

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF BARBERING, COSMETOLOGY AND ESTHETICS

**In Re: VIP Barbershop Lounge
Shop Lic. #5071**

**Rafael De Los Angeles Rodriguez, Owner
Personal License #31771**

Docket No.: 23-BAR-003

FINAL DECISION AND ORDER

I. PARTICIPANTS:

Board Members and Support Staff and Counsel:

Jeanne Chappell, Board Chair
Joshua Craggy, Board Member
Sarah J. Partridge, Board Member
Donna Woodsom, Board Member
Talia Wilson, OPLC Board Administrator
Teresa Boyer, OPLC Board Administrator
Attorney Elizabeth Eaton, OPLC Board Counsel

Presiding Officer:

Attorney Shane D. Goulet, OPLC Hearings Examiner and Presiding Officer

Parties:

Jay Brown, Esq., Assistant Attorney General and Hearing Counsel
Rafael De Los Angeles Rodriguez, Licensee and shop owner

II. CASE SUMMARY/PROCEDURAL HISTORY:

On 1/31/22 an inspection was conducted on behalf of the Board of Barbering, Cosmetology, and Esthetics (“Board”) of Rafael De Los Angeles’s VIP Barbershop Lounge (“Licensee”). The inspection report and additional narrative memo allege unlicensed practice. On 3/13/23, after investigation, the Board

voted to initiate the adjudicative hearing process in this matter. A final hearing was held on 7/17/23. This Final Order and Decision follows.

III. SUMMARY OF THE PROPOSED EVIDENCE AND EVIDENTIARY RULINGS:

The Board received the following evidence pursuant to RSA 541-A:33 and Rules 206.22 and 206.18(d):

A. Exhibits were submitted by Hearing Counsel, numbered as follows:

1. Shop Inspection form dated January 31, 2022
2. Temporary barbering permit for Sebastian Rios
3. Photograph of two driver licenses
4. Photo of barber scheduling program dated January 31, 2022
5. Shop application and supporting documents dated February 2, 2022

B. No Exhibits were submitted by the Licensee.

C. Sworn testimony was received from:

1. Sandra Hodgdon, OPLC Chief Inspector
2. Rafael De Los Angeles Rodriguez, Licensee

Exhibits were fully admitted by the Presiding Officer after the Licensee stated that he had no objection to their admission. The Presiding Officer also finds and concludes that Exhibits 1-5 are material and relevant to the proceeding.

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The hearing was held pursuant to RSA 310:10 with the burden of proof, by a preponderance of the evidence, placed upon Hearing Counsel. See Rule 206.07(e). The issues before the Board were:

- (1) Whether on or about 01/31/22, Rafael De Los Angeles, as the owner of VIP Barbershop Lounge, did employ persons, Esteban Juan Perdomo Bedoya and Francisco Alberto Garcia Faria, to engage in barbering, a practice regulated by the Barbering, Cosmetology, and Esthetics Practice Act, without valid licenses or temporary permits issued by the Board, said actions constituting unprofessional conduct under RSA 313-A:22, II (c).

- (2) In the alternative, whether on January 31, 2022, Rafael De Los Angeles, as the owner of VIP Barbershop Lounge, did employ persons, Esteban Juan Perdomo Bedoya and Francisco Alberto Garcia Faria, to engage in barbering, a practice regulated by the Barbering, Cosmetology, and Esthetics Practice Act, without valid licenses or temporary permits issued by the board as required by RSA 313-A:9, II (b), said actions constituting a willful violation of the Practice Act under RSA 313-A:22, II (g).
- (3) Whether and to what extent the Licensee should be subject to discipline pursuant to RSA 313-A:22, III, RSA 310-A:1-m, and Rule 402.

The parties presented their respective matters as summarized below.

HEARING COUNSEL’S CASE-IN-CHIEF:

Sandra Hodgdon, Chief Inspector

Inspector Hodgdon was sworn in under oath and testified that she is currently employed by the Office of Professional Licensure and Certification as an Inspector with approximately 11 years of experience. She stated that her regular duties and obligations consist of performing new shop inspections, random routine inspections, and educating licensees on the rules and regulations in the field of barbering, cosmetology, and aesthetics. Inspector Hodgdon testified that she conducted a routine inspection of VIP Barbershop on January 31, 2022. Upon arrival, Inspector Hodgdon learned that VIP Barbershop had transferred ownership from Christian Rios to the Licensee. She testified that she confirmed that the Licensee was a licensed barber in the State of New Hampshire, and she completed an inspection of the shop. Inspector Hodgdon discovered that two employees were present at the shop during her inspection. Inspector confirmed the identity of the employees to be Esteban Juan Perdomo Bedoya and Francisco Alberto Garcia Faria. Inspector Hodgdon determined through her communication with the Division of Licensing that Francisco and Esteban were not licensed barbers in the State of N.H. The Licensee represented to Inspector Hodgdon that Esteban and Franciso were just visiting. Inspector Hodgdon testified in support of Exhibit 1 which memorialized her inspection on January 31, 2022.

Inspector Hodgdon cited in her inspection report that there were two unlicensed workers (Esteban and Francisco). Inspector Hodgdon reached this conclusion after she viewed the shop's digital appointment book which displayed Francisco and Esteban each had an appointment earlier that day. She cited the shop 1,000 points in violations reflecting 500 violation points per unlicensed worker. Inspector Hodgdon did not find any sanitation or other violations during her inspection.

Inspector Hodgdon identified that Exhibit 2 was a photograph she took of the temporary work permit issued by the Board which had expired a few days before the inspection. At the time of the inspection, the Licensee had not yet applied for shop licensure but did so after the inspection. See Exhibit 5. Lastly, Inspector Hodgdon referenced Exhibit 5 which included a "Bill of Sale" which was signed by the Licensee and Chrisitan Rios reflecting an "effective date" of October 25, 2021. This document lead Inspector Hodgdon to believe that the Licensee owned the shop at the time of the inspection.

LICENSEE'S CASE-IN-CHIEF:

Rafael De Los Angeles Rodriguez, Licensee

The Licensee was sworn under oath and testified that Hearing Counsel's representations, through Inspector Hodgdon's testimony, was "mostly" accurate. He disputed that he was the owner of VIP Barbershop at that time of the inspection. The Licensee testified that he did not have the shop license under his name at that time of inspection. The Licensee stated that he only had the "lease"¹. The Licensee testified that he did not change anything at the shop because the prior owner (Chrisitan Rios) had to finish completing some paperwork with the State, which he understood to involve a "PPE loan." The Licensee was under the impression that Mr. Rios' accountant wanted him to wait until he received all the info on

¹ The Licensee referred to the "Bill of Sale" found within Exhibit 5 as a "lease" throughout his testimony.

the PPE loan before transfer. The Licensee stated that he was not responsible for the unlicensed barbers in the shop at the time of the inspection because Mr. Rios had originally hired them and represented that they were experienced barbers. The Licensee testified that (at the time of the inspection) “everything” in the barbershop was Mr. Rios’ decision and not his. The Licensee represented that after learning from Inspector Hodgdon that the shop the license had expired, he called Mr. Rios and demanded he start the process to get the shop licensed in his name. The Licensee concluded by noting that Francisco and Esteban did not continue to work at the barbershop after the inspection because they must “do it right.” The Licensee acknowledged that if he made a mistake, he apologizes.

Upon cross- examination, the Licensee represented that Mr. Rios was still working at the shop after the “Bill of Sale” was executed October 25th of 2021.

V. DISCUSSION, FINDINGS OF FACTS, AND CONCLUSIONS OF LAW:

After reviewing all the evidence and considering the presentation and demeanor of all the witnesses, the Board makes the following findings of facts:

1. Licensee testified credibly that he did not hire the two (2) unlicensed barbers who were working during the January 31, 2023, inspection and that they were hired by the previous owner of VIP Barbershop Lounge.
2. Licensee credibly testified the two (2) unlicensed barbers are no longer employed at VIP Barbershop Lounge.
3. Licensee testified credibly to changing hiring and licensure verification practices since the employment violations were discovered during the inspection on January 31, 2023.
4. The Board heavily weighted the Licensee’s testimony and the fact that there were no other violations found during the January 31, 2023, inspection.
5. Licensee testified credibly to being the new leaseholder of VIP Barbershop Lounge as of October, 2022, though the Licensee did not actually have any practical management or functional ownership over VIP Barbershop Lounge or its employees until after the inspection on January 31, 2023.²

² See pages 10 and 11 of Exhibit 2: This exhibit is titled “Bill of Sale,” but the Licensee repeatedly and unwaveringly referred to this exhibit as a lease. The Licensee appears to be under the impression that he had signed a lease despite the language clearly transferring ownership from Mr. Rios to Mr. Rodriguez.

6. Licensee testified credibly that VIP Barbershop Lounge, despite being the leaseholder, was not in his name as he was not yet licensed with OPLC as the shop owner at the time of the January 31, 2023, inspection.
7. Licensee testified credibly that the previous owner had moved to Florida but was still making employment and ownership decisions at VIP Barbershop Lounge up to and including the time of the January 31, 2023, inspection.
8. Licensee testified credibly that VIP Barbershop Lounge was still in the previous owner's name during the January 31, 2023, inspection, and that after said inspection, the Licensee reached out to the previous owner to get the shop transferred into his name. Shop ownership has since been transferred to the Licensee.
9. The Board heavily weighted the Licensee's testimony and the fact that there were no other violations found during the January 31, 2023, inspection.

Based upon the findings of fact made by the Board, the Presiding Officer makes the following conclusions of law:

1. The Presiding Officer finds that the Licensee committed professional misconduct pursuant to RSA 313-A:22 II(c).
2. The Presiding Officer does not find that the Licensee committed professional misconduct pursuant to RSA 313-A:9, II(b) and/or RSA 313-A:22, II(g).

Upon a finding of misconduct made pursuant to RSA 313-C:12, II(c), the Board imposes the following disciplinary action against the Licensee:

Pursuant to RSA 313-A:22(III)(e) and Bar 402, the Board imposes an administrative fine of \$1,000.00 against the Licensee. The administrative fine of 1,000.00 shall be **SUSPENDED** subject to the following conditions:

1. The Licensee receives no license infractions for a period of (1) year from the date of this order.
2. If the Licensee is not cited any license infractions, the fine shall be deemed satisfied.

3. If the Licensee is cited licensing infractions during the one-year period, the administrative fine shall be paid within 180 days of the cited infraction.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 313-A:22, and Rule 402 et seq., the Presiding Officer and the Board hereby make the finding of professional misconduct noted herein and administers the sanctions outlined above.

DATED: 3/26/2024

_____/s/ Shane D. Goulet, Esq. Presiding Officer_____
Shane D. Goulet, Hearings Examiner
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