



**MINUTES FOR THE
ARIZONA BOARD OF BARBERS
May 21, 2018**

1. Call to Order

Gary Roberts, Chairman of the Board, called the meeting to order at 9:30 am.

2. Roll Call

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

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 March 19, 2018 Board Meeting

Gary Roberts moved to accept the minutes. Steve Sandler seconded the motion; motion passed unanimously.

5. Call to the Public

Postponed to Item 10

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

None

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

None

8. Review, Discussion and Possible Action on Paid Civil Penalties.

a. Case No. 2014-036 Julio Lopez \$260 civil penalty has been paid

Mr. Roberts told the Board this case had been paid and is closed.

**9. Consent Agenda for the Review, Discussion and Possible Action on Investigative Reports:
Cases recommended for disciplinary consent agreements:**

None

10. Review, Discussion and Possible Action on Investigative Reports regarding potential violations by D’Image Barber College.

Mr. Roberts requested Joyce Voss report on her inspection of D’Image Barber College.

Ms. Voss said the Board had received over 12 complaints and numerous telephone calls that D’Image Barber College (hereafter referred to as “D’Image”) was allowing non-licensed persons to act as instructors. On January 19, 2018, I and Bruce Bueno inspected D’Image. There was no licensed instructor present and the students were being taught by two students, Manual Martinez and Sandra Hinojos. Ms. Voss asked several of the students if Luz Martinez was their instructor and they all answered Sandra Martinez was their instructor.

We were still getting complaints after this inspection. Bruce Bueno and I returned to make another inspection on February 21, 2018. There was no licensed instructor present. As we were leaving we saw Luz Martinez and a student walking back to the school.

Ms. Voss said Mary Jane Jones, Administrative Assistant to the Board, had compiled a sheet showing the pass/fail rate for D’Image. Ms. Jones is absent temporality while getting another tape recorder to tape this meeting because the current recorder has a low battery.

Mr. Roberts believes the results of the Board examinations will show whether the instruction provided sufficiently prepares the students to pass their examinations and receive a barber license. He said many of the D’Image students are present. We will now hear from any students who want to talk to the Board. Then we will hear from D’Image.

David Williams introduced himself as the attorney for D’Image. He complained that he did not feel he had sufficient notice of this hearing. After he made a notice of appearance, he only got a copy of e-mail notices. He wanted to make it plain that the scope of today’s meeting is strictly regarding the matter of instructor. Frankie Eckberg, Assistant Attorney General representing the Board, told Mr. Williams that this is still an investigative phase. There is no discipline involved today. If the students reveal other issues today that Staff needs to investigate, this will give them the time to conduct an investigation without having to redo an informal interview. Mr. Williams is correct that the scope today is about the instructors presence or non-presence but can be opened up to other issues. If the Board votes to hold an informal interview or formal hearing, D’Image will get official notice.

Francis Luna, a former student at D’Image, and Orvil Lebron, a former student at D’Image, came to the podium.

Mr. Luna said he had enrolled in May and started receiving his instruction. He was granted a month’s leave of absence from his instructor. When he returned, he learned his instructor was no longer at the school and he no longer had a licensed instructor. He was told D’Image could not find another instructor. He received his instruction from Sandra Hinojos and Oscar Martinez, which he felt could be a danger to the school’s customers. Around this time the students were being urged to sign new contracts. Mr. Luna did not feel he should sign a new contract if he did not have a licensed instructor. He felt his current contract was no longer valid because the school

failed to provide the services listed in his contract: instruction, a way to make a complaint and no way for a student to transfer to another school. Many of his haircuts were never checked by an instructor. Only bar soap available and the sinks on one side of the school did not work.

Mr. Labron, a former student at D’Image, said D’Image did not inform the students orally or by written memos about the changes after their instructor Gladys Hinojos left the school. The school did provide a barber to teach them but that barber was not licensed as an instructor. The school said he had to become a full-time student which he could not do because he was providing for his family. Because he did not feel he was receiving good or legal education, he withdrew but the school is still saying he owes them tuition. Both students said D’Image has sent their contracts to a collection agency. He asked the Board to look into this matter. He signed a new contract while he was under age and without his parent’s consent for \$13,000. This is now in collection. Oscar Martinez took care of his own clients while acting as an instructor.

Mr. Roberts asked each speaker if there was a licensed instructor after Ms. Gladys Hinojos left the school. Both students said there was not.

Mr. Lewis asked each student how many payments they had made after Ms. Gladys Hinojos left. Mr. Luna said one payment. Mr. Labron said two payments. The second payment was because the school said Ms. Gladys Hinojos was on vacation.

Mr. Barcelona handed out the papers summarizing the examination results for fiscal years 2017 and 2018. Mary Jane Jones explained that one set of the exam results was for the previous fiscal year and the other was for this year – which is not yet over. Ms. Jones reminded the Board that a small array of data yields a different result than a larger array – usually with a larger percentage difference. Mr. Roberts noted that 83% passed for the previous on their first exam and 33% passed this fiscal year. These are an indicator regarding the adequacy of the instruction.

Mr. Roberts asked if anyone else in the audience wished to come forward and make a statement.

Francisco Luna acted as interpreter for the two students speaking next:

Maria (last name unintelligible) said she had medical issues and her doctor had given her a letter with directions for her care to be given to the school. Ms. Martinez did not allow her to follow the doctor’s orders. Oscar Martinez did not allow her to bring her medicine to the school so she could take it and threw away the guard she used when she performed services on children.

Zulma Aguila had an emergency in March and was gone for two weeks. When she returned, Oscar Martinez said he was not charging her for those two weeks because Luz was on vacation at that time.

Lorena Ontiveros was terminated and did not want her contract sent to collection. She knows of students who graduated and were given their hours but were still sent to collection. She took her contract to an attorney and he said the contract was incomplete. Upon questioning by Mr. Roberts, Lorena said that the contract was terminated by Ms. Martinez and there was still money that Ms. Ontiveros had paid for hours for which she had not received instruction. Mr. Thomas asked how Ms. Ontiveros if received her notification of hours orally or by written notification. Ms. Ontiveros she had received a “Record of Completion or Withdrawal”. The work “Withdrawal” had been underlined. Mr. Roberts asked how many hours she had completed when she left and she said she had about 1,000 hours.

Mr. Roberts then asked to hear from attorney for the school owner.

David Williams and Luz Martinez came to the podium. David Williams is the Counsel for D'Image Barber College. Mr. Williams to make it clear that she is the owner and instructor for the school and is responsible for the school. Until December 20, 2017 her sister, Gladys Hinojos, was the instructor at the school but she left the school and started her own school. Rather than telling the students that her sister had started her own school, she told them her sister was on vacation and then transitioned into being the instructor. Mr. Manual Martinez and Ms. Sandra Hinojos were not instructors and only handled administrative paperwork.

Mr. Williams said the issue is “collections”. It is typical for a disgruntled customer (student) to issue a complaint to a governing Agency in the hopes of avoiding payment. That is what is happening here. The contract stipulates that a student who has completed 60% of the required hours is to pay the full balance. Ms. Ontiveros was terminated for tardiness and the others were terminated for nonpayment and all sent to collections.

Mr. Williams repeated that Ms. Martinez is the owner and the lead instructor; the others work in the back office. We believe there will be a turnaround in the passage rates. This is not a licensing issue but a private contractual dispute and there is no reason for this Board to conduct any further investigations.

Mr. Thomas said the main thing he heard was that there was no licensed instructor. Maybe Ms. Martinez can explain why there was no licensed instructor there or why someone who was not licensed was instructing.

Ms. Martinez said she was the school owner and a licensed instructor. My sister was in charge of the barber school and handled the instructing. Mr. Williams made it clear that she oversaw the barber school and now that Ms. Hinojos has left she handles the instruction. Until she gets another instructor she is doing the instructing. Since she is now handling the instructing, we are hoping to reverse some of the trends you mentioned previously.

Ms. Eckberg asked for an explanation for why the students were saying Sandra Hinojos was their instructor and overseeing the cutting of hair.

Ms. Voss repeated she had asked students on January 19, 2018 during her inspection who the instructor was and all four replied Sandra Hinojos. Mr. Williams said the first inspection sheet had no notes on it. Board did not list any remarks so the school could not see them or respond. He questioned why there were no comments on an instructor put on the inspection sheet so the school could have been advised during the inspection on any issues the Board might have in regard to the school. He felt there was a problem with the inspection.

Mr. Roberts replied the Board did follow procedure. The school was in good shape regarding the shape of the school, equipment, etc. and merited a satisfactory by Bruce Bueno. Ms. Voss's discussion with the students was inconsequential to the inspection sheet. Mr. Williams took umbrage to this: if the purpose of an inspection is to discover any violations of state statutes, these issues should be brought to the attention of the licensee at the time of the inspection otherwise your system is not working. If an issue is found during the inspection and the inspection sheet does not reflect this, it is an indication that the inspection process is flawed. This inspection was written as “satisfactory” and today I am hearing that it was not.

Mr. Roberts said the inspection was correct.

On the second inspection on February 21, 2018, there was no instruction. Ms. Martinez said the inspection lasted 20 seconds. Ms. Voss said she went into each room of the school and there were no instructors there so they left.

Mr. Williams said the second inspection was when Ms. Martinez was next door in her office and no students were present. Ms. Voss corrected him by saying students were present. Mr. Williams reminded the Board Ms. Martinez also has a salon next door and the school was not in session. Ms. Voss said the students were at their station and had tools out.

Mr. Barcelona quoted A.R.S. § 32-325(G) which says “Students shall be under the constant supervision of an instructor.” Mr. Williams asked if it was the State’s contention that instructors were not allowed bathroom breaks?

Mr. Roberts said he had no problem with bathroom breaks. But leaving the building, going to another building where she has a cosmetology school, is a problem.

John Lewis talked to Ms. Martinez regarding the time schedules of her students. There are different schedules for full-time and part-time students and they use time clock. Mr. Lewis said he would like to see the time cards for the two inspection sheets to verify that the time involved was the time period between school sessions.

Ms. Eckberg told the Board their options were to dismiss, issue a letter of concern, move for an informal interview, request more investigation or offer a consent agreement. Several members were in favor of more investigation. Mr. Roberts suggested broadening the scope of the investigation to include contracts. Ms. Eckberg reminded the Board that anything regarding financial matters must be handled by the Attorney General’s Office and issues such as health issues are handled by the State’s ADA office and there is a website for both departments. Mr. Roberts moved to agendize this issue to continue to the next meeting and open the investigation to anything that is within our scope. Ron Thomas seconded the motion; motion passed unanimously.

Ms. Eckberg and Mr. Williams made arrangements for any follow-up that is needed.

The Board took a short recess.

11. Review, Discussion and Possible Action on Investigative Reports regarding Martin Martinez application for a student instructor card.

Martin Martinez is a licensed and he applied for an instructor trainee license. Joyce Voss reported Mr. Martinez had submitted a notarized “Proof of Work” form signed by Oscar Soto which attested Mr. Martinez had worked him as a barber for two years. Ms. Voss went to Oscar Soto and asked if Mr. Martinez had worked with him for two years. Mr. Soto told her that he did not sign this form and that Mr. Martinez had never worked for him. After discussing this situation with Ms. Eckberg, we did not issue an instructor trainee license.

Mr. Soto was present and told the Board that he had been approached by Ms. Martinez’ husband to sign a reference. A form was brought to him for his signature and it needed to be notarized. He thought that was weird and didn’t sign. Ms. Voss came to him and asked if he knew Martin Martinez. When she showed him a picture, he realized he had seen him. She said Mr. Martinez had submitted a notarized form saying Mr. Martinez had worked at his shop for two years. He said Mr. Martinez had not worked at his barber shop. The signature on the form was not his.

Mr. Roberts asked Mr. Soto if Mr. Martinez had ever worked at his shop. Mr. Soto said he had never worked for him.

Mr. Martinez told the Board he had been a licensed barber for four years but was not very active with it. The reason he wanted to be an instructor was to help people. He told the Board he filled out the “Proof of Work” form and took it to a notary to get it notarized. The Board took his application and even asked if he wanted to take the next examination in two weeks. They kept postponing giving me my card.

Mr. Roberts asked Mr. Martinez if the signature was Mr. Soto’s. Mr. Martinez said he had signed the work form with Mr. Soto’s name. Oscar Soto did not sign it. He said he knew he did wrong.

Mr. Roberts asked if he had a high school education. He replied he had a G.E.D.

Mr. Thomas if he was instructing students. Yes he worked as an instructor because he was waiting for his instructor trainee card.

Mr. Barcelona asked Mr. Martinez about the notary for the form. Mr. Williams advised Mr. Martinez not to answer. Mr. Barcelona informed Mr. Martinez that his application to be an instructor trainee has been denied.

Ms. Eckberg advised the Board there are two issues: whether to approve or deny the application for an instructor trainee card and whether there has been statutory violation and what to do about it.

Mr. Roberts moved to deny Mr. Martinez’s application to be an instructor trainee and that a letter of concern be issued. Mr. Thomas seconded the motion; motion passed unanimously.

Mr. Roberts then went back to Item 5 on the Agenda.

Lorena Ontiveros returned to the podium to present pictures from the D’Image website showing Mr. Martinez, Mauricio Alvidres and Hector Rivera working as an instructor at the school to the Board. These pictures were taken from the school’s website.

12. Review, Discussion and Possible Action on Personnel and Salaries.

Mr. Roberts asked Ms. Eckberg if this needed to be done in Executive Session. She said it did. Mr. Roberts asked Mr. Barcelona if he was ready for an executive session. He said he was not at this time.

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

None

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

- a. Update on Deloitte regarding--e-licensing and the database**

Mr. Barcelona reported the database went live last week. There are still problems. Deloitte offered to come back and work on the program for \$75,000. They ended up coming back for \$40,000. The database will remain live while they are working to improve functionality and ease of use.

b. Update on apprenticeship programs

The apprenticeship bill was passed and signed by the Governor. It is to go into effect in August. It is to be a limited apprenticeship program which is to be supervised by the Department of Economic Security. A mentor or apprentice will be screened, interviewed and selected by the Department of Economic Security. Our Board will be involved only in an advisory capacity and in terms of a potential mentor's history of compliance with State standards. An apprentice will need to complete 2,000, which includes 250 hours of theory. They will be paid minimum wage.

This is a program that may work out well for those who live far away from a school. It is a one-on-one training program. The mentors will have to do pay stubs, progress reports, keeping track of hours, etc.

Mr. Sandler asked how the mentor was being paid. Mr. Barcelona said the mentor is being paid by having another barber chair occupied. Mr. Sandler said an apprentice is basically an employee, would the shop be responsible for taxes. Mr. Barcelona said yes.

If there is a financial hardship for the apprentice in regards to the 250 hours of theory, workforce may be able to assist. Mentorship will include a lot of administrative duties.

15. Discussion of Future Meeting Dates – July 30, 2018

There were no conflicts.

16. Motion to Adjourn

Mr. Roberts moved to adjourn. Mr. Sandler seconded the motion; motion passed unanimously.

May 21, 2018

Gary Roberts, Chairman

Mary Jane Jones, Secretary