

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

Jennifer Scarlett
16 Gilbert Avenue
New Haven, Connecticut 06511

Petition No. 990208-020-002

MEMORANDUM OF DECISION

Procedural Background

On September 20, 1999, 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 Jennifer Scarlett (“respondent”) dated May 18, 1999. Dept. Exh. 2. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on August 3, 1999. Dept. Exhs. 3, 4.

Respondent did not file an Answer.

On September 20, 1999, the Board held an administrative hearing to adjudicate respondent’s case. Respondent failed to appear and was not represented by counsel; Stephen Miltimore, Esq., represented the Department. At the hearing, the Department moved to deem all factual allegations contained in the Charges admitted because respondent failed to file an Answer. The Board granted the motion.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and the Regulations of Connecticut State Agencies §19a-9-1, *et seq.*(“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.

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 cosmetician license number 040643.
2. In paragraph 2 of the Charges, the Department alleges that respondent owns and operates Jenny's Beauty Salon in New Haven, Connecticut ("the Salon").
3. In paragraph 3 of the Charges, the Department alleges that respondent allowed Janice Kee to work at the Salon as a hairdresser and cosmetician, without having a Connecticut hairdresser and cosmetician license, during October of 1998.
4. In paragraph 4 of the Charges, the Department alleges that respondent allowed Porchia Merrit to work at the Salon as a hairdresser and cosmetician, without having a Connecticut hairdresser and cosmetician license, from October of 1998 to at least January of 1999.
5. In paragraph 5 of the Charges, the Department alleges that respondent's conduct constitutes grounds for disciplinary action pursuant to §20-257 of the Connecticut General Statutes.

Findings of Fact

1. The Department provided sufficient and reasonable notice to respondent of the Charges and of the hearing. Dept. Exhs. 3, 4, 6.
2. Respondent did not file an Answer.
3. All of the factual allegations contained in the Charges are deemed admitted. In particular, respondent engaged in the following conduct:
 - a. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut hairdresser and cosmetician license number 040643.
 - b. Respondent owns and operates the Salon in New Haven, Connecticut.

- c. Respondent allowed Janice Kee to work at the Salon as a hairdresser and cosmetician, without having a Connecticut hairdresser and cosmetician license, during October of 1998.
- d. Respondent allowed Porchia Merrit to work at the Salon as a hairdresser and cosmetician, without having a Connecticut hairdresser and cosmetician license, from October of 1998 to at least January of 1999.

Discussion and Conclusions of Law

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 20-263 of the Connecticut General Statutes provides: "The [B]oard may suspend the license of any operator, registered hairdresser and cosmetician, . . . convicted of violating any provision of this chapter or . . . take any of the actions set forth in section 19a-17 . . .".

Section 19a-17 of the Connecticut General Statutes authorized the Board to impose a civil penalty of up to \$10,000.00 per incident, and to place a license on probation and require regular reporting to the Board regarding the matters that are the basis of probation. Section 20-257 of the Connecticut General Statutes prohibits the aiding and abetting of the practice of hairdressing or cosmetology by an unlicensed person.

The Department sustained its burden of proof with regard to all of the allegations contained in the Charges.

Accordingly, the Board finds that respondent violated §20-257 of the Connecticut General Statutes.

Order

Pursuant to the authority vested in it by §20-263 of the Connecticut General Statutes, the Board hereby orders the following in this case against Jennifer Scarlett, Petition No. 990208-020-002:

1. Respondent shall pay a civil penalty of one thousand dollars (\$ 1,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.
2. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions:
 - a. Respondent shall be responsible for providing written reports directly to the Department, quarterly, during the probationary period. Such reports shall include documentation of each employee's license number and address as well as the name and address of all unlicensed employees. All quarterly reports shall be submitted to the Board, via Bonnie Pinkerton, at the following address:

Bonnie Pinkerton, Nurse Consultant
State of Connecticut Department of Public Health
410 Capitol Avenue, MS #12LEG
P.O. Box 340308
Hartford, CT 06134-0308
 - b. Respondent shall be responsible for all costs associated with the satisfaction of this Order;
 - c. Ms. Pinkerton is the current Department employee designated to serve as the Board's agent in monitoring respondent's compliance with this Order. If Ms. Pinkerton does not continue in this position during respondent's entire probation, her successor in this role shall also serve as the Board's agent and shall assume Ms. Pinkerton's responsibilities, as outlined in this Order.

3. This order is effective as of the date of signature. The period of probation ordered herein shall commence on such date.

Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians

6/12/00

Date

Kathleen F. Kiernan

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