

**STATE OF CONNECTICUT
CONNECTICUT EXAMINING BOARD FOR BARBERS,
HAIRDRESSERS AND COSMETICIANS**

Joseph Adragna

Petition No. 990908-000-060

Lic # 030058

MEMORANDUM OF DECISION

Procedural Background

The Department of Public Health ("the Department") presented the Connecticut Examining Board For Barbers, Hairdressers And Cosmeticians (hereinafter "the Board") with a Statement of Charges ("the Charges") brought against Joseph Adragna ("respondent") dated April 19, 2000. Dept. Exh. 2. The Charges and Notice of Hearing were sent to respondent by certified mail, return receipt requested, and first class mail on May 30, 2000. Dept. Exh. 2. The Notice of Hearing scheduled a hearing for June 12, 2000, and notified respondent that the hearing would be held before the Board. Dept. Exh. 3.

The hearing date was thereafter continued to September 18, 2000. Respondent received Notice of that hearing. Dept. Exh. 4.

On September 18, 2000, the Board held an administrative hearing to adjudicate respondent's case. Although the Department made sufficient and reasonable efforts to effectuate notice, respondent neither appeared nor was represented; Stephen Miltimore, Esq. represented the Department. At the hearing, the Department moved orally to deem the charges admitted because of respondent's failure to file an Answer. The Board granted the motion. Tr. pp. 6 to 11.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and §§19a-9-1, *et seq.* of the Regulations of Connecticut State Agencies ("the Regulations"). All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have heard the case or read the record in its entirety. This decision is based entirely on the record. To the extent that

the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent has at no time been issued a license by the Department to practice hairdressing and cosmetology.
2. In paragraph 2 of the Charges, the Department alleges that during August 1999, respondent provided hairdressing and cosmetology services in Branford, Connecticut in that he owned and operated a hairdressing shop.
3. In paragraph 3 of the Charges, the Department alleges that this conduct constitutes a violation of §20-258 of the Connecticut General Statutes.
4. The Department requests that the Board, as authorized in §19a-11 and §19a-17 of the Connecticut General Statutes, order that respondent cease and desist practicing as a hairdresser and cosmetician.

Findings of Fact

1. The Department provided adequate, reasonable, and actual notice of the hearing in this matter by sending such notice to respondent. Respondent received the Notice of Hearing. Dept. Exhs. 3, 4; Tr. pp. 2-3.
2. Respondent did not file an Answer to the allegations contained in the Statement of Charges.
3. All of the factual allegations contained in the Statement of Charges are deemed admitted. In particular,
 - a. During August 1999, respondent provided hairdressing and cosmetology services in Branford, Connecticut in that he owned and operated a hairdressing shop.
 - b. Respondent has at no time been issued a license by the Department to practice hairdressing and cosmetology.

Discussion and Conclusions of Law

The Board finds that the Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 9333 (1981); *Swiller v. Commissioner of Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

Section 19a-10 of the Connecticut General Statutes provides in pertinent part: “Any board . . . , may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health.”

Section 19a-11 of the Connecticut General Statutes provides in pertinent part: “Any board . . . may, in its discretion, issue an appropriate order to any person found to be violating an applicable statute or regulation, providing for the immediate discontinuance of the violation.”

The Board finds that the Department has sustained its burden of proof with regard to all of the allegations in the Charges. Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations.

Accordingly, the Board finds that respondent violated section 20-258 of the Connecticut General Statutes.

Order

Pursuant to the authority vested in it by §19a-11 of the Connecticut General Statutes, the Board orders that respondent immediately cease and desist from practicing as a hairdresser and cosmetician unless and until respondent is properly licensed.

Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians

12/11/00
Date

Kathleen F. Kiernan
By: Kathleen F. Kiernan, Chairperson
Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians