

STATE OF NEW YORK  
DEPARTMENT OF STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Complaint of

**DEPARTMENT OF STATE  
DIVISION OF LICENSING SERVICES,**

Complainant,

**DECISION**

-against-

**ALTAGRACIA PENA,**

Respondent.

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on October 5, 1999 at the office of the Department of State located at 123 William Street, New York, New York.

The respondent did not appear.

The complainant was represented by License Investigator III Richard Drew.

**COMPLAINT**

The complaint alleges that the respondent engaged in the unlicensed operation of an appearance enhancement business and allowed an unlicensed person to act as an appearance enhancement operator without being licensed to do so.

**FINDINGS OF FACT**

1) Notice of hearing together with a copy of the complaint was served on the respondent by certified mail delivered to her at her last known business address on August 13, 1999 (State's Ex. 1).

2) The respondent is not, and at all times hereinafter mentioned was not, licensed to operate an appearance enhancement business (State's Ex. 5).

3) On February 12, 1999 License Investigator Joseph Siebenkas conducted an inspection of an appearance enhancement business known as "My Dream Beauty Salon" located at 131-11 Jamaica Avenue, Richmond Hill, New York. He spoke with the respondent, who acknowledged ownership of the shop, and observed Anna Pena, the respondent's

daughter, who was not licensed to engage in any of the disciplines of appearance enhancement (State's Ex. 3), waxing the eyebrows of a customer for compensation (State's Ex. 2).

**OPINION AND CONCLUSIONS OF LAW**

I- The holding of an ex parte quasi-judicial administrative hearing was permissible, inasmuch as there is evidence that notice of the place, time and purpose of the hearing was properly served. General Business Law (GBL) §§410[2] and 411; *Patterson v Department of State*, 36 AD2d 616, 312 NYS2d 300 (1970); *Matter of the Application of Rose Ann Weis*, 118 DOS 93.

II- At the time of the inspection of her shop the respondent was clearly allowing an unlicensed activity falling under the GBL §400 definitions of "cosmetology" and "appearance enhancement business" to be performed in that shop. Pursuant to GBL §410[2], this tribunal, acting on behalf of the Secretary of State, is authorized to issue an order directing the respondent to cease such activity.

**DETERMINATION**

**WHEREFORE, IT IS HEREBY DETERMINED THAT** Altagracia Pena is directed to immediately cease engaging in the operation of an Appearance Enhancement Business until such time as she has been issued the proper license to do so.

Roger Schneier  
Administrative Law Judge

Dated: October 5, 1999