Mr. Roberts moved to adopt the Allegations of Unprofessional Conduct as set forth in the Complaint and Notice of Hearing as the Conclusions of Law. Mr Sandler seconded the motion; motion passed unanimously.

Mr Roberts moved to revoke Barber License No. 1489 for a period of two years to run concurrently with the previous case. Mr Sandler seconded the motion; motion passed unanimously with a roll call vote.

Mr Roberts moved to place Establishment License No. 1129-E on probation for a period of one year without multiple violations, the civil penalty to be paid within sixty days unless other payment arrangements are made and the employees must be notified of this probation to run concurrently with the previous case. Mr Thomas seconded the motion; motion passed unanimously with a roll call vote.

Mr Roberts thanked Mr Magdaleno for coming to the Hearing.

7. Review, Discussion and Possible Action on Informal Interviews.

None

8. Consent Agenda for the Review, Discussion and Possible Action on Investigative Reports: Cases recommended for disciplinary consent agreements. The Consent Agenda items may be considered for approval as a single action unless a Board member or any other interested party wishes to remove an item for discussion. If the Board moves to offer a consent agreement to any or all of the

following cases, each consent agreement that is accepted is to be returned within 21 days of receipt and the civil penalty is to be due 60 days after the acceptance of the consent agreement, and if the consent agreement is not approved or the civil penalty is not paid, an informal interview will be scheduled.

a. Case No: **2016-011** Inspection Report No. **30097 on 10/9/16**
 Licensee: **Gerardo Magdaleno** License No(s): **1489&1129-E**
 Possible Violation(s): **For Barber License No. 1489—license not posted; For Establishment License No. 0129-E—unlicensed barber**
 By Sam Barcelona
 Staff Report **Consent Agreement for Barber License No. 4816 with a \$100 civil penalty for not posting a license and a \$160 civil penalty for working with a lapsed license and for Establishment License No. 1129-E a \$500 civil penalty for an unlicense barber for a total of a \$760 civil penalty. Consent Agreement was signed 1/23/2017 and civil penalty is due on 3/29/2017**

Mr Roberts moved to ratify 2017-011 consent agreement. Mr Thomas seconded the motion; motion passed unanimously.

b. Case No: **2017-012** Inspection Report No. **30516 on 10/18/16**
 Licensee: **Nathaniel Halliburton** License No(s): **5602**
 Possible Violation(s): **Lapsed license, dirty neck brush**
 By Joyce Voss
 Staff Report **Consent Agreement for Barber License No. 5602with a \$160 civil penalty for working with a lapsed license and a \$100 civil penalty for working with a dirty neck duster for a total of a \$260 civil penalty.**

c. Case No: **2017-013** Inspection Report No. **30516 on 10/18/16**
 Licensee: **Dhil Johnson** License No(s): **1426-E**
 Possible Violation(s): **Operating a barber shop with a lapsed license, employee working with a lapsed license and an employee working with a dirty neck duster**
 By Joyce Voss
 Staff Report **Consent Agreement for Establishment License No. 1426-E with a \$150 civil penalty for operating an establishment with a lapsed license, a \$100 civil penalty for an employee working with a lapsed license and a \$100 civil penalty for an employee working with a dirty neck duster for a total of a \$350 civil penalty.**

d. Case No: **2017-014** Inspection Report No. **30498 on 10/18/16**
 Licensee: **Michael Childress** License No(s): **4559**
 Possible Violation(s): **Unsanitary workstation, dirty neck duster**
 By Joyce Voss
 Staff Report **Consent Agreement for Barber License No 4559 with a \$50 civil penalty for an unsanitary workstation and \$100 civil penalty for a dirty neck duster for a total of a \$150 civil penalty.**

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| Case No: | 2017-015 | Inspection Report No. | 30498 on 10/18/16 |
| Licensee: | Joel Cal | License No(s): | 5813 |
| Possible Violation(s):
By Joyce Voss
Staff Report | unsanitary dip sanitizer | | |
| | Consent Agreement for Barber License No.126 with a \$50 civil penalty for working with an unsanitary dip sanitizer for a total of a \$50 civil penalty. | | |
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| Case No: | 2017-016 | Inspection Report No. | 30498 on 10/18/16 |
| Licensee: | Jorien Jackson | License No(s): | 126 |
| Possible Violation(s):
By Joyce Voss
Staff Report | Lapsed license | | |
| | Consent Agreement for Barber License No.126 with a \$160 civil penalty for working with a lapsed license for a total of a \$160 civil penalty. | | |
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| Case No: | 2017-017 | Inspection Report No. | 30498 on 10/18/16 |
| Licensee: | J Cal's LLC | License No(s): | 0165-E |
| Possible Violation(s):
By Joyce Voss
Staff Report | Operating establishment with a lapsed shop license, employee working with a lapsed license and employee working with a dirty neck duster | | |
| | Consent Agreement for Establishment License No 0165-E with a \$100 civil penalty for operating an establishment with a lapsed shop license, a \$100 civil penalty for an employee working with a lapsed license, a \$100 civil penalty for an employee working with a dirty neck duster for a total of a \$300 civil penalty. | | |

Mr Roberts moved to offer a consent agreement to items b through g. Mr Sandler seconded the motion; motion passed unanimously.

9. Report from the Assistant Attorney General – the Board may review and discuss the listed items:

None

10. Report from the Executive Director – the Board may review and discuss the listed items:

- a.** Result of Soyika White's request for reciprocity of barber hours acquired from a school in another state – Board was reminded that reciprocity only applies to a licensed barber.
- b.** Summary of the last 3 exams in terms of numbers passed, listed by school – A sheet of the results were handed out to the Board. These statistics only included first time examinees. Mary Jane Jones explained the statistics to the Board. If a school was in the list with no student entries; it was because those schools' examinees were taking the test for a second time. Mr Sandler asked Ms Eckberg why the Board could not post exam results by school. Ms Eckberg said posting results might be construed as ranking one school over the other. The potential students or their parents would have to ask the school for this information. If we are asked if the results the school gives are accurate, we could verify that information.

- c. Proposed list of school violations, civil penalty and possible inspection issues – Board examined the suggested list. Mr Roberts moved to adopt the list with the suggested violations and civil penalties for those violations. Mr Lewis seconded the motion; motion passed unanimously.
 - d. Look into updating the inspection sheet – The Staff is now asking barbers to show their hands for a visual inspection of personal hygiene. Ms Jones suggested this be listed as personal hygiene with a violation having a civil penalty of \$50. Mr Roberts moved to add personal hygiene to the list of violations with a minimal penalty of \$50 for a violation. Mr Knox seconded the motion; motion passed unanimously.
 - e. School deficiencies as it relates to computing student hours – Board skipped this item.
 - f. State exams update -- Mr Barcelona said having the exams on two days were not working smoothly so we are currently trying to having exams every month and written exams will be held the Friday before the practical.
 - g. Building move to 1740 W Adams update – Mr Barcelona has been told that this move is going to happen and the tentative start date is in October.
 - h. ASET meeting – Mr Barcelona said the last meeting with ASET indicates that we might be able to have electronic payments in 30 to 60 days.
 - i. Rule change regarding acceptance of cash update – We are meeting with GRRC tomorrow and do expect this rule change will pass and we are in contact with the Bank of America to implement this procedure.
 - j. Floyd’s Barber Shop meeting – Mr Barcelona and Ms Voss will meet with the Regional Director and his lawyer to discuss some of their problems.
- 11. Discussion of items to be placed on a future meeting agenda.**
- 12. Discussion of Future Meeting Dates – March 27, 2017**
- 13. Motion to Adjourn –** Mr Roberts moved to adjourn. Mr Sandler seconded the motion; motion passed unanimously.

January 30, 2017

Gary Roberts, Chairman

Mary Jane Jones, Secretary