BEFORE THE BOARD OF BARBER EXAMINERS ORIGINAL

STATE OF IDAHO

IN THE MATTER OF THE BARBER LICENSE OF: William J. Potter, B-3008 and Yankee Clipper Barber Shop, BS-1490-A	)	CASE NO. BAR-02-91 ORDER ADOPTING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER.

THIS matter having come on for hearing on the 20th day of April, 1992, and the Hearing Officer having issued Proposed Findings of Fact, Conclusions of Law, and Order on the 13th day of May, 1992, and the Board of Barber Examiners having completed its review of the Hearing Officer's Proposed Findings, Conclusions and order, and good cause appearing therefore;

IT IS HEREBY ORDERED AND THIS DOES ORDER that the Findings of Fact, and Conclusions of Law issued by the Hearing Officer in this matter on May 20, 1992, be and are hereby adopted and incorporated by the Idaho Board of Barber Examiners as its own final Findings of Fact and Conclusions of Law in this matter.

IT IS FURTHER ORDERED AND THIS ORDERS that any and all rights of Respondent William J. Potter to licensure or to reinstatement of licensure either individually or doing business as Yankee Clipper Barber Shop are hereby revoked for a period of not more than three (3) years. At the end of three (3) years, Respondent may seek licensure by making his application to the Board of Barber Examiners.

DATED this 28 day of July, 1992.

Donald M. Shepherd

Donald Shepherd
Chairman of the Board

JEAN R. URANGA
Hearing Officer
714 North 5th Street
P.O. Box 1678
Boise, Idaho 83701
(208) 342-8931

BEFORE THE BOARD OF BARBER EXAMINERS

STATE OF IDAHO

IN THE MATTER OF THE BARBER LICENSES OF:	)	Case No. BAR-02-91
WILLIAM J. POTTER, B-3008, and YANKEE CLIPPER BARBER SHOP, BS-1490-A,	)	HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PROPOSED ORDER
Respondent.	)	

This matter came on for hearing before Jean R. Uranga, the designated Hearing Officer, on April 20, 1992. Kay Manweiler appeared by and on behalf of the Board of Barber Examiners and William J. Potter appeared representing himself. In addition, three members of the Board of Barber Examiners, Thomas E. Grisman, Earl D. Anderson and Donald M. Shepherd, were present.

FINDINGS OF FACT

Mr. Potter holds a barber's license, B-3008, and a contiguous barber shop license, BS-1490-A.

Daniel Hatch testified that he is an investigator for the Bureau of Occupational Licenses. On August 30, 1991, he went to Hailey, Idaho, to inspect the Yankee Clipper Barber Shop. He found the shop full of wood products and the instruments covered with

hair. There was no sanitation or cleaning of the instruments and they were not stored in closed cabinets. The shop had no running water or toilet facilities. Mr. Hatch completed the sanitary inspection form which was admitted as Exhibit 1. A copy of the form was left with Mr. Potter. As a result of his investigation, Mr. Hatch gave the shop a substandard rating and issued a "C" card. Exhibit 1 advised Mr. Potter that he had to make required improvements within thirty days. Mr. Hatch took numerous photographs of the shop during that trip which visually confirm his observations. Mr. Hatch testified that he did walk by the shop some eight or nine months later in March, 1992, and saw Mr. Potter working on wood products, but did not see any barbering going on.

Joe Coburn testified that he is the Supervising Investigator for the investigators with the Bureau of Occupational Licenses. He was also previously a barber and served on the Barber Board. He testified that he had sent Mr. Hatch to Hailey on August 30, 1991, to inspect the Yankee Clipper Barber Shop. A C-card was issued as a result of that inspection.

In addition, Mr. Coburn testified that he was in Hailey himself on September 10, 1991, and stopped in the shop to follow-up on the C card. He found Mr. Potter behind a drape running a skill saw. Mr. Potter brushed the sawdust off of the barber chair and asked if he wanted a haircut. Mr. Coburn testified that there were food stuffs and sleeping materials all about in the room. Mr. Coburn also took photographs which were admitted. These photographs, Exhibits 6 through 14, show that Mr. Potter was combining barbering, woodworking and living quarters in one room. The

deficiencies noted by Mr. Hatch had not yet been corrected. The shop was very cluttered. Access to the back exit was entirely blocked as seen in Exhibit 14. Mr. Coburn testified that it is illegal to combine residential and business use of a barber's premises unless there are partitions separating the competing uses.

He also explained that a "contiguous" license is a type of premises license which is attached to a "primary" license. This is different that a "primary" license. When Mr. Potter began barbering in the State of Idaho, he held a license which was contiguous to the primary license of Ruth Norton. Ruth Norton's primary shop license expired in December, 1990.

Following his September visit, Mr. Coburn sent a certified letter to Mr. Potter dated September 11, 1991. That letter gave Mr. Potter thirty (30) days to cure the deficiencies. He was also notified that the contiguous shop license was no longer valid because the original shop license had been cancelled. An application for an original shop license was provided. Following that letter, Mr. Potter did apply for a primary shop license in October, 1991.

Budd Hetrick, Jr., testified that he is an investigator for the Bureau of Occupational Licenses. He had previously been a barber for 16 years. On October 10, 1991, Mr. Coburn asked Mr. Hetrick to stop by and visit the Yankee Clipper Barber Shop to check on any changes in the shop and on the pending application. Mr. Hetrick parked across the street and saw Mr. Potter giving two different haircuts. Mr. Hetrick then entered the barber shop and found that the diagram on the application was not accurate. He

testified that the partition would have been adequate, but the door needed a latch so it would shut. There were also still craft items in the front. Mr. Hetrick took numerous photographs which showed improvement in the shop. However, wood products sales were still combined with the barber shop and Mr. Potter was still operating without a license. The Bureau determined that Mr. Potter had still not sufficiently separated the business and living areas. Mr. Coburn also stated the floor plan was still a problem since it did not accurately reflect the floor plan.

By letter dated October 11, 1991, Mr. Potter was advised that his application for a primary license would be denied for the reason that he was continuing to render barber services after being advised that the premises were unlicensed. The floor plan was not accurate in that a wall had been installed which had not been indicated. Finally, there were still woodcraft items on the premises.

Mr. Coburn went to Hailey again in December, 1991, and found that Mr. Potter was still cutting hair. Mr. Coburn testified there was no door on the partition. Mr. Coburn again took pictures during this visit which were admitted as Exhibits 17-19.

In January, 1992, Mr. Potter entered a guilty plea to a charge of unlawfully combining a barber shop with a residence and other business, in violation of Idaho Code §54-519(6).

During cross-examination, Mr. Potter admitted that he had nailed the back exit door shut.

Mr. Potter testified that he would like to keep his license. He had been in the Navy for 20 years before he moved to Idaho. He

testified that he has been a barber 46 years and does not want to be known as a violator of the law.

CONCLUSIONS OF LAW

Mr. Potter has violated the sanitary requirements and regulations of the Board in violation of Idaho Code §§54-501, 54-516(3) and 54-519(1) and (6). Similar deficiencies existed during the inspection of September 9, 1991. The sanitary regulations are found in Rules of the Board, Rule L.

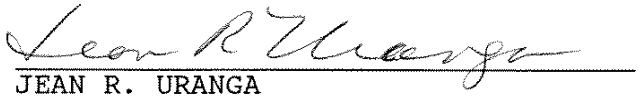
Mr. Potter also practiced in an unlicensed facility in violation of Idaho Code §§54-501, 54-519(1) and 54-513.

Finally, Mr. Potter has violated Idaho Code §§54-519(6) and 54-516(7) by using a room for cutting hair which is also used for residential or business purposes without a partition of ceiling height separating the various portions used for different purposes.

PROPOSED ORDER

Based upon the foregoing, the Hearing Officer concludes that, pursuant to Idaho Code §54-516, the Board of Barber Examiners would have authority to suspend or revoke Mr. Potter's barber license and contiguous barbershop license and to deny the primary shop application.

DATED This 13th day of May, 1992.



JEAN R. URANGA
Hearing Officer