



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

January 28, 2010

Diletta Divita  
113 Village Drive  
Torrington, CT 06790

Certified Mail RRR #91-7108-2133-3931-8707-8409  
and First Class Mail

Matthew Antonetti, Principal Attorney      Inter-Departmental Mail  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
PO Box 340380  
Hartford, CT 06134-0308

**RE: Diletta Divita - Petition No. 2007-0727-020-021**

Dear Ms. Divita and Attorney Antonetti:

Enclosed please find a copy a Memorandum of Decision issued by the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians in the above-referenced matter.

Sincerely,

Jeffrey A. Kardys  
Administrative Hearings Specialist/Board Liaison  
Public Health Hearing Office

c: Michael J. Purcaro, Management Team Leader, Administrative Branch  
Wendy Furniss, Branch Chief, Healthcare Systems  
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations  
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**STATE OF CONNECTICUT  
CONNECTICUT EXAMINING BOARD FOR BARBERS,  
HAIRDRESSERS AND COSMETICIANS**

Diletta Divita, H.C., *a.k.a.*, Diletta Divita Squires

Petition No. 2007-0727-020-021

**MEMORANDUM OF DECISION**

***Procedural Background***

The Department of Public Health (“the Department”) presented the Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians (“the Board”) with a Statement of Charges (“the Charges”) brought against Diletta Divita, H.C., *a.k.a.*, Diletta Divita Squires (“respondent”) dated April 23, 2009. Dept. Exh. 1. The Charges allege violations of the General Statutes of Connecticut (“the Statutes”), §§19a-17 and 20-263, which would subject respondent’s license to disciplinary action.

On June 22, 2009, the Charges and the Notice of Hearing were sent to respondent by certified mail and first class mail. Dept. Exh. 1.

On July 8, 2009, respondent filed an Answer to the Charges. Resp. Exh. A.

On August 31, 2009, the Board held an administrative hearing. Respondent appeared *pro se*. Attorney Ellen Shanley represented the Department. Both parties were given the opportunity to present evidence and argument on all issues and to conduct cross-examination.

The Board conducted the hearing in accordance with Chapter 54 (the Uniform Administrative Procedure Act) of the Statutes and §§19a-9-1, *et seq.* of the Regulations of the State Agencies (“the Regulations”). All Board members involved in this decision received copies of the record and attest that they have heard the case or read the record in its entirety. This decision is based on the record, the law, and the Board’s specialized professional knowledge in evaluating the evidence. To the extent that the findings of fact 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 is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser and cosmetology license number 32351.
2. In paragraph 2 of the Charges, the Department alleges that on or about May 4, 2007, Tina White visited Cost Cutters, Torrington, Connecticut ("Cost Cutters"), for a permanent. Respondent was working there as a hairdresser and cosmetician on that date.
3. In paragraph 3 of the Charges the Department alleges that respondent gave Ms. White a permanent.
4. In paragraph 4 of the Charges, the Department alleges that the permanent was improperly performed, and subsequently, Ms. White suffered hair loss.
5. In paragraph 5 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §20-263 of the Statutes, including but not limited to §20-263(5).

***Findings of Fact***

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser and cosmetician license number 32351. Resp. Exh. A.
2. On or about May 4, 2007, Tina White visited Cost Cutters for a permanent. Respondent was working there as a hairdresser and cosmetician on that date. Resp. Exhs. A, B, C, G, I; Tr. pp. 10- 11.
3. On May 4, 2007, respondent gave Ms. White a permanent. Resp. Exh. A; Dept. Exh.2; Tr. pp. 10-14, 31, 39-41, 48-51, 76-81.
4. The evidence is insufficient to establish that the permanent was improperly performed, and that Ms. White subsequently suffered hair loss. Resp. Exhs. B, C, G, I; Tr. pp. 31, 49-53, 70-71.

***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Comm'r of Public Health*, CV-950705601, Superior Court, J.D. Hartford/New Britain at Hartford, October 10, 1995; *Steadman v. SEC*, 450 U.S. 91, 101 S. Ct. 999, *reh'g den.*, 451 U.S. 933 (1981).

The Board relied on the training and experience of its members in making its findings of facts and conclusions of law. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994).

Section 20-263 of the Statutes, provides in pertinent part, that:

“[t]he board may take any of the actions set forth in section 19a-17, for any of the following reasons: . . . (5) illegal, incompetent or negligent conduct in the course of professional activities.”

With respect to the allegations in paragraphs 1, 2, and 3 of the Charges, the Department met its burden of proof. Respondent admits that she worked as a licensed hairdresser and cosmetician at Cost Cutters, and, that on May 4, 2007, she gave Ms. White a permanent.

With respect to the allegations in paragraph 4 of the Charges, the Department did not sustain its burden of proof that respondent improperly performed a permanent on Ms. White causing her to suffer hair loss. In support of the Department’s claims, the Department offered the testimony of Ms. White who testified that on May 4, 2007, she went to Cost Cutters for a permanent and that she informed respondent she had colored her hair approximately one to two weeks earlier. Ms. White further testified that respondent improperly performed a permanent on her by using a permanent for non-color treated hair and by leaving her unattended with the permanent solution in her hair for approximately one hour while she cut three other customers’ hair. The Department alleges and Ms. White claimed that a result of this improper permanent, Ms. White suffered hair loss. The Board finds that the testimony of Ms. White was not credible. The Board further finds that the evidence submitted by the Department was not sufficient to support the allegations found in the Statement of Charges.

Respondent denies the Department’s claims and testified credibly as to the permanent she performed on Ms. White and the length of time she spent giving Ms. White a permanent.

The Board finds that respondent presented credible evidence that she properly performed the permanent. The Board further finds that Ms. White’s testimony about her hair loss lacks credibility. Therefore, the Board finds that the Department did not sustain its burden of proof with respect to the allegations in paragraph 4 of the Charges. Accordingly, based on the totality of the evidence, respondent’s conduct does not constitute grounds for disciplinary action pursuant to §20-263(5) of the Statutes.

**Order**

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by §§19a-10, 19a-17, and 20-263 of the Statutes, the Board orders that Petition number 2007-0727-020-021, concerning Diletta Divita, *a.k.a.* Diletta Divita Squires, who holds Connecticut license number 32351, to practice as a hairdresser and cosmetician, is hereby dismissed.

1/25/10  
Date

Connecticut Examining Board for Barbers,  
Hairdressers and Cosmeticians

  
By: Wendy Spangler, Chairperson

Connecticut Examining Board for Barbers,  
Hairdressers and Cosmeticians

**CERTIFICATION**

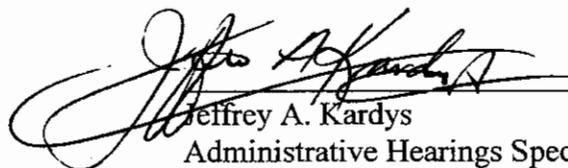
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 28<sup>th</sup> day of JANUARY 2010, by certified mail, return receipt requested, and first class mail to:

Diletta Divita  
113 Village Drive  
Torrington, CT 06790

Certified Mail RRR #91-7108-2133-3931-8707-8409

and by Inter-Departmental Mail to:

Matthew Antonetti, Principal Attorney  
Legal Office  
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