

BEFORE THE IOWA BOARD OF BARBERING

IN THE MATTER OF	)	BA 09-007
	)	
BENJAMIN CLEMENT,	)	NOTICE OF HEARING
License #14587,	)	AND STATEMENT OF CHARGES
	)	
RESPONDENT.	)	

The Iowa Board of Barbering (hereinafter, "Board") files this Notice of Hearing and Statement of Charges pursuant to Iowa Code §§ 17A.12(2), 17A.18(3) and 158.12 (2011), and 645 Iowa Administrative Code (IAC) §§ 11.6, 13.1 and 25.2. The barbering license of Benjamin Clement (hereinafter, "Respondent"), Iowa license #14587, was reactivated October 27, 2010. Respondent's license is currently active. Respondent's address as reported to the Board is 2136 6<sup>th</sup> Avenue, N., Fort Dodge, Iowa, 50501.

**A. TIME, PLACE AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on **January 24, 2012**, before the Board of Barbering. The hearing shall begin at **10:00 a.m.** and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC § 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of

Charges. Pleadings shall be filed with the Board at the following address: Board of Barbering, 5<sup>th</sup> Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC Chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC § 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC § 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: David Van Compernelle, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner,

including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 158, and 272C (2011).

Legal Authority. If any of the allegations against you are found to be true, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 158, and 272C (2011), and 645 IAC Chapter 21.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code § 17A.12(3) (2011), and 645 IAC § 11.21.

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

Respondent is charged under Iowa Code §§147.55, 158.12 and 272C.3 (2011), and 645 IAC §§ 25.2(11) and 25.2(15), with conviction of a crime related to the practice of barbering, which will affect Respondent's ability to practice.

#### **D. FACTUAL CIRCUMSTANCES**

1. Respondent's license was reactivated on October 27, 2010.
2. On December 15, 2010 Respondent was found guilty of possession of marijuana with intent to deliver, a class D felony, and possession of marijuana without a drug stamp, a class D felony.
3. Respondent's conviction arose from an incident where a package containing half a pound of marijuana was delivered to Respondent's business location, the "One Stop Barbershop."

#### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact David Van Compernelle, Assistant Attorney General, at 515-281-7262.

#### **F. PROBABLE CAUSE FINDING**

On this 25<sup>th</sup> day of January, 2011 the Iowa Board of Barbering found probable cause to file this Notice of Hearing and Statement of Charges.