

# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

PUBLIC HEALTH HEARING OFFICE

May 14, 2012

Larry Lawson, Esq.  
PO Box 4175  
Hartford, CT 06702

**Certified Mail RRR #91 7108 2133 3936 6420 2693  
and First Class Mail**

Matthew Antonetti, Principal Attorney  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
PO Box 340308  
Hartford, CT 06134-0308

**VIA EMAIL**

**RE: Larry Lawson - Petition No. 2010-5758**

Dear Mr. Lawson and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Connecticut Board of Examiners for Opticians** in the above-referenced matter.

Sincerely,

Jeffrey A. Kardys  
Administrative Hearings specialist/Board Liaison  
Public Health Hearing Section

c: Wendy Furniss, Branch Chief, Healthcare Systems  
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations  
Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General  
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health  
Joelle Newton, Staff Attorney, Department of Public Health

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**STATE OF CONNECTICUT  
CONNECTICUT BOARD OF EXAMINERS FOR OPTICIANS**

Larry Lawson, L.O.  
License No. 001402

Petition No. 2010-5758

**MEMORANDUM OF DECISION**  
*Procedural Background*

The Department of Public Health (“the Department”) presented the Connecticut Board of Examiners for Opticians (“the Board”) with a Statement of Charges (“the Charges”) brought against Larry Lawson (“respondent”) dated January 26, 2012. Bd. Exh. 1.

On February 7, 2012, the Charges and Notice of Hearing (“Notice”) were sent by certified mail, return receipt requested and first class mail, to the following addresses: 9 Sandpiper Drive, Bloomfield, CT 06002-2231; 210 Farmington Avenue, Apt. 513, Hartford, CT, 06105-3604; and 58 Castlegate Drive, Springfield, MA 01129-1296. Bd. Exh. 2, Dept. Exh. 1. On February 22, 2012, the Charges and Notice were sent by first class and certified mail, return receipt requested to P. O. Box 4175, Hartford, CT 06147-4175. Bd. Exhs. 2, 3.

Respondent’s address of record is P. O. Box 4175, Hartford, CT 06147-4175. Tr. pp. 5, 9-10.

On February 11, 2012, the United States Postal Service (“USPS”), Hartford branch, left respondent a notice regarding its attempt to deliver the certified and first class mail to the Hartford street address. Bd. Exh. 2, p. 5. The Department received the first class mail on February 21, 2012. Bd. Exh. 2, p. 3. On February 22, 2012, the Department received the certified mail that was sent to the Bloomfield address, stamped, “return to sender,” “not deliverable as addressed,” and “unable to forward.” Bd. Exh. 2, p. 3. The Department received the first class and certified mail on February 27, 2012 that was sent to the Hartford post office box. Bd. Exh. 3. On March 5, 2012, the Department received the certified mail sent to the Springfield address stamped “return to sender,” “temporarily away,” and “unable to forward.” Bd. Exh. 2. *See also*, Tr. pp. 5-10.

On March 8, 2012, the Board held an administrative hearing. Respondent neither appeared nor was represented. Attorney Joelle Newton represented the Department. On the record, Attorney Newton made an oral Motion to Deem the Allegations Admitted (“the Motion”) due to respondent’s failure to file an Answer. Tr. p. 4. The Board granted the Motion. Tr. pp. 14-16.

The Board conducted the hearing in accordance with Chapter 54 of the General Statutes of Connecticut (“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 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 and the specialized professional knowledge of the Board in evaluating the evidence. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994). 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 of Springfield, Massachusetts and/or Hartford, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut license optician number 001402.
2. In paragraph 2 of the Charges, the Department alleges that on or about January 17, 2008, respondent purchased an optical shop and failed to apply for a new optical license permit.
3. In paragraph 3 of the Charges, the Department alleges that from approximately January 17, 2008 through and until October 20, 2009, respondent operated the above-referenced optical shop without an optical permit.
4. In paragraph 4 of the Charges, the Department alleges that the above conduct constitutes violations of § 20-154 of the Statutes and §20-141-18 of the Regulations.

### *Findings of Fact*

1. Respondent is required to notify the Department of a change of address (office or residence) within thirty days of such change. *See*, §19a-89 of the Statutes. Respondent failed to comply with this requirement.

2. Respondent's address of record is P. O. Box 4175, Hartford, CT 06147-4175. Tr. pp. 5, 9-10.
3. On February 22, 2012, the Charges and Notice were sent by first class and certified mail, return receipt requested to P. O. Box 4175, Hartford, CT 06147-4175. Bd. Exhs. 2, 3.
4. On February 27, 2012, the USPS returned to the Department the first class and certified mail that was sent to the Hartford post office box because the box was closed and respondent left no forwarding address. Bd. Exh. 3; Tr. p. 5.
5. The Department obtained the Hartford, CT street address, the Bloomfield, CT and Springfield, MA addresses for respondent via an electronic records search on LexisNexis. Dept. Exh. 1, Tr. pp. 5-7.
6. The certified mail sent to the Hartford, CT street address and to the Bloomfield, CT and Springfield, MA addresses were all returned to the Department as "unclaimed," "return to sender," and "unable to forward." Bd. Exhs. 2, 3.
7. The Department provided respondent with reasonable and adequate notice of the hearing. Respondent did not appear at the hearing and did not request a continuance. Bd, Exhs. 2, 3; Dept. Exh.1; Tr. pp. 14-15.
8. Respondent did not file an Answer to the Charges. Tr. pp. 10-11.
9. All of the allegations set forth in the Charges are deemed admitted and true. Tr. p. 16.

### ***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*, 15Conn. L. Rptr. No. 16, 532 (January 29, 1996).

Section 19a-10 of the Statutes provides in pertinent part, "The boards and commissions listed in subsection (b) of section 19a-14 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 20-154 of the Statutes provides, in pertinent part, that, “. . . the . . . license of any optician . . . may be revoked, . . . or any action taken under section 19a-17<sup>1</sup> upon decision after notice and hearing by the board for any of the following reasons: . . . illegal . . . conduct of his business as such licensee, . . . ”

Section 20-141-18 of the Regulations provides, in pertinent part, that, “[i]mmediately upon disassociation or severance of the recorded licensed optician in charge from any establishment for which an optical license permit has been granted, the optical license permit is terminated. A new optical license permit shall be applied for.”

Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations. As a licensed optician, respondent is expected to be familiar with the statutory and regulatory requirements for operating an optical shop. In January 2008, respondent purchased an optical shop for which a new optical license permit was required. Respondent failed to apply for a new optical permit and operated this optical shop without an optical permit for almost two years. Accordingly, the Board finds that respondent violated § 20-154 of the Statutes and § 20-141-18 of the Regulations.

### ***Order***

Pursuant to the authority vested in it by §19a-17 and §20-154 of the Statutes, the Board finds that the misconduct alleged and proven warrants the following disciplinary action imposed in the case of Larry Lawson, L.O., the holder of Connecticut optician license number 001402, in Petition No. 2010-5738:

1. Respondent shall pay a civil penalty of ten thousand dollars (\$10,000.00) 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. Failure to pay the civil penalty as ordered will constitute a violation of this Memorandum of Decision and shall result in a suspension of respondent's license until respondent pays the civil penalty.

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<sup>1</sup> Section 19a-17 of the Statutes provides in pertinent part, that “[e]ach board. . . may take any of the following actions, . . . based on . . . finding the existence of good cause: (4) issue a letter of reprimand to a practitioner. . . (6) assess a civil penalty of up to twenty five thousand dollars; . . . ”

2. Respondent's license to practice as a licensed optician in the State of Connecticut is hereby reprimanded.

3. The civil penalty shall be mailed to:

Bonnie Pinkerton, Nurse Consultant  
Department of Public Health  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, CT 06134-0308

4. This Order shall become effective upon the signature of the Board Chairperson.

Connecticut Board of Examiners for Opticians

5/10/12  
Date

Linda Conlin, L.O.  
By: Linda Conlin, L.O., Chairperson

**CERTIFICATION**

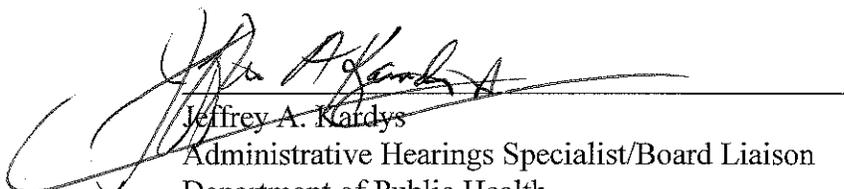
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 14<sup>th</sup> day of MAY 2012, by certified mail, return receipt requested and via email to:

Larry Lawson, Esq.  
PO Box 4175  
Hartford, CT 06702

Certified Mail RRR #91 7108 2133 3936 6420 2693

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