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

Nina McFerrin Petition No. 2011-746

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 Nina McFerrin ("respondent") dated October 25, 2011. The Charges allege violations of §20-252 of the General Statutes of Connecticut ("the Statutes"). Bd. Exh. 1.

On October 31, 2011, the Charges and the Notice of Hearing ("the Notice") were sent to respondent by certified and first class mail to 60 Ridge Street, Manchester, Connecticut, respondent's most current address on file. On December 1, 2011, the certified letter was returned as "unclaimed" and "unable to forward." Bd. Exh. 1. The first class correspondence was not returned to the Department.

Respondent did not file an Answer to the Charges. Tr. pp. 2-3.

On November 14, 2011, the Board held an administrative hearing. Respondent did not appear at the hearing and was not represented by counsel. Attorney Joelle Newton represented the Department.

At the hearing, the Department moved to deem the allegations admitted due to respondent's failure to file an Answer. The Board granted the Motion. Tr. pp. 2-3.

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 Connecticut State Agencies ("the Regulations"). All Board members involved in this decision received copies of the entire record and 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 was issued license number 044074 by the Department to practice hairdressing. Respondent's hairdressing license lapsed due to non-renewal on February 28, 2001.

2. In paragraph 2 of the Charges, the Department alleges that from approximately February 28, 2001 through approximately September 2, 2011, respondent engaged in the practice of hairdressing without a Connecticut license.

3. In paragraph 3 of the Charges the Department alleges that the above conduct constitutes a violation of §20-252 of the Statutes.

Findings of Fact

1. The Department provided respondent with reasonable and adequate notice of the hearing. Bd. Exhs. 1, 2.

2. Respondent did not file an Answer to the allegations in the Charges. Tr. pp. 2-3.

3. All of the allegations as set forth in the Charges are deemed admitted and true. Tr. pp. 2-3.

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); *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied,* 451 U.S. 933 (1981); *Swiller v. Commissioner of Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

The Charges allege that respondent violated §20-252 of the Statutes which provides in pertinent part that, "No person shall engage in the occupation of a registered hairdresser and cosmetician without having a license from the department . . ."

Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations. Accordingly, respondent is found to have violated §20-252 of the Statutes by practicing as a hairdresser without being licensed to do so. Thus, there is sufficient basis upon which to issue the following order.

Order

Pursuant to the authority vested in it by §§19a-11, 19a-17 and 20-252 of the Statutes, the Board orders that respondent immediately cease and desist from practicing as a hairdresser unless and until respondent is properly licensed.

Connecticut Examining Board for Barbers,
Hairdressers and Cosmeticians

1/23/12
Date

Wendy Willis
Wendy Willis, Chairperson

CERTIFICATION

I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 24th day of January 2012, by certified mail, return receipt requested and first class mail to:

Nina McFerrin
60 Ridge Street
Manchester, CT 06040

Certified Mail RRR #91-7108-2133-3932-0551-7255

and via email to:

Matthew Antonetti, Principal Attorney
Legal Office
Department of Public Health
410 Capitol Avenue, MS #12LEG
Hartford, CT 06134-0308

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