

BROWARD COUNTY HEALTH AND SANITARY CONTROL BOARD

MINUTES OF BOARD MEETING – MARCH 27, 2014

The Board meeting was called to order at approximately 9:30 a.m. on Thursday, March 27, 2014 by Chair Stuart Kaufman.

An educational presentation was given by Rafael Reyes, Environmental Engineering, Florida Department of Health, to educate the Board on Backflow prevention. This is a water program which the Florida Department of Health oversees. The meeting continued at approximately 10:25 am with the Board's regular agenda.

The Chair of the Board and the Board's Legal Counsel read the board procedures prior to the cases being called.

The Clerk called roll and the following members were present:

Stuart Kaufman, Chair
Lily Sayre
Commissioner Pamela Bushnell
Robert McColgan
Ronald Kaplan
Karen Hodge Kaestner

Dr. Mark Gendal and Anthony Quackenbush were not present at the meeting.

Also present were: Patrice Eichen, Attorney for the Board
Paul Eichner, Attorney for the Department
Anthony Vomero, Petitioner Representative

The minutes of the February 27, 2014 meeting were reviewed and a motion to approve the minutes was made by Ms. Sayre and Seconded by Commissioner Bushnell and unanimously passed by all.

All who were to testify were sworn in.

VENUS MINI MED SPA

CASE NO: 14-037 SAN

Mr. Eichner appeared on behalf of the Department; Candace Mehnert appeared on behalf of Respondent.

Mr. Eichner gave a brief synopsis of the case. Mr. Eichner explained that Venus Mini Med Spa was first heard by the Board at the February 27, 2014 meeting. At that time,

they were properly noticed and no one appeared on behalf of the Respondent. At the February hearing, an Order was issued by the Board which ordered the Respondent to pay a \$500 Administrative Fine and a \$500 Administrative Fee within 15 days of the date of the Order. After the Order was issued and mailed to the Respondent the Environmental Health Inspector and the Legal office received phone calls as well as emails from the Respondent's owner indicating that he was upset with the outcome. Mr. Eichner explained that was the reason for the Motion for Reconsideration which is presented today.

Candace Mehnert, Manager for the Respondent, owner, Bill Clark, testified that she was not aware a permit fee needed to be paid. Ms. Mehnert further explained that the initial notice (Exhibit A from the Complaint) and the Notice of Violation (Exhibit B from the Complaint) both sent from the Environmental Health unit, never reached their office in that they are located in a mall and the unit number was not included in the address of the documents mailed to them. Ms. Mehnert testified that until the Environmental Health Specialist served the Complaint they were not aware of any violation. Ms. Mehnert then forwarded the documents to Bill Clark whose office is located in Sarasota. Mr. Clark did not receive the Complaint and related documents until the day after the February hearing of the Board. Ms. Mehnert further testified that Venus Mini Med Spa only produces 6 pounds of biomedical waste per year.

Mr. Eichner explained that based upon the emailed letter from Mr. Clark explaining that Venus Mini Med Spa only produces 6 pounds of waste a year and the presence of Ms. Mehnert at the hearing today, he had no objection to the Board Amending the Order and mitigating the Administrative Fine and the Administrative Fee to zero subject to the Board's approval. Mr. Eichner explained to the Board that the permit fee needs to be paid to the Department for the first year a biomedical waste business is in operation. After the first year, the business may provide records to the Department proving that they do not produce 25 pounds a year making them exempt. The business would then only be inspected every 3 years as opposed to yearly.

Inquiry was made of Siobhan Townsend, Environmental Specialist II, Florida Department of Health. Ms. Siobhan gave sworn testimony that she served the Complaint on Ms. Mehnert and at the time Ms. Mehnert could not produce the documentation needed for the facility to be considered exempt.

Mr. Eichner made the following recommendation based on the testimony presented to the Board: that the Board issue an order to eliminate the Administrative Fine and Administrative Fee, that Venus Mini Med Spa pay the 2014 permit fee within 15 days, that they provide documentation to the Environmental Health inspector proving they produce less than the 25 pounds yearly to be considered exempt for the 2015 permit year, and that the address for Venus Mini Med Spa be amended in the Environmental Health records to reflect the correct unit number.

Mr. Vomero explained that even if Venus Mini Med Spa is considered exempt for the 2015 permit year that there is still a county fee of \$ 50 which will be due.

Ms. Kaestner and Mr. McColgan provided further discussion by adding that the business was not responsible in obtaining their permit and that they feel that that recommendation of Mr. Eichner should allow for some of the fine or fee.

Ms. Sayre accepted Mr. Eichner's recommendations and Commissioner Bushnell Seconded.

Ms. Sayre, Commissioner Bushnell, Mr. Kaplan, Mr. Kaufman voted in favor of the motion and Mr. McColgan and Ms. Kaestner voted against the motion.

BEST CARE AGENCY, INC. Case No. 14-001 SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner gave a brief synopsis of the case. Mr. Eichner explained that Best Care Agency, Inc. was before the Board today for status. Mr. Eichner explained that Best Care Agency, Inc. was heard in February and an Order of the Board ordered a \$500 Administrative Fine a \$200 Administrative Fee to be paid by February 15, 2014 and if paid by said date that the Administrative Fee would be waived. Best Care Agency, Inc. was properly noticed of this hearing. Mr. Eichner further described the case as the owner was the one who had medical issues and the building was under renovation.

Matt Bondi, Environmental Specialist for the Department of Health gave sworn testimony that the phone numbers for this business have been disconnected. Mr. Bondi further explained that every time he has gone to visit this location the business has been closed. Mr. Bondi further testified that failure to obtain a permit, which would trigger an inspection, is potentially injurious to the public health.

There was some discussion regarding obtaining corporate records for this business. The corporate records for this business were checked in January, prior to the Complaint being issued. All correspondence was sent to the Registered Agent address which was the same as the physical address of the business.

Mr. Kaufman requested that a letter be sent to the City of West Park advising them that there is a business in their city which is not in compliance with the permitting process from the Department.

No further action was taken by the Board.

FLORIDA HEALTH AND THERAPY CASE NO: 14-017 SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Bondi advised Mr. Eichner that Florida Health and Therapy is no longer producing biomedical waste. Mr. Bondi's further testified that since a new doctor started working there, Florida Health and Therapy is only seeing patients and writing prescriptions for the past year.

Mr. Eichner advised that, based on MR. Bondi's testimony there no longer a business operation requiring a permit, and Florida Health and Therapy has not produced biomedical waste for the past year, the Board may motion to vacate the Order and dismiss the case.

Ms. Sayre accepted Mr. Eichner's recommendation and motioned to vacate the order and Dismiss the case; Commissioner Bushnell Seconded. The motion was passed unanimously.

SOUTH FLORIDA URGENT CARE CENTERS, INC. CASE NO: 14-042
SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner explained that South Florida Urgent Care Centers, Inc. called the legal office yesterday at 4:50 and agreed to Stipulate to the matter. They have satisfied the amount due. This matter is closed.

BOCA TANNING CLUB POMPANO BEACH, LLC CASE NO: 14-049 SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner stated that the Respondent Stipulated and paid permit fee, late fee and stipulation fee.

Mr. Eichner recommended the Board accept the Motion to Adopt Stipulation.

Mr. McColgan accepted Mr. Eichner's recommendation; Ms. Sayre Seconded. The motion was unanimously passed.

BULLDOG TATTOO #2 CASE NO: 14-045 SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner advised that this is a new permit case. The Department has not received any communication from this Respondent and they were properly noticed.

Siobhan Townsend, Environmental Specialist II, has been working for the Florida Department of Health for 3 years. Mr. Townsend testified that she served the Complaint for an unpaid permit. Bulldog Tattoo # 2 is a tattoo and body piercing establishment with two separate locations. The location operating without a valid permit opens at midnight. The other location is within walking distance around the corner. Ms. Townsend testified that she served Andrew, who was the person in charge of Bulldog Tattoo #2's day time location. Ms. Townsend explained that the facility that is open during the day has a current permit.

Mr. Eichner showed Ms. Townsend the Return of Service Affidavit and asked if it was her signature. Ms. Townsend confirmed that it was her signature.

Ms. Townsend provided testimony supporting the allegations in the Complaint, specifically that a permit was required by Florida Statue and Administrative Rule and that fees, including the Broward County Fee has not been remitted as required.

Mr. Eichner recommended that Bulldog Tattoo #2 be found in violation by not applying for the required permit, that they be required to pay \$275 for the permit within 15 business days from the date of the Order, that a \$500 Administrative Fine and a \$500 Administrative Fee be imposed, that it be set for status, that the Board retain 90 day jurisdiction with all standard sanction language.

Ms. Kaestner accepted Mr. Eichner's recommendations and Mr. Kaplan Seconded. The motion was unanimously passed.

FAMILY BEVERAGE, INC. DBA THE BASS NACHO CASE NO: 14-055 SAN

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner advised that the Respondent Stipulated in this matter and recommended that the Board accept the Motion to Adopt Stipulation.

Mr. Kaplan accepted Mr. Eichner's recommendations and Mr. McColgan Seconded. The motion was unanimously passed.

DANIA BEACH HOUSE, LLC CASE NO: 14-043 SP

Mr. Eichner appeared on behalf of the Department; no one appeared on behalf of the Respondent.

Mr. Eichner explained that this was a pool which was brought to legal because they were not in compliance. A Complaint was served and they are currently in compliance, however, no communication has been received by the legal office from the Respondent.

Jolie Dobson, Environmental Health Specialist II, Florida Department of Health – Broward, gave sworn testimony that she initially visited the location on December 18 for a routine inspection. At this time, she found it to be in violation of the Florida Administrative Code. She contacted Richard Faith at a phone number and email address posted on a sign located on the property. Ms. Dobson spoke to and emailed Mr. Faith. When he responded to her she advised him of the violations. Ms. Dobson explained that she has been to this location 4 times. Ms. Dobson testified that Mr. Faith called her prior to her last visit to the property on March 18, 2014, to advise her that the pool was in compliance and requested a reinspection to verify this.

Ms. Sayre motioned to find that they are currently in compliance but that they were not in compliance for 3 months and impose a \$200 Administrative Fine.

Ms. Kaestner proposed a friendly amendment to the motion in which she requested to impose a \$400 Administrative Fine.

Ms. Sayre accepted Ms. Kaestner's amendment and Ms. Kaestner Seconded.

Mr. Kaufman requested a friendly amendment and requested to impose a \$300 fine.

Ms. Sayre accepted Mr. Kaufmans amendment.

Ms. Kaestner added the amount to be paid 15 days from date of the Order.

Mr. Kaufman motioned to adjourn the meeting at 11:28 am.

PREPARED AND SUBMITTED BY:



Lisa M. Castello, Clerk of the Board