

**STATE OF NEW HAMPSHIRE  
BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS  
121 SOUTH FRUIT ST  
CONCORD, NEW HAMPSHIRE 03301**

In the Matter of:  
Fine Line Barber Shop  
Manuel Jaimes, Owner  
Personal Master Barber License Number: 17822  
Shop License Number: 3294  
(Adjudicatory/Disciplinary Proceeding)

Docket No. 2019-01

**DECISION AND ORDER**

By the Board: Holly Rodrigues, Chairperson  
Joshua Craggy, Board Member  
Kassie Dubois, Board Member  
Jeanne Chappell, Board Member  
Kimberly Hannon, Board Member

Appearances: John Brown, Hearing Counsel  
Kathryn Wantuck, Board Director  
Beulah Green, Board Inspector  
Sandra Hodgdon, Board Inspector  
Manuel Jaimes, Respondent

**BACKGROUND**

In cases where public health, safety or welfare requires emergency action, RSA 313-A:22; RSA 541-A:30, III; and New Hampshire Board of Barbering, Cosmetology and Esthetics Administrative Rule (“Bar”) 402.03 authorize the New Hampshire Board of Barbering, Cosmetology and Esthetics (“Board”) to suspend a license to practice pending completion of an adjudicatory proceeding.

On or about January 24, 2019, Kristina Prescott (“Ms. Prescott”) reported to the Board that her son, aged six (6), had a haircut by Manuel Jaimes (“Respondent”) at Fine Lines Barber Shop on January 23, 2019. Ms. Prescott said that her son received razor burn and numerous cuts from the use of a straight edge razor at the shop.

Following Ms. Prescott’s complaint, Board Inspectors Beulah Green and Sandra Hodgdon conducted an inspection on January 25, 2019. The respondent and employee Kenneth Ferguson (“Mr. Ferguson”) were present at the inspection. The inspectors observed that there did not appear to be any disinfectants available to the licensees. When asked by an inspector where the disinfectant was, the Respondent said that he did not have any and had been previously told he was not allowed to use it. The shop did not appear to have any disinfectant available to clean implements.

The inspectors also observed Mr. Ferguson using a straight edge razor on the neck of a customer. They observed that Mr. Ferguson did not have a license displayed and asked him about it. He admitted that he had an expired cosmetology temporary work permit. Because Mr. Ferguson did not have a barbering license, he was not authorized by the Board to use a straight edge razor.

An "Order of Emergency License Suspension and Notice of Hearing" was approved and issued by the Board on January 30, 2019. Effective immediately, the Respondent's master barber license was suspended, his shop license was suspended, and he was ordered not to practice barbering in this state until further notice. The Notice of Hearing scheduled an adjudicatory/disciplinary hearing for February 11, 2019.

As set forth in the Notice of Hearing, the relevant issues to be decided were:

- A. Whether, on or about January 25, 2019, the Respondent committed professional misconduct by failing to use disinfectant to clean implements in violation of Board Rules Bar 302.02 (a); Bar 302.05 (g); and RSA 313-A:22, II (i);
- B. Whether, on or about January 25, 2019, Respondent hired or employed an unlicensed person to perform barbering services, or aided or abetted such an unlicensed person in violation of RSA 313-A:9; Bar 501.02 (h); or RSA 313-A:22, II (i);
- C. Whether on or about January 25, 2019, Respondent failed to display the license of an employee in violation of RSA 313-A:17 and RSA 313-A:9; and
- D. If any of the above allegations are proven, whether and to what extent, Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 313-A:22.

The Order of Emergency License Suspension and Notice of Hearing noticed the hearing for February 11, 2019 at 10:00 am. The Respondent appeared as scheduled.

The Hearing Counsel entered the following exhibits into evidence:

1. Printout of Fine Lines Barber Shop online license confirmation.
2. Printout of Manuel Jaimes's online license confirmation.
3. Photos of injuries provided by Kristina Prescott.
4. Shop Inspection form dated January 25, 2019.
5. Photo of straight edge razor.

## HEARING TESTIMONY

### I. Hearing Counsel's Case

The Board has the authority to grant master barber licenses. See RSA 313-A:10. On or about December 8, 2005, the Board granted the Respondent a license to practice master barbering in the State of New Hampshire. The Respondent holds master barber license number 17822. The master barber license is the Respondent's personal license.

The Board has the authority to grant shop licensure in accordance with RSA 313-A:19. Pursuant to this authority, the Board may grant shop licensure to an individual who is the owner of the shop if this individual has a personal license as a barber, cosmetologist, manicurist, or esthetician. See RSA 313-A:19, II. On or about February 22, 2010, The Board granted the Respondent shop license number 3294.

The Board employs inspectors. See RSA 313-A:21. At least twice a year, the inspectors are "to enter and make reasonable examination and inspection of any shop ... during business hours for the purpose of ascertaining whether or not the administrative rules of the board and the provisions of this chapter are being observed." See RSA 313-A:21, I and III. If the inspector finds violations, the inspector may impose administrative fines. See RSA 313-A:8, XVII; 313-A:22, III; Bar 404.09; Bar 404.10. For each inspection, the inspector must file a written report of his/her findings. See RSA 313-A:21, I.

Kathryn Wantuck ("Ms. Wantuck"), Director of the Board of Barbering, Cosmetology, & Esthetics, testified at the hearing. Ms. Wantuck has eleven (11) years of experience with the Board. Ms. Wantuck identified Exhibit #1 as online verification of the Respondent's current shop license. See Exhibit 1. Ms. Wantuck identified Exhibit #2 as online verification of the Respondent's current personal master barber license. See Exhibit 2. Ms. Wantuck further testified that Mr. Ferguson was working within Fine Lines on January 25, 2019, with an expired cosmetology work permit. Ms. Wantuck identified Exhibit #3 as photo attachments to an email complaint from Kristina Prescott ("Ms. Prescott"). See Exhibit 3. Ms. Wantuck testified that she received an email on January 24, 2019, from Ms. Prescott stating her son was cut during a haircut at Fine Lines. After receiving the complaint, Ms. Wantuck asked the inspectors to conduct an inspection at Fine Lines. Ms. Wantuck testified the inspection was conducted.

Inspector Beulah Green ("Inspector Green") testified at the hearing. Inspector Green has seven (7) years of experience as an inspector for the Board. Inspector Green testified that she conducted an inspection of Fine Lines on January 25, 2019, after receiving a complaint. Inspector Green further testified that upon arriving for the inspection she observed two gentlemen working on clients.

Inspector Green testified that she did not see any disinfectants being used in the shop. Inspector Green explained that Barbicide is an EPA registered disinfectant that is commonly used in the profession. Inspector Green testified that she spoke with the Respondent and asked where the Barbicide was. Inspector Green further testified that the Respondent told her he did not

have any Barbicide and he was told he didn't have to have any by a previous inspector, George Cacavas. Inspector Green then had a lengthy conversation with the Respondent about disinfection, explaining that disinfection is necessary.

Inspector Green testified that she spoke with the Respondent about the complaint. Inspector Green stated the Respondent was agitated and stated he couldn't help it because the little boy didn't sit still. Inspector Green identified Exhibit #4 as an inspection form dated January 25, 2019. See Exhibit 4. The inspection revealed that there was no EPA registered disinfectant, Mr. Ferguson had an expired cosmetology work permit and was using a straight razor. These violations warrant a fine of \$834.00 for no EPA registered disinfectant, licenses not displayed as required, expired license, and unauthorized use of a straight razor.

Inspector Green testified that she was given the Board's Order of Emergency License Suspension to deliver to the Respondent. Inspector Green stated Inspector Hodgdon accompanied her to the inspection and they first went to the local police department for officers to accompany them to the shop. Inspector Green testified the Respondent was agitated and blamed her personally for shutting the shop down. Inspector Green stated she informed the Respondent it was not personally her fault; the Board had ordered the suspension. Inspector Green further testified that the Respondent continued to personally attack her, stating, "it is your fault because of what you wrote".

Inspector Green testified she asked the Respondent to sign the form that the order was delivered and the Respondent refused. He stated he wanted to talk to his attorney. According to Inspector Green, she, Inspector Hodgdon, and the police officer explained to the Respondent that signing the form was only to show it was delivered. The Respondent then signed the form but continued to argue, reiterating that George told him he did not need disinfectant. Inspector Green testified that she tried to explain that it had nothing to do with George, but the Respondent told her "Don't come back here again, you're harassing me".

Inspector Sandra Hodgdon ("Inspector Hodgdon") testified at the hearing. Inspector Hodgdon testified that she accompanied Inspector Green to the inspection of Fine Lines on January 25, 2019.

Inspector Hodgdon testified that she observed Kenneth Ferguson working on the nape of the neck of a client. Inspector Hodgdon stated she asked Mr. Ferguson where his license was; Mr. Ferguson reached for his phone and put down the implement he was using. Inspector Hodgdon noted that it was a straight edge razor. Inspector Hodgdon testified Mr. Ferguson was trying to find information on his phone he wanted to show her. Inspector Hodgdon stated she had to call the office to find out what his license status was. Inspector Hodgdon testified that she verified with the Board office that Mr. Ferguson had an expired cosmetology work permit. According to Inspector Hodgdon, she explained that he was not allowed to use a straight edge razor on the skin as it was not in the scope of practice for a cosmetologist. Inspector Hodgdon identified Exhibit #5. See Exhibit 5. Inspector Hodgdon testified it was a photo that she took of the razor Mr. Ferguson had placed on the counter.

Inspector Hodgdon testified she did not observe any disinfectant in the shop. Inspector Hodgdon identified Exhibit #4. See Exhibit 4. Inspector Hodgdon stated Exhibit 4 was a copy of the inspection form completed on January 25, 2019. Inspector Hodgdon stated that she, Inspector Green and the Respondent had all signed the form. Inspector Hodgdon further stated the Respondent was not very happy and did not want to sign it.

## **II. Respondent's Case**

The Respondent started his testimony by apologizing, stating he was very sorry and stressed out. The Respondent testified that his brother was on vacation and he was overwhelmed, and asked the Board to please forgive him. The Respondent further testified that this was his living and he does not have any other source of income. The Respondent stated he was willing to do anything to be reopened he just needed a second chance. The Respondent testified that he has been cutting hair for 20 years and this was his first time ever getting in trouble.

In response to Hearing Counsel's questions, the Respondent testified that Mr. Ferguson has obtained his actual license now. The Respondent further testified that he completed a Barbicide certification course and obtained disinfectant for the shop. The Respondent gave a copy of the certification course to the Presiding Officer Holly Rodrigues, ("Ms. Rodrigues"). Ms. Rodrigues stated that she and the Board appreciated him furnishing the certification.

The Respondent further stated that he was willing to do anything, that this was his livelihood and how he supports his children. The Respondent then testified that he messed up, admits it, and he respects the rules and regulations of the State Board. The Respondent apologized to the inspectors also. Ms. Rodrigues thanked the Respondent for apologizing. Inspector Green stated she looked forward to working with the Respondent.

## **FINDINGS OF FACT**

The Board took into consideration all exhibits. The Board found the entire narrative, in all of the sections, in the above-captioned 'Hearing Testimony' and 'Respondent's Case' to be true. The Board found the testimony of Ms. Wantuck, Inspector Green, and Inspector Hodgdon to be forthright, credible and professional. The Board found the inspection report to be accurate and detailed.

The Board found the Respondent's testimony to be heartfelt and credible.

## **RULINGS OF LAW**

1. On or about January 25, 2019, Respondent committed professional misconduct by failing to have the necessary disinfectant and disinfectant container to clean implements in violation of Board Rules Bar 302.02 (a) and Bar 302.05 (g). The violation of these rules constitutes professional misconduct sufficient to support the imposition of discipline pursuant to RSA 313-A:22, II (i).
2. On or about January 25, 2019, Respondent committed professional misconduct by willfully employing an unlicensed person to perform barbering services in violation of RSA 313-A:9 (b). The Respondent also aided or abetted the practice of a person not duly licensed in violation of Bar 501.02 (h). The violation of RSA 313-A:9 (b) and Bar 501.02 (h) constitutes professional misconduct sufficient to support the imposition of discipline pursuant to RSA 313-A:22, II (g) and (i).

### **DISCUSSION AND CONCLUSION**

The Board has authority to undertake disciplinary action against a licensee, after a hearing and a finding that the licensee has committed misconduct as described above or has engaged in acts that pose a threat to public health or safety. RSA 313-A:22; Bar 402.03.

The Board has determined that the Respondent engaged in professional misconduct by failing to use disinfectant to clean implements, allowing a person to perform barbering services without proper licensure, and failing to display a license.

The Board found the inspection report that was introduced into evidence to be valid, unbiased and accurate.

The Board appreciates the willingness of the Respondent to cooperate. The Board appreciated the apology given to the inspectors and the Respondent's proactive completion of a disinfection course. The Board voted to allow the Respondent to reopen Fine Lines upon successful completion of an inspection.

The Board concluded that the Respondent violated RSA 313-A and the Board's administrative rules and therefore voted to impose public discipline to ensure the health and safety of the public is protected.

### **DISCIPLINARY ACTION**

**THEREFORE IT IS ORDERED**, that Respondent's personal license #17822 and the shop license #3294 shall be subject to a **PROBATIONARY PERIOD OF TWO YEARS**. During the probationary period, the Respondent shall not have any fines over the amount of \$100.00. Any fines over the amount of \$100.00 shall automatically result in a disciplinary hearing for revocation of the Respondent's personal and shop licenses.

**IT IS FURTHER ORDERED**, the Respondent shall enroll within 30 days in a course on bacteriology, safety, diseases and disorders, blood spill procedures, infection control, and overall cleanliness in a shop, in a school licensed by the Board and shall complete comprehensive testing on topics described above with a passing grade of 75% or greater. The Respondent shall complete the course within 60 days of enrollment.

**IT IS FURTHER ORDERED**, that the Respondent shall pay the \$834.00 fine imposed at the January 25, 2019 inspection.

**IT IS FURTHER ORDERED**, that Respondent pay the reasonable cost of investigation and prosecution of this proceeding, pursuant to RSA 332-G:11, in an amount of \$500.00.

**IT IS FURTHER ORDERED**, that the Respondent may make monthly payments for the inspection fine and the investigation cost (\$1,334.00 in total) for the following 6 months effective upon the date the Board signs this Order. The Respondent shall pay the Board by a certified bank check or money order payable to "Treasurer, State of New Hampshire". Failure to pay these fines may result in legal action necessary to enforce this obligation.

**IT IS FURTHER ORDERED**, that the Respondent's failure to comply with any terms or conditions imposed by this Order shall constitute unprofessional misconduct pursuant to RSA 313-A:22, II (c), and a separate and sufficient basis for further disciplinary action against the licensee.

**IT IS FURTHER ORDERED**, that this Order shall become a permanent part of the Respondent's file, which is maintained by the Board as a public document.

**IT IS FURTHER ORDERED**, that this Order shall take effect as an Order of the Board on the date an authorized representative of the Board signs it.

Date

4/15/19

BY ORDER OF THE BOARD

  
Holly Rodríguez, Chairperson  
Authorized Representative of the Board