

STATE OF NEW YORK
DEPARTMENT OF STATE
OFFICE OF ADMINISTRATIVE HEARINGS

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In the Matter of the Application of

JACQUELINE BAKHORIE

DECISION

For a License To Engage in the Practice
of Cosmetology

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The above noted matter came on for hearing before the undersigned, Roger Schneier, on August 8, 1997 at the office of the Department of State located at 270 Broadway, New York, New York.

The applicant, of 227-18 Hillside Avenue, Queens Village, New York 11427, having been advised of her right to be represented by an attorney, chose to represent herself.

The Division of Licensing Services (hereinafter "DLS") was represented by Supervising License Investigator Bernard Friend.

ISSUE

The issue before the tribunal is whether the applicant has sufficient experience to qualify for a license to engage in the practice of cosmetology.

FINDINGS OF FACT

1) By application received on February 27, 1997 the applicant applied for a license to engage in the practice of cosmetology. The application is based on a claim of five years experience outside the State of New York (State's Ex. 2).

2) By letter dated March 10, 1997 the applicant was advised by DLS that she was required to submit documentary proof of her claimed experience (State's Ex. 4). In response, she submitted copies of certificates showing that she had completed two courses of training at a school in Trinidad (State's Ex. 5). She had previously submitted letters attesting to unlicensed experience acquired in New York (State's Ex. 3).

3) By letter dated May 16, 1997 the applicant was advised by DLS that it proposed to deny her application for failure to provide sufficient proof of experience outside of the State of New York, and that she could request an administrative review. On May 22, 1997 the applicant requested such a review, and by letter dated June 18, 1997 she was advised that, after review, DLS continued to propose to deny

her application. By letter dated June 23, 1997 the applicant requested a hearing and, accordingly, notice of hearing was served on her by certified mail delivered on July 15, 1997 (State's Ex. 1).

OPINION AND CONCLUSIONS OF LAW

I- As the person who requested the hearing, the burden is on the applicant to prove, by substantial evidence, that she has acquired the required experience. State Administrative Procedure Act (SAPA), §306(1). Substantial evidence is that which a reasonable mind could accept as supporting a conclusion or ultimate fact. *Gray v Adduci*, 73 N.Y.2d 741, 536 N.Y.S.2d 40 (1988). "The question...is whether a conclusion or ultimate fact may be extracted reasonably--probatively and logically." *City of Utica Board of Water Supply v New York State Health Department*, 96 A.D.2d 710, 465 N.Y.S.2d 365, 366 (1983)(citations omitted).

II- An applicant for a license to engage in the practice of cosmetology must establish: That he or she has completed an approved course in the study of cosmetology (after which he or she must pass the examination administered by DLS); or that he or she is licensed in another jurisdiction which has reciprocity with the State of New York; or that he or she has engaged in the practice of cosmetology in another jurisdiction for a period of at least five years. General Business Law (GBL) §406[2][c].

The applicant has established that she completed courses in cosmetology in Trinidad, but not that the courses equaled or exceeded the number of hours and content required for New York State licensure, as required by 19 NYCRR 160.32. She claims that she engaged in the practice of cosmetology in another jurisdiction (Trinidad) for the required five years, but has presented no documentary proof to support that claim.¹ She has not established that she has met any of the required criteria and, therefore, her application must be denied.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED THAT the application of Jacqueline Bakhorie for a license to engage in the practice of cosmetology is denied.

Roger Schneier
Administrative Law Judge

Dated: August 8, 1997

¹ The applicant cannot be granted a license based on her unlicensed activity in New York inasmuch as she submitted her application more than twelve months after the effective date of the statute. GBL §406[2][d].