

**BEFORE THE MISSOURI
STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS**

STATE BOARD OF COSMETOLOGY AND BARBER EXAMINERS,)	
)	
)	
Petitioner,)	
)	
v.)	Case No. 16-0006
)	
TYRONE STEWARD,)	
)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER**

At its regularly scheduled meeting on July 18, 2016, at approximately 9:00 a.m., and pursuant to notice described in the Findings of Fact, the Missouri State Board of Cosmetology and Barber Examiners ("Board") took up the probation violation complaint alleging that Tyrone Steward ("Respondent"), has failed to comply with the terms of his probation of his barber establishment license, license number 2012031736, and his barber operator license, license number 2005000092.

The board appeared at the hearing through its attorney Jamie Cox. Despite adequate notice, Respondent did not appear at the hearing in person and was not represented by legal counsel. Division of Professional Registration Legal Counsel Thomas Townsend served as the board's legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The Missouri State Board of Cosmetology and Barber Examiners ("Board") is an agency of the State of Missouri created and existing pursuant to § 329.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.
2. Respondent is a natural person whose address of record for the Board is 1137 Daffodil Street, Sikeston, Missouri 63801.
3. Respondent holds a barber operator license, license number 2005000092.
4. Respondent's barber operator license, license number 2005000092 is current and active and on probation.

5. Respondent operates a barber establishment, license number 2012031736, at A Few Good Men Barber Shop, located at 233 Trotter, Sikeston, Missouri 63801. Respondent's establishment license is current and active and on probation.

6. On or about December 9, 2014, Respondent signed a settlement agreement ("Agreement") with the Board, which placed Respondent's operator and establishment licenses on probation for three years for repeated sanitation violations at A Few Good Men. Respondent's probation was effective January 1, 2015.

7. During the probationary period, Respondent was entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided that Respondent adhere to all of the terms and conditions of the Agreement.

8. Pursuant to page 6, paragraph II.B., of the agreement, Respondent was required to submit reports to the Board, stating truthfully whether he had complied with all the terms and conditions of the Agreement by no later than January 1 and July 1 during each year of the three year disciplinary period.

9. Respondent failed to file the report due January 1, 2016, and as a result, violated page 6, Paragraph II, B., of the Agreement and his probation with the Board.

10. Pursuant to page 6, paragraph I.A., of the Agreement, Respondent was required to correct all sanitation violations noted on the dates of March 7, April 9, May 21, July 10, and September 10, 2014, within 30 days of the date of execution of the Agreement.

11. Pursuant to page 6, paragraph II.D., of the Agreement, Respondent was required to comply with all provisions of Chapters 328 and 329, RSMo, and Board rules and regulations.

12. On or about March 2, 2016, the Board's inspector conducted an inspection at a Few Good Men. Respondent was not present at the time of the inspection, but his barber operator license was current and posted in public view.

13. During the March 2, 2016 inspection hair was found on the floor of the establishment; there was no hot water in the establishment; and there were no paper towels or an

air dryer in the restroom of the establishment, in violation of 20 CSR 2085-11.010. A violation notice was sent on April 1, 2016, regarding the March 2, 2016 inspection results.

14. On or about April 28, 2016, the Board's inspector conducted an inspection at a Few Good Men. Respondent was not present at the time of the inspection, but his barber operator license was current and posted in public view.

15. During the April 28, 2016 inspection the EPA registered disinfectant was not found to be deep enough to immerse clean implements; the floor in the bathroom had spots that needed to be fixed; loose hair was on top of a workstation and needed to be cleaned off; and there was no hot water in the establishment, in violation of 20 CSR 2085-11.010. A violation notice was sent on May 16, 2016, regarding the April 28, 2016 inspection results.

Conclusions of Law

16. The Board has jurisdiction in this proceeding, pursuant to the signed Agreement, executed on January 1, 2015, and § 324.042 RSMo, to determine whether Respondent has violated the terms and conditions of the Agreement for the probation of his operator and establishment licenses.

17. Section 324.042, RSMo, provides:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

18. Respondent violated the terms of probation set forth in the Agreement, as described in the Findings of Fact of this Order.

19. The agreement and § 324.042, RSMo, allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the Agreement as described in the Findings of Fact of this Order.

Decision and Order

20. It is the decision of the Missouri State Board of Cosmetology and Barber Examiners that Respondent has violated the terms of the January 1, 2015 Settlement Agreement, and Respondent's barber operator license, license number 2005000092 is therefore subject to further disciplinary action.

21. The Missouri State Board of Cosmetology and Barber Examiners orders that Respondent's barber operator license, license number 2005000092, be **SUSPENDED**, starting the effective date of this Order, for a period of one (1) year, or until compliant with the terms and condition of the January 1, 2015 Settlement Agreement. During such time of suspension, Respondent shall not provide barber services. At the conclusion of the ordered suspension, Respondent's barber operator license shall be immediately placed back on **PROBATION** for the remainder of the previously ordered three (3) year probationary period and subject to the terms and conditions of the January 1, 2015 Settlement Agreement.

22. The Board will maintain this Order as an open and public record of the Board as provided in Chapters 328, 329, 610, and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 15th DAY OF AUGUST, 2016.

MISSOURI STATE BOARD OF COSMETOLOGY
AND BARBER EXAMINERS

Emily R. Carroll

Emily R. Carroll, Executive Director

SETTLEMENT AGREEMENT BETWEEN MISSOURI BOARD OF COSMETOLOGY AND BARBER EXAMINERS AND A FEW GOOD MEN BARBERSHOP, TYRONE QUINTON STEWARD, OWNER

Come now A Few Good Men Barbershop, Tyrone Quinton Steward, Owner (collectively, "Licensee") and the Missouri Board of Cosmetology and Barber Examiners ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's barber establishment and barber operator licenses will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's licenses, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo 2000.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by a preponderance of the evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his licenses. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the inspection reports and other documents relied upon by the Board in determining there was cause to discipline his licenses, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's barber establishment license, numbered 2012031736 and barber operator license, numbered 2005000092 are subject to disciplinary action by the Board in accordance with the provisions of Chapters 621, 328 and 329, RSMo.

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Board of Cosmetology and Barber Examiners ("Board") is an agency of the State of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of executing and enforcing the provisions of Chapters 328 and 329, RSMo.

2. Licensee holds a barber establishment license issued by the Board, license No. 2012031736 for A Few Good Men Barbershop. A Few Good Men Barbershop is located at 233 Trotter, Sikeston, Missouri. Licensee's barber establishment license was at all times relevant herein, and is now, current and active.

3. Licensee holds a barber operator license issued by the Board, license number 2005000092. Licensee's barber operator license was at all times relevant herein, and is now, current and active.

4. On or about March 7, 2014, the Board's inspector conducted an inspection of A Few Good Men Barbershop. The shop was open and offering services and Licensee was present at the time of the inspection. The Board's inspection revealed the following violations: the plumbing for the shampoo bowls was not connected in violation of 20 CSR 2085-11.010; and there was no hot water in violation of 20 CSR 2085-11.010.

5. On or about March 19, 2014, the Board sent Licensee a violation notice following the March 7, 2014 inspection. The inspection notice identified the violations from the March 7, 2014 inspection report and instructed Licensee to correct all violations immediately.

6. On or about April 9, 2014, the Board's inspector conducted an inspection of A Few Good Men Barbershop. The shop was open and offering services. Licensee was not present at the time of the inspection. The Board's inspection revealed the following violations: the plumbing for the shampoo bowls was not connected in violation of 20 CSR 2085-11.010; and there was no hot water in violation of 20 CSR 2085-11.010.

7. On or about April 24, 2014, the Board sent Licensee a violation notice following the April 9, 2014 inspection. The inspection notice identified the violation from the April 9, 2014 inspection report and instructed Licensee to correct all violations immediately.

8. On or about May 21, 2014, the Board's inspector conducted an inspection of A Few Good Men Barbershop. The shop was open and offering services. Licensee was not present at the time of the inspection. The Board's inspection revealed the following violations: the barbicide jar was half full of solution, and the solution was not active in violation of 20 CSR 2085-11.010; the plumbing for the shampoo bowls was not

connected in violation of 20 CSR 2085-11.010; there was no hot water in violation of 20 CSR 2085-11.010; and the bathroom was dirty, there were no paper towels and no soap in violation of 20 CSR 2085-11.010.

9. On or about July 2, 2014, the Board sent Licensee a violation notice following the May 21, 2014 inspection. The inspection notice identified the violation from the May 21, 2014 inspection report and instructed Licensee to correct all violations immediately.

10. On or about July 10, 2014, the Board's inspector conducted an inspection of A Few Good Men Barbershop. The shop was open and offering services. Licensee was not present at the time of the inspection. The Board's inspection revealed the following violations: the barbicide jar was half full of solution and dirty in violation of 20 CSR 2085-11.010; and there was no hot water, the shampoo bowl was not connected to a drain and the work station was dirty with hair clippings in violation of 20 CSR 2085-11.010.

11. On or about July 25, 2014, the Board sent Licensee a violation notice following the July 10, 2014 inspection. The inspection notice identified the violation from the July 10, 2014 inspection report and instructed Licensee to correct all violations immediately.

12. On or about September 10, 2014, the Board's inspector conducted an inspection of A Few Good Men Barbershop. The shop was open and offering services. Licensee was present at the time of the inspection. The Board's inspection revealed the following violations: there was no hot water and the shampoo bowl was not connected to a drain in violation of 20 CSR 2085-11.010 and 20 CSR 2085-10.040.

13. On or about October 2, 2014, the Board sent Licensee a violation notice following the September 10, 2014 inspection. The inspection notice identified the violation from the September 10, 2014 inspection report and instructed Licensee to correct all violations immediately.

14. Regulation 20 CSR 2085-11.010 states, in relevant part:

(1) Physical facilities of barber establishments and schools shall consist of the following:

(A) Floors, Walls, Ceilings, Windows, Equipment and Contents. All floors, walls, ceilings, windows, equipment and contents shall be kept clean and in good repair. Use of cloth or plush-covered barber chairs is strictly prohibited;

(C) Restrooms. All barber establishments shall provide adequate and conveniently located restrooms for use by patrons and operators. All schools shall provide two (2) or more restrooms to separately accommodate male and

female students. All functional sinks in barber schools and barber establishments shall be provided with hot and cold running water, soap (liquid or powder), paper towels, and shall be kept clean and in good repair. A functional sink may be located inside or near the restrooms;

(D) Water Supply and Waste Disposal. Hot (not to exceed one hundred twenty degrees (120°) Fahrenheit) and cold water must be available to all lavatories and shampoo bowls at all times. Lavatories and shampoo bowls shall be provided with soap (liquid or powder) and paper towels;

(2) All barber establishments and schools shall comply with:

(C) Disinfecting and Storing Implements: All implements used in barbering shall be disinfected before use on each patron with an Environmental Protection Agency (EPA)-registered disinfectant, which may be a spray solution. The label on the disinfectant shall show that it is EPA-registered with demonstrated bactericidal (disinfectant), virucidal, and fungicidal activity and shall be used according to the manufacturer's instructions. Every barber establishment or school shall have a sufficient supply of disinfectant and disinfectant that shall immediately be replaced if it becomes contaminated. All supplies that cannot be disinfected shall be disposed of in a covered waste receptacle immediately after use. Implements not in use shall be stored in a disinfectant solution or in a clean, dust-tight cabinet or drawer. The following disinfectant procedures shall be followed:

1. For non-electrical:

- A. Wash in soapy water;
- B. Rinse in clean water;
- C. Totally immerse in an EPA-registered disinfectant used according to manufacturer's instructions;
- D. Dry with clean cloth or air dry; and
- E. Store in clean, dust-tight cabinet or drawer; and

2. For electrical:

- A. Remove all foreign matter;
- B. Disinfect with EPA-registered disinfectant according to manufacturer's instructions; and
- C. Store in clean, dust-tight cabinet or drawer[.]

15. Regulation 20-CSR 2085-10.040 states, in relevant part:

(1) Barber establishment facilities shall consist of the following:

(C) Shampoo Bowls and Chairs. All establishments shall have at least one (1) shampoo bowl for every three (3) chairs. Chairs shall be placed at least five feet (5') apart[.]

16. As a result of the violations, as described above in paragraphs 4 through 13, Licensee violated lawful regulations adopted pursuant to chapters 328, and 329, RSMo, as described above in paragraphs 14 and 15 for which the Board has cause to take disciplinary action against Licensee's establishment and operator licenses.

17. Cause exists for the Board to take disciplinary action against Licensee's establishment license under § 328.150.2(6) and (15), and RSMo, which states in pertinent part:

The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

...

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

...

(15) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo:

18. The terms of discipline shall include that the barber establishment license, license number 2012031736 and the barber operator license, license number 2005000092, be placed on PROBATION for a period of three (3) years ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to offer and engage in the practice of barbering under Chapter 328, RSMo, provided he adheres to all of the terms of his Settlement Agreement.

I. SPECIFIC REQUIREMENTS

- A. Licensee shall correct all sanitation violations noted on inspection dates March 7, April 9, May 21, July 10, and September 10, 2014, within 30 days of the date of execution of this Agreement.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall submit reports to the Missouri Board of Cosmetology and Barber Examiners, Post Office Box 1062, Jefferson City, Missouri 65102, stating truthfully whether he has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period. The first report shall be due January 1, 2015.
- C. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Licensee shall comply with all provisions of the Chapters 328 and 329, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew his license(s) and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's licenses in a current and active state.
- F. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapters 328 and 329, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 328.150.3, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapters 328 and 329, RSMo, by Licensee not specifically mentioned in this document.

19. The parties to this Agreement understand that the Missouri Board of Cosmetology and Barber Examiners will maintain this Agreement as an open record of the Board as provided in Chapters 328, 329, 610, and 324, RSMo.

20. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

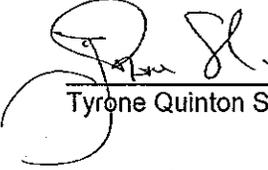
21. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

22. If no contested case has been filed against Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the licensee. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to:
Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

23. If Licensee has requested review, Licensee and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

LICENSEE

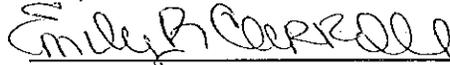
A Few Good Men Barbershop
Tyrone Quinton Steward, Owner



Tyrone Quinton Steward

Date 12-9-14

BOARD



Emily R. Carroll,
Executive Director
Missouri Board of Cosmetology and Barber Examiners

Date 12/17/2014

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Missouri Board of Cosmetology
& Barber Examiners