

MINUTES
South Carolina Board of Cosmetology
Hearings
10:00 a.m., October 6, 2014
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 108
Columbia, South Carolina 29210

1. Meeting Called to Order

- a. Public notice of this meeting was properly posted at the S. C. Board of Cosmetology office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

2. Rules of the Meeting Read by the Hearing Officer, Eddie Jones

3. HEARINGS – Tracey Perlman and Andrew Rogers

i. Innovation (SALON 87558) 2013-110 and 2013-314

In the cases of Innovation the discussion included but was not limited to issues found during an inspection and re-inspection. Owner Rosa Daly spoke little English and her daughter, Jenny Lamprea translated for her. During the initial inspection there were 3 unlicensed individuals performing cosmetology services and they fled the salon while SandyLynn Beaty conducted the inspection. The re- inspection, Jim Kyzer conducted about 6 months after the initial inspection. At the re-inspection there was 1 license posted and it was expired. There were 2 unlicensed individuals performing Cosmetology services on clients and 1 of the individuals left while the inspector was there. Ms. Daly allowed licensed individuals from other countries to work in her salon.

In closing Ms. Tracey Perlman stated it has been stated there were 3 unlicensed individuals working in the salon performing cosmetology services. The violations found were as followed:

South Carolina Codes of Law 40-13-110(A)(1), 40-13-110(A)(2), 40-1-110(1)(c), and 40-1-110(1)(f)

Ms. Lamprea stated she is fully aware of the harm the unlicensed individuals could have caused and she takes full responsible for it.

Mr. Jones states the State has proven the allegations of, South Carolina Codes of Laws 40-13-110(A)(1), 40-13-110(A)(2), 40-13-110(1)(c), and 40-1-110(1)(f).

Mr. Jones's recommendation for these cases 2013-110 and 2013-314 are as follows:

- Public reprimand;
- \$500 per statutory violation to be paid within 90-days of the final order hearing;
- 1 year probation and if any other violation occur during the probationary period the license will be immediately administrative suspended until appearance before the Board

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

ii. Happy Nails (MOA) (SALON 89883) 2013-154 and 2013-214

In the cases of Happy Nails the discussion included but was not limited to issues found during an inspection. Thu Kim Tran admits she does have a prior consent agreement from May 2013, which she was given a public reprimand, a civil penalty of \$1000 fine which has been paid, and was required to complete a 3 hour law class which she has completed. In May after the consent agreement was signed there was a re-inspection conducted and it was found that cheese graters were being used while rendering pedicure services. Additionally there was an unlicensed individual was performing a pedicure and there was another individual with an expired license performing services. In July 2013 there was another re-inspection conducted and it was found that there were 2 unlicensed individuals were still performing nail services and a license nail technician was performing an eye brow wax.

The owner, Thu Kim Tran agreed that she has violated South Carolina Codes of Laws section 40-13-110(A)(2), 40-13-110(A)(1), and 40-13-110(A)(8) and South Carolina Codes of Regulation section 35-20(A)(5).

Mr. Jones asked to go into executive session to obtain legal advice.

Mr. Jones called the hearing back to order.

Mr. Jones' recommendation for these cases 2013-154 and 2013-214 are as follows:

- The MOA has been accepted;
- Public reprimand;
- \$2500 fine to be paid within 90-days of the final order hearing;
- 1 year probation and if any other violation occur during the probationary period the license will be immediately administrative suspended until appearance before the Board

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

iii. Glamour Nails (SALON 8073) 2012-148

In the cases of Glamour Nails the discussion included but was not limited to issues found during an inspection. Owner, Jenny Le spoke little English; therefore, she had a translated, Ha Phan. During the inspection a wax station was found and the wax pot was warm, there were no license posted for anyone to perform waxing services. There were also used buffers that were not properly discarded and used files in drawers. The salon was re-inspected in September and there was an uncovered dirty towel hamper, nail tools mixed with un-sanitized items, such as money and receipts in work station drawers, 4 cheese graters, 1 was in a UV sterilizer container, the inspection found the waxing station in the salon again; although, no one was being serviced.

Ha Phan explained the wax station is in the salon because there is a licensee that comes to work at 4:00pm until 9:00pm and every morning the wax pot is turned on to warm the wax. The license was not posted because the young lady works in 2 salons and she carries her license with her. The buffers and used files are placed in the middle section of the work station drawer and properly disposed of at the end of the work day. The reason it is collected at night is so inventory can be conducted. The cheese graters are used because clients ask for them and it was not known that it was illegal.

In closing Ms. Perlman explained the salon did not have anyone to wax for 2 months which was stated by Mr. Phan and during those 2 months was when both of the inspection took place. During those 2 months if there was no one to wax why was the wax pot still being turned on? The salon was in violation of the cheese graters and Mr. Phan admitted in his testimony that when a client ask for the cheese grater this service is still being offered. The violations found were against South Carolina Codes of Laws sections 40-13-110(A)(1), 40-13-110(A)(8), 40-13-110(A)(7), South Carolina Codes of Regulations section 35-20(H)(1) and 35-20(M)(1).

The allegation were found proven for South Carolina Codes of Laws sections 40-13-110(A)(1), 40-13-110(A)(8), 40-13-110(A)(7), South Carolina Codes of Regulation sections 35-20(H)(1) and 35-20(M)(1)

Mr. Jones' recommendation for this case 2014-148 is as follows:

- Public reprimand;
- Fine of \$1200 to be paid within 90-days of the final order hearing
\$500 for 40-13-110(A)(8),
\$250 for 40-13-110(A)(7),
\$250 for 35-20(H)(1),
and \$200 for 35-20(M)(1);
- 1 year probation, if any violations occur during the probationary period the license will be immediately administratively suspended

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

iv. Diamond Nail & Spa (MOA) (SALON 88893) 2013-150

In the cases of Diamond Nail & Spa the discussion included but was not limited to issues found during an inspection. March 29, 2012 the respondent, Hai Nguyen, entered into a consent agreement. May 24, 2013 1-year before the end of the consent agreement an inspector found 4 people work on the public and 1 of the 4 was unlicensed. Mr. Nguyen admits that he is in violation of the consent agreement as well as South Carolina Codes of Laws section 40-13-110(A)(1), 40-13-110(A)(2), and 40-13-110(1)(f).

Mr. Nguyen explained the unlicensed person informed him that he was licensed in Georgia and was working towards his South Carolina license. Mr. Nguyen thought allowing the Georgia licensed individual would be ok since he held a licensed; although, it was in another state.

Mr. Jones' recommendation for this case 2013-150 is as follows:

- Accept the MOA;
- Public reprimand;
- \$500 fine to be paid within 90-days of the final order hearing;
- 1 year probation, if any violations occur during the probationary period the license will be immediately administratively suspended

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

v. J Harley Bonds Career Center (SCH 1067) 2013-81

In the cases of J Harley Bonds Career Center the discussion included but was not limited to issues found during a school inspection that 6 students were receiving hours for the Esthetics

program which the school was not licensed for the Esthetics program. The school has violated South Carolina Codes of Laws sections 40-13-110(A)(1) and 40-13-340(B). Wayne Rhodes, school principle, has admitted to the findings which were out of ignorance to the law.

Mr. Jones requested to enter into excessive session for legal advice.

Mr. Jones called the hearing back to order.

Mr. Jones' recommendation for this case 2013-81 is as follows:

- MOA accepted;
- \$250 fine to be paid within 90-days of the final order hearing

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

vi. Paris Nails (SALON 5079) 2012-64

In the cases of Paris Nails the discussion included but was not limited to issues found during an inspection. During the inspection unlicensed practice was found. There were 6 cheese graters, 6 dirty pedicure chairs, and several containers of K-powder noticed. The inspector found sanitation violations. There was a re-inspection conducted on September 28, 2012 and unlicensed practice was found. There were 3 violations, which were South Carolina Codes of Laws sections 40-13-110(A)(1), 40-13-110(A)(2), and 40-1-110(F). The respondent admitted to being guilty of the violations.

The State proved the violations allegations

Mr. Jones' recommendation for this case 2012-64 is as follows:

- Public reprimand;
- \$500 fine to be paid 90-days after the final order hearing;
- 1 year probation, if any violations occur during the probationary period the license will be immediately administratively suspended

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.

vii. Kings Nails & Spa (SALON 89417) 2013-132

In the cases of Kings Nails & Spa the discussion included but was not limited to issues found during an inspection. During the inspection on April 12, 2013 a bed was found in the backroom of the salon, a dog food bowl, cheese graters, and acrylic powder was not covered or labeled. At the re-inspection on May 15, 2013 a futon bed with a pillow was found in the backroom of the salon, 5 dirty pedicure chairs, used buffers and files were not property disposed of and there was a wild bird, as a pet in the facility. The pedicure foot bowls were thoroughly inspected and there was black dirt that came out of the filters and the pedicure chairs were dirty as well.

The state is alleging the salon to be in violations of several of the South Carolina Codes of Regulations: 35-20(B)(4), 35-20(D)(1), 35-20(H)(1), 35-20(E) and South Carolina Codes of Laws sections: 40-13-110(A)(1), 40-13-110(A)(1), 40-13-110(A)(1), 40-13-110(A)(1), 40-13-110(A)(7) and 40-13-110(1)(f).

viii. Bien Thuy Ha (NT 60943) 2013-195

In the cases of Bien Thuy Ha the discussion included but was not limited to issues found during an inspection. The state is alleging similar violations again Ms. Ha. There are sanitation

violations against Ms. Ha but normally the sanitation violations are not against an individual. Therefore, the state wants to maintain the violation against Ms. Ha as South Carolina Codes of Laws sections 40-13-110(A)(1), 40-13-110(A)(1), and 40-1-110(1)(f).

In closing the state has proven during 2 inspections the salon issues were not corrected.

Mr. Jones requested to enter into executive session for legal advice.

Mr. Jones called the hearing back to order

Mr. Jones stated the State has proven the allegations against Kings Nails & Spa of South Carolina Codes of Laws section 40-13-110(A)(1) and South Carolina Codes of Regulation section 35-20(B)(4), South Carolina Codes of Laws section 40-13-110(A)1 and South Carolina Codes of Regulation section 35-20(D)(1), South Carolina Codes of Laws sections 40-13-110(A)(1) and South Carolina Codes of Regulation section 35-20(H)(1), South Carolina Codes of Laws section 40-13-110(A)(1) and South Carolina Codes of Regulation section 35-20(E), South Carolina Codes of Laws sections 40-13-110(A)(7) and 40-1-110(1)(f).

Mr. Jones' recommendations for these cases 2013-132 and 2013-195 are as follows:

- Public reprimand;
- \$1550 fine to be paid 90-days after the final order hearing;
- 1 year probation, if any violations occur during the probationary period the license will be immediately administratively suspended

Mr. Jones stated the State has proven the allegations against Bien Thuy Ha of the South Carolina Codes of Laws section 40-13-110(A)(1) and South Carolina Codes of Regulation section 35-20(B)(4), South Carolina Codes of Laws section 40-13-110(A)(1) and South Carolina Codes of Regulation section 35-20(E), and South Carolina Codes of Laws section 40-1-110(1)(f).

Mr. Jones' recommendations for these cases 2013-132 and 2013-195 are as follows:

- Public reprimand;
- \$750 fine to be paid 90-days after the final order hearing;
- 3 hour disciplinary class to be completed 90-days after the final order hearing;
- 3 hour law class to be completed 90-days after the final order hearing.

The Board has the right to accept, reject or modify the Hearing Officer's recommendation.