

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA BARBERS' BOARD**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2008-035275
License No. BR 393

ELVIS O'NEIL CROOKS,

Respondent.

FINAL ORDER

THIS CAUSE came before the Florida Barbers' Board (hereinafter the "Board") pursuant to Sections 120.569 and 120.57(2), Florida Statutes, on August 3, 2009, in Ft. Lauderdale, Florida, for consideration of the Recommended Order and Petitioner's Exceptions to the Recommended Order (true and correct copies of which are attached hereto as Exhibits A and B, respectively) in the above-style cause. At the meeting, Petitioner was represented by LeChea Parson, Assistant General Counsel; Respondent was not present and was not represented by legal counsel.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, and being fully advised in the premises, the Board makes the following findings and conclusions.

RULING ON EXCEPTIONS

1. The Board accepted Petitioner's Exception to Paragraph 6 of the Recommended Order for the reason stated in Petitioner's Exceptions. Therefore,

Paragraph 6 shall read, as follows:

Respondent did not dispute the facts contained in these four Citations Under the terms of the Citations, they, therefore, automatically became final orders 30 days after they were issued. Since Respondent has not paid those fines, he fails to be in compliance with four final orders of the Board.

2. The Board rejected Petitioner's Exception to Paragraph 10 of the Recommended Order because the administrative law judge's conclusion of law was more reasonable.

3. The Board accepted Petitioner's Exception to Paragraph 14 of the Recommended Order for the reason stated in Petitioner's Exceptions. Therefore, Paragraph 14 shall read, as follows:

Section 455.224, Florida Statutes, establishes the authority to issue citations and provides in Subsection (1) that if the subject of the citation does not dispute the matter in the citation "with the department" within 30 days after it was served, the citation becomes a final order. Accordingly, by operation of law the four citations issued by the Department in this case became final order of the Board.

4. The Board accepted Petitioner's Exception to Paragraph 15 of the Recommended Order for the reason stated in Petitioner's Exceptions. Therefore, Paragraph 15 shall be stricken.

5. The Board rejected Petitioner's Exception to Paragraph 16 of the Recommended Order because the administrative law judge's conclusion of law was more reasonable.

6. The Board rejected Petitioner's Exception to Paragraph 17 of the Recommended Order because the administrative law judge's conclusion of law was more reasonable.

7. The Board accepted Petitioner's Exception to Paragraph 18 of the Recommended Order for the reason stated in Petitioner's Exceptions. Therefore, Paragraph 18 shall read, as follows:

The Barbers' Board has established the range of penalties permissible for violations of the statutes within its jurisdiction. Florida Administrative Code Rule 61G3-21.001(13) provides that upon proof that a licensee has violated Section 476.204(1)(i), the Board may impose a fine ranging from \$250 to \$500. The notices of legal rights attached to the Citations involved in this case specifically provide that Respondent has 60 days to pay each Citation.

8. The Board rejected Petitioner's Exception to Paragraph 19 of the Recommended Order because the administrative law judge's conclusion of law was more reasonable.

FINDING OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference with the amendment to Paragraph 6 of the Recommended Order.

2. There is competent, substantial evidence to support the findings of fact as amended.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 476, Florida Statutes.

2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference with exceptions to Paragraphs 14, 15 and 18 of the Recommended Order.

PENALTY

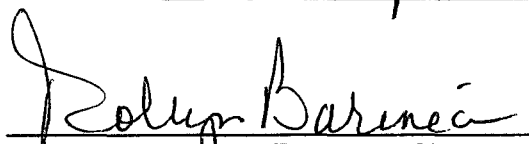
Upon consideration of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be approved and adopted and incorporated herein by reference.

THEREFORE, IT IS HEREBY ORDERED:

Respondent is not guilty of violating Section 476.204(1)(i), Florida Statutes, and the Administrative Complaint filed against Respondent is hereby dismissed.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 24th day of September, 2009.


Robyn Barineau, Executive Director
FLORIDA BARBERS' BOARD

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review, pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal or the District Court of Appeal in the appellate district where the party resides. The Notice of Appeal must be filed within 30 days of rendition of this Final Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Certified Mail to: **Elvis O'Neil Crooks**, 7117 Wrenwood Circle, Tampa, Florida 33617; and by interoffice mail to: **LeChea Parson**, Prosecuting Attorney, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202; and **Carrol Y. Cherry**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Administrative Law Bureau, Tallahassee, Florida 32399-1050, this 30th day of September, 2009.

Brandon M. Nichols