STATE OF MINNESOTA
BOARD OF BARBER EXAMINERS

In the Matter of:
David Berry III, Owner
All Star’s LLC
Registration No. 17000838

RESPONDENT

TO: David Berry III, Owner
All Star’s LLC
7899 East River Road
Fridley, MN 55421

STIPULATION AND ORDER

Board File No. 2019005

The Minnesota Board of Barber Examiners ("Board") is authorized pursuant to Minnesota
Statutes sections 214.10 and 154.001 to 154.28 (2018) to regulate the barbering profession and take
disciplinary action whenever appropriate. The Board is authorized by Minnesota Statutes section
154.162 (2018) to issue administrative penalties.

The Board received information concerning Respondent as a result of a routine barber shop
inspection. Pursuant to Board Resolution 2013-1, the Board’s Complaint Committee ("Committee")
is authorized to issue administrative penalties and to enter into settlement agreements when
appropriate. The Committee reviewed the information regarding the above referenced inspection.
The parties have agreed that the matter may now be resolved by this Stipulation and Order.

STIPULATION

IT IS HEREBY AGREED by and between Respondent and the Committee as follows:

1. Jurisdiction. Respondent has held a Barber Shop registration for All Star’s LLC
located at 7899 East River Road, Fridley, MN since November 27, 2017. Respondent is subject to
the jurisdiction of the Board with respect to the matters referred to in this Stipulation.

2. Facts. This Stipulation is based upon the following facts:
   a. Respondent’s barber shop was first registered in the State of Minnesota on
      November 27, 2017.
b. On December 11, 2018 the Board’s Inspector conducted a routine inspection at All Star’s LLC located at 7899 East River Road, Fridley, MN.

c. Upon inspection it was determined that the Barber Shop registration had expired on June 30, 2018 and was not current at the time of inspection.

d. On December 14, 2018 the barber shop registration was renewed.

3. **Violations.** Respondent admits that the facts specified above constitute violations of Minn. Stat. § 154.01 (2018) and are sufficient grounds for the action specified below.

4. **Enforcement Action.** Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

   a. Respondent shall renew barber shop registration on or before the annual expiration date each year, as provided in statute, for the next three years.

   b. Respondent shall pay an administrative penalty in the amount of five hundred dollars ($500.00) of which, five hundred dollars ($500.00) will be stayed for a period of three years, provided that Respondent complies with this Order and engages in no further violation of any law or rule over which the Board has authority. If within three years the Board determines that Respondent has committed a violation of any law or rule over which the Board has authority in violation of this consent order, the stay shall be lifted and the $500.00 administrative penalty shall become due and payable in addition to any other penalty the Board deems appropriate for the future violation(s) and may be reduced to a judgment against Respondent in any appropriate district court. In the event the Board determines to lift the stay and impose the stayed administrative penalty, Respondent may request a hearing to challenge the factual basis for lifting the stay, but may not challenge the amount of the stayed monetary penalty.

   d. If during the three year term following the execution of this order, Respondent does not violate this consent order or any law or rule over which the Board has authority, the monetary penalty will be vacated.

5. **Waiver of Respondent’s Rights.** For the purpose of this stipulation, Respondent waives all procedures and proceedings before the Board to which Respondent may be entitled under the Minnesota and United States constitutions, statutes, or the rules of the Board, including the right to dispute the allegations against Respondent, and to dispute the appropriateness of discipline imposed by this stipulation and order in a contested case proceeding pursuant to Minn. Stat. ch. 14 (2018).
Respondent agrees that upon the application of the Committee without notice to or an appearance by Respondent, the Board may issue an order containing the enforcement action specified in paragraph 4 herein. Respondent waives the right to any judicial review of the order by appeal, writ of certiorari, or otherwise.

6. **Board Rejection of Stipulation and Order.** In the event the Board in its discretion does not approve this stipulation and order or propose a lesser remedy than specified herein, this stipulation and order shall be null and void and shall not be used for any purpose by either party hereto. If this stipulation and order is not approved and the Committee initiates a contested case proceeding pursuant to Minn. Stat. ch. 14 (2018), Respondent agrees not to object to the Board hearing the case on the basis that the Board has become disqualified due to its review and consideration of this stipulation and order and the record.

7. **Unrelated Violations.** This stipulation and order shall not in any way or manner limit the authority of the Board to proceed against Respondent by appropriate means on the basis of any conduct justifying disciplinary action which occurred before or after the date of this stipulation and order and which is not directly related to the specific facts and circumstances set forth herein.

8. **Record.** The stipulation shall constitute the entire record of the proceedings herein upon which the order is based.

9. **Data Classification.** Under the Minnesota Government Data Practices Act, this stipulation and order will be classified as public data upon its issuance by the Board. Minn. Stat. § 13.41, subd. 5 (2018). All documents in the record shall maintain the data classification to which they are entitled under the Data Practices Act, Minn. Stat. ch. 13 (2018). They shall not, to the extent they are not already public documents, become public merely because they are referenced herein. A link to this stipulation and order will appear on the Board’s website.

10. **Voluntary Agreement.** Respondent hereby acknowledges that he has read, understands, and agrees to this stipulation and order and is freely and voluntarily signing it without threat or promise by the Board or any of its members, employees, or agents. Respondent further acknowledges that he is aware that the stipulation and order must be approved by the Board. The Board may approve the stipulation and order as proposed, propose changes, or reject it. If the changes are unacceptable to Respondent or the Board rejects the stipulation, it will be of no effect except as specified herein.

11. **Entire Agreement.** The Stipulation contains the entire agreement between the parties hereto relating to the allegations referenced herein. Respondent is not relying on any other
agreement or representations of any kind, verbal or otherwise.

11. **Counsel.** Respondent is aware that he may choose to be represented by legal counsel in this matter. Respondent knowingly waived legal representation.

12. **Service.** If approved by the Board a fully signed copy of this stipulation and order shall be served personally or by first class mail on Respondent. The order shall be effective and deemed issued when it is signed by the chair of the Board or designee of the chair.

**RESPONDENT**

Respondent

5/29/19

Date

STATE OF MINNESOTA
COUNTY OF HENNIPIP

This instrument was acknowledged before me on this 29th day of May, 2019

by David Berry III

Printed name of respondent

THORA GENE FISKO
Notary Public
Minnesota
My Commission Expires January 31, 2020

My Commission Expires:

1-31-20
ORDER

Upon consideration of the foregoing Stipulation and based upon all the files, records, and proceedings herein, all terms of the Stipulation are approved and hereby issued as an Order of this Board on this the 20th day of July, 2019.

MINNESOTA BOARD OF
BARBER EXAMINERS

[Signature]
Chair