



I.

**FINDINGS OF FACT**

1. The Board is an agency of the state of Missouri created and established pursuant to § 329.015, RSMo, for the purpose of licensing all persons engaged in the practice of barbering and cosmetology in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapters 328 and 329, RSMo.

2. On or about December 4, 2017, Applicant applied for a Missouri cosmetology student license to enroll at Sam Brown's Cosmetology and Barber Institute, 1729 W. Broadway, Columbia, Missouri.

3. On Applicant's application, Applicant answered "yes" to the question "Have you been adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution in this state, or any or of the United States, whether or not sentence was imposed?"

4. In conjunction with his December 4, 2017 application, Applicant provided a written description of his criminal history. Applicant acknowledged his criminal history and indicated that he hopes cosmetology school training help him become "a productive member of society."

5. A review of Applicant's criminal history reveals that:

a. On or about January 29, 1997, Applicant pled guilty to the class B misdemeanor charge of *Dwi – Combined Alcohol/Drug Intoxication*, in the Circuit Court of Boone County, Missouri, case number 13CR019652867. The Court sentenced Applicant to a fine, community service and participation in SATOP.

b. On or about March 9, 2000, Applicant pled guilty to the class A misdemeanor charge of *Dwr (Susp Prob Cause .10%)*, and to the unclassified misdemeanor of *Displayed/Possessed Mtr*

*Veh/Trl Plates Of Another Person*, in the Circuit Court of Boone County, Missouri, case number 13CR019966616. The Court sentenced Applicant to 90 days' jail incarceration, and 730 days' unsupervised probation on the class A misdemeanor and a fine on the unclassified misdemeanor.

c. On or about March 9, 2000, Applicant pled guilty to the class A misdemeanor charge of *Operated Motor Vehicle On Highway While Drivers License/Privilege Revoked (Suspended For Points)*, to the class C misdemeanor of *As Owner, Oper Or Auth Another To Oper A Mtr Veh W/Out Maintain Financ'l Respons (mtr Veh Reqr'd To Be Reg)*, and to the unclassified misdemeanor of *Failed To Display Plates On Mtr Veh/Trl*, in the Circuit Court of Boone County, Missouri, case number 13CR019967666. The Court sentenced Applicant to 90 days' jail incarceration. The Court suspended execution of Applicant's sentence, and placed Applicant on 730 days' unsupervised probation for the class A misdemeanor, and the Court ordered fines and costs on class C and unclassified misdemeanors.

d. On or about March 9, 2000, Applicant pled guilty to the class A misdemeanor charge of *Dws (Points)*, in the Circuit Court of Boone County, Missouri, case number 13CR010068494. The Court sentenced Applicant to 90 days' jail incarceration. The Court suspended execution of Applicant's sentence and ordered 730 days' unsupervised probation.

e. On or about December 18, 2000, Applicant pled guilty to the class C felony charge of *Tampering With Motor Vehicle, Airplane, Motor Boat, Etc. - 1<sup>st</sup> Degree*, in the Circuit Court of Boone County, Missouri, case number 13R010070803-01. The Court sentenced Applicant to 3 years' incarceration with the Missouri Department of Corrections. The Court suspended execution of Applicant's sentence and ordered 5 years' supervised probation. Applicant's probation was subsequently revoked and the sentence was ordered to be executed.

- f. On or about February 26, 2002, Applicant pled guilty to the class A misdemeanor charge of *Domestic Assault – 3<sup>rd</sup> Degree – 1<sup>st</sup>/2<sup>nd</sup> Offense*, in the Circuit Court of Boone County, Missouri, case number 01CR169536. The Court sentenced Applicant to 45 days' incarceration in the Boone County Jail. The Court suspended execution of Applicant's sentence and placed Applicant on two years' supervised probation.
- g. On or about May 11, 2004, Applicant pled guilty to the class B misdemeanor charge of *Dwi - Alcohol*, in the Circuit Court of Boone County, Missouri, case number 03CR170776. The Court sentenced Applicant to 120 days' incarceration in the Boone County Jail. The Court suspended execution of Applicant's sentence and placed Applicant on two years' unsupervised probation. Applicant's probation was subsequently revoked and the sentence was ordered executed.
- h. On or about January 5, 2005, Applicant pled guilty to the class A misdemeanor charge of *Oper Mtr Veh On Hwy While Diver Lic/Priv Revkd (Suspnd For Prob Cause Of .08% Bac And Zero Tolerance)*, in the Circuit Court of Boone County, Missouri, case number 04CR169477. The Court sentenced Applicant to 2 days' incarceration in the Boone County Jail.
- i. On or about June 2, 2009, Applicant pled guilty to the class A misdemeanor charge of *Operated Vehicle On Hwy Without Valid License – 1<sup>st</sup> or 2<sup>nd</sup> Offense*, in the Circuit Court of Boone County, Missouri, case number 09BA-CR00704. The Court sentenced Applicant to a fine.
- j. On or about August 12, 2010, Applicant pled guilty to the class A misdemeanor charge of *Tampering With Physical Evidence*, and to the infraction of *Fail To Drive Within Single Lane On Roadway Having 3 Or More Lanes*, in the Circuit Court of Boone County, Missouri, case number 10BA-CR00472. The Court sentenced Applicant to 5 days' incarceration in the Boone County Jail on the misdemeanor charge and 2 days' incarceration in the Boone County Jail on the infraction charge.

- k. On or about August 12, 2010, Applicant pled guilty to the class A misdemeanor charge of *Unlawful Use Of Drug Paraphernalia*, in the Circuit Court of Boone County, Missouri, case number 10BA-CR00656. The Court sentenced Applicant to 60 days' incarceration in the Boone County Jail.
- l. On or about November 11, 2010, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Boone County, Missouri, case number 10BA-CR00311-01. The Court sentenced Applicant to 6 months' incarceration in the Boone County Jail. The Court suspended execution of Applicant's sentence and placed Applicant on two years' unsupervised probation. Applicant's probation was subsequently revoked and the sentence ordered executed.
- m. On or about May 22, 2012, Applicant pled guilty to the class A misdemeanor charge of *Assault – 3<sup>rd</sup> Degree – Pursuant To Subdivisions (1), (2), (4), (6)*, in the Circuit Court of Boone County, Missouri, case number 11BA-CR05093. The Court sentenced Applicant to 150 days' incarceration in the Boone County Jail.
- n. On or about March 26, 2013, Applicant pled guilty to the class B misdemeanor charge of *Trespass – 1<sup>st</sup> Degree*, in the Circuit Court of Boone County, Missouri, case number 01CR169536. The Court sentenced Applicant to a fine.
- o. On or about April 22, 2014, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Boone County, Missouri, case number 14BA-CR00612. The Court sentenced Applicant to 30 days' incarceration in the Boone County Jail.
- p. On or about June 3, 2014, Applicant pled guilty to the class A misdemeanor charge of *Resisting/Interfering With Arrest, Detention Or Stop*, in the Circuit Court of Boone County,

Missouri, case number 14BA-CR01197. The Court sentenced Applicant to 60 days' incarceration in the Boone County Jail.

q. On or about August 25, 2014, Applicant pled guilty to the class D felony charge of *Dwi – Alcohol – Persistent Offender*, in the Circuit Court of Boone County, Missouri, case number 13BA-CR01374-01. The Court sentenced Applicant to 3 years' incarceration with the Missouri Department of Corrections.

r. On or about November 18, 2016, Applicant pled guilty to the class A misdemeanor charge of *Theft/Stealing (Value Of Property Or Services Is Less Than \$500)*, in the Circuit Court of Boone County, Missouri, case number 14BA-CR00612. The Court sentenced Applicant to 120 days' incarceration in the Boone County Jail.

## II.

### CONCLUSIONS OF LAW

6. The Board has authority to deny or refuse a license application pursuant to § 329.140.1, RSMo, which provides:

The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

7. The Board has cause to deny or refuse Applicant's application for a cosmetology student license pursuant to § 329.140.2, RSMo, which provides:

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:

...

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed[.]

8. As a result of Applicant's criminal record as detailed in paragraph 5, the Board has cause to deny or refuse Applicant's application for a cosmetology student license pursuant to § 329.140.1, RSMo, and § 329.140.2(2), RSMo.

9. As an alternative to refusing to issue a license, the Board may, at its discretion, issue a license subject to probation, pursuant to § 324.038, RSMo, which provides:

Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

10. The Board issues this Order in lieu of denial of Applicant's application for a Cosmetology student license. The Board has determined that this Order is necessary to ensure the protection of the public.

### III.

#### ORDER

11. Based on the foregoing, Applicant, Howard Benjamin Baker, is granted a cosmetology **student license**, which is hereby placed on **PROBATION** for the period during which Applicant is enrolled in cosmetology school and receiving training hours, not to exceed five (5) years from the effective date of this Order. During the aforementioned probation, Howard Benjamin Baker shall be entitled to enroll as a cosmetology student subject to the following terms and conditions.

IV.

**TERMS AND CONDITIONS**

12. During the aforementioned probation, Howard Benjamin Baker, shall be entitled to enroll as a cosmetology student subject to the following terms and conditions:

- A. During the disciplinary period, Applicant shall comply with all provisions of Chapter 329, RSMo, all applicable board regulations, all applicable federal and state drug laws, rules and regulations and all applicable federal and state criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.
- B. During the disciplinary period, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers. Applicant shall notify the Board in writing within ten days (10) of any change in this information.
- C. During the probationary period, Applicant shall accept and comply with unannounced visits from the Board's representatives to monitor compliance with the terms and conditions of this Order.
- D. During the disciplinary period, Applicant shall appear in person for interviews with the Board or its designee upon request.
- E. If, at any time during the probationary period, Applicant changes Applicant's address from the state of Missouri, or ceases to maintain Applicant's student license current or active under the provisions of Chapter 329, RSMo, or fails to keep the Board advised of all current places of residence, the time of such absence, unlicensed or inactive status, or unknown whereabouts shall not be deemed or taken to satisfy any part of the probationary period.
- F. The Board retains jurisdiction to hold a hearing at any time to determine if a violation of this Order has occurred and, if a violation of this Order has occurred, may seek to amend this Order or impose further disciplinary or appropriate action at the discretion of the Board. No order shall be entered by the Board pursuant to this paragraph without any required notice and opportunity for a hearing before the Board as provided by Chapter 536, RSMo.
- G. Unless otherwise specified by the Board, all reports, documentation, notices, or other materials required to be submitted to the Board shall be forwarded to: Missouri State Board of Cosmetology and Barber Examiners, P.O. Box 1062, Jefferson City, Missouri 65102.


H. Any failure by Applicant to comply with any condition of discipline set forth herein constitutes a violation of this Order.

13. This Order does not bind the Board or restrict the remedies available to it concerning any violation by Applicant of the terms and conditions of this Order, Chapter 329, RSMo, or the regulations promulgated thereunder.

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

**SO ORDERED, EFFECTIVE THIS 16 DAY OF February 2018.**

MISSOURI STATE BOARD OF COSMETOLOGY  
AND BARBER EXAMINERS

  
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Brittany Tomblinson, Executive Director