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NEVADA STATE BARBER'S HEALTH and SANITATION BOARD



Minutes – December 21, 2023 – Public Hearing

The meeting was called to order at 9:00 a.m. on Thursday, December 21, 2024 at Holiday Inn Express located at 4035 North Nellis Boulevard, Las Vegas, Nevada.

The members present were President Toby Chavez, and Ihsan Azzam. DAG Zheng was present also.

There was no public comment.

President Chavez asked DAG Zheng to swear in individuals. Mr. Tomlinson stated that he did not anticipate Mr. Byron to speak today.

DAG Harris spoke on complaint C-2023-0001 Royal Byron. DAG Harris states that on behalf of Mr. Joe Foley the Petitioner she wanted to give the Board updates. She stated that both parties have been going back and forth on a possible settlement agreement in resolving both Mr. Byron and Mr. Lewis' matter. She states that opposing counsel provided proposed revisions and she had not had the opportunity to review them. She asked for a 15 minute recess. President Chavez granted a 15 minute recess.

President Chavez called the meeting back to order. DAG Harris stated at this time the two sides could not come to a agreement and the petitioner is prepared to go forward with the hearing.

DAG Harris reminded everyone that a year ago the Board entered into a disciplinary hearing with Mr. Byron and moved to impose \$6,000 in fines and attorney fees and Board costs. The order was recently upheld by the District court. On October 3 the petition for judicial review was denied. The due date for all payments of fines, attorney fees and costs were due by November 29, 2022. As of date, the Board has received nothing.

Mr. Byron has not complied with the order. The recommended discipline that the petitioner is seeking is that the Board takes action against respondent's license to operate Nevada's First Barber School and The Art of Barber's Barber School pursuant to NRS 643.185 (2) (b) and/or NRS 643.1717 by suspending each license. It is also requested that Mr. Byron's license to operate the Nevada's First Barber School

and the Art of Barber's Barber School remain in suspension until one of the following conditions have been met, 1. The Board has received full payment from Mr. Byron for all outstanding attorney fees, Board costs, and fines, or 2. My. Byron has entered into an agreeable payment plan for all outstanding attorney fees, Board costs and fines, this would be subject to final approval by the Board in a open meeting. DAG Harris also states that as of right now the two parties are far apart on agreeing as to any type of settlement agreement. But, that does not mean that it should stop. The second request DAG Harris requested is that on April 1, 2024, if, and only if, the Board has not received full payment from Mr. Byron for all outstanding attorneys' fees, Board costs and fines, or Mr. Byron has not entered into an agreeable payment plan for all outstanding attorneys' fee, Board costs and fines, then it is further requested that the Board does not renew his instructor license pursuant to NRS 643.185 (2) (a). So, if the board only answers by granting both requests, the Board will be entering into an immediate suspension of both his licenses to operate the schools. He would still have an active barber license, and he would still have an active instructor's license. From now until April 1, 2024. If he has not been able to issue payment for outstanding fees, costs, and fines, or into into an agreeable payment plan, the Board does not renew his barber license. This is the petitioners request at this time.

President Chavez asked if there were any questions and Mr. Azzam stated No.

Mr. Neal Tomlinson stated he was representing both Mr. Byron and Mr. Lewis. Mr. Tomlinson made a motion to continue this matter here today. First reason is there's no quorum of this Board, and second is he was just recently retained in this matter. Mr. Byron has separate council handling the appeal. That case is being handled by Justin Stovall. He stated he did not have time to prepare for this hearing. He stated that the two parties had been working on a settlement to have the Board paid. He stated that DAG Harris sent him the settlement agreement and he felt it had language that was offensive.

DAG Harris objected to any details of a settlement agreement being exposed during this hearing, being both parties have not entered into an agreement.

DAG Harris want note to the record on her standing objection.

Mr. Tomlinson states he would request the Board continue this matter to a date convenient to the Board and convenient to DAG Harris in the near future after the Holidays.

President Chavez asked when he was obtained and he stated December 15.

Mr. Tomlinson states he has a motion pending.

DAG Harris stated to address the argument on no quorum, Mr. Byron is an active Board member so pursuant to NRS 281A.420 (5), when the Board is entering into possible action and it involves a sitting Board member who has to obviously abstain and can't participate in any action, the quorum requirements drops down, as if the particular Board member seat was not required. So for today the quorum would be 2. She states that when notices were sent as far back as November 21, 2023, Mr. Tomlinson was cc'd on the emails. So she feels he was aware of this matter since then. DAG Harris feels he had ample to time to prepare. She states the question today is he had more than enough time to make argument on, is whether or not the Board is going to impose supplemental discipline. The next thing to decide what would the supplemental discipline look like. She also states that the record properly reflects that they were adequately served with more than enough time to make arguments and

give a proper representation. The Board is under no state order to not proceed with any disciplinary action. She stated that the Board still has an active order that was upheld by the District Court.

Mr. Tomlinson states he disagrees with her quorum analysis and he states that Mr. Byron was served on November 22 not November 20. He states that the appeal is pending with the Supreme Court and it encompasses the disciplinary issues, the fines, the fees, and the costs. He does not see the rush to get this through.

President Chavez asked for a five minute recess to talk to their attorney.

President Chavez called the meeting back to order. DAG Harris reminded the Board there was a motion to continue this hearing.

DAG Zheng stated there would be deliberation first and then the vote.

Mr. Azzam asked Mr. Tomlinson if he is asking for a continuation, until when? Mr. Tomlinson stated until time convenient to you. He feels after the first of the year would be appropriate. Mr. Tomlinson would like to file with the Supreme Court a motion to stay and feels that they would make that decision relatively quick. DAG Harris states it could be years before the Supreme Court makes a final decision on this matter. President Chavez asked Mr. Tomlinson if a motion to stay had been filed and he answered it was filed on November 15. Mr. Azzam asked what made him sure that there would be a motion to stay; Mr. Tomlinson stated that he was told by the appellate counsel there would be. Mr. Tomlinson states he would like to wait until the Board has a full quorum to be fair to everybody.

DAG Harris states again that by NRS 281A.420 (5) dictates that the quorum would be 2. She states that the Board issued its November 29, 2022 order, Mr. Byron was represented by counsel and had an opportunity to file a motion to stay and still did not file it. Furthermore he had a whole year to file and has still not filed. Her question was why now?

Mr. Tomlinson stated He thinks that when the District Court filing made their ruling which was against Mr. Byron, that then triggered them wanting to file a stay. So it had nothing to do with the complaint. He also added the Board would not have a quorum today for hearing Mr. Lewis.

DAG Zheng stated that what she is hearing is that there is no valid quorum here today. She proceeded to read NRS 281A.420 (5) if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of the section, the necessary to quorum to act upon, and the number of votes necessary to act upon the matter as fixed by statute, ordinance, or rule, is reduced as though the member abstaining were not a member of the body or committee. She states that the opposing counsel definitely has a valid argument regarding the other gentlemen, but as far as Mr. Byron the quorum requirement has been met.

Mr. Azzam states what is the guarantee that the next time we meet will not be exactly like this. He feels the Board cannot keep meeting again and again deciding nothing. Mr. Tomlinson states negotiations could fail, but the Board cannot move forward with Mr. Lewis today and will need to continue regardless. He feels there is no harm in continuing this hearing and the Board would be giving these gentlemen the right to due process.

DAG Harris states pertaining to Mr. Lewis, Mr. Lewis works for Mr. Byron so she feels that they are linked and because of this the Board could not have a normal hearing with Mr. Byron sitting and deciding Mr. Lewis's complaint. There is still a presence of conflict. He would still have to abstain. She states that if the Board wanted to continue Mr. Lewis's hearing, petitioner would not have an objection to that. She states she keeps hearing the reference of there must be due process. There has already been due process. They were personally served with adequate time to prepare.

Mr. Tomlinson states going forward with Mr. Byron today is only going to result in one thing that's guaranteed. And that's going back to in District Court on a petition for judicial review.

Mr. Azzam asked Mr. Tomlinson what is his plan for the next few weeks if they continue this hearing? Mr. Tomlinson stated that he would go back to DAG Harris and try to resolve this matter; he feels it's in the best interest to his clients not to go to court. If the matter cannot be resolved, he will prepare the best defense for his clients that he can. After much discussion, Mr. Azzam asked if we continue this matter until January, are you going to ask for another continuation at that time. Mr. Tomlinson stated that no, he would not. He is not asking for the Board to wait until the Supreme Court makes a decision. He is asking to allow these gentlemen due process and a proper quorum.

After much discussion on whether this would be the last time a continuance is asked for, Mr. Tomlinson stated he would not ask for another continuance.

DAG Zheng stated that they are done with deliberation; let's take this to a vote.

Mr. Azzam made a motion to grant a continuation. President Chavez asked if Mr. Byron could be heard today and then continues with Mr. Lewis at a later time. After much discussion among the Board, Mr. Azzam's motion is still on the floor for a continuation. There was no second. President Chavez states he really wanted to get this done today. There was again much discussion amongst the Board members.

Mr. Azzam made a motion to continue this hearing for both gentlemen for a later date, tentatively Jan. 8th. President Chavez seconded the motion and all were in favor. Motion passed.

President Chavez stated they would try for January 8 for the continuance, DAG Harris stated that date would not work for her. She stated she would reach out to Board counsel on petitioner counsel's availability.

Mr. Azzam asked if they would continue negotiation in order to reach a settlement. Mr. Tomlinson stated that will happen.

President Chavez asked for public comment. Hearing none.

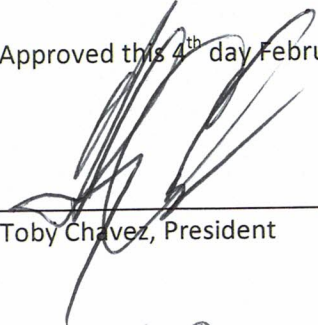
Mr. Azzam made a motion to adjourn the meeting, President Chavez seconded the motion. All were in favor.

Meeting adjourned at 10:40 A.M.

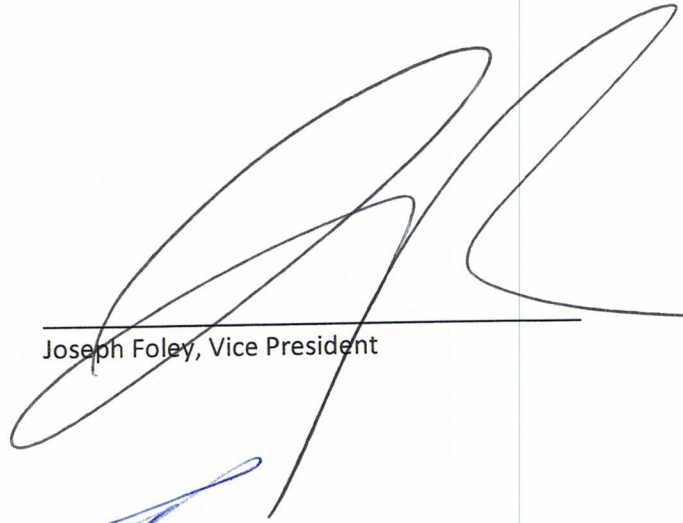
Submitted by: Antinette Maestas

Antinette Maestas, Secretary/Treasurer

Approved this 4th day February, 2024, by:



Toby Chavez, President



Joseph Foley, Vice President



Ihsan Azzam, Health Officer



Royal Byron, Board Member